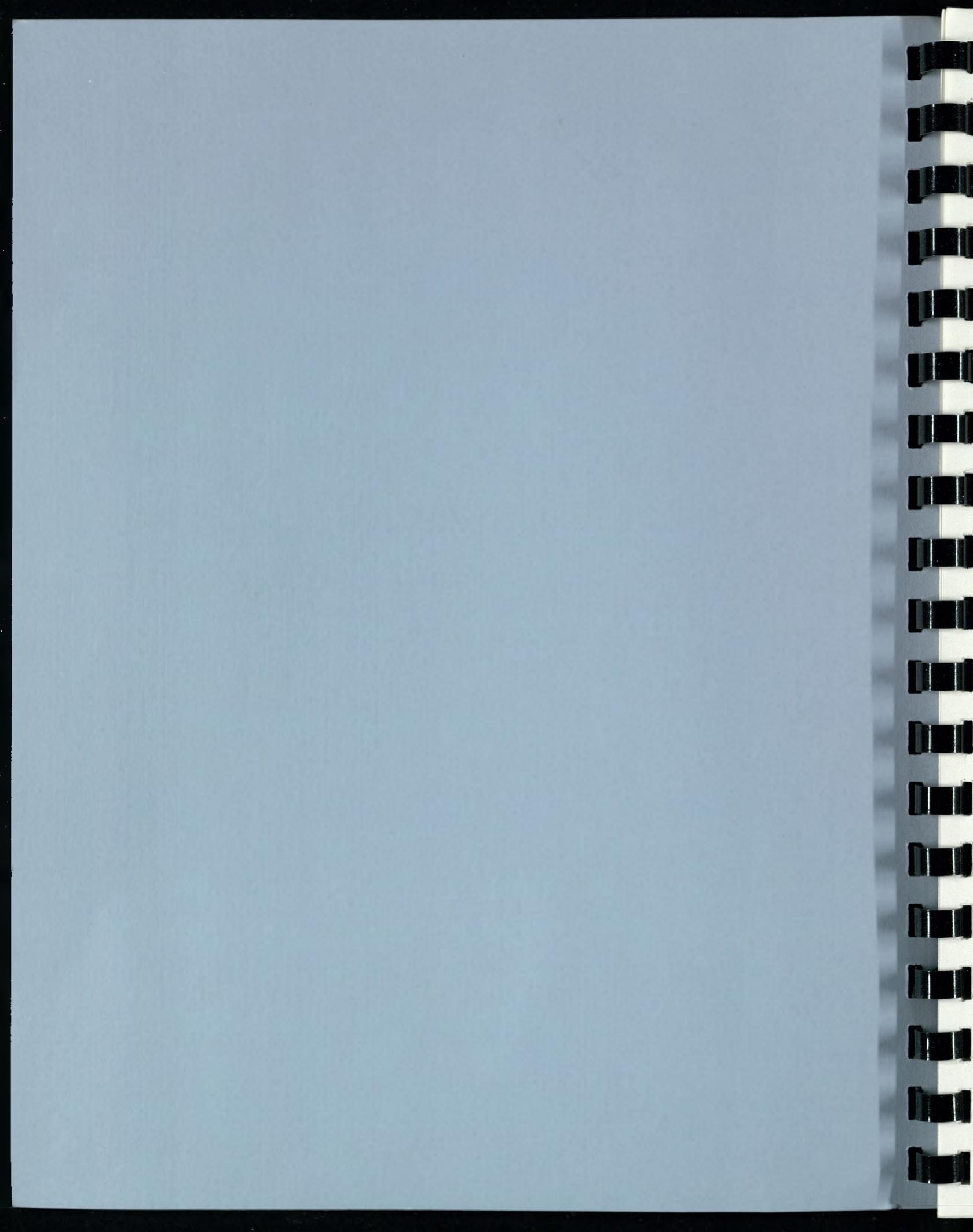


Volume III
Pages 194-289
Transcript Of Proceedings
Alaska Native Review Commission
The Spirit Of ANCSA
February 29, 1984
Anchorage, Alaska

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VOLUME III

PAGES 194 - 289

TRANSCRIPT OF PROCEEDINGS

ALASKA NATIVE REVIEW COMMISSION

THE SPIRIT OF ANCSA

FEBRUARY 29, 1984

ANCHORAGE, ALASKA

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ACKNOWLEDGEMENT

The Overview Roundtables and this transcript were made possible through grants from the Alaska Humanities Forum and the National Endowment for the Humanities. This support is most gratefully acknowledged.

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Anchorage, February 27, 28, 29, 1984
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(FEBRUARY 29, 1984)

(TAPE 8, SIDE A).

MR. BERGER: Well, maybe we should begin again, ladies and gentlemen. This just to remind you that this is the third day of an examination of the goals that people had at the time of ANCSA, and we've had a wide ranging discussion about those goals and the extent to which people, Alaska Natives, still have those same goals today.

Tomorrow morning we will take a good look at the forms of land tenure and institutions, corporate institutions, corporations established under ANCSA, and Walter Parker is going to be presenting a paper to open that discussion. We will then have a wide ranging discussion of the problems and the possibilities that the forms of land tenure and corporate institutions established under ANCSA present. We think that discussion will take us the next three days and we hope that all of you at this roundtable will remain for that discussion. I don't know whether we'll have to enlarge our roundtable or not, but if you do remain, we will be most pleased.

Then next week, on Monday, we have invited some Native leaders from the Lower 48 and some scholars from the Lower 48, and Professor Joe Jorgensen will be leading that panel, talking about historic U.S.A. policy towards native Americans and how they have grappled in the Lower 48... how Native people there have grappled with these questions of Native land and governments.

And then a week Monday... Excuse me, the next session begins on Tuesday. That is, we're having the people from the Lower 48 here starting Tuesday of next week. I'm sorry, I made a mistake.

Then Tuesday of the following week, we are going to have the visitors, Native leaders from Canada, Greenland, Australia and Norway, to come here to talk about how, in those countries, aboriginal people have struggled with their land claims

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1 and their desire and how far they have managed to succeed in their
2 desire to govern themselves.

3 I only mention that because I don't want anybody to
4 think we're trying to solve all these questions today, or even
5 this week, or even next week or the week after, because we do
6 intend... I do intend that, after these three weeks of discussions
7 are over, we will begin another round of meetings in the villages
8 so that Alaska Natives throughout the state can state their
9 views and have their say about all of this. So I know there's
10 a tendency sometimes to be a little impatient, "Why haven't we
11 come up with some solutions yet, we've been here three days?"
12 Well, I think it's best, in a matter as important as this, to take
13 a little time and to make sure we understand where we're coming
14 from. That's why we've... certainly why I have appreciated the
15 contributions that all of you have made these last few days so
16 that we do understand the origins of ANCSA, what it was intended
17 to achieve and how far it has brought Alaska Natives.

18 Well, today I would like, first of all, to call on
19 Joe Upicksoun, then on Byron Mallott, and then on Fred Paul to
20 give us the down side of IRAs. And then Martha Demientieff was
21 going to answer David Case's question, and I thought we might
22 get into some specific questions that David and Rosita and Ann
23 and Chuck would like to raise with you.

24 So, Mr. Upicksoun, please go ahead, sir.

25 MR. UPICKSOUN: Thank you, Your
Honor.

I would like to begin with the reason why Arctic Slope
Native Association opposed the bill that the president of the
United States signed on December 18, 1971. At that time, we told
the president of the United States in very strong language to
veto that bill. We said that some may think that 962 and a half
million dollars and 40 million acres of land was a fair settlement.
The method, however, in allotting those aboriginal lands and

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1 money was important.

2 The Arctic Slope Native Association said, first, that
3 the allotment and the money that was being distributed to the
4 Alaska Native was not fair at all. The reason we gave behind
5 that was that we came into the Alaska Federation of Natives with
6 56 and a half million acres of land. We supported the allocation
7 of land to the area of the region that we had in terms of
8 aboriginal title. That allotment was all right, but then we went
9 into the money situation where we said that the claims act,
10 itself, should have related to a land transaction. It is a
11 land claims settlement and we never should have gotten away
12 from that concept.

13 Now, we said that the reason why we were small in
14 population in the Arctic and we claimed aboriginal title to
15 56 and a half million acres was that the land just couldn't
16 support a large population. Therefore, we stuck close to the
17 concept of a land loss formula and also a land loss distribution
18 on the money also. We were, at that time, five percent of the
19 entire population of Alaska Natives. Now getting into this one
20 man one concept was not our way of settling for that type of
21 settlement. It was never fair.

22 Now, on the other hand, we had the special group that
23 came from the Tlingit and Haida area who came into the claims
24 act saying that they had two and a half million acres. Now
25 that is small compared to our 56 and a half million acres, but
their population is large. Now we figured that, in the alloca-
tion of monies, the Tlingit and Haidas would be getting 400 per-
cent more than the Alaska Native in the Arctic, us Inupiat.
That is, when you start cranking in inflation and the cost of
living index in the Arctic.

 I think that, until I can hear further how the other
leaders will respond and I can have a better picture and if
there's going to be any questions, I feel that I worked very

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1 closely with Fred Paul and our councils at the time, to allow
2 me to give you a fair answer.

3 Plus, I'm not winded just like John Borbridge.

(LAUGHTER)

4 UNIDENTIFIED: Equal time.

(LAUGHTER)

5 MR. BERGER: Well, thanks, Mr.
6 Upicksoun. I think you'll see that, by design or by accident,
7 we've surrounded you with people from Southeast.

(LAUGHTER)

8 MR. BERGER: Perhaps I could
9 ask you, Mr. Mallott, to add something.

10 MR. MALLOTT: Well, Mr.

11 Chairman, I'll be relatively brief because, not having had the
12 opportunity, for which I apologize, of being here earlier, some
13 of what I have to comment on may have been covered.

14 But looking at that period of time from my perspective,
15 particularly the mid '60s, it was a time of hope and expectation,
16 a time when federal policy had come to a point where it seemed
17 to be responsive to the concerns and the aspirations of minority
18 people and the economically disadvantaged in this country. It
19 was a time of war on poverty, a war in which Alaska Natives
20 certainly had every reason to... be involved with. It was a
21 time of economic development opportunity and intra-structural
22 development opportunity for the rural areas of our state for the
23 first time since whatever the war in the '40s brought. It was a
24 time at which institutions were established that Native people
25 could begin to coalesce around and essentially control and begin
to see results from, as far as their economic status was concerned.

It was a time in which the social aspirations of a
people seemed to have some opportunities for meaningful results.
Certainly, this window of opportunity and hope and expectation
changed by the time the settlement act passed, and began to

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1 change, of course, in 1968 when federal policy, once again, began
2 to change in a way that should have given considerable pause to
3 us and our attitudes of hope and expectation.

4 One thing that... And I've tried not to think too
5 much in detail about what was happening then. I've tried, in my
6 thinking, to just capture what leaps into my mind as I think
7 about that period, and it's a phrase that we use often but I
8 think that it's characteristic to some degree, at least how I
9 view, another attitude that prevailed at that time. We were able
10 to influence... The Native people were able to influence public
11 policy in a way that we could never even have imagined a decade
12 prior to that time, the land freeze, the village suits that were
13 brought to stop the pipeline, the opportunity to have access and
14 even have your hands on the levers of some considerable power,
15 and the recognition, of course, that because of the issues that
16 were being brought into clear focus very quickly resulting from
17 the hugh discovery of oil on the North Slope, there was this
18 thought that this was an opportunity and a juxtaposition of
19 circumstances and events and time that might never come again.

20 And one of the phrases that we hear now, to which I
21 referred to just a moment ago, that, "Hey, it's time to get on
22 the train because it's leaving the station," and this was a
23 phrase that was mentioned a number of times during the congressional
24 hearings. It was a time when oil company lobbyists were our
25 friends. It was a time when many powerful institutions, to some
degree, shared at least the same short-term goals that we had
for a settlement. That is, to clear the issue of land title.

Of course, our reasons were very different. A number
of issues that Mr. Borbridge and others have mentioned and were
essentially skirted in the claims settlement act, the issue
of sovereignty certainly was one major, major issue that was
skirted. It was protected, I believe, but it was essentially
skirted in at least how it would evolve in the future. I'm

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1 not sure it's been mentioned here and it's been kept relatively
2 quiet over the years, but another major issue in my view that
3 was skirted if not never addressed by the Congress in the claims
4 settlement act was the whole issue of water rights, which is
5 still, in my judgment, very much an open issue with respect to
Native ownership in the state of Alaska.

6 Another thing that was of visible impact upon me at
7 that period of time was the feeling for the process. That is,
8 for all of the frustration and anger that we sometimes feel,
9 particularly from young people today, and it was certainly
10 amply stated and eloquently stated yesterday in several of the
11 comments that we heard from both those young in age, and certainly
12 the young lady who was young at heart, that we were... that
there were self-appointed leaders. And that, really, is just
the complete antithesis of my understanding and my feeling for
what was happening at that time.

13 The process evolved and had its touchstone and its
14 basis in principle on the attitudes and the aspirations of rural
15 people. There was never a major decision made, there was never
16 a major new turn made, in the entire process without a strong
17 effort on the part of AFN and other institutions to go back to
18 the villages. As a matter of fact, at least in the timing as
19 the Natives were able to influence it in Congress, the desire
20 and the compelling need to obtain the views of the rural people,
21 and particularly elders, was critically important to the entire
22 process. And having said that, and I refer also to a comment
23 that was made yesterday by one of the panelists that, ultimately,
24 it was the board of directors of AFN that made the crucial
25 decisions on behalf of Native people in Washington, that certainly
was the case and we could not have made any forward movement any
other way. At some point you have to make decisions.

Which brings me to the point that, while there was
huge principle involved, and certainly overriding in the

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1 development of the claims act at that time, there was also huge
2 pragmatism and there was compromise. It was influenced in... by
3 several things, I think. I think it was influenced by the thought
4 that I mentioned earlier that it's time to get aboard because
5 the train is leaving the station. It was influenced also, I
6 think, by the evolution of the claims settlement act, itself.
7 It wasn't a process by which Native people staked out a claim
8 and enunciated it in a way that you could then begin to bargain
9 down from. And I think that the paper captured that clearly.
10 It was Natives essentially stating a moral position that, "Hey,
11 we can't compromise. This whole thing is ours so how are we
12 going to make it work?" And you took from that the great leap
13 to what ultimately was considered realistic and achievable in
14 Washington.

15 To a large degree, Native people had to throw themselves
16 on the mercy of Congress. That, also, was a decision that I
17 don't have any real knowledge as to how it evolved. To me it
18 was almost something taken for granted, but the way to settle
19 the Native claims was in Congress not in the courts. We had
20 the example that Mr. Borbridge mentioned just in the previous
21 decade of the Tlingit-Haida settlement, you know, which was in
22 no stretch of the imagination justice. We had the history of
23 Native claims and claims court judgments over the years which
24 had evolved to almost a rigid position of not allowing land to
25 be a part of any venue in consideration of Native claims.

So Congress seemed to be where you had to go, and because of the mood in the nation at that time, Congress was in a mental framework to deal with this issue, not just from the very practical, hard realities that were presented it from everything that flowed from the major discovery of oil at Prudhoe Bay, but flowing from what had happened in this nation in the '60s, the civil rights movement, the huge attitudinal changes that, if not having imbued and caught fire in the population as a

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1 a total, at least infected Congress and the leadership of this
2 nation to a very considerable degree. But there was this attitude
3 and this need for compromise, you know? And the compromise, to
4 some degree, seemed to be one of the Natives ratcheting up the
5 ante, as opposed to others ratcheting it down, at least if you
6 look at the record, itself, from the bills that had been intro-
7 duced, from legislation that had no land or minimal land... I
8 guess one of the first bills, the total dollar amount was in the
9 ten million dollar range, then it was a hundred million dollars,
10 and through the hammering and the leadership of AFN at that time,
11 you know, you ultimately got to the point of what were considered
12 significant break throughs on our part. And I say our with a
13 capital O because my personal participation was not that signifi-
14 cant and those whose participation was, they know who they are.
15 You know, it was ratcheted up to a billion dollars, less 40
16 million or so, and 44 million acres of land.

17 And so it was a time, regardless of what was happening
18 in the legislation, itself, where the big issues allowed us to
19 maintain this sense of hope and expectation, a strong sense that,
20 for the first time, we might have some real ability to control
21 our destiny as a people. Now, the bill, itself, ultimately, in
22 the legislation, was a very, very complex law and many of us
23 did not read the fine print and many of us did not do the
24 analysis that the Arctic Slope Native Association did near the
25 end to try to feret out what this really meant.

26 In the newspapers at the time, with their headlines of
27 "Natives To Get Billion Dollars and 44 Million Acres of Land"
28 brought hope and expectation, in my judgment, to a fever pitch
29 which has become one of the most difficult things that we have
30 had to deal with in the implementation of the claims settlement
31 act ever since, because at about the same time as the passage
32 of the act, the whole public policy, and to some degree public
33 attitudes, in this nation began to change and they have continued

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1 to evolve in a direction that is not conducive to minority and
2 Native people achieving being able to meet the hopes and expecta-
3 tions that they had at that time. The gap between those people
4 with material wealth and those people without it has widened in
this period of time, it has not been closed.

5 So we took the act at a time of expectations and hope
6 at a fever pitch and were ultimately thrown into the business of
7 having to implement it with the result that has brought us
8 essentially to this point. The Native people have said, "Hey,
9 where are we? What has this meant? Has it been good for us?"
10 ... to points on one side where people are saying, "Throw the
11 whole thing out and start over," and others are saying, "Give
12 us time, it'll work." But in my judgment, also there were
13 several fatal flaws in the claims settlement act that have to
14 be fixed. I don't think that they can be fixed within the
framework of continuing implementation of the claims settlement
act. They're the sort of fixes that you can't do on a moving
machine.

15 And two of those which I think are principal are the
16 fact that the land was placed into the corporations, that the
17 land was sought for its Nativeness values, its subsistence
18 values, its ability to allow... Every culture has its roots in
19 some geographical place. It is land that molds us more than any
20 other single characteristic... and when I say us, I mean Native
people, because there are cultures that have evolved so far from
the land that other influences are significantly greater, of course.

21 And the land was placed in the corporations without
22 really an appreciation, I believe, of what the corporations were
23 and what they could do, because the corporations are essentially
24 a business machine. The entire history of their... Their
25 entire history in law, in precedent, in myth, in reality has 99
percent to do with making money and adhering to the P and L and,
maybe, one percent the ability to influence and to change and to

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1 impact public policy as it affects the social course of a people
2 or a nation.

3 And the land, by that act, by the act of putting the
4 land into the corporations, the land became an economic asset,
5 under law, under every other imaginable understanding of what it
6 means to place an asset into a for-profit business corporation.
7 And so immediately we were on a divergent course as to how that
8 land could best be utilized and how best it could be maintained
9 on behalf of Native people for the long-term future.

10 Because that's not what the land was for. The land
11 was not viewed as an economic asset. It was viewed as the
12 touchstone and the basis from which Native people could maintain
13 their value systems and their cultures and all those things that
14 have brought us to where we're at today.

