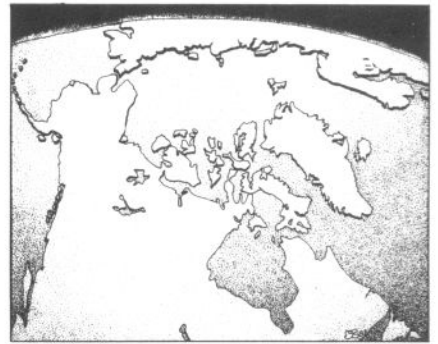
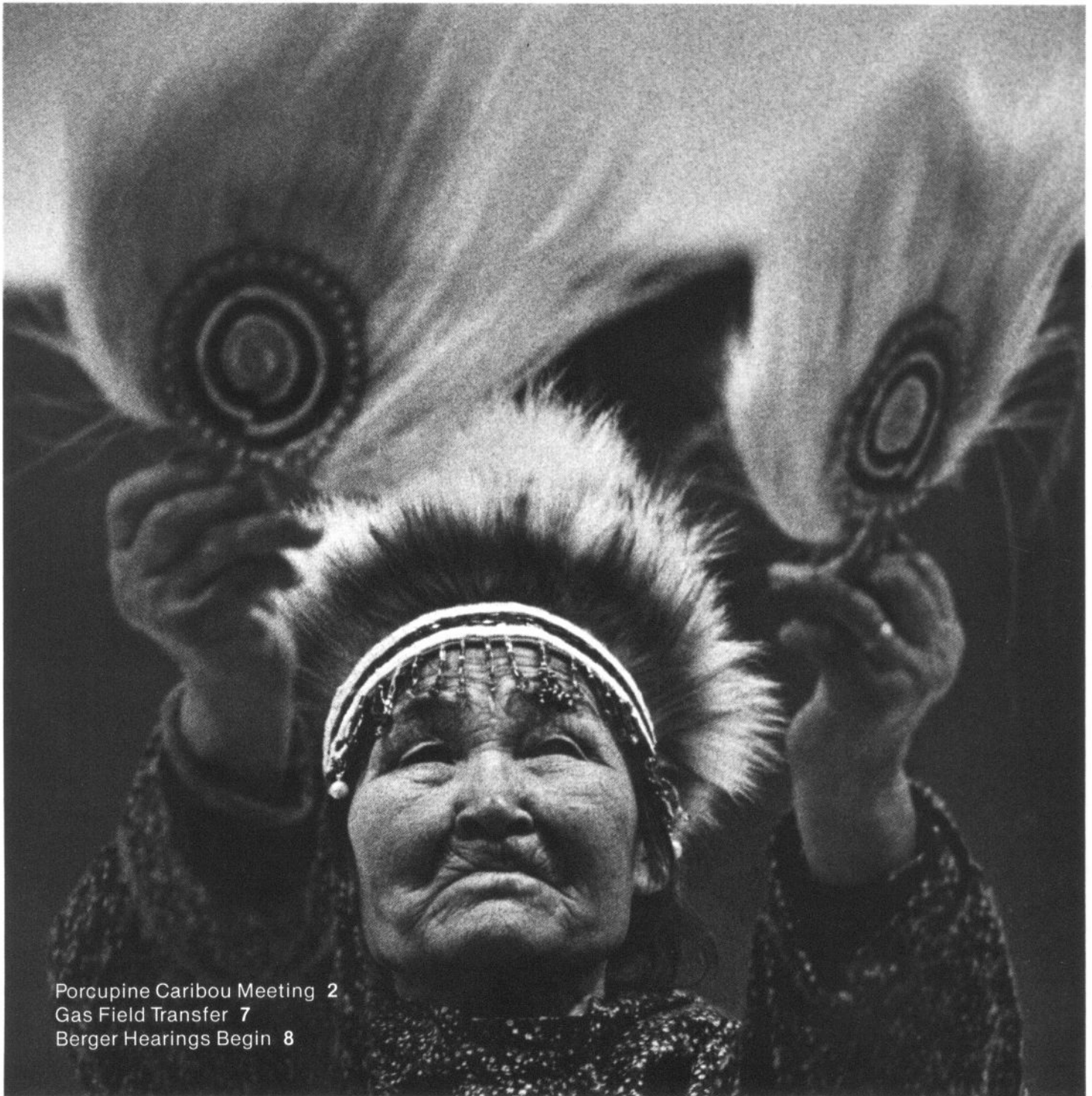