15 And, of course, one of the second... The second fatal
16 flaw, in my judgment, was that those born after December 18,
17 1971, were left out of a direct and clear participation in the
18 claims settlement act. And there is a real irony there because,
19 again as I understand it, or as I recall, one of the principles
20 that was very much important to developing the claims settlement
21 act at that time was the principle that this claims settlement act
22 has got to benefit not just that generation or those generations
23 of Native people that are alive today because of the accident of
24 time and history, but for all Native people that would evolve
25 after them into the future. And that was one of the reasons for
the corporations, and that was one of the reasons that a total
per capita settlement was rejected. Somehow someone ultimately
must have said, "How can you take a billion dollars and maintain
its corpus and allow it to become greater," and, of course, that's
what corporations are all about, hopefully, if they function
properly. You know, you put the money in and you make more money.

And it wasn't so much to gain economic power, although,
certainly, that's something that Native people need if ultimately

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1 they are going to achieve what it is that they want to achieve.
2 But it was because of that sense that, "Doggone it, somehow we
3 have to make this thing last beyond us." And, of course, the
4 irony is that we chopped off from participation in the distribu-
5 tion of that growth and increase in wealth those very people
6 that we had wanted to do it for. Of course, also, Congress was
7 saying at that time, "Well, the way that this will be done, by
8 parents transferring stock to the children," and no one really
9 thought about, "Well, gee, what if you have five children and
10 a hundred shares?" You get to a point of diminishing returns in
11 an awful hurry, and, of course, there are all sorts of lateral
12 transfers.

13 Just a review of Sealaska's records show that there are
14 a substantial number of lateral transfers of stock out of the
15 family. So, you know, what, in a vague sort of way, was under-
16 stood to be how those born after December 18, 1971, would
17 participate has never really materialized, and that's something
18 that we have to deal with.

19 Just one final comment, Mr. Chairman, if I could, and
20 it's prompted by some of the comments you made at the opening of
21 this session and several comments that I heard and participated
22 in in the back as we were getting ready, is this business of,
23 "When are we going to get to the solutions?" you know, because
24 we transferred all our hopes and aspirations to the claims
25 settlement act.

And the other final and fatal flaw... It isn't fatal
at this point, but it could be... is that Native people have
created and the claims settlement act has created the opportunity
for us to destroy ourselves by having us use our own institutions
and fight with our own people without looking outside to where
some of the real obligation for our circumstance and for our
future lies. The claims settlement was, as has been emphasized
here, basically a land settlement. It became much more than that,

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1 certainly.

2 But that's what it really was all about at that time,
3 and what has happened is that many Native people have transferred
4 all of their hopes and all of their aspirations and all of their
5 frustrations and all of their anger to ANCSA, for reasons that
6 we all can understand as it exists in human nature. But we're
7 ignoring and are not focusing our efforts and energies on those
8 outside institutions in government and elsewhere that have a
9 great an obligation to work with us to get where we want to go.

10 I think, to some degree, that evolves also from the
11 notion that was implicit, if not explicitly stated, at that time
12 that we wanted institutions that we would control and we wanted
13 to control our own destiny. And ANCSA was a way to do that.
14 Well, doggone it, ANCSA isn't a way to do that. ANCSA can do cer-
15 tain things but it can't do everything. And that transference
16 takes place quickly. Mr. Chairman, you may be in that position
17 when this is all done, "Where are Justice Berger's answers to
18 our problems? What are Justice Berger's solutions?"

19 And you cannot bring us the solutions, like many other
20 institutions and many other processes. Certainly, this can be
21 very helpful but ultimately we are the ones to deal with that
22 problem and resolve it. It will take a lot of involvement on
23 the part of institutions and other outside interests that we
24 will have to influence, and it can't be done ultimately just
25 within the framework of ANCSA. But I think much of the frustra-
tion and the anger that we feel today flowed from the hopes and
expectations of that time.

Thank you.

MR. BERGER: Well, thank you
very much, Mr. Mallott. I think everyone is struck by what
you've said.

It might be appropriate for me to add that this
commission is established by two international Native people's

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1 organizations and its report will be written on the basis of
2 what all of you are saying at these overview gatherings and
3 what people say in the villages. And it will be a document that
4 Alaska Natives can make use of to plan their own future for
5 themselves. I think it's entirely appropriate that you should
6 remind us that this commission isn't going to be in the business
7 of formulating solutions with a capital S.

8 But I hope that we can, through this process, here and
9 in the villages, and through the report, be of use to Alaska
10 Natives as they decide where they are going from here.

11 Well, Mr. Mallott has indicated some of what he regards
12 as the flaws in ANCSA. He pointed out that it was essentially a
13 lands transaction, a means for holding and consolidating the land
14 and acquiring economic powers through these corporate structures.
15 But he has said that some questions were not intended to be
16 covered by it.

17 Perhaps out of the desire that people in Alaska have to
18 formulate new institutions that deal with the questions that
19 ANCSA didn't address, the idea of strengthening traditional
20 councils and IRA councils has emerged. Mr. Paul yesterday
21 indicated the advantages of IRA councils. I should say that, at
22 the village meetings last week, people did talk about IRA
23 councils and I urged them to think about what the good and the
24 bad might be of IRA councils so that they knew what they were
25 getting into before they went any farther along that particular
route. So we asked Mr. Paul if he would, this morning, having
given a glowing account of the possibilities of IRA councils
yesterday and IRA corporations, if he would see if he could find
something bad to say about them this morning.

MR. PAUL: Thank you, Mr.
Chairman.

I'm having a hard time finding the disadvantages.
Obviously, I believe in the IRAs and I think in legal concept, the

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1 few disadvantages pale.

2 Under Section 16, the tribal sovereignty section of
3 the IRAs, one disadvantage is that it requires practically an
4 act of Congress to convey land out of the tribe, or even to
5 mortgage it to make some working capital. However, most IRAs
6 have --

6 MR. BERGER: (INDISCERNIBLE)

7 MR. PAUL: Yes, Section 177
8 says you can't... Section 177, the non-intercourse act of
9 Title 25, says you can't deal with an Indian tribe with respect
10 to its land without being punished. There's a thousand dollar...
11 It's not a misdemeanor, but there's a penalty to it and it's
12 a void transaction.

13 But most of these IRAs have two forms of entities,
14 one is the traditional tribal organization under Section 16 but
15 there's also Section 17. And that's where the Secretary of the
16 Interior issues a charter of incorporation. It's a corporate
17 form of IRA and when one reads the charter from the Secretary,
18 usually there's a provision in the charter authorizing corpora-
19 tions, Section 17 organizations, to transfer real estate.

20 So, with some care in managing of the kind of organiza-
21 tion that is utilized within the IRA, you can overcome that
22 disadvantage. Likewise, David Case reminded me yesterday that
23 there is an Internal Revenue Service ruling out that the Section
24 17 IRAs are, likewise, exempt from federal income taxes.

20 (TAPE 8, SIDE B)

21 MR. PAUL: So those who want
22 to explore it have an opportunity there, also.

23 When the IRAs were organized in the late 1930s, the
24 Bureau of Indian Affairs was devoted to the village concept. As
25 of then and, perhaps, today, many of the villages do not have
the willingness to fight with the BIA. As indicated yesterday,
the Native mind does not like confrontation so that, through the

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1 decades, and to some extent today, the BIA, by force of personality,
2 pushes the IRAs around, particularly if the IRA has borrowed
3 government funds. The BIA always called their loans every year.
4 All of the income and... For example, in the canneries in
5 Southeast, all of the income from the sale of their canned salmon
6 went back into the federal treasury. It went back into what we
7 call a revolving fund. It was not gone, it could be reloaned,
8 so that the village IRAs, who theoretically were the managers
9 of the canneries, had to get down on their hands and knees in
10 order to get working capital for the next summer's operation.
11 You did not have a continuing line of credit where the government
12 would have a hard time calling a loan.

13 Had the BIA fostered regional IRAs, there you have a
14 board of directors which has more strength of personality to
15 push the BIA around. And, of course, we have to be contemporary.
16 We're not now in the late '30s and '40s, even the '50s. We are
17 in 1984. Today, nationwide, the Indian tribes are pushing the
18 Secretary of the Interior around in these internal disputes
19 between the BIA and the various tribes. Even during the late
20 '30s and '40s, I never felt that the authority of the BIA over
21 an IRA was oversight, particularly when you borrow money from
22 them, was that important, because, with a strength of personality,
23 one could beat the BIA around.

24 The canneries and boat-loaning experience in Southeast
25 and the stores up to the westward, the great economic drive of
the IRAs was stores, 50 or 60 stores up here financed by the
BIA through the IRA. The profit made by the stores and the
profits made by the canneries and the boat owners, boat loans
down in Southeast, was nothing. They all went into debt. The
money was dissipated and the fault of the dissipation of the
money, the fault of the loss, was totally BIA's.

I knew some of the BIA godfigures that had charge of
the money for the IRAs, and they were typical bureaucrats sitting

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1 in Washington, D.C. They knew everything. The fact of the matter
2 is, they couldn't tell a salmon from a halibut but they had
3 charge of the IRA money. But today, with the strength of the
4 personalities of the Indian leaders, that day of being bossed
5 by the BIA no longer exists, or, if it does exist, it's the
6 fault of the Indian leaders, themselves, because it is possible
7 to push the BIA around.

8 Now when an IRA gets its money from other than the
9 revolving fund administered by the BIA, you do not have that
10 kind of oversight. You can do... The IRA can do with its own
11 money, as long as it's not government money, as it pleases and
12 I believe it's possible to get nongovernment money for the IRAs.
13 I believe it also possible to organize, even today, areawide
14 IRAs.

15 The Inupiat community of the Arctic Slope was... Its
16 constitution was approved in 1971, in June, and the election...
17 the ratification of the people was in August of 1971. Now that's
18 not so many years ago and, as far as I know, it is the only
19 areawide IRA in existence in Alaska.

20 I'm not at all convinced that the IRA, as a business
21 organization up on the Slope, was that successful. But notwith-
22 standing the lack of business success in the Inupiat community
23 of the Arctic Slope, the promise is there. The possibility is
24 there.

25 One of the great accomplishments of the areawide IRA
up on the Slope, the Inupiat community of the Arctic Slope, was
its efforts at protecting the land. It has brought major lawsuits
for the protection of subsistence, of sovereignty and dominion
with respect to various land problems involving the North Slope
Eskimos. There still... Because the IRA is a tribal entity, it
has authority, under its constitution approved by the Secretary
of the Interior, it has authority to protect the land of the
tribe today, and that litigation, while it's not been that great

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1 so far as success is concerned in winning the lawsuits... probably
2 should have had a better lawyer... (LAUGHTER)... But the oppor-
3 tunity for Inupiat Eskimos to protect the land through the
4 areawide IRA is magnificent.

5 So I... Then, again, I have great faith. Let me throw
6 out another great hope of the IRAs that's possible. We have
7 what is known as the North Pacific International Salmon Fisheries
8 Commission, or something like that. It has vast authority over
9 the fisheries of the Gulf of Alaska and the North Pacific.
10 Because of the tribal quality of an IRA, when it speaks to that
11 commission and, if you please, even if the commission were to
12 ignore the desires of the Native people as spoken by an IRA,
13 because of the tribal quality of the IRAs, it can go to an
14 international forum, at least by way of persuasion. It could
15 demand membership on the North Pacific Salmon Fisher... or,
16 International Fisheries Commission. It could demand membership
17 on it so that... Let's assume the IRAs along the seacoast, and
18 even up the rivers, too, because the Interior fishermen depend
19 upon fish, too... Interior people, supposing there were an
20 association of IRAs, or, maybe, a statewide IRA who used this
21 association, call it, of land owning, culture encompassing,
22 authority that it has inherent in its organization, it's going
23 to have pizzazz, it's going to have clout, it's going to have...

24 The only competitor for the Native movement, aside
25 from IRA, are profit-making corporations. Profit-making
corporations, ANCSA corporations, do not speak as tribes. They
speak as General Motors speaks, or Ford Corporation, or some
profit-making corporation. It doesn't have the power of public
opinion. You know, we're not merely addressing the people of
the state of Alaska when we speak as tribes. We're speaking
to the conscience of the United States, and if the conscience
of the United States is not that expressive for our desires,
there's an international forum. The mere fact that the Inuit

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1 Circumpolar Conference and the World Council of Indigenous People
2 has a certain amount of recognition by the United Nations is a
3 very hopeful sign. But it's an illustration of what the tribal
4 quality of an IRA organization can have.

5 To summarize that, I believe that the modest amount of
6 oversight that the BIA has is not important, and that's the only
7 disadvantage that I can see.

8 But I would like to, if I may with the Chairman's
9 permission, talk about some of the other thoughts that have
10 been expressed the last two days, the expectations, the goals
11 of ANCSA.

12 I'm a little bit fearful that the... that the hearings
13 that this commission is undergoing are going to raise too many
14 hopes. We here, I'm sure, all know that the commission has no
15 congressional authority, thank heavens in lots of ways. We, here
16 in this room, realize that this is really a public opinion
17 assistance to the Native people. I'm not entirely sure that the
18 Natives, in general, have that awareness of the limitations of
19 this commission.

20 We've heard that the... Many people expressed that the
21 settlement act was a beginning point, that we're going to build
22 on it, that we're going to go back to Congress and get more,
23 perhaps we should scrap ANCSA, a lot of talk like that. Well,
24 I find it very difficult to believe that there's any real move-
25 ment in the Congress that they're going to increase the land,
some real substantive changes. I can believe that certain
structural flaws, such as 1991, that might be extended, Exemption
from real estate taxes is another flaw that I believe this com-
mission could very materially assist in having extended another
ten years or so.

26 But so far as getting more land or getting more sub-
27 sistence rights, it's going to be quite a fight. But let me
28 give you some thoughts about if there be a recommendation for

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1 more land. Let me give you some ammunition for your report.

2 Alaska is a vast country. It has great wealth. Let's
3 take oil as an example. There are 14 geological formations which
4 give a promise of oil within this state. That is to say, known
5 geological formations. Who knows how many there actually are.
6 The Prudhoe Bay discovery involved two areas of land adjacent
7 to each other, each containing 90,000 acres, and in those in the
8 ARCO, British Petroleum, Standard of Ohio discovery, there were
9 someplace between five billion and 15 billion barrels of oil.
10 And let's say today's market price of oil is 30 dollars a barrel.
11 One of my disappointments during the settlement act was, on the
12 state's share of the money, 500 million dollars, oil was then
13 selling for three dollars a barrel. The Arctic Slope Native
14 Association argued that, instead of the 500 million dollars,
15 we would divide that at the then current price of oil, three
16 dollars a barrel. That's 167 million barrels, just supposing
17 we had taken that 500 million dollars in kind. That is to say,
18 oil, rather than cash.

15 Well, my mind can't multiply 167 million barrels by
16 30 dollars, it's too big a figure. But the 180,000 acres which
17 then comprised Prudhoe Bay, I believe is one percent of one
18 geological formation, so that what was expropriated... And I
19 hate that word, expropriation. There's a lot of Native people
20 who don't know what expropriation is, but they know what stealing
21 is and many believe that the two words are synonymous. The
22 expropriation that took place in ANCSA took from the Native
23 people a vast wealth, way, way more value than the 44 million
24 acres and the billion dollars.

22 I simply used oil as an illustration, but it's also
23 true of hard minerals, copper... There's mountains of copper
24 up here. Gold... You name it, we got it. Now there's a lot of
25 people who believe that... who believe in what Felix Cohen called
"the menagerie theory of Indian occupancy." The menagerie theory

1 is that the Native relationship to the land is something like a
2 wild animal's relationship to a land. A wild animal, of course,
3 moves around. It doesn't have fixed roots... Oh, the usual
4 patterns where the food it, but there's no sense of dominion or
5 ownership to the average animal. Of course, we, here in this
6 room, and all Native people know that the menagerie theory is
7 nonsense, that there is such a relationship to the land. But
8 the menagerie theory gives credence, belief, support to those
9 who say that Natives don't own the minerals in the land, they
10 only have surface rights.

11 Now, I'm talking orthodox law. There's many, many a
12 lawsuit, court decision by respected courts, indicating that
13 when the Natives have been dispossessed of their land, that they
14 should be paid the value of the land including the minerals.
15 That is to say, when the Natives had dominion over an area...
16 the key word is dominion... dominion over an area, it comprehended
17 ownership of everything in that area, including mineral rights.

18 In 1946, the Congress passed what is known as the
19 Indian Claims Commission Act. There is an inherent flaw in the
20 Indian Claims Commission Act because it authorizes the various
21 tribes to sue the United States for money for lands lost for
22 this expropriation that I mentioned. It is not a vehicle for the
23 recovery of land. But the Congress has set the standards in the
24 Indian Claims Commission Act for its morality in treating the
25 Indian people. It's fair and honorable dealings.

26 In order to win a case for money again in the Indian
27 Claims Commission Act, the Indian tribes had to prove that they
28 were not treated in a fair and honorable manner, the United
29 States had committed some dishonorable act in the expropriation
30 of their land or, in the case of the Aleuts, Flore Lekanoff's
31 area, Lily's... In the case of the Aleuts... Demientieff, too.
32 Sorry about that... (LAUGHTER)... the fair and honorable dealings
33 is they were held in slavery. Well, you know, their lawyer did a

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(LAUGHTER)

MR. BERGER: In due course, we'll have to ask David Case and others to research the difficulties that might be faced, but it seems to me, and I just make this observation... there's nothing profound about it... But quite apart from legal and constitutional questions, there are public attitudes and it seems to me that in Alaska there is a sentiment that can be detected among the non-Native population that there should be no governments that aren't, so to speak, multi-racial. That is, there should be no governments that aren't "public" governments, and the idea of governments limited to persons of a certain tribe or tribes is something that I think many people, and it doesn't matter what country you're in, any of the Western countries, have some difficulty accepting.

Now it should be pointed out that President Reagan, in his statement on Indian policy signed by him at the Whitehouse just about a year ago, did acknowledge the principle of sovereignty and the right of native Americans to their own governments defined on a tribal basis. But that seems to me to be something that can't be overlooked.

The other thing that occurred to me is that the North Slope, and I'm sure this is by no means an original thought, but the North Slope has its own public government in which the Eskimos are a majority, which may mean that, for people there, the idea of a regional IRA is, at this time anyway, thought to be superfluous. Now, there may be no other Alaska Natives in quite the same situation as the North Slope Borough. That is, with a public government in which they are clearly a majority, and that may mean that... it may be an illustration of the differences, as you go from one region to another, of Alaska.

Well, perhaps we might just take five minutes for a cup of coffee and then return.

UNIDENTIFIED: Well, what was

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1 David Case's question?

2 MR. BERGER: Yes, sorry. Oh,
3 yes, David, what is your question? How about letting us have
4 that before we...

5 MR. CASE: I think when I asked
6 the question, I was trying to ask it so it didn't sound like a
7 question but I'll try to be a little clearer this time.

8 But I thought that Martha Demientieff seemed to me to
9 pick up what I was getting at, too, and that is the relationship
10 between Natives owning land and protecting, promoting Native
11 culture values. And I guess what I was ask... This is the way
12 I would ask the question.

13 How can Natives own land or stock as individuals and
14 promote cultural values as whole communities? I think that's
15 what I was trying to get at and I think I detected some of that,
16 part of that question, in some of Byron Mallott's remarks, as well,
17 on the nature of the corporations as institutions for realizing
18 the aspirations of Alaska Natives. So that's how I would repeat
19 the question. How can Natives own land or stock as individuals
20 and promote cultural values as whole communities. And, again,
21 I don't have an answer to that, or purport to.

22 MR. BERGER: Okay.

23 (HEARING RECESSED)

24 (HEARING RESUMED)

25 MR. BERGER: Well, let's take
our seats again, shall we? (PAUSE)

Well, Martha Demientieff, you were going to respond to
David Case's question.

MRS. DEMIENTIEFF: His question
sort of shocked me into attention and I don't really feel that
I can answer the question and I'm glad you said that you wanted
everyone to respond to it. I just didn't want it to slip by us
because I think that's what we're really talking about.



1 But first, before I start on that, I would like to
2 suggest that the task of this commission be explained more
3 thoroughly in the villages as soon as possible, and the reason
4 I say that is because there's a lot of fear. I got a call from
5 home yesterday saying that the Department of the Interior is
6 going to use this report as the Bible in their dealings with
7 Native people, so if you're going to speak for us, be strong and
8 speak forcefully, and all that. And I don't think... I can
9 understand the fear and I think all we need to fix that is a
10 clear explanation of what this is about in the villages.

11 Another thing, one of the people I've always respected
12 so much in my life was Fred Paul's father and, likewise, Mr.
13 Paul. But as he was talking about the IRA, I had the same
14 feeling of getting on the fast train because it's leaving the
15 station as I did when we were being pushed by ANCSA. I think
16 that it's going to take a lot, a lot of telling the people back
17 home what this is all about, and I don't think we should be
18 forced by time, by the fact that 1991 is roaring at us, to just
19 jump on anything that comes along. It makes me feel scared.

20 And now, after all that, I forgot what I was going to
21 say about his question. (PAUSE) Oh... I think that we should
22 provide some of the definitions, like I said yesterday. We
23 should have made it clear what land meant to us, and if people
24 are going to have a settlement like this, it will have to be up
25 to those people to make their needs clear. I think that's where
we bogged down and I think that Byron answered most of those
questions, but we're really late on educating from.... We're
always saying education came to us from the white people. I
think that we're very late in educating the white people from
our side of it. We have knowledge to share and our feeling about
the land and how important it is to us should have been explained
clearly.

One thing that is a worry to me is that the regional

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1 corporations have subsurface rights to the land in the villages,
2 and they have to make a profit. So right there there's conflict
3 and I think that is going to come out clearer in the village
4 hearings.

5 Before anybody came to our area from outside, every
6 place had a name and the name usually told us what it had on it,
7 every place where there was something we could get to help us
8 survive. Just because we didn't use oil or coal and things like
9 that, we didn't have a way of thinking about it.

10 I really want to hear what the rest of these people
11 have to say about our relationship to the land and how we can
12 make it work with the idea of making money off of it. But I
13 think that we could copy people like the conservationists who
14 force people to preserve parts of the land in its wild and natural
15 state. We could force ourselves even, if we take something out
16 of the ground, to put it back the way it was. We could make sure
17 in our planning that we're not going to put so much pressure on
18 the land from development that the animals will move away from
19 our area, that we could slow down and develop a little slower.

20 And that's all, I just wanted to open it so it wouldn't
21 slip away.

22 MR. BERGER: Mr. Hope, would
23 you like to add something at this point?

24 MR. HOPE: Thank you, Mr.
25 Chairman.

Mr. Chairman, I'm a little... maybe frightened is the
word. I kind of think that... Fred Paul indicated that if some
of the suggestions were implemented into the act, we would all
be millionaires. I think that probably would have eradicated
our culture faster than anything else. We'd all be luxuriating
in Hawaii six months out of the year, and maybe this is a
blessing in disguise.

The question that Mr. Case asked, I think as I understand



1 the question, how can Natives own land or stock as individuals
2 and hold cultural values as a community... I think that's very
3 easy to do if we're talking about the context of where we are
4 today because we all have stock. We don't own land as individuals
5 but we are still very conscious of our culture, probably even
6 more so now than we have been at any other time, at least in
7 our region, because we think it might be slipping away from us.
8 Culture, of course, is a changing thing and we can adapt to those
9 kinds of things. I don't see any great harm, if I understand the
10 question correctly.

11 Commenting on the disadvantages that Mr. Paul... I
12 wanted to say something for Rosita. She wanted to... She asked a
13 question about Tlingit and Haida several days ago, and all the
14 attributes that Mr. Paul indicated that are part and parcel of
15 IRA tribes are also incorporated in the Tlingit and Haida tribes
16 with the exception that the Secretary does not approve the
17 amendments to our constitution. We merely advise the Secretary
18 when we do those things. However, in our rules of election, the
19 Secretary controls that and whenever we amend our rules of
20 election, the Secretary must approve that and that's delegated
21 down to the area director. But all the attributes of a tribe
22 that have been enunciated for IRAs also apply to Tlingit and
23 Haida and they have all the attributes of sovereignty that they
24 wish to exercise.

25 The disadvantage that most people find objectionable,
the Secretary does have to approve disposal of lands that are
owned by the tribe and the act that Mr. Paul cited just says
tribes, doesn't say reservation tribes. It says tribes. So if
we own land as a tribe, in theory the Secretary must approve
any sale of our lands. And the Tlingit and Haida tribes do own
land, however we haven't sold any land lately. We own land in
fee simple. We acquire land, but it's land that is attached to
a piece of property that we might be interested in purchasing.

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1 I think there was a little bit of confusion. I think
2 Section 2 isn't a section of the IRA act that the Secretary has
3 authority to create reservations. I believe it's Section 7, at
4 least that's the way I remember it. In Section 7, the Secretary
5 can create reservations and he still has that authority to do
6 that.

7 I believe those are the only comments I have at this
8 particular time.

9 MR. BERGER: Ann, you wanted to
10 add something, I think. Would you like to do that now?

11 MS. RIORDAN: This actually
12 ties... it touches on David's question but it ties into what
13 Byron Mallot was saying about the broad aspirations that were
14 placed on ANCSA, the variety of things that that land claims
15 settlement was asked to accomplish.

16 I want to refer back to the issue of education and the
17 emphasis that was placed on it in the testimony. Again, it was
18 a land claims settlement, but education came up again and again
19 and again in the testimony. I was going back over this last
20 night looking at my piles of quotes, the way I developed the five
21 categories that we've played around with more yesterday and the
22 day before. And at one point, I thought education should stand
23 on its own. I really can't tell you why I decided it shouldn't,
24 but... You know, why I... Because it does. When people talked
25 about education, they often mentioned other needs, health care
and whatever came up, but yet, at the same time, the desire that
the children have access, equal access, to educational facilities
... There must have been a hundred instances within the testimony
that I considered that talked explicitly about that. It was a
major issue and it didn't really have to do with the lands
settlement, but it was something that people were concerned, that
come... be a result of ANCSA. They placed that hope in ANCSA,
that their kids have the opportunities that, often, they had been

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1 denied.

2 As I pointed out, in the paper the issue on education
3 was, in the late '60s, one of equal access, not assimilation.
4 They were anti-segregation. They didn't want to be segregated in
5 BIA schools that were often not as good as what non-Natives had
6 available to them. Again, as I mentioned in the paper, the
7 dangers of integration, which are real, are still real, were
8 not articulated. It's not that they weren't... They weren't
9 articulated. I'll leave it at that. Whatever the perception
10 of the problems were, that wasn't what was being talked about.
11 The issue was equal access.

12 And I think, in listening to the last few days of
13 testimony, I think that this aspiration has changed. I mean,
14 education's still there but it's changed in how it's perceived
15 to be as an important issue. There is, I think, again based on
16 what I've heard here, an increasing recognition that, along with
17 land rights, education is critical in maintaining culture and
18 maintaining cultural values, and that cultural integrity and
19 cultural values... that's what education is all about.

20 This can be seen, again, in the push for bilingual
21 programs that's gone on during the last 20 years, bilingual
22 programs that are not assimilationist in type, that are not
23 primarily there where you use the Native language in order to...
24 You use it for the first few years of school in order that the
25 kids get good enough in English so that you can knock off the
bilingual program altogether. That's certainly been there in
the programs, but I think as far as many Natives are concerned,
that's what they've been fighting against. They want bilingual
programs to be there, given equal weight of the Native language
and its use in the schools.

On Nelson Island, I know over the last year the
council has been trying to get off the ground, or get funding
for, an oral history project and one of the goals of that project

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1 is to record oral history, not just in order... not primarily in
2 order that their views on... their world view be clear to people
3 on the outside, but in order that they have that material there
4 to use in their high school programs, that they have tapes, not
necessarily written material, that they can use as curriculum.

5 There's curriculum development happening on a more
6 formal level but I think this kind of grass roots curriculum
7 development... and I don't think Toksook Bay and Nelson Island
8 is alone in these kind of attempts... are really important. The
9 desire of the elders that sat on the council to make available...
10 to put into the formal education... They now have a beautiful
11 REA high school but it doesn't often teach what they want to be
taught, and this is one attempt to make the sorts of things that
they want available to the younger generation.

12 And then there would be teachers like Martha Demientieff
13 who could teach in a culturally appropriate manner. She's not
14 alone, thank goodness. There's a growing number of Native
15 individuals that are becoming formally certified as teachers and
16 are able to participate in the schools, and that's a... I mean,
17 that's been happening now over the years and it's a real... a
18 real positive thrust in education of Natives in the state.

(TAPE 9, SIDE A)

18 MS. RIORDAN: And what people
19 like Martha... what Martha will teach, does teach, are values,
20 cultural values like sharing, which implies the obligation to
21 give, not just... It's a real necessity to share, not just
22 something you do if you feel like it. Values including responsi-
23 bility to the group, not just responsibility to yourself... The
24 value of respect is there in, I'm sure, how she treats her
25 students as well as the content of what she teaches. These are
fundamental, I feel, fundamental Native values that differ in
some instances from non-Native values, and I know it better from
what I think of my own values, what I was taught when I learned...

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1 The things that I've learned at Toksook, they often... on Nelson
2 Island, they often strike me because they're very different
from the way I was taught as a kid.

3 My folks' main thrust, when they were raising me, was
4 for me to be independent and off on my own. When my husband and
5 I decided to come to Alaska, they were happy that that happened.
6 Sure, they were going to miss us, but the whole burden of raising
7 me was so that I could be all off on my own. They were glad to
8 see that I'd finally accomplished what they'd set out to do. I
9 was an independent individual. My parents, as elders... and
10 now they're living with my grandmother, who's 90 years old. I've
never referred to them as elders before. They're getting up
there. I think they qualify.

(LAUGHTER)

11 MS. RIORDAN: They expect to
12 be left on their own. They don't... My father will say, "I
13 don't want or need your support," and that's really... I mean,
14 they want to be in their old age. It's just a very different
15 framework within which I was raised. It's different in some ways.
Humans are all the same, but there are some differences there.

16 I think Native Alaskans have a lot to teach non-Natives.
17 Actually, not to get mushy, but I think that's part of what
18 meetings like this are all about, not just clarifying issues
19 for the Native community, but it really does, I think. In some
20 of the good news coverage, KSKA broadcast all of Martha's talk
21 over a 20 minute period yesterday at noon, which I thought was
22 a wonderful... helpful for folks who were listening, non-Natives
23 and Natives, alike, in Anchorage. That kind of thing seems to
me to be very, very positive and one of the good short-term as
well as long-term outcomes of meetings like this.

24 So there is this issue of education which I would...
I've given sort of some of my views. I would like to hear more
25 on this issue from the panel here. But before I hand back the



1 microphone, I also think that this issue brings up the issue of
2 unity.

(OVERLAP TAPE 3, SIDE A)

3 There's an ambiguity, I think, in what's been talked
4 about over the last couple of days. As I stated in the paper,
5 I thought that the testimony reflected the fact that, for Alaska
6 Natives during the land claims settlement, the battle to pass
7 the land claims bill, unity was not a goal, per se, but a means to
8 an end. Now, diversity was certainly recognized, but I hear
9 people hearsaying that unity or identity as Alaska Natives...
10 And I guess John Borbridge, when he talked about his own family,
11 he had to talk about Alaska Natives because within his family
12 there are not Tlingit, there's Indian, Eskimo and Aleut.... He
13 couldn't... And I gather Fred Paul's family tree would have...
14 He'd have some of the same problems there... or, advantages,
15 whatever, so that your identity as Alaska Natives as a group is
16 really important to people and it's valuable to people here,
17 personally, as well as to you as a group. So unity is important
18 as a tactic but it's also important to recognize what all Alaska
19 Natives have in common; that that's an important personal
20 recognition.

21 And I think in that lies a real strength, that concept
22 of unity, that seems to have changed may have... There may be a
23 difference today from what was going on in the '80s and the late
24 '60s, I'm not sure. But I would... If people could speak to
25 that, I'd really like to know more as to how that strikes you.

(TAPE 10, SIDE A)

21 MR. BERGER: Before we go on,
22 I should respond to what Martha Demientieff said. When this
23 commission was in Emmonak and Tununak last week, it was made
24 clear to them that the commission was appointed by the ICC and
25 that the job was to obtain the views of village Alaska and
Alaska Natives living in urban centers and to write a report

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1 really, if they're asked to make an economic decision. And I
2 think that's very much the case with Alaska Native people.

3 And also, individual ownership, which is personal
4 economic value, only at the expense of destroying the institution,
5 is a fatal flaw in ANCSA. That is, if the only way we can
6 realize personal economic gain is to sell your stock with the
7 value that it has attached to that, not just from the operations
8 of the corporation but the value that is attached to the land
9 in the institution, is a very grave problem for the future of
10 ANCSA. And I think that that's something that we really need to
11 spend some time with.

12 And the business of unity and common cause, in the light
13 of that choice which we will be forced to make in a very few
14 years, I think is, probably more than anything else, a forced
15 decision which will result in fragmentation and destruction of
16 a significant institutional opportunity for Native people to
17 pursue their future.

18 You know, to look at ANCSA as a land settlement,
19 additionally there was a recognition of Native people as Native
20 people and having all sorts of other desires. Partly, that was
21 recognized in Section 2(C), which was that study which was
22 mandated on the status of Natives to be done by the Secretary of
23 the Interior and then submitted to Congress for action. Well,
24 by the time the 2(C) study was done, the door had shut, in my
25 judgment, in terms of public policy and public attitudes, and it
was not something that we could use as a tool or as a vehicle
to advance other desires and interests of Native people.

In the early 1970s and as we moved into the mid 1970s,
the kind of opportunities for us were really gone, to a substan-
tial degree, those that existed in the mid '60s. And so the 2(C),
for all that it might have implied for looking at the status of
Native people and making some judgments about how Congress could
make some midcourse adjustments in the trajectory of ANCSA, really



1 Congress was reacting. And we knew that we were going to be stuck
2 with 40 million acres of land and Arctic Slope's portion of that
3 was going to be only five million. Now that gave us concern
4 about, "Wow, we're losing control over 51 million acres out of
5 this." So what did we do? We worked very close with our council,
6 Charlie Edwardsen, Jr., and the people that knew what a borough
7 concept was. It was already in the Alaska state law, and I say
8 that the framers of the Alaska state constitution did it so well
9 for us it caused us to exercise self-determination so that the
10 regional corporation wouldn't be stuck with delivering those
11 services which we had no business doing, except make profit and
12 issue dividends and be the stewards for our stockholders.

13 Now, having the Alaska state voluntary borough act, it
14 was just a matter of us getting into the administration and
15 getting it executed so that we can have an election for our own
16 borough mayor, our own assemblymen and our own independent school
17 district school board. Now that's where you get your own grass
18 roots voice on how we want our borough government to function.
19 Of course, you have to want them to be accountable for all the
20 tax money they've gotten from private industry and sometimes it's
21 hard to make public service accountable.

22 Well, having that, we also got into more intelligence
23 saying that Congress was going to adopt a corporate vehicle. So
24 we got together and got the North Slope... not the North Slope,
25 but the Inupiat community of the Arctic IRA corporation. That,
we were hoping, would be the vehicle to receive the lands and
monies. Now having an IRA which was incorporated under 16 of
the act, I don't think we got into the 17 part, but at least
we were ready to be the vehicle to receive the monies and lands.
But Congress, in its infinite wisdom, said, "No, you will
incorporate under Alaska state corporate laws." In causing the
North Slope borough to be incorporated, we were able to cause
them to deliver the services that governments are supposed to do.

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1 And this left the regional corporation to go out and do business
2 with the free enterprise system.

3 Now, I've been asked, "What's going to happen when
4 the Anglo American moves up there and develops some enclaves
5 where they will out number you?" I'm just hoping that we will
6 have enough concerned citizens to cause our North Slope borough
7 to be accountable and still have the best borough government
8 that Alaska state can have and one that we can be proud of, and
9 one that our children that are going to eventually be leaders
10 in that government will still maintain the proper delivery of
11 service and provide us with the type of education that we want.

12 Now getting back to the regional corporation, you know,
13 out of our profits we can develop some programs so that we can
14 make monies available for scholarship loans and grants for our
15 students to go to college. Those are the things that we can do,
16 but we have to make a profit before we can actually make monies
17 available to them. Well, thank goodness our associations with
18 the oil companies have made those monies available so we are
19 having our quota of young people going to college, and also
20 maintaining the level of bilingual education that they would
21 like to have... each community would like to have.

22 Thank you.

23 MR. BERGER: Thank you, Mr.
24 Upicksoun. Mr. Borbridge?

25 MR. BORBRIDGE: Thank you, Mr.
26 Chairman.

27 I want to start off by commenting to Mr. Upicksoun.
28 He asked what would happen if enough non-Natives moved up there
29 and formed various enclaves. What we would have would be the
30 racial enclaves prohibited by Senator Jackson in the ANCSA bill.

31 (LAUGHTER)

32 MR. BORBRIDGE: Mr. Chairman,
33 I had the privilege for serving for two years on the American

1 Policy Review Commission in which, in all possibility, I spent
2 more time learning than I contributed, although I hope that I
3 was able to represent the viewpoints that were anticipated to
be offered by me.

4 But if one overriding theme, to which I referred
5 yesterday, came through, it was the desire of the Indian tribes
6 across the country to maintain their identity as Indian tribes
7 and to aspire for the same elements of cultural integrity that
8 we have been discussing since the hearing opened. I think, too,
9 I heard the same concern about the land base and the Indian
10 tribes that testified in field hearings that were held and in
11 those that were conducted in Washington, D.C., essentially
expressed concerns that seemed, in their minds, to be parallel.
To discuss cultural integrity was to discuss a land base.

12 It appeared that, as in one ironic sense, we Alaska
13 Natives benefited from history in this way and that is, Congress
14 had promised in 1884 to take care of the matter of defining
15 through a congressional act whatever rights to the land the
16 Natives would have. Where we benefited was that that promise
17 was then layed aside and, in the meantime, our people, particularly
18 those in the rural areas in the villages, continued to follow a
19 lifestyle that was timeless, the subsistence-taking of the bounty
20 from the land.

21 As a result, we had the one claims that was pressed as
22 to our lands in which there had been no extinguishment of the
23 aboriginal title or Indian title on which our claims were based.
24 At the same time in the history of our territory and then state,
25 there had been no clear definition of the status of what was
called Native groups, and many of us recall there were necessary
efforts to stretch the meaning of Indian country. Many of us
here participated in legislation in which that familiar term,
"and Alaska Natives," "and Alaska Native villages," and, later
on, the term added, "and ANCSA corporations," in order to insure

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1 that we weren't left out in legislation pertaining to American
2 Indians that was also intended to pertain to us.

3 We were also the victims of the indecision over a long
4 period of time of the Department of Interior to arrive at any
5 kind of a decision, were we, in fact, tribes up here or not?
6 We lived secure that we were functioning as tribes. We had all
7 the characteristics of tribes. All that we lacked, essentially,
8 was the backbone by the Interior Department to admit we were,
9 in fact, tribes.

10 We also lived without the benefit of having a confirma-
11 tion of title to lands on which we had resided since time
12 immemorial, and so we were a tribe that was not formally
13 recognized, although we functioned as such. We were also a
14 tribe without confirmed title which would enable us to function
15 as a tribe with a land base, which is more characteristic of
16 most of the Indian tribes in the South 48.

17 And, thus, what I'm posing is the beginning of what I
18 see as a long evolutionary process in which ANCSA is merely one
19 step in the process. Thus, prior to '71, culminating in December
20 of '71, the Natives, as described earlier, were faced with a
21 crisis which threatened the loss of more of their land, not just
22 the loss of their lands meaning those lands which they claimed.
23 There had already been significant losses through selection by
24 the state. Under those pressures and under a need to work
25 within the congressional legislative system, the Natives came
together and set aside their differences and sometimes took off
the gloves in board meetings, and then after we got through
battling on various points, went off to the Congress, presenting
the facade of serenity and unity on all points.

We prevailed and were able to gain title, the confirma-
tion of title, to 44 million acres. Now it may be that the
next step is something none of us can foresee, but in terms of
looking at the timeless quality of tribes which continue forever

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1 and membership which changes but who are members of something that
2 continues without end, a tribe, then it appears that the next
3 logical consideration is to combine the timeless quality of the
4 tribe with the land, resulting in a tribe that is land-based.

5 I know that, just as you, I can come up with any
6 number of points and arguments as to why this can't be done. I
7 guess they were as numerous as the arguments as to why there
8 couldn't be an Alaska Native Claims Settlement Act. It sounds
9 very familiar. But that, to me, would seem to be a logical
10 conclusion to this long evolutionary approach of taking the
11 Alaska Native tribes that have always been here and getting
12 them back together with the land that has always been theirs,
13 and finally recognizing their ownership, however it might take
14 place in terms of, I suppose we must call it, a transfer or a
15 relinquishing and transfer from the corporations created under
16 ANCSA to the tribal entities.

17 I'm raising this not so much as a profound conclusion
18 as something that I've begun to ask myself over the period of the
19 last several years. Also, so that... I guess, in a sentence, I
20 feel strongly that cultural identity and integrity and a land
21 base are essential.

22 I do want to comment, also, on the proliferation of
23 Native and village organizations. Certainly, these present
24 opportunities. Many of these organizations arose as a consequence
25 of opportunity to administer programs directly. In that sense,
they certainly represented to the fullest the concepts that all
of us have of self-determination. But also, of course, there
arises with the proliferation prices that we have to pay that
were never anticipated at the time. I think part of the result,
and I'm not pointing fingers at any region, we have this problem,
and no one organization initiates it. It happens. We all have
our turf. We all become aware of jurisdiction. We all look to
the act, not only to see what this organization should do, but

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1 but what your organization should do that it isn't. And, suddenly,
2 we end up talking about this organization as us, and your
3 organization as them, and we're all the same tribe and the same
4 people.

5 The other thing I see that happens is that there's a
6 less energetic interaction. There's less interaction between the
7 various leaders and spokesmen. Quite frankly, our ranks of
8 leadership are too thin to allow that to happen, but we do.

9 I think, further, the jurisdictional question has a
10 tendency to cause, not intended by any organization or any leader,
11 a paralysis to set in. As one example, I think if we look for
12 one entity that has a timeless quality, it's one that I've
13 mentioned, which in practice will have more than it's share of
14 problems and it's politics, and it's the tribal governing body.
15 I don't want to suggest there will not be times that we will
16 become very impatient with it or see it wander off the course.
17 But it's timeless. It will have time to wander back on the
18 course. But, here again, in my opinion the tribal governing
19 body is vested, I think, with the responsibility for the long-
20 range concerns of the people. For a tribe to answer the question,
21 "Where do we want to be in 50 or 100 years?" is not all that big
22 a question because it's consistent with the existence of a tribe
23 and the timeless quality of its existence, where there is no
24 beginning and no end.

25 Sometimes there arises a situation in which a tribal
governing body or a non-profit or some other entity is told,
directly or indirectly, "Here is the jurisdiction of a corpora-
tion. These matters are corporate matters, you are to leave
them to the corporation. Now here are some very comfortable
non-profit activities in which you might profitably direct
your energies." And, in fact, I think that the tribal governing
body does a disservice to its people when it buys the proposition.
And, again, I suggest the proposition may sometimes be advanced

1 directly, may sometimes just happen and be accepted as something
2 that should be.

3 I'd like to comment just briefly on the distribution
4 of land assets. I feel strongly that the distribution of land
5 assets, which essentially is a liquidation of the assets of the
6 tribe, ignores the tribal use and occupancy of the land that lead
7 to the ownership. I want to stress again that the obligation of
8 all of us is not only to the future but to the past as well. There
9 is use and occupancy because there were people using, occupying
10 the land and exercising dominion over it. We could assert our
11 Indian title. We could go to Congress because that was happening.
12 We have an obligation to the members of the tribe who are not
13 yet born.

14 We who are here today and those who were alive in '71
15 were just alive at that time as members of the tribe, but I think
16 if they had voted to distribute the assets and sell the land,
17 they would have done a disservice to the tribe. I view them,
18 to use Mr. Upicksoun's comment, "They are stewards." They're
19 merely stewards for the ones who will come after. All of us
20 here are decedents of people who didn't understand what it meant
21 to own in fee simple title because all of our use, all of our
22 occupancy, could not be reduced to something on paper.

23 I think the best paper drawn under Western law always
24 leaves something out that the Alaska Natives understood and felt
25 about that land. I feel, therefore, that the distribution of
assets, at any given point, selfishly benefits those who are
living at that time who, in fact, should be viewing themselves
as no more than the caretakers or the stewards. Their function,
our function, is to preserve the tribal assets for the future.

The clear intention of the Native framers of ANCSA
was that the land of our forefathers would be preserved for all
of us, including those who will come after for some while into
the future.

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1 I want to close with this, that ANCSA, as I mentioned
2 yesterday, does not reflect the total picture of what the Natives
3 tried to incorporate into the law. If you want to understand
4 what the framers of that law intended, you have to go beyond
5 ANCSA. ANCSA was the result of several years of effort. ANCSA
6 was one of a number of bills introduced into the Congress. ANCSA
7 was the result, not only of the lobbying by the Native representa-
8 tives, but as the result of opposition by powerful, well financed
9 vested interests. And, finally, it was the result of a compro-
10 mise between one version offered by the U.S. Senate and another
11 version offered by the House.

12 Let me just give some examples of things that were
13 intended, offered by the Native framers, but not adopted into
14 the final law. The subsistence provision, as I mentioned
15 yesterday, was not spelled out in the detail offered by the
16 AFN representatives and as was included in the Senate version.
17 The House provision on subsistence prevailed.

18 We, the Alaska Federation of Natives, vigorously
19 supported the concept of a perpetual two percent override. This
20 was only just and only fair. The concepts of Western ownership
21 of land were being thrust on us so we accepted the proposition
22 of dividing and separating the surface estate from the subsurface
23 or mineral estate. Consistent with Western law, we offered the
24 provision which would provide for a two percent override in
25 perpetuity for the Natives. If we truly were treated as owners
of the land, we would have had today that two percent perpetual
override. I considered this so-called compromise by the Congress
one of the most arbitrary, unfair provisions which they pushed
upon us.

There was consideration of economically valuable non-
contiguous lands. Some members of Congress were thrusting on us
the notion that all of our lands had to be contiguous. That is,
connected and in one massive body, and this provision did have

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1 support from Senator Jackson, that we should have right to select
2 lands for their economic value. We even had, at one point,
3 provisions for what we called in lieu selections, lands could
be selected in other areas.

4 Here's an example, that if one region couldn't satisfy
5 its land selection, it would select lands in another region and,
6 together, the two regions would work out a way of managing those
lands.

7 Finally, as I also indicated the other day, we had
8 sought to use the central council, the tribal governing body, as
9 an ANCSA entity for the purpose of administer... being the
10 administrative entity for Southeast Alaska. In Southeast Alaska,
11 with the election of our ownership... I'm sorry, with the
12 functioning of our central council, how we operated reflected our
13 organic documents, our rules of election and our constitution.
14 And in Southeast Alaska, the central council had provisions for
15 the election of delegates, representing one delegate for each
16 100 people in the various member communities. We conducted our
17 business by an annual convention and under the decisions made
by an executive committee elected at the annual meetings. Thus,
18 this, at least, gives some picture of both how the leadership
was selected and how it functioned.

18 Thank you, Mr. Chairman.

19 MR. BERGER: Thank you. Maybe
20 we should see if anybody on this side of the table wants to say
something before lunch. Mr. Carter?

21 MR. CARTER: Thank you, Mr.
22 Chairman.

23 It's difficult to say anything without referring to the
24 rose-colored glasses that many of us wore during the late '60s
25 and early '70s. Of course, we had a great deal of confidence in
our own people and their ability to work together without
fighting or squabbling. Well, we took those glasses off and were

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1 in the heat of battle.

2 I think it's important to note why certain decisions
3 were made in considering some provisions of ANCSA. Several times
4 the organic act of 1884 has been mentioned, where Congress reserved
5 the right to settle the question at some future time. It's
6 also important to note I think that was the first time that the
7 laws, civil laws, were applied to the state of Alaska. The laws
8 of Oregon state were applied to the state of Alaska, and I believe
9 that was the time, also, that the first land laws were applied to
10 the state of Alaska in the mining laws.

11 Subsequently over the years, and even after statehood,
12 the Congress has passed laws dealing with specific land pro-
13 visions, disposal provision, whether it be for mining or for
14 community development or for trade and manufacturing sites or
15 for religious institutions. Throughout the state you'll find
16 small parcels of land, some up to ten acres, five acres, 40 acres,
17 up to 400 acres or more, that were included essentially as
18 Native lands because of laws passed by the Congress of the
19 United States. Mining companies have claims all over the
20 state. Religious organizations have many acres of land. Canneries
21 acquired key locations and sites on the coast of Alaska for
22 fishing enterprises. In townsites that were created, the
23 trustee, in many cases, allowed non-Native acquisition of lands.
24 Within the villages, themselves, throughout the state there are
25 a lot of places where there are stores or other economic
activities that are being run by white people.

So whether title to specific parcels of land were
acquired by acts of Congress or by purchase or inheritance, or
just by longevity of living there, it was recognized by the
Native leadership and the people that they should have some
title, that their title should be honored. And so the claims
act provided that not only those individuals that had acquired
some interest would be protected in their interest, but that also

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1 individual Native persons would have their interests protected
2 and that, in the implementation of ANCSA, we would be required to
3 deed to the individuals their title. And what they do with
4 their individual titles, then, is their own business.

5 Another important aspect of our consideration of being
6 a Native and having certain rights and obligations must be viewed
7 in the context of World War II, when many of our Alaska Natives
8 joined the armed services and, in fact, some of the islands of
9 the Aleutians were invaded by the Japanese. Some of our Native
10 people died fighting for this country. Some of our people today
11 are very, very proud to wear the uniform of the Alaska National
12 Guard. Some are extremely proud that they represent an elite
13 group of first defense of this country as Arctic Eskimo Scouts.

14 It's also important to note that many people today,
15 the elders that we admire and appreciate and look to for guidance,
16 can remember very clearly, because I can and I'm not an elder...
17 I don't think... can remember very clearly the signs on the
18 bar door, the signs on the restaurant door in the urban centers
19 of Alaska that said, "No Indians Allowed." We can remember very
20 clearly the very blatant, public discrimination against Alaska's
21 Native people.

22 So it's hard, in view of this blatant discrimination
23 and the pride that we have in fighting for our country, to priori-
24 tize the hat we wish to wear. Am I first a Native? Am I first
25 a citizen of this state? Am I first a citizen of the United
States? Am I first a human being? So the priority that we
view ourselves as individuals, I think, is an individual decision
throughout the state and you will probably hear much reference
to that priority classification of each person.

So the question that Mr. Case raises is an interesting
one and I don't think there's going to be an answer for it.
There are many villages in this state, especially the smaller
IRA villages, that are looking with a great deal of interest at

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1 the outcome of the Tyonek lawsuit case. Tyonek, as you know,
2 is an IRA village. It has instituted rules and regulations for
3 non-Natives that they could stay only for limited periods of
4 time with the permission of the people. A lawsuit is in... I
5 don't think it has been concluded, has it Fred? Do you know?

6 MR. PAUL: (INDISCERNIBLE)

7 MR. CARTER: Well, some non-
8 Native people moved in there and they wanted to stay and the
9 village wanted to run them off, and I think it involved some
10 ownership of property by individuals of the tribe that allow...
11 wanted to rent or sell their places to non-Natives. So we're
12 very interested in the ability of that IRA tribal organization,
13 through its own rules and regulations, to control what they feel
14 is trespass against their tribal entity.

15 I don't know what will happen because we viewed, over
16 the years, the problems in the United States, the Watts problem
17 that has been alluded to, the other violent reactions that have
18 taken place, whether it be in the Negro communities or in Florida
19 now where they have the tremendous number of people from down
20 south, but the anti discrimination laws that are taking place,
21 the cases, the court cases involving those things... As a
22 matter of fact, we all respect the women... the IRA, or whatever
23 they call it, the women's rights movement... The ERA, women's
24 rights movement of the United States. So whether or not our
25 Alaska Native people would be willing to have ethnically
segregated organizational structures in the future, I think, is
a question for them to answer as time goes on.

Thank you.

MR. BERGER: Mrs. McGarvey,
would you like to add something before lunch or after? All right,
well, let's adjourn until 1:15, is that all right?

Oh, just before we do, could I raise a couple of
questions that you might think about? Mr. Mallott said that the

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1 act had a number of weaknesses. One is, he said, that it
2 created the opportunity for Alaska Natives to... destroy each
3 other and I... Perhaps he and others might discuss that. I
4 assumed he was talking about disputes within corporations
5 between shareholders, disputes between the regional village
6 corporations, disputes between the villages and the IRAs.
7 But if I didn't entirely comprehend that, perhaps, Mr. Mallott,
8 you and others might pursue it.

9 There's just one other thing. Everybody assumes that
10 in 1991 it would be a good thing to prevent the shares from being
11 sold. That seemed to be the feeling in the villages that we
12 visited last week and all of you seem to assume that. Is there
13 a body of opinion? Do any of you hold that opinion? But is
14 there a body of opinion among the Alaska Natives that isn't
15 represented at this table that says, "Yes, in 1991 if we want to
16 sell our shares and get the money and buy a house or whatever,
17 a business, we should have that right."

18 Perhaps you might address those questions this after-
19 noon. They seem to me important.

(HEARING RECESSED)

(HEARING RESUMED) (IN PROGRESS)

20 MR. BERGER: -- there is a
21 representative from Toksook Bay and another one from Nightmute.
22 They wanted, both of them, to make brief statements. They were
23 at the community... or, at least, the village meetings we held
24 at Tununak last week and they decided to come here representing
25 their villages. Perhaps we might just take five minutes or so
to hear from them.

Ann, would you escort these to gentlemen to the...

(PAUSE)

MR. JUMBO: I'm Thomas Jumbo,
from Nightmute, and I just go for only fourth grade. I got...
I'd like to have a testimony, short words. We are select the

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1 land back in 1971 here at Anchorage. They sent us to select the
2 land, and... And what about those kids born after December 1981?
3 There is no stock, there is no land, no shareholder. But the
4 law is wrong to me. It is our kids, it is not different from
5 us. It is not like a white people. How come give us the law?
6 And 1991 is coming for the taxation and they can back the lands
7 and the money and assets, and what about... We have no land and
8 money, and I born my life hunting and trapping. My ancestor
9 teach me to use that land.

10 That's all I have.

11 MR. BERGER: Thank you, Mr.
12 Jumbo, and would you, when you return, tell the people at
13 Nightmute that we're very pleased that you were able to attend.

14 Mr. Bill, would you like to add something?

15 MR. BILL: Like to add just
16 little bit. My name is David Bill. I'm from Toksook Bay,
17 Nelson Island, which is in Bering Sea.

18 I was concerned about this... The other day one man
19 says about education, he stated that if a person don't have
20 education, there is nothing. That didn't go with me. The
21 Native people of Alaska, the coastal village, even the inland
22 who are all Natives, anywhere you look in Alaska is Alaskan
23 born Native, educate his own children from the time they were
24 born and from the time they were able to speak. They tell him
25 what is wrong and what is right. As they say, the parents of
the children are the best teachers they have, everyday teachers.

We teach our children how to survive in the wilderness,
how to hunt for food, for fur, how to hunt in the ocean. These
things the education you... in the education, you cannot give.
You might give some of them but you can't give all of them. Up
to my age now, I'm still living the Eskimo way. Nobody's never
told to learn the Eskimo way. There is no limit. They say...
Some people say they know the Eskimo way or the Alaskan Native way

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1 if they stay for a month in their village. They don't. They
2 don't know a lot. They might know just a little bit. That's
3 one of the things I want to say.

4 The other one I want to add is tell you a little story
5 about this person that I know. I won't give his name. He was
6 taught by his father of his hunting ground where he'd hunt when
7 he grows up to be a man. He learned all of them. He went freely
8 like a fox, like an animal. He went over, like if he wants to
9 go over someplace where there's food, where there's game. He
10 could go freely at those earlier years, but up to this date he
11 was told he can't go no more without a permit.

12 For that, what our children and their children going to
13 do if they can't go anyplace? How are they going to feed
14 because there's no other income in bush villages? The only
15 survival they have is the land and the waters, and if you don't
16 have... If you're not working, there's only a limited place
17 where you can work, and if you're not one of them, the only
18 income you have is you, yourself, if you go out in the tundra or
19 in the waters of Alaska. That's the only income you have for
20 your village... I mean, for your family. If you're sick, if
21 you get sick, if you didn't get that much, your family starts
22 getting hungry.

23 So that's the main thing I wanted to talk about.

24 MR. BERGER: Thank you, Mr.
25 Bill, and please tell the people at Toksook Bay we're pleased
that they sent you as their representative. Thank you very much.

26 Well, Ann Riordan and Ralph Purdue can reclaim their
27 seats, if they wish.

28 Well, we were going... When we adjourned I had posed
29 a couple of questions that I thought you might pursue in due
30 course. That, of course, is up to you but we were about to ask
31 Lily McGarvey to speak when we adjourned.

32 MRS. MCGARVEY: I'm sorry

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1 I didn't write your questions down. I don't know what they were.
2 But I've been told that there was a story in last night's paper
3 about some of the things I said and I haven't seen the story
4 but I understand they picked up on a joke I made about some of
5 us couldn't spell corporation, and apparently, the paper can't
6 spell it either.

(LAUGHTER)

7 MRS. MCGARVEY: But I hope
8 that they give as much attention to what we said that we felt
9 was important, that they do pick up on that.

10 A few of us had a very lively luncheon and there was
11 quite a bit of discussion on David's question. And some of us
12 thought that the question is backwards. Our land has always
13 been used by us and, if we own it, I don't think we'll treat it
14 differently. It will still be one of the most important things
15 to us. And if we have something of value, like right now we have
16 the shares of stock and such, our traditional way has been to
17 share and I'm sure that we'll all share with our inheritors.

18 I still feel sorry about those children that were born
19 after the act, that they do not share in it at the present time,
20 and I hope, somehow, we can turn that around. One of the ladies
21 at lunch mentioned that her son was born before the passage of
22 the act and the daughter was born after the passage, so she has
23 one that does belong and one that doesn't, according to the
24 enrollment.

25 Somebody mentioned education. Education does run
through the act a lot. It was mentioned a lot, it's always
been mentioned a lot. Education has been something that the
Alaska Native population has not shared in equally with the
rest of the population in that a lot of us had to go to BIA
schools which were not as up to date, not as comprehensive as
other schools.

For instance, I was sent away to probably the first

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1 BIA boarding school in Alaska when I was going into the eighth
2 grade. I was about 11 years old, and the BIA doctor told my
3 father that, if he didn't send me to the school that year, going
4 into my eighth grade, that the school would probably be full the
5 next year and I wouldn't be able to get in. So I was sent to
6 Eklutna to go through my eighth grade and I was there... At that
7 time, as I said before, when you went to a BIA school you were
8 there until you finished school, which was at least four years.
9 You didn't return to your village all that time. Then if you
10 chose to go on to college, it was another four years. So a
lot of us did not choose to go on to college. There was no
college near us and I, myself, had to travel a thousand miles to
go to high school.

11 But the BIA arbitrarily made a decision that they were
12 going to place students in grades according to their scores on
13 a test that they were going to give every student in the school.
14 Another girl and I made the highest scores on the tests, so they
15 were going to put me from my freshman year into my senior year
16 and I couldn't talk them out of it. I said, "I don't want that.
17 I want an education, a thorough education." Finally, I wrote
18 my dad and told him about it and said, "I want to go to school
19 somewhere else because I can't get my education here." So
20 he agreed and I ended up going to school in Seward, going to
21 high school in Seward, travelling on the mail boat back and
22 forth in the spring and the fall which, I guess, is lucky because
23 I'm one of the few Aleuts who really went into all of the
24 villages. We made 24 stops on our way and I have met a lot of
25 Aleuts. Although some of the islands are very close, there's
no intercourse between islands because there's no transportation.
I don't know how they made it in the past in the little bidarkas,
but in steamships it's hard and in planes it's impossible to get
from one island to another. Now you have to, sometimes, go all
the way back into Anchorage and then out to the other islands.

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1 But education is important and I think we need equal
2 access to education, the same access that other... other people
3 have in Alaska.

4 Thank you.

5 MR. BERGER: Thank you. Mr.
6 Wright, did you wish to add anything at this point?

7 MR. WRIGHT: Yeah. I'd like to
8 reflect again maybe on a few of the points that everyone's talked
9 about in the last day and a half.

10 I want to start with telling a little bit about...
11 Adding a little bit about what I talked on before, the devisiveness
12 of the system, the political system, administrations and Congress.

13 When the act, as it was written and approved by certain
14 members of the Congress, began to show a final stage, we were a
15 few days or a few weeks from our annual convention, which was to
16 be held in Fairbanks. So we had the House version and the Senate
17 version and we had our version and... input from a lot of people,
18 and we had delegates from all of the villages in Alaska at
19 that convention.

20 And we couldn't divulge honestly to the Native people
21 at that convention those negotiations that were underway by
22 written agreements between the Alaska delegation, Congressman
23 Begich, Senator Stevens, Senator Gravel, and other members of
24 Congress that we were aware of because if it were made public,
25 we were told by our congressional delegation and by the leaders
of the congressional committees and subcommittees of the Congress
that "It would blow the whole thing." So we were sort of muzzled.
We were instructed by these leaders of America that if we said
anything about it and it hit the press, that it would cause chaos.
So we honored that because of advice of counsel and advice of
others that that was the way the system worked.

The Native people have always been honest. They've
always been out in the open. If they had a problem, they

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1 confronted those who they felt were causing the problem and said,
2 "Hey, look, this is the problem and here we are and we want to
3 negotiate a fair and honorable settlement. We don't want any
4 fighting, we don't want any anger, we don't want any distrust.
5 We just want to put our side out and you put your side out and
6 we'll see if we can't negotiate something fair and honorable."

7 We couldn't do that. As a result, anyone that was at
8 that convention will recall, and there are video recordings of
9 it and there are minutes of it, the convention ended in chaos.
10 And I, as the president and the chairman, in attempt to squelch
11 the chaos, in an attempt to keep order, in attempt that there
12 wouldn't be blood drawn on the floor of the convention, literally
13 a fist fight, in order to do something, made the decision to
14 recess the convention.

15 So I ordered a recess and it was fully within my power
16 under our traditional way of dealing as well as under the pressure
17 of the modern society. Phillip Guy, whom is not here but I wish
18 he was here, is an Eskimo from the Kuskokwim-Bethel area and
19 he was my vice-president. So in a challenge to my authority to
20 recess the convention, he called it back to order and demanded
21 answers. And I didn't blame him for that. I would have done it
22 myself except that I thought the chaos might result in us losing
23 a couple or three years. We were near an end, with a gun to our
24 head, of getting one step forward, a big step forward. So I
25 stood my ground.

They recalled the convention and conducted business. I
didn't give in to my word to those congressmen and senators and
those members of the White House whom were trying to help us, in
my view. And I let it be as it was and let things happen the way
they were. I was told by the White House that a bill would
pass and that we had no say from that day forward. I didn't
believe that. I thought we could change it. I thought there
was true democracy, that there was true justice. The result was

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1 that a bill passed and we would stand in the halls of Congress
2 before a subcommittee room or a committee room and wait and
3 wonder, while representatives of the state of Alaska, senators
4 and congressmen, cut deals behind closed doors that we knew
5 nothing about and had no control over.

6 When the bill finally passed, we talked to the White
7 House and asked them if there was any possibility that we could
8 review the bill before it was signed into law, that we could
9 take the bill back to our people, and they said, "Do whatever
10 you like but it will not change anything." In desperation, we
11 got the papers together, we made copies... the public... The
12 printing office hadn't completed its printing so we took bits
13 and pieces and pieced it together the best we could and disseminated
14 it to our people the best we could and recalled the convention
15 to be held at the university out here. And I have to admit in
16 public to all of you that I deceived my people. I lead the
17 leadership and I lead the people of Alaska and the Natives of
18 Alaska to believe that we could have changed it. But I did it
19 in good faith because a majority of the leadership and majority
20 of the Natives that I talked to said, "Let's take the first
21 step."

22 So I pleaded with the White House that the president
23 not sign the bill until at least we could convene in Anchorage
24 and deliberate on the final draft that was approved by the
25 joint conferences of the Senate and the House of Representatives.
26 Again, they said, "Do what you gotta do, but it's done." I
27 said, "Well, it would sure be nice if the president could
28 address the Native people, even if he can't be there. If he
29 could just address them and ask them what they thought and at
30 least allow them to take a vote." They said again, "We're
31 sorry, but that isn't the way it works."

32 I called the convention in Anchorage and I brought
33 the delegates in and I explained to them what was going on and

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1 they had lots of questions, "What does this mean? What does that
2 mean?" And there was not time to explain it. The White House
3 told me that the president was going to sign it on such-and-such
a date at such-and-such a time, no matter what happened.

4 And, fortunately or unfortunately, as history will
5 show some day, the president signed the bill before the Natives
6 had a chance to really look at it. But in order to cover up,
7 in the great tradition of the United States Congress and the
8 great tradition of the administrations of the American government,
9 Mr. Nixon cut a tape and I covered up, too, because I knew it
10 was a tape. The president of the United States did not talk to
me on the telephone. He did not address the convention directly
on the telephone. He played a tape to all of us.

11 I tried to explain this to the Native leaders on and
12 off. I disagree with those who say, such as Mr. Paul, as learned
13 as he is, that to go back is impossible, because the Tlingit-
14 Haida had a settlement wherein they were paid 41 cents an acre
15 and it took them decades to receive that money. And then we
16 rallied and went back in when they said, some of them, "You can
17 never do it again," and we brought the Tlingit-Haida back into
it and we did it. We made one more step. Well, there's another
day and there will be another step.

18 And the indigenous peoples of the world ought to know
19 how devious the Congress of the United States is and how devious
20 the presidents are in their men. And I'm not being derogatory.
21 I'm a citizen of the United States and I'm a citizen of the
22 Native community. I'm not sure that I'm a citizen of this state
although I was born and raised here and I've run for governor, and
I've run for Congress and Senate, never been elected.

23 But when this land claims passed, we were plagued with
24 congressmen, congresswomen, senators, men and women, staff members
25 of senators and congressmen, staff members and partners and
major businesses who got the Congress and the Senate, the

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1 administration elected in Washington, D.C. We were plagued with
2 them coming to us and making offers and trying to deal. I've
3 been approached by the biggest corporations on earth and I've
4 been approached by the biggest religious institutions on earth
5 and I've been approached by them all as I was president of the
6 Alaska Federation of Natives.

7 And I have to admit that I used a lot of them. As the
8 president of the Alaska Federation of Natives, I used the churches
9 and their influences. I used the unions and their influences. I
10 used the major oil companies and their influences, and I used
11 the politicians and their influences... For one purpose, to take
12 a step forward as an indigenous person. And it was for naught
13 in some instances, but the result is what we're looking at today
14 on an overview basis to try to steer, in the future, the destiny
15 of those policy-makers and those politicians and those corporate
16 leaders and those indigenous people... future of other nations.
17 And I think it's important to take a lot of time to go through
18 this.

19 I know what an IRA is. I've known what an IRA is for
20 all of my life. My father was an interpreter, and a good one,
21 as Francis Degnan's father was an interpreter, and a good one.
22 They weren't interpreters of Russian and English and German
23 and French. They were interpreters of the Inupiat language,
24 of which there were eight or more who needed interpreters between
25 them. They were Eskimo nations. There were eight or 16 Atha-
26 bascan languages that needed interpretation. The North Slope
27 Eskimos couldn't really communicate with the Lower Kuskokwim
28 Eskimos. They needed interpreters.

29 The Federal Field Committee report showed that. We
30 characterized the Alaska sovereign people on an equal basing
31 with those in all of Europe, wherein there are dozens of nations,
32 sovereign nations, Norway, Sweden, France, Finland, you name it...
33 Russia, big ones and little ones. Like Mr. Upicksoun, his nation

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1 was large, his population was small.

2 The United States is an amalgamation of rejects from
3 those nations throughout this earth who came to this country to
4 steal our land, and nothing has changed. The only thing that's
5 changed is transportation is better and communication is better,
6 and the control of indebtedness of the average American citizen
7 is greater so they can, instead of going in debt originally when
8 George Washington got in and only had an expense account and
9 didn't want a salary, from thousands to hundreds of thousands,
10 to millions and to billions and to trillions and we'll go on from
11 there. I don't know how big you can go with numbers in debt.

12 A sovereign little Indian nation like Venetie sits
13 there, they don't owe anybody anything. They get no help from
14 anybody. They got no monetary settlement. And who is trying to
15 steal from them? Poor, impoverished people who have land, the
16 state government. They're even taking the caribou meat off of
17 their tables and the fish from their table, by regulations...
18 insidious, invidious regulations, purporting to have the effect
19 of law in the absence of statutory backing.

20 There's a supremacy clause in the United States govern-
21 ment that says the federal government and their statutes are
22 supreme over the sovereign states, including Alaska, but they
23 ignore the federal supremacy. Our reservations are not something
24 that was given to us. IRA is not something that was given to us.
25 We reserved the land, they didn't put us here. Sure, in the
Lower 48 they set up some reservations. They, through the
Trail of Tears, ushered several, several tribes from the East
Coast to the West Coast, put them into Oklahoma on "reservations."
But reservation is something we reserve for ourself. That truly
is culture, integrity and that that you can pass on.

Now we fought very hard with each other, and I'm an
issue in case. My father and my father before me, my grandmother,
was born in Yukon Territory, Old Crow. Some call me a Canadian

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1 Indian. I'm not a Canadian Indian. I'm not an Indian. Columbus
2 made a mistake. I'm an Athabascan, I'm a Crow, my neighbors are
3 Neetsi (ph) Kutchin. My neighbors are Inupiat. We're not
4 Americans. We're not Alaskans. We're indigenous people. We
5 always have been, we always will be. Our affinity to the land
6 will never be taken from us.

6 I am one of seven sons. I am right in the middle,
7 three older brothers and three younger brothers. When we
8 wrestled with this legislation, the federal government paid
9 experts to define us. Then they came to us and said, "Would you
10 accept this definition of yourselves? You, in order to be an
11 Indian, Eskimo or an Aleut, must prove by birth and by church
12 records, and by sworn testimony, signed witness testimony,
13 that you are one-quarter more Indian, Eskimo or Aleut, as defined
14 by the church and by the state and by the federal government."
15 We knew that that was impossible in the case of the Aleuts.
16 We knew that that was impossible in the case of the Tlingit-Haidas.
17 We knew that that was impossible in the case of the Inupiat,
18 because far before there was ever a United States or an America,
19 peoples travelled, and I've had Koreans come to me and say,
20 "We are your decendents." And I have had Japanese come to me and
21 say, "You are our decendents." The fact of the matter is, we're
22 all people of this land and will stay people of this land.

19 As a result of the seven brothers... I married a part-
20 Eskimo girl. Therefore, my children qualify. My brother
21 Gareth, the dog musher, he married Harry Carter's sister. She's
22 part Eskimo. Therefore, his children qualified. But my other
23 five brothers married white women and had more children than
24 we did. So two out of seven of my brother's children do not
25 qualify, two families out of seven. My oldest brother had two
wives, had nine children. Biologically... I'm married by the
second time, I have four by my Eskimo wife and one by my Irish
wife. Yet those children and those men and women, indigenous to

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1 this country, were denied their heritage and, to this day, have
2 been denied their heritage in the face of what I consider this
3 unconstitutional, arbitrary act of Congress.

4 There's nothing to say, no matter whom we are, that
5 those children can't come back to haunt us, and that those people
6 who are alive and well today of my age, who are full-blooded...
7 And I know several who are full blooded Indian, Neetsi (ph)
8 Kutchin... who never went to a hearing in their life, who served
9 in the military, who are veterans, who are members of the National
10 Guard, and who do not show on an enrollment.

11 Now in this process I had the privilege and the pleasure
12 of going into Canada and learning about the Indian and Eskimo
13 people in Canada, and learning about the English law, status
14 and nonstatus. You know, we're human beings. The issue that
15 we face today and we faced then and we're going to continue to
16 face is not one of will the IRA work or will the corporate
17 structure work or will this work or will that work. The case is
18 what President Reagan, bless his soul, and President Nixon...
19 incidentally, bless his soul... called human rights.

20 What are human rights? Where is the dignity of respect,
21 man and woman to man and woman, no matter where you come from and
22 what color you are? Where is that respect? And how far do we
23 have to go and how much longer do we have to try to sneak around
24 to keep from going to jail, getting shot, getting assassinated?
25 How long is it going to be? I don't know. I, frankly, feel
very comfortable because I have six grandchildren and we're all
reasonably healthy and getting an education, et cetera, and
surviving. But that's got nothing to do with the integrity of
sovereignty and human rights.

 I'm going to relate to you, and I know it may sound
boring, but as a corporate individual, I ran for the board of
directors of the Cook Inlet Region and was elected, and lo and
behold, and unknownst to me, the governor of Alaska and some Native

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1 passed a law, invidious law. They call it the Alaska Little
2 Securities Act, wherein the state of Alaska, after the corpora-
3 tions were forming and after the land claims settlement act was
4 completed, passed a law that said that any Native corporation...
5 Now, here the state is passing racial laws... Any Native corpora-
6 tion that has a thousand or more stockholders must clear all
7 proxy solicitations with the commissioner of Banking and
8 Securities.

9 Well, at the time it happened to be a man named Julius
10 Brecht, who was the commissioner of Banking and Securities.
11 Julius Brecht took a letter of mine to my son and he, as the
12 judge and the jury and the executioner, attempted to have me put
13 in jail on the basis that he said that my letter to my son was
14 false and misleading in the proxy solicitation because I and
15 Jerry Ward said that we think the coal in the Beluga Field, it's
16 Cook Inlet property, has a value that would make every Native
17 in the Cook Inlet region have a value from the coal, alone, of
18 over 350,000 dollars per person. Jerry Ward and I researched
19 out those figures and we got those figures from a study that was
20 done at great expense to the state of Alaska through the
21 commissioner of Natural Resources, to give the state an estimate
22 of the value of the coal within the Beluga Fields before the
23 Indians got their hands on it.

24 And during court proceedings in which I employed,
25 personally, three lawyers, including Ed Boyko, the attorney
general for the United States under the Hickel... I mean, for
the state under the Hickel administration, Clifford Groh, former
president of the Finance Committee, and a few others, I was able
to defend myself but I went bankrupt. And they didn't put me
in jail but then the people I had defeated on the board of
directors fight, Debbie Fullenwider and those girls from Cook
Inlet, went to the Supreme Court of the state of Alaska, without
my knowing it, and got the Supreme Court of the state of Alaska

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1 to rule that the judge that heard the case, that said there was
2 no prima facie evidence convicting me of false and misleading
3 information, said that the proxies were still invalid. Therefore,
4 I could no longer be on the board of directors.

5 So the Supreme Court of the state of Alaska threw me
6 off the board of directors of the Cook Inlet Native Association.
7 Now, I'm not bitter about that. I expected that. That's not
8 the only case. What has happened is this, the major lawyers,
9 the major corporation management personnel, infiltrated our
10 ranks and convinced some of our leadership that they ought to
11 ignore the people and go for money-making propositions, and I
12 don't begrudge them for that. But those leaders don't know how
13 to spell sovereignty, let alone corporation, and they're being
14 lead around by the nose by corporate officials and state officials
15 and church leaders, and I'm not down on any of them. I'm just
16 simply saying that you want an overview of the past and the
17 present, that's the way it is.

18 My recommendation is that yes, IRAs are the best possible
19 thing. The North Slope, in '71, got the Interior Department to
20 let them form a regional IRA, but... I don't know if they said
21 it or not but each of the villages had an IRA. Pt. Hope has an
22 IRA, Barrow has an IRA, they all have IRAs, but then they piled
23 on top of that a regional IRA. Mr. Hope tried to get the Venetie
24 to change their constitution bylaws. He just testified here that
25 ... and he was the tribal rights officer. He testified here
that... and Mr. Paul also testified here, that that was the first
time that they went more than one village or more than one
government into a regional IRA, Tlingit-Haida notwithstanding.
Well, the fact of the matter is that Venetie is a multiple IRA.
I mean, the Venetie was an IRA made up of Venetie, Arctic Village,
Katchik and Roberts Fish Camp, Venetie Landing. So whether
there's one or two or ten people or a million people in a village,
a village is a village if there is anybody in it.

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1 So we're made up of five villages and Mr. Hope refused
2 to give us services in many instances, or, advised the Interior
3 against giving us services, unless we modified our constitution
4 to, instead of our legal given name, was Native Village of Venetie,
5 which included five villages, change it to villages. We argued
6 about the amendments for quite some time and it finally came down
7 to a point where Mr. Hope came up to a meeting and said, "Let's
8 take and change just one letter, S." But I knew if we did that,
9 we would have to get permission of the secretary because it was
10 an amendment.

11 So I advised the tribe, "Don't change one letter, not
12 one I. If they don't know how to spell corporation in that
13 document that the President of the United States or the Secretary
14 of the Interior signed, don't change it. You know, we're not
15 here to judge them. That's a step. Don't change it because if
16 you do, talk about opening up a bucket of worms, they'll never
17 let you do anything."

18 The comment on whether you can dispose of land as an
19 IRA... Well, I disagree with Mr. Paul. Mr. Paul says, "Well,
20 the orthodox..." Well, I don't know what that word means but I
21 know that a sovereign can do anything they want. The major
22 protection of a sovereign such as an IRA is that they're
23 immune from encroachment and suit without their permission.
24 And, sure, it's a disadvantage to be able to say... I mean, it's
25 a disadvantage when you go to a bank and say, "Well, look, I'm
not going to give you a chance to touch the land." And the banks
say, "Go away." Well, we don't care because if the banks don't
want to deal with us, wait until we do get a resource. They'll
come and deal eventually. We're in no hurry. We're not going
to jeopardize the integrity of the land under any circumstance
until we unanimously want to do it as a government. And we're
going to form alliances... IRAs in Alaska, IRAS or whatever the
traditional form of government in Canada, whatever the traditional

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1 form of government in Norway or Sweden.

2 It's my understanding, and if anybody here can correct
3 me if I'm wrong, please do. It's my understanding that you
4 cannot buy land in Norway unless you're a son of Norway. A
5 woman cannot own land. No one else foreign can own land. The
6 only one that can own land in Norway is a Norweigen, or a son of
7 Norway. Yet... I don't know for a fact, but I doubt very much
8 if all Norweigen are blond and blue-eyed. You know, I think
9 there's some darker people up there and lighter people and red
10 people and other kind of people, and they're still Norweigen,
11 right? So when you identify yourself as an indigenous person,
12 you identify yourself to those whom you love and you relate to
13 and whom our fathers and mothers and grandfathers and grandmothers
14 of your children, whom chose to live under a sovereign condition
15 which is known in the Western world as culture, heritage... culture
16 and heritage. But you come to live on that land and be a person
17 like that... I know lots of people, Upicksoun knows... what was
18 our friend up there? Hugh Nichols, he spoke Eskimo better than
19 most Eskimos. He ate the food and he wore the clothes and he
20 fought hard in this land claims. He's not a member. As a
21 matter of fact, they kicked him out because he was born in
22 Minnesota and up until the passage of the act, everybody thought
23 he was an Eskimo. You talk about those who came in and became
24 Indians after the act, well don't forget about those that got
25 thrown out because they weren't Indian after the act passed but
were the ones that did the majority of fighting. I mean, what
the heck.

 So, it's back to Frank Degnan's good stories. The
problem with us is we've had poor immigration laws.

(LAUGHTER)

MR. WRIGHT: I really want,
I really want, this overview commission to consider, as we go
through these hearings, to consider some time, give some time, to

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1 viewing of video tapes of the past and to viewing of the corporate
2 records and the tribal records of the Alaska Federation of
3 Natives and so on and so forth. I think it's very important and
4 it would be very enlightening to everybody that is interested in
5 what happened after such an act passes in the implementation on
6 the basis of the dreams and aspirations of the people that are
intended to be served. And I just think, for the record, that
that stuff ought to be made a permanent part of the record.

7 I can think of all kinds of things to say, but I just
8 wanted to bring some of these things out and point out clearly
9 that this is just another step. We have not given up our
10 sovereignty, we have not given up our cultural values, and we've
11 not given up our identity. And we never will. You don't have
12 to own land to be a Native, but it's sure nice to know that you
have retained some of it and fought hard enough to prevent them
from taking it away from you.

13 MR. BERGER: Well, thank you,
14 Mr. Wright.

15 I was going to call on Francis Degnan next, and then
16 Mr. Hope, if that particular story about Venetie is one to which
you wanted to add anything, and then Mr. Ewan and Mr. Tiulana.

17 But before we go on, I think it should be understood
18 that, in this commission, we can't conduct an inquest into
19 disputes that occurred in the past within corporations and...
20 These disputes may be illustrative, they may illustrate that the
act has pitted Native people against one another or that it is --

(TAPE 11, SIDE A)

21 MR. BERGER: -- in some way
22 dissipating revenue in fruitless contests. Perhaps that is so,
23 but I really don't think that, once the courts have decided a
24 matter one way or the other, that this commission can go into it
25 and I think, Mr. Wright, I should say that I don't think the kind
of label you applied to Mr. Julius Brecht is appropriate terminology

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1 to use here. (MR. WRIGHT'S REMARK WAS STRICKEN FROM RECORD)
2 I know there are strong feelings about these matters, but I hope
3 in the future we can proceed without... well, recriminations.

4 Anyway... (PAUSE)

5 MRS. DEGNAN: I feel that,
6 whenever any of the panel members here bring out personal experiences,
7 it's important to give insight as to how the claims act came about
8 and how we're working with it, because what best... You know, those
9 are the way I feel, would be taken in that vein. Because I
10 think each one of us can best relay what's happened to us as
11 individuals and I don't believe any one of us here are out to,
12 you know, put anyone down. And sometimes we... As Natives, we're
13 always honest and forthright, and so when we decide we're going
14 to call a person a rat, we do it right to his face, you know.

15 But what I would like to say is that, in our real
16 situation where we are today, looking back at the land claims
17 settlement, out in the villages the people very definitely feel
18 the land belongs to them and 1991 is just upon us and, in keeping
19 the corporate system going for profit motivation, it kind of takes
20 away from how you're currently managing your land. And with
21 outside encroachment coming in, it's very real. We're getting
22 more people out into the bush area and we've got frontier
23 oil development coming on. We have Norton Sound this year.
24 We'll have the oil companies off the coast and we knew that it's
25 not going to go away. We're just having more people... more
people pressure.

 And from our area, the way we regard the land is that
all of it belongs to us. It's there for us to use. But now
we're, you know, coming to the point as to are we going to start
considering trespass? I mean, it's not within our traditional
way. We've always had respect for the land and now which is
really important is that, the land belongs to you, therefore, you
manage the resources on your land. But we're finding out that,

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1 you know, this is not so. We have Fish and Game enforcement
2 officers being stationed year around, and we don't have any
3 cash economy in our area other than the state agencies which
4 are either there for airport maintenance or providing schools,
5 very little real employment.

6 So I see, within a few years if we don't address the
7 management of resources on your own land, the land that's
8 patented over to you, that it's going to be very difficult for
9 a Native to keep his body intact with his soul, because in the
10 Nome area, I know, they're into subsistence permits and if we
11 bring that down to our smaller villages where we have to have
12 a permit before we put fish on our table or get... Well, we can
13 understand for the caribou and the moose, those are normal, but
14 then, fish is our basic sustenance.

15 Now, I feel that's very important. It needs to be
16 very directly addressed for indigenous people. Now for cosmopoli-
17 tan urbane, we'd be moving all over the place and not having to
18 worry about what resources are on the land. But we still want
19 management. But we are still indigenous people. We are tied to
20 that land. We cannot be restricted in our activity pursuing on
21 our land. And that's a fear that I've heard raised quite a bit
22 because we're getting the pressure of enforcement. And so, when
23 you violate the law, you get fined, so you have to pay cash to
24 the state, and so that detracts from the food on your table for
25 your children. Then, besides, it ruins your reputation, too,
because now you are, you know, a criminal.

And as far as the IRA concept, I feel that it's a very
workable, viable concept. It has worked for those IRAs that have
the energy and the drive, and they assert themselves that it has
worked. It has worked since the early 1940s. But it depends
on what you, as land owners, want and how much are you willing
to put forth. But it's a very workable and I think it's
probably a lot more in step with the Native traditional way of

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1 doing things better than the corporate structure because, in...
2 From what I remember from what our elders have told us for years,
3 that we have managed our own affairs all the way through. That's
4 why we've survived, and we are going to continue to survive. We
5 know what we want. It's just that the law... And we were very
6 law-abiding people and will continue to be very law-abiding
7 people because that's the reason why, I feel, that the AFN chose
8 a legislative route, in that the leaders in our state really
9 should look in terms of, you know, that the private land owners
10 in the state of Alaska are residents, they do enhance the
11 economy of the state and that, you know, when it comes down to
12 really the subsistence issues that it should be considered
13 regionally and that, you know, human dignity must at all times
14 be preserved.

12 MR. BERGER: Could I ask a
13 question? You were secretary of the Alaska Federation of Natives
14 in 1971?

14 MRS. DEGNAN: 1970, yeah.

15 MR. BERGER: 1970, I see.

16 MRS. DEGNAN: For one term.

16 MR. BERGER: Did you wish to
17 add anything, Mr. Hope?

18 MR. HOPE: Absolutely. Mr.
19 Chairman, I think there are a couple of things. When we join
20 something and when we become a part of something, we must obey
21 the rules and that was what the AFN was doing. The AFN decided,
22 in the Fairbanks meeting, before the Fairbanks meeting, that
23 they would use Roberts Rules as their guide. Mr. Wright did
24 not recess the convention, he adjourned the convention. There's
25 quite a difference between recessing the convention and
adjourning. The presiding officer cannot adjourn a convention.
A presiding officer can convene a convention and he can declare
a quorum, but only the convention can adjourn itself, and that's

1 what that thing was all about.

2 With respect to Venetie, the record that I had showed
3 somewhat different than what the Venetie people understood it, and
4 we were trying to go by the record. Because they were very
5 uncomfortable with their situation and how we viewed it, and at
6 that time I was with the Bureau, I decided that I had to go to
7 Venetie. Mr. Wright was there at the time and we chartered...
8 We had the Arctic Village people... I had enough money in my
9 budget to have them come down and testify.

10 They were of one accord. They understood it as Mr.
11 Wright understood it and all the testimony supported that position.
12 And therefore, when I got back, we changed our posture and we
13 went along... I never felt so uncomfortable because normally, in
14 a given situation where I'm involved, I don't get castigated or
15 cast in the role of the bad guy and this time I felt really that
16 I was a bad guy. And I was thankful that I had the opportunity
17 to go there and listen to the elders as they understood what they
18 were voting for when they created their reservation and their
19 governing body. Their testimony was what prevailed, even though
20 the record that we had did not support it. However, their
21 testimony finally was the ultimate guide.

22 To get back to the other thing, we're talking about the
23 IRA and I was thinking that tomorrow and the next day we'd get
24 to that part. I think that I share with Mr. Paul... The vehicle
25 is a good vehicle but I don't believe it would be acceptable in
Southeast. Experience there has been very negative, cannery
operations were... Well, we now know that it's very difficult
to make a profit operating a cannery under the best of circum-
stances, but when you have an extra layer of management, which
the Bureau imposed, and they were really calling the shots and
they didn't have the expertise at calling shots. When you have
to overcome that, your chance of success is minimum.

But the sad thing about that is that the IRAs are looked

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1 upon as a failure. The IRA canneries, especially, are looked
2 upon as failures when the burden of failing should have been
3 shared with BIA because they, in fact, were the managers. So...
4 But the Southeast people have that experience and so if you were
5 to ask them now, "Would you like to use this as a vehicle?"
6 they probably wouldn't all jump with joy.

7 But, again, I think the statement made by Mr. Paul that
8 our people in the present-day would not tolerate that kind of
9 interference, and that probably is what it is is interference...
10 I think the business judgment made by the present leadership...
11 They would not accept BIA judgment, which is all it was, one
12 person's judgment over another and the BIA being the one prevail-
13 ing.

14 I don't think the Native community would tolerate
15 that kind of oversight at the present day. I think that the
16 makeup of individuals and their understanding of operations of
17 entities differ a lot than it did when those operations were
18 on the scene. I think one of the other ones that continues to
19 operate at this time and has a very good record and has
20 survived all of the bad years is the Metlakatla cannery. That
21 is an IRA corporation and it's operating as an IRA entity and
22 it continues to contribute to the welfare of that community.
23 So you have only one out of five, but it shows that it can be
24 a good vehicle.

25 However, I don't think it's a vehicle that should be
imposed on all of the corporations or all of the villages. I
think a vehicle of this type should be an optional thing. If
we were looking for a solution, I think very definitely the
corporation should look upon it and, if it ever came about
that the statute would allow this, I think it would be a very
good option but it should remain an option.

Thank you, Mr. Chairman.

MR. BERGER: Thank you, Mr. Hope.

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1 Mr. Starr, I think since you're right next to Mr. Hope
2 and the microphone is there, if you'd like to add anything at
3 this time, please do.

4 MR. STARR: Yes, I was thinking
5 that thing, but this gentleman over there asked a question
6 which is the individual Indian class before the white man came?

7 Under Indian law, under Indian law, the individual
8 Indian is classed real highly. If he raise his family on what
9 he works for... I'm talking about the law. There's a lawyer
10 here and there's a judge over there. I'm talking about the
11 Indian laws. You asked that. Where is... Where (INDISCERNIBLE)
12 It's very highly respected, what he work for, and his belongings
13 shouldn't be touched, shouldn't anything that belong to him...
14 is his. It should... Nobody have a right to take anything away
15 from him.

16 On... Again, I ask... I'm just answer your question.
17 I talked to this man from the North Slope. In 1915, when the
18 Assistant Secretary of the Interior came in here to talk about
19 the Indian land, the Indians didn't want the reservation on
20 account... I said that yesterday, that they used the whole amount
21 of land, all over, either tribe. You got villages with people
22 all over Alaska. They have to use a big, big land. And I
23 agree with you that what land was given to the Indians under
24 the land act is very small. I said that the other... again I
25 say.

26 And those other two gentlemen that talked here awhile
27 back about the subsistence... In outlying villages all over the
28 Interior of Alaska there's nothing, and what the white man
29 brought in, the food, it will have to be bought by cash which,
30 without work, you couldn't buy if you have to have the money
31 to buy it. So under the land act, Nick Begich know that I didn't
32 have very much education but I had a lot to say about land.
33 And Senator Stevens, Senator Gravel, they took that land act and

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1 wrote it down where they think I could understand it. In that
2 land act there was quite a lot about how the Indians lived, where
3 they picked their berries, where they took fish, and where they
4 catch something else to eat and that should be remembered at all
5 times.

6 About the Indian lands again, it's a funny thing, I
7 don't know how the Oklahoma Indians got their money from when
8 they found oil in their land because under the Indian land, they
9 said we don't own anything under the land, no minerals, no oil,
10 no nothing, and I think that should go to the United Nations
11 and the Human Rights. I think, myself, whether you're Indian,
12 white man, whatever you are, if you own land, if you got so
13 many acres, maybe 100 acres or 40, 50 acres like that, they
14 have... I think that your land, anything under it is yours, too.
15 So it's funny. When you lose what the Indians... Indian lands,
16 and I'm glad that the people with a little education...

17 When I first was a little boy, there was no schools
18 and... The Indians didn't have no names. When the missionaries
19 came... They seem to send missionaries all over. They're the
20 first ones and behind them is an army. The army always... It
21 was funny, talk about the army... We was not citizens of the
22 United States in 1944, and outside in the states, you know,
23 you find an old honest seargent with a stripe on there and he
24 see an Indian and he'll tell you, "What you do around here?"
25 Look like you don't have no business to be around there at all,
you know, you're a soldier, you're a ward of the government.

And about the education, I'm telling you about the
early days. The young... The younger people today should have
all the education they can get, but then, again, the federal
government and the state government say that they can't, they
can't train them for jobs or give them too much education, they
haven't got the money to do these things. But they should try
to give them all the education they got.

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1 I'm glad that you people came here talking, and the
2 people behind, all over, would have something to say later on,
3 maybe tomorrow.

4 About the land claims, like Mr. Parker said yesterday,
5 quite a lot of Natives didn't get more than 100 dollars. But
6 the people that ran the corporations and got paid for it, they
7 made a good living out of it. Not all the corporations and
8 not all (INDISCERNIBLE) are broke. I talked to Huslia, I think,
9 and the village of Koyukuk and Sam, I forgot his first name,
10 he's one of the leaders there and he told me, he said, "Al,
11 we got, for our village, all the money that we got and we added
12 little more to it." So I would say to the people, to the
13 Natives, that it's not all... It's not all bad. That I believe
14 that the future with some corporations and when Indian leaders
15 like you, I think that some... some good still will... will
16 come out of this. But the way it was written, I said again
17 yesterday, I was in Washington. After all the work I did on it
18 in the early days, I never went to Washington, and Mr. Wright
19 said that Indian leaders, the Indian chiefs, should have been
20 there... because, in the early days in the United States,
21 there was a chief where they could talk everything out. They're
22 the first people that the United States government asked.

23 So I think tomorrow there's some people back here
24 who's going to say something and I think you'll give them
25 chance. So, thank you.

MR. BERGER: Maybe we could
just take a five minute break. It's kind of warm in here under
these lights. And then, turn to Mr. Ewan and Mr. Tiulana and
Mr. Upicksoun, and then any others who wish to speak.

(HEARING RECESSED)

(HEARING RESUMED)

MR. BERGER: Well, maybe we
could take our seats again and begin again. (PAUSE)

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1 Well, let's start again when we can assemble around
2 the table.

(LONG PAUSE)

3 MR. BERGER: Well, maybe we
4 can start again, as soon as the... (PAUSE)

5 Well, maybe, Mr. Ewan, if you have anything to add, you
6 might do so now?

MR. EWAN: Thank you.

7 I'd just like to say usually when you're near the end
8 of the panel or discussion you have very little to add. I'd
9 like to point out one thing that I don't think was pointed out
10 too much or alluded to during the discussions here, was that
11 I think the land claims bill made 12 regions, I think arbitrarily.
12 I don't know... I don't think the Natives, as a whole throughout
13 the state, had numbers in mind when they talked of land claims.
14 They didn't think, "Oh, we're going to have a land claims
15 settlement." I don't think they really, truly knew from the time
16 we began a struggle for land claims that this is the way the pie
17 was going to be divided. To this day, I have a feeling, myself
18 personally, we, under time pressure, I think left out villages
19 that should have been our region, or maybe other regions feel
20 the same way. But under time pressure, we had to resolve the
21 boundary issue really... quick so that we could go on with
22 business. I think I want to point that out.

23 As far as IRA, sovereignty, that was discussed for the
24 last day or so, I don't think this was in back of too heavily
25 on the leaders' minds, at least not on my mind, at the time,
mainly because it was foreign to me at the time. The word
sovereignty... Heck, I didn't even know what that meant in
reference to Natives. I couldn't visualize at the time in my
mind how this land claims was going to work. I was that
ignorant. Most of the board members were not included in talks,
such as Don Wright and... John Borbridge and, maybe, Emil Notti.

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1 A few of our leaders had to do a lot of negotiations that we, as
2 a board, did not know all the details about. I think that should
3 be known for public record. We were not all represented at
4 each and every negotiation or meeting at Washington, especially
5 because we couldn't bring the board to Washington a lot of times.

6 The biggest problem I saw at that time was our lack of
7 understanding of what land claims was all about. I'm talking
8 about statewide. I used to work on the statewide level. I
9 traveled around the state a lot and people in the state, I don't
10 think, really grasped what the leaders were pursuing, I mean,
11 what vehicle they were going to use to implement the land claims.
12 I think it was totally foreign to them.

13 So I don't think sovereignty and cultural identity,
14 or whatever, was really an issue at that time. I want to... I
15 think Don Wright said it right when he said that, "We'll be
16 Natives, regardless whether we have land or not." But I think
17 it bonds the Native people. If you have land, I think you, as
18 a group, I think it keeps you together. It keeps your... group
19 of people, Ahtna people especially, in my area, together. And
20 you identify with your people better.

21 I think that's about all the comments I have.
22 Thank you.

23 MR. TIULANA: I have been
24 sitting here almost two days now and there is several issue
25 that come up concerned about what David Case said about how
we are going to retain our culture values. There's a lot of
Natives here, all of us... Almost all of us are Native. We
are responsible to retain our Native culture. Before the
white man come, our ancestors teach our culture values. If
we do it just like our ancestors, we still going to maintain
it, teach our kids, teach our grandchildren, just like our
ancestors did. If you don't know, ask the elders. That's how
we're going to retain it.

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1 It's not going to cost us a penny or a million dollars
2 to retain it, it's up to us, the Native people, the values that
3 we inherit from our ancestors.

4 And Byron Mallott talked about are we going to destroy
5 what we worked for so far today, are we going to destroy ANCSA
6 while we worked so hard, try to get it. I give you some example
7 yesterday about two hunters going out hunting for moose and seal.
8 That's what we are today. Who going to be a better shooter than
9 the other hunter? Those example teach us... going to teach us
10 a lot.

11 We... Mr... Chief Isaacs, at one time in AFN conven-
12 tion, the only way you going to be succeed is hand by hand. You
13 have to understand each other. One time I gave a talk to the
14 board of directors not too long ago. I said, "Don't destroy
15 your organization. Somebody dreamed your organization 20 years
16 ago so it could be benefits for you today." I also give advice
17 just like my ancestor gave me advice. Don't try to be smart
18 alec when you have meeting because there is somebody in back
19 of you a little bit smarter than you are. Sooner or later he's
20 going to come forward and explain what you are. And I give
21 advice to the person that want to run for legislature. I said,
22 "Don't advance yourself for the problem you don't know. Progress
23 as you learn, then you make a progress."

24 We also hear about Mr. Paul, about our IRA power.
25 In my mind, since the mining company come to Alaska, they take
all the money from where they mining and left us their problems.
We have been try to figure out how we are going to fix that
we don't know. So in my mind, not too long ago, the concerned
citizens of the United States wanted to clean up the waste,
DCB, whatever is dumped, wherever they dump their waste. I
think we should ask the Congress of the United States for the
money what the miners left behind because Byron Mallott said
we don't have money right now try to give you the funds for the

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1 said yesterday. You wanted to add to what you said yesterday?

2 And, Ms. Upicksoun, I think you wanted to say something.

3 MS. HASH-PEAT: My name's
4 Evelyn Hash-Peat.

5 Yesterday I said something about self-appointed leaders
6 as opposed to traditional leaders, and I want to clarify that
7 by illustrating what could have happened. If the traditional
8 leaders rightfully represented their nations and, thereby, proved
9 actual use and occupancy and dominion, ANCSA would have met the
10 expectations of the majority of us indigenous people of the land.
11 Instead, self-appointed people, orphans, displaced Natives,
12 unfortunate people who were not aware of their own tribes use
13 and occupancy, language, culture and inherent sovereignty, were
14 used to adjust the immense value of the land, surface and
15 subsurface, renewable and nonrenewable, subsistence, religion,
16 religious practices, ceremonial practices, technical and
17 scientific knowledge and laws of the tribe, which is only avail-
18 able to those who speak or understand their language, their
19 history and our people, and who are raised for it.

20 I know the use of self-appointed leaders was orchestrated
21 by the oil companies, United States government, state of Alaska
22 and others with much to gain from, as Fred Paul so beautifully
23 stated, the white's call it expropriation, the Indians call it
24 stealing, stealing of our surface and subsurface rights and
25 inherent sovereign use of the 65 mile limit... high seas limit,
hunting, whaling, and our water rights, and I am still willing
to fight, if necessary, after the paper trails and the talk
fails, for my land because Copper River and my Inupiat indigenous
people were never conquered by Russia nor the United States.

Thank you.

MR. BERGER: Thank you very
much. I have the name of Vernita Zyles, so take that microphone,
there, if you like. Mr. Paul Frost?

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1 MR. FROST: Yes, I'd like to
2 further add to what she had to say. It seems very strange that
3 the entire destiny of Alaska's been decided without the consent
4 of the Native peoples in any recognizable, democratic way. It
5 didn't happen in the Statehood Act in '59 and it didn't happen
6 in '71 at the Alaska Native Land Claims Settlement Act.

7 I think that what we have here, in the Alaska Native
8 Land Claims Settlement Act, if we wish to, as the people, I
9 can hear the panel members expressing the interest for the
10 children and the continuation of the culture, and they mention
11 self-determination and we mention sovereignty, what we have in
12 these corporate structures is placing our land in feudal tenure.
13 We do not have that in America. We have our... The people of
14 the United States gives the power to the government, not the
15 government giving the power to the people, and what the Alaska --

(TAPE 12, SIDE A)

16 MR. FROST: -- Natives have and
17 had and still have is allodial land title. What that means is
18 we own the land. The government doesn't give us the land. The
19 government doesn't give us our rights. We have always had these
20 rights and if we sit here and continue to discuss the pros and
21 the cons of the Alaska Native Land Claims Settlement Act, the
22 pros and the cons of the IRA, all of those are placing our
23 sovereignty, our self-determination rights under a trustee-
24 trustor relationship. What we have in the Alaska Native Land
25 Claims Settlement Act is not any type of settlement for the
Natives, so to speak, but a settlement, without being redundant,
to British Petroleum, or ARCO, or Sohio, or Anaconda Copper, or
any of these other foreign state enterprises that wish to make
a profit on the resources of the state of Alaska.

What we have is the people of Alaska... The Alaska
Native Land Claims Settlement Act is... It justifies third
party trespass actions. Our resources, our life blood, our

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1 future that is ours, rightfully ours, is offsetting the national
2 debt of other nations of the world. The east-west debt structure
3 is now a north-south debt structure. We're being placed under
4 another legal system and if we allow the Alaska Native Land
5 Claims Settlement Act to continue, and just sit here and discuss
6 all of the goods and the bads about it, what will happen is
7 through acquiescence our Native common law will then change.
8 We will then be subject. It will be our law and we are giving
9 away what is rightfully ours.

10 And I think that it seems to be a somewhat of a... It's
11 a detriment of the people, to us, to continually try and make
12 something work that wasn't designed to work for the benefit of
13 the Native peoples from the start. So I would hope that people...
14 It seems we're now being more and more educated. We understand
15 now, 13... 12, 13 years later from when the act was passed, we
16 are now discussing the things that we wished to see happen aren't
17 happening and they won't happen because they were not designed
18 to happen, and the people that supposedly went to Washington, D.C.,
19 and represented me... I didn't vote for them. My mother didn't
20 vote for them. My grandmother didn't vote for anyone to go and
21 represent and come out with a bilateral agreement, which is
22 what we don't have. We have a unilateral agreement. And the
23 people that did supposedly represent us, I don't believe that
24 they really understood all of the legal ramifications of what
25 we are now living under. And I hope that we, the people here,
would take a different look, maybe a look at these meetings
and what we have under a different light and understand that we
won't have sovereignty and we won't have self-determination under
what we have now. It is not possible.

Thank you.

MR. BERGER: Ms. Zyles?

MS. ZYLES: Thank you. My
name is Vernita Zyles. I'm a Kachetag (ph) Inupiat from

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1 Unalakleet.

2 First, at the very outset, let me take a moment to
3 agree to disagree with the person who just spoke and to say that
4 meetings of this kind, I feel, are necessary. They are not
5 detrimental. We have to get it, this whole issue of Native
6 identity, out into the open because it's been in the closet
7 for too long.

8 I'll give you a good example of this. February 8th
9 of last year, Senator Stevens spoke to a joint meeting of the
10 legislature and at that meeting he broke away from his prepared
11 talk to say, "Oh, by the way, for those Natives who think that
12 they're going to be dealing directly with the federal government,
13 they should think again because they're going to be dealing with
14 the state first." He chose, I think, that particular manner in
15 which to address the issue of tribal sovereignty very stratigically
16 and tactically, to say, "Look, this issue of tribal sovereignty
17 is not something that deserves a policy statement issued from
18 my office. Let's give it, instead, something that is a by-the-
19 way addition to prepared remarks," and he implied, to me anyway,
20 in doing that that the issue of tribal sovereignty belongs in
21 the backs of the minds of us, of everyone, and it doesn't. It's
22 an issue that has been a long time coming and it's being born,
23 a lot of pain, it's going to go on.

24 To me, that whole issue, I consider it deep and muddy
25 waters. I don't know that much about it. Things like that,
I'm going to leave to my brother, and that's what I have to say
just at the beginning.

To go on to the subject of this particular conference,
Judge Berger asked... Is that Berger or Berger?

MR. BERGER: Berger.

MS. ZYLES: Berger, thank you.

Judge Berger asked us to consider ANCSA and any flaws
that we could see. I'm not a board member of any corporation.



1 I do volunteer my time and services for various organizations,
2 but I'm speaking as an Alaskan Native who is concerned for my
3 children and for myself and for my family, and as an extension
4 of that, my community, my region, the people who belong to the
5 state of Alaska, and then the people from all over the world
6 that we'll be hearing from later on within this conference,
7 indigenous people, people who live with the land.

8 The impact of the Alaska Native Claims Settlement Act,
9 I feel, is something that we can never erase. It is written now
10 into our history and there is no way that we can ignore ANCSA,
11 ever. One of the impacts that we have had as a result of the
12 Alaska Native Claims Settlement Act has been on the education of
13 Native children. With the advent of ANCSA, the emphasis shifted
14 from subsistence survival to economic and political survival.
15 ANCSA made it a requirement that we place an added emphasis on a
16 working knowledge of the English language so that we could wage
17 effective war in the courts against established masters of the
18 uses of the English language.

19 This emphasis on a knowledge of English was accompanied
20 by a perhaps unintentional de-emphasis on the value of the
21 Native tongue. At ANCSA's advent, parents were faced with the
22 blank page of the future and they were forced to make choices
23 as to what they should impress upon their children as priority
24 life tools, and many of these parents, including my own, seeing
25 the wave of progress, so-called progress, that was sweeping
our land in the '50s and the '60s, chose education in the
Western way, in the Western tongue. Others chose to press on
with the subsistence way of life, considering the working knowledge
of Inupiat ways of survival and the Inupiat tongue, Tlingit,
Athabascan, Tsimshian, Aleut and they pressed on with that.

 Now our young people are suffering and the old are
suffering from a lack of ability to communicate with each other.
When I was growing up and acquiring a certain proficiency in the

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1 English language and as I became older and the realization began
2 dawning on me, at first I thought, I should be learning Inupiat
3 because I considered it was important to me to learn in order
4 for me to speak effectively to my elders. Now I realize the
5 importance, yes, is on communication, but in the other direction
6 because my elders have so much to teach me and they're unable
7 to communicate with me because they're more proficient in
8 Inupiat and I'm more proficient in English.

9 When this happened, this division of the people, just
10 in language, this aspect, there came a kind of a myth that arose
11 out of it in the people who we met who were non-Native because
12 they met those of us who could articulate and they thought,
13 "Now, there's a smart Native," and they encountered Natives who
14 could not articulate because they'd chosen the other way, and
15 they thought because they couldn't articulate in English, that
16 they had nothing to say.

17 Articulation doesn't mean anything. It doesn't mean
18 anything. There are people at home who chose not to, who
19 stay, who don't attend the meetings, who don't read the newspapers.
20 They live the Inupiat way of life but that doesn't mean that
21 they have nothing to say. They live what they have to say.

22 So many times in gatherings such as this, there's a
23 temptation for those of us who can use English to put on the
24 public face and to speak only to the white people that are
25 present. I want to speak today to the Natives that are present.
The white people that are present can be interested bystanders
if they want to. I am speaking to the Natives. When we
complain about a lack of franchise on the part of the people who
carried through ANCSA, who brought it into being, we're not
putting down the people that did it. We're not accusing them
of bad intentions. I'm sure that they were serving the highest
of their intentions and, no, I would not call them tools of
anybody. But they did have the lack of franchise to a certain

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1 extent. I see that in remarks by my own father who, after ANCSA
2 was enacted, said, "You know, I never signed a deed. I never
3 had a check addressed to me saying, 'Sam, we bought your land.
4 Here's your money.'" That's what we mean by the lack of fran-
5 chise. That's what I mean by the lack of franchise, and I don't
6 mean to be accusatory. I would caution that whatever steps are
7 taken to ameliorate what's been going on, that the next time you
8 start acting and amending that you obtain... obtain a franchise...
9 obtain, as far as possible, the input from our people.

10 ANCSA... ANCSA brought an emphasizing strength in the
11 Western concept of land ownership, whereas, in the Inupiat and
12 other Native cultures, that concept was alien to us. Remember
13 the chiefs in Washington state or Oregon state who asked a
14 very valid, a very great, a very true question about a treaty
15 that was established down there. And he said, "How is it possible
16 to own a river or grass under your feet? How is it possible,
17 by extension, to own the animals and the resources?" It's
18 possible only if your whole idea of yourself is based not on the
19 land, but on cash, on a cash economy, and that's what happened
20 with the advent of ANCSA. It's possible in a cash economy to
21 buy fish and sell fish, to buy the resources and sell the
22 resources. That's something that I find hard to forgive about
23 ANCSA, that it strengthened that whole ingress of the Western
24 way of life into our way of life.

25 Another thing that ANCSA did was that, in order to
compete in this new world, a world that was peopled by corporate
entities who were masters of the game, again... I use that word
again, the old game of money, that we were so... we were babies
at it and we got taken quickly, savagely by these masters and
our own... our own people in the best of interests, many of
them, striving to compete in this world, had to acquire a savvy
to enable them to reach the board of directors, to reach the
administration's positions within the corporations and, in so



1 doing, had to abandon the very thing, the very Nativeness of
2 them that made them want to help in the first place. They weren't
3 the same people once they reached those corporate heights, and
4 it showed. It showed pitifully, because we were taken not just
5 by outsiders, we were taken by our own people. Corporate figures
6 do not answer the need for which ANCSA was supposedly enacted,
7 the need to protect and maintain and uphold our identity as
8 Natives, to help us keep our foothold on the land.

9 David Case had asked the question, "How can Natives own
10 land and stock as individuals and promote cultural values as
11 whole communities?" and I agree with Lily. It struck me as soon
12 as he said it. I wrote his question down to make sure I'd gotten
13 it right. It's backwards. Within the Native tradition, the
14 material things are shared but the cultural spirit is embued
15 into our children by us as individuals, as individual parents,
16 aunts, uncles, grandparents, brothers, sisters. Not to be
17 totally negative, I can't sit here and... pardoning your caution
18 not to use obscenities... I can't sit here and bitch at you
19 and not say that I don't have any solutions or recommendations.
20 I do.

21 Remove or cancel the clause that divides our people.
22 ANCSA was never meant to legalize division of families and yet
23 that will be it's effect if that afterborn clause is not revoked.
24 I am the woman that Lily spoke of. I have a son who was born
25 May 5th, 1970, I have a daughter who was born February 10th, 1980.
My son is a stockholder in Cook Inlet Region, my daughter is
disenfranchised. We can't allow this to keep on. Do something
about it. Byron Mallott said, "You can't work on a running
machine." Doctors do it all the time when they perform surgery.
The thing to do is to maintain the integrity, the good parts,
of ANCSA while removing the bad parts.

Separate the ownership of the land from corporate
identity so that it will be possible for people who want to do so

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1 to divorce themselves from the alien cash economy and yet retain
2 their right to use the land as their forefathers did. Don't
3 tie the land to the cash. Separate it, anyhow, anyway.

4 Instead of always emphasizing education as one way,
5 Native to Western, where our Natives are taught to be Western,
6 begin to educate Western people to our ways. You know, I've...
7 I've never seen terror more real than on the faces of white
8 people when they talk to somebody who knows how to talk back.
9 People who have grown up believing in that menagerie concept,
10 whatever it is, that we are animals living off the land, they
11 pay more attention and more concern and consideration to the
12 rangeland... the amount of rangeland, so many square miles
13 needed for a black bear in Yellowstone National Park than they
14 do to how much land the average Native family needs in order
15 to live off the land, and then they confuse us with the black
16 bear, if they even think about it. I've had people look at me
17 and it's terror that I see on their faces when they realize that
18 they have committed a grievous error in assuming that we do not
19 think, that we do not plan, that we do not feel.

20 I would, again, ask that you urge our leaders who
21 will be working on ANCSA to establish a franchise, a recognizable
22 franchise, not an unofficial one, not an informal one. Whether
23 they achieve that through the old way of our trusting in our
24 elders, or whether they achieve that through the Western demo-
25 cratic way of voting, establish a franchise.

26 And lastly, finally, our laws were first subverted
27 and then replaced by Western law and this whole thing was
28 strengthened through ANCSA. Later on in the conference, Doug
29 Sanders and Tim Coulter and others will be speaking about law, and
30 I will tell you what I told them in October of '82 when we were
31 told that the basic deprivation that indigenous peoples all over
32 the world had suffered had been our land being taken from us.
33 And I thought about it and it didn't jibe, and I told them, and

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1 I still believe it, that the most basic deprivation that we have
2 suffered as indigenous people has been our right to our own laws,
3 our own court. I illustrate this, as I illustrated it then, that,
4 had we been able to fight for our land in our own court with
5 our own laws, we wouldn't be sitting here right now. And I told
6 them then and I will tell you now, when the dog is serving
7 dinner, he does not give himself the bone.

8 Use the IRA clause to restore our right to our own
9 laws.

10 I'd like to thank Justice Berger for the opportunity
11 to speak. I'd like to thank the people that have spoken already.
12 I've been lamenting the fact that I can't stay for the whole
13 thing, but I want to wish everyone that is participating the very
14 most optimum conditions for continuing what you've begun, and
15 I thank you.

16 MR. BERGER: Thank you.

17 (APPLAUSE)

18 MR. BERGER: I think that Mr.
19 Upicksoun, if you have something further, we'll ask you now.

20 MR. UPICKSOUN: Yes, Your
21 Honor.

22 The advent of ANCSA brought in the concept of corpora-
23 tion. It was something new, even to our corporate secretary.
24 He had to learn about proxy statements, cumulative voting, and
25 this was something new to the 12 regions.

I'd like to get back to knowing what Alaska state was
when I was first born, that was 52 years ago and that's over
half a century. All I knew was that it was federal government,
by virtue of military, Bureau of Indian Affairs, and all of the
federal employees that fall under the territorial government then.
It had been government, both federal and until it became a state
and, even then, it was a state government. So all we've known is
government, government and more government until we ran up into

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1 the corporate concept. It took Arctic Slope Regional Corporation
2 four seminars to hold village corporation board meetings and the
3 regional corporation board meetings here and Alyeska, down where
4 we can get them away so that they would understand what
5 corporate concept was. Now, it being the vehicle to receive
6 land and money, the issue of the claims act was land and when
7 you're able to start fighting for your land, you have to know
8 how to define land. You begin very simply by asking a question,
9 "What is land to a farmer?" Very simple, his time and labor on
10 what he is able to plant and what he's able to get out of it.
11 That's to a farmer.

12 Then you get into the developer. It's what minerals
13 he's able to extract from that land. So what I have to say about
14 just those two elements tells you what land is all about. But it
15 takes a person, the economist like Adam Smith, to tell you what
16 land is when he starts saying that land is the final source of
17 all capital, we better understand that. That's why we wound up
18 with the corporate concept, and we cannot separate the corporation
19 from being responsible for the lands we hold in trust for our
20 stockholders. Not necessarily in trust, but we're the stewards
21 to develop the corporations economically but still maintain our
22 ties with what we are as Inupiat, myself, and Aleuts and Tlingits
23 and Athabascans.

24 I had to bring that out because we just cannot separate
25 the land from the corporation. Being landlords, that's what we
are. We're able to develop the lands to a very fair and
sometimes with the help of our stockholders in causing it to
yield minerals, but properly.

That's enough for now.

MR. BERGER: Mr. Borbridge?

MR. BORBRIDGE: Thank you, Mr.

Chairman.

There are several items I'll touch on separately, the

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1 first of which is a very quick review of how the decisions were
2 made in the Alaska Federation of Natives.

3 As was indicated by a previous speaker, at one time
4 the Alaska Federation of Natives had somewhere in the vicinity
5 of 20 member organizations. As we came closer as a Native
6 people to the settlement of the Alaska Native Claims Settlement
7 Act, there was a reorganization, anticipating that there would
8 be 12 regional corporations. The decision was made to reorganize
9 AFN so that it would reflect a membership of 12 organizations.

10 Prior to 1971, during the height of the lobbying
11 activity, AFN, with a particular genius evolved by common consent
12 by the people, on the one hand acted as one strong, powerful
13 organization. This was done not only in response to a recogni-
14 tion by the Native people that there was a need to organize
15 so that through unity we would have greater strength, but the
16 fact was that Congress needed constant reassurance. They needed
17 to view the Natives in the context that they could understand
18 and that they could trust. They wanted a unified statewide
19 organization. They wanted Native concensus, or agreement. They
20 wanted one proposal, where possible, to deal with, and this
21 they received, not because they demanded it but because the
22 Native people, themselves, united for the first time in their
23 history in Alaska.

24 But the particular genius that reflected how the
25 organization functioned was this. Given the complexity of the
settlement, which comment I must preface by saying it was far,
far more fun, easier, more enjoyable when we demanded a settle-
ment and demanded justice, and we did. It was far harder to
translate those demand for justice which we asserted into pro-
visions in the legislation which had to be passed or, if it
chose, rejected by the Congress. Not only, therefore, did we
have to deal with this, but given the complexity of the ANCSA
provisions as proposed by AFN, we made provision, which became

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1 a matter of board policy, AFN board policy, by which a regional
2 association could make a proposal before the AFN board. In order
3 to have a regional proposal considered and made a part of, let's
4 say, a proposed AFN bill, that proposal coming from a regional
5 association had to be voted, as a matter of policy, into the
6 proposed bill by the AFN board of directors. If, however,
7 the board of directors voted the provision down, the understanding
8 was that the regional association could still go to Washington,
9 D.C., and lobby as a separate entity, as a regional association,
10 with the Congress and with the staff of the Congress to see if
11 they could still prevail, notwithstanding their turn down at the
12 AFN level.

13 Joe Upicksoun was in Washington, D.C., when he was
14 voted down on some provision before the AFN board and when he
15 was still representing the Arctic Slope Native Association. I
16 also went to Washington, D.C., when a provision that I brought
17 before the AFN board on behalf of the Central Council of the
18 Tlingit and Haida Indians was voted down. Nevertheless, I
19 prevailed on the point in Washington, D.C., and the provision
20 still became law.

21 The particular genius was the flexibility that was
22 built into AFN so it could, at one time, reflect unity while
23 still providing for basic and sometimes very fundamental and
24 powerful differences as to what the Native organization wanted
25 to become part of the ANCSA law. I think it's important to note
this very practical provision that AFN evolved, because I'm
sure that the record that we have been making here should be
viewed not only in terms of the degree it will be beneficial
to fellow Alaska Natives, but I also feel as a matter of personal
conviction, as I know others feel here, that we have an obligation
to indigenous people in other parts of the world. What we've
accomplished through ANCSA, however imperfect it is, and whatever
may have been claimed for it, perfection has never been claimed,

1 it still is a landmark. It is a point of departure.

2 It is up to many of you who have testified now to take
3 it on to the next step. But I hope that the record indicating
4 how AFN managed to proceed in a very practical sense, accommodating
5 these differences, will be recognized by some of the people
6 coming in from other countries.

7 I had mentioned earlier about the inclusion of the
8 Tlingit and Haidas... The Tlingit and Haidas actually weren't
9 brought into AFN. We had to convince the board that we belonged.
10 We also had to convince, and that was my function as president
11 of the Central Council... I had to convince AFN, the state of
12 Alaska, Department of the Interior, the Alaska congressional
13 delegation, the congressional committee in the Congress, and the
14 first one was AFN.

15 We had some heated debates and I understood perfectly
16 the arguments of those who insisted that the Tlingit and Haidas
17 had had a previous settlement. However, when it was pointed out
18 by me that they also had unresolved claims in a very fundamentally
19 important facet, judicially-affirmed Indian title to 2.6 million
20 acres, which made it the strongest claims in the state and we
21 also had unresolved claims to the tidelands, this, in effect,
22 was thrown into the pot and to it's eternal credit, AFN agreed
23 that we should all proceed as one organization and have one
24 statewide land claim.

25 I want to illustrate in a better way because I don't
think that many people have illustrated their points better
than Paul Tiulana... and Martha, I like the way you have. And
so I'll illustrate my point of how AFN functioned as one strong,
powerful entity while providing for the differences. As soon
as I start, those of you who were there will know right away
what I'm going to say, and you will, too, Fran.

There were many times in the AFN conventions when the
discussions, the debates, were heated. I mean, you read ANCSA now

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1 and all you have is a sense, if you weren't there, that, "Oh,
2 everybody agreed on this. Everybody agreed on this provision."
3 and it gives a reflection of one people hopping from provision
A to C to D and everybody agreeing all the way.

4 We fought, and it was literally bare knuckles. We
5 had to settle those differences and we had heated debates,
6 heated arguments, profoundly disturbing discussions, in the
AFN conventions as well as on the board of directors. And just...
7 I remember so vividly on several occasions.

8 At a point that it appeared that the organization would
9 be almost rent in two, if not three or four pieces, a man got
up. He was one of our counsellors. He was also an official
10 of the Alaska Federation of Natives and Seargent at Arms, Frank
11 Degnan, and he put it far better than I could. He said something
like this, "United we stand," and he'd fold his arms this way
12 and look around. "Divided, we still stand."

13 And to me, that was marvelous, and that really spelled
14 it out. What he was saying is that we can be the separate tribal
15 entities and maintain that integrity, and we can still be one.
It's possible to be both. And that's what Frank told us on
16 several occasions. And he made us laugh when we badly, badly
17 needed to be able to smile and to remember, "Hey, we are one
18 people."

19 I also want to share this observation. Corporation
20 leaders, sometimes by force of law but even more by acceptance
of Western institutions, become much more than they mean to be
21 and sometimes become much more than they were intended to be.
So when I make this observation, it is not in the spirit of
22 saying, "Here is what corporation leaders have sought for
23 themselves," but an observation of what they have been regarded
as becoming. In a number of instances, corporate leaders have,
24 generally speaking, been elected by corporate assets. Now,
25 I'm not pointing a finger because I was president and chairman of

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1 the board of a corporation when that happened, and it happened
2 thereafter and it is happening now. It is just the nature of
3 the corporation as it functions. And therefore, the corporation
4 leaders using the assets in a perfectly legal way, in which I
5 was a part, use TV and newspaper ads in urban areas, and in many
6 instances, they do not have to stand directly before their people.
7 Sometimes they even supplant leaders who are, perhaps, more highly
8 regarded simply because governments, businesses, the media are
9 impressed by economic strength and they're impressed by Western
10 entities, corporations. Media and officials are more impressed
11 by the things they understand than the things they don't
12 understand.

13 The corporation leaders then, not necessarily because
14 they look for this, are then looked to for comments on matters
15 known better by the traditional or tribal leaders, and not by
16 the corporation leaders, managers and directors. There's nothing
17 that one can find in ANCSA that makes this something that was
18 a provision in ANCSA, because it wasn't, and it is certainly
19 something that is not particularly curable by the law. It is
20 just an observation that I wish to share with you.

21 I want to conclude with this observation, Mr. Chairman.
22 The regional corporations are, as we have said and on a number
23 of occasions, business-for-profit corporations. They are also
24 responsible for preserving the environment whenever there is a
25 timber harvesting operation conducted by the corporation or its
subsidiary. They're responsible for the environment, likewise,
when there is a mining operation under their jurisdiction,
directly or indirectly, and other types of operations. It would
take a remarkably skillful concerned corporation to be able to
truly manage both effectively.

I, for one, do not consider that it can be done by
one entity, one corporation. Likewise, a corporation affects
subsistence, hunting and fishing. Understandably at the outset,

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1 with a consideration of first ANCSA and then ANILCA, the D-2
2 legislation, the corporations had people who were experienced
3 in obtaining the passage of laws and amendments to the laws.
4 It is important that they take the front position in doing what
5 they could because things had to be done in a very short time
6 to protect subsistence as quickly and as powerfully as possible.
7 And, by no means do I criticize that, having participated in
8 that same event.

9 However, there comes a point when it is important
10 that the subsistence hunting and fishing concerns be affected
11 more by the tribal entities, or the non-profit entities where
12 there are no tribal entities functioning, because this is
13 primarily their business.

14 We had this situation in Southeast, not born of a
15 desire to be at all deceitful or to maneuver, but it just
16 happened. On our board, we had people concerned about subsistence
17 and we had commercial fishermen, and there, frankly, are some
18 areas where you simply cannot reconcile the viewpoints of both.
19 So I feel that subsistence must more and more be taken over.

(TAPE 12, SIDE B)

20 MR. BORBRIDGE: And I understand
21 in some areas of the state, has been taken over by the tribal
22 entities.

23 Finally, I would urge, and I strongly recommend that
24 when state legislation is proposed, which proposed legislation
25 will affect the ANCSA corporations in any manner shape or form,
the shareholders should be timely informed. In no way should
ANCSA corporations push through laws that affect the corporations
or the people without the people knowing ahead of time.

Thank you, Mr. Chairman.

MR. BERGER: Thank you, Mr.
Borbridge.

I think that I will just take a couple of minutes,

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1 first of all to thank all of you who came to this first three
2 day session and to invite you to come tomorrow at 9:00 o'clock
3 when Mr. Walter Parker will be giving a paper about the forms
4 of land tenure in corporate institutions established under ANCSA
5 and discussing the relationship of these corporations with the
6 state and federal institutions, and discussing, as well, the
7 possibilities for IRAs and other institutions that might evolve.

8 You're all welcome to come tomorrow. Certainly the
9 members of the panel have already been invited. Members of the
10 public are invited. I can't assure you that we will have the
11 same opportunity as we had today for members of the public to
12 participate, but we will try to do that.

13 I remind you that next week, on Tuesday, we will have
14 Native leaders coming from the Lower 48 and we hope that all of
15 you will feel free to come then to see what they have to say
16 about IRAs, about land, about the way in which they manage
17 their affairs.

18 And, in the following Tuesday, we will have Native
19 leaders and scholars coming from Canada and Greenland, Norway
20 and Australia to talk about how they have grappled with these
21 issues in their own countries. And you're all invited to come
22 and hear those people. I can't guarantee that we will have
23 audience participation because, when we bring people from far
24 away, we want to, so to speak, get the maximum mileage out of
25 them. But we'll try to work things out as we have today.

Now, may I just say that I do appreciate the contribu-
tions that all have made. It seems clear that there are some very
serious questions about ANCSA that you wish to raise, relating
to shares, taxation, particularly, and it has been brought up a
number of times, the failure to include Natives born since 1971
in the settlement, except as... except as heirs. We ran into
that same question in Emmonak and Tununak and, in Emmonak, one
of the teachers at the school pointed out that something like 211

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1 students in the schools in Emmonak, the elementary school and
2 the high school, 109 were shareholders under ANCSA and 102 were
3 not. It was a graphic illustration of the division of these
4 young people under ANCSA.

5 You've made the point, many of you, that sovereignty was
6 not addressed by ANCSA. Others have made the point that water
7 rights were not addressed. Many of you have urged that considera-
8 tion be given to the use of IRAs here in Alaska, that is, greater
9 use than has been made of them thus far. And we expect that
10 those coming from the Lower 48 next week, starting on Tuesday,
11 will be able to tell us a lot about how IRAs have worked out in
12 the Lower 48. Because I repeat what I said before, it seems to
13 me that Mr. Byron Mallott put it well when he said, "I don't
14 want to exchange one set of problems for another set." Let's
15 find out a little more about IRAs, let's find out a lot more
16 about IRAs and see what the possibilities may be there.

17 Now, may I just make one suggestion to you. The
18 world is an imperfect place. It was in 1971 when many of those
19 around this table worked to obtain the very best deal they could
20 for Alaska Natives, and it has, in 12 years, served to hold and
21 consolidate 44 million acres of Native ancestral lands. It has
22 provided the means for the disposition in one way or another of
23 920... 962.5 million dollars, and it has given economic influ-
24 ence, and I think, growing out of that, political influence to
25 Alaska Natives which they never had before.

Mr. Starr said that Native people should be acknowledged
to be owners of subsurface rights, well, ANCSA is a unique
settlement with Native peoples in that it does acknowledge their
right to subsurface rights. Those rights are held by regional
corporations. Still, Congress acknowledged that subsurface
rights should be included in the settlement.

In Greenland, for instance, they have home rule for
the Inuit majority there, but they haven't settled their land

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1 claims. Denmark hasn't yet been prepared to give up subsurface
2 rights in Greenland.

3 There are a number of legal and constitutional questions
4 that arise here and that's why we have David Case here as our
5 legal and constitutional adviser. But it seems to me that what
6 you have all said, and those who participated from the audience
7 have said, indicates that, beneath these surface waters, there
8 are some strong currents beneath the surface, and we should know
9 more about those currents so that we could chart a direction for
10 the future. And that's why these meetings, I hope, are going to
11 be as useful during the next two and a half weeks as these first
12 three days have been, and that's why, after these meetings are
13 over, we are going to go to the villages again for the remainder
14 of the year to visit as many as we can to see what the people
15 living there have to say. Because only then will we really be
16 in a position to plumb the depth of these waters.

17 I should say, for those in the audience who live in
18 Anchorage, that we intend to hold a village meeting in Anchorage
19 if the mayor and city council will allow me to describe Anchorage
20 as a village for purposes of our commission, so that Native
21 people living here in Anchorage can participate in the work of
22 the commission.

23 I think that these three days have been constructive
24 and creative, and I know that you think maybe I'm being a bit of
25 a... an old nanny when I say that I don't want us to engage in
name-calling with each other or with others not present. I
don't think that will get us anywhere, and I think it has really
been a most instructive and creative three days.

So we really must give up the hall because they're
about ready to assemble the bingo table. So I'll adjourn until
9:00 a.m., and thank you, again.

(HEARING ADJOURNED)



C E R T I F I C A T E

1
2 UNITED STATES OF AMERICA)
3 STATE OF ALASKA) ss.

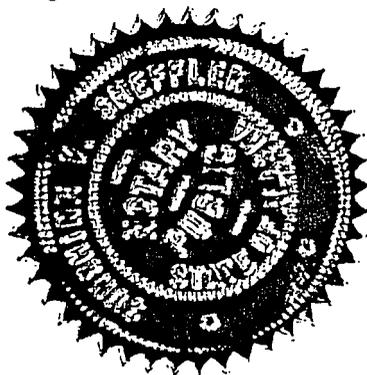
4 I, Sunshine V. Sheffler, Notary Public in and for
5 the state of Alaska, residing in Anchorage, Alaska, and Certified
6 Electronic Court Reporter for Accu-Type Depositions, do hereby
7 certify:

8 That the annexed and foregoing pages numbered 194
9 through 289 contain a full, true, correct and verbatim transcript
10 of the proceedings in the matter of the Alaska Native Review
11 Commission, Overview Roundtable Discussions, as transcribed
12 by me to the best of my knowledge and ability from cassette
13 tapes provided by the Alaska Native Review Commission.

14 That the original transcript has been retained by
15 me for the purpose of filing the same with Don Gamble,
16 Coordinator, Alaska Native Review Commission, 429 "D" Street,
17 Suite 304, Anchorage, Alaska, as required by law.

18 I am not a relative, or employee, or attorney, or
19 counsel to any of the parties, nor am I financially interested
20 in this this proceeding.

21 IN WITNESS WHEREOF, I have hereunto set my hand and
22 affixed my seal this 13th day of March, 1984.



23
24
25
Sunshine V. Sheffler
SUNSHINE V. SHEFFLER
NOTARY PUBLIC IN AND FOR ALASKA
MY COMMISSION EXPIRES 8/06/84