The ARCTIC POLICY REVIEW



June 1984, Vol. 2, Issue 7



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International Porcupine Caribou Convention



The Arctic Village caribou meeting: negotiating the terms of state and Native participation in an international management regime.

Villagers Win New State Accord On Caribou Convention

The Alaska members of the International Porcupine Caribou Commission (IPCC) met in Arctic Village on 17-18 April with state officials and village representatives to discuss development of an international management regime for the Porcupine caribou herd (PCH). They had last met in the same place 16 months before with representatives from Canadian villages when the IPCC was established. Healthy and with a population of almost 130,000, the herd occupies a range the size of Wyoming and which lies on both sides of the Yukon-Alaska border. More than 7,000 villagers in both countries rely on the herd for subsistence.

Participants included representatives from the villages of Kaktovik, Ft. Yukon, Beaver, Circle, Venetie, Stevens Village, and Chalkyitsik. There were also representatives from the Alaska Rural Community Action Program (RuralCAP), the North Slope Borough, and Tanana Chiefs Conference (TCC). Andrew Ebona represented the Governor's Office and Dennis Kelso, the Alaska Department of Fish and Game (AKDF&G).

International Convention Urged

Many of the participants expressed urgency in the need to establish an international convention for the purpose of protecting the herd and its habitat. Sarah James of Arctic Village said, "Right now the herd is large and it so important to get this agreement going, before something bad happens. It is a good time to do it."

IPCC Chairman Jonathon Solomon stated, "In 1959, when Alaska became a state, the Native people were a majority. In 1980, we were only 18 percent, today we are only 15 percent. Today, every year, Anchorage is gaining a seat in the State House. Every three years, it gains a Senate seat. We must set up today, something in treaty form which the state can not break. This is what this thing is based upon. When we started this thing 6 years ago in Old Crow, it was with the recognition of the need by the people of Northeast Alaska and the Canadians of the need for regulation.

"Our people speak of their religious right to these animals. Our religion in-

cludes the rights to our natural resources. As we lose the votes in this state, we will find there are no religious and cultural rights for Native peoples in the state of Alaska. That is why we need a treaty or agreement or convention by which the state, the provinces, and the federal governments will recognize forever our rights to these natural resources."

TCC President Spud Williams said, "The oil companies don't care about what we eat, they are interested only in getting out the oil. We have even more reason today to pursue this agreement than we did five or six years ago when we first started talking about this issue. It so happens that one of the prime locations for oil prospects is in the middle of the Porcupine caribou herd habitat. Now, all sorts of new roads are being built through that area. And we all know what happens to caribou once roads are put in. Then there is the issue of borders. We don't care about borders, they are false lines. The state cannot manage across state lines, but we can; we have brothers and sisters the other side of the border."

The Governor's October Meeting

Much of the discussion at the meeting addressed the decision of the State of Alaska to enter the international negotiations. Former Governor Hammond had opposed an international treaty, and under his administration the Department of Fish and Game (AKDF&G) had been quietly negotiating a management agreement with the Yukon Government, a process which was quickly terminated by the U.S. State Department and the Government of Canada when they found out about it.

This development gave added impetus to the need for international talks which had been first called for by the Minister of Canada's Department of Indian Affairs and Northern Development (DIAND) in July 1978, when a land freeze was put on the Porcupine range in the Northern Yukon for the purpose of protecting the herd. Native users groups on both sides of the border had taken up this initiative, which led to the establishment of the IPCC in December 1982 for the purpose of supporting an international covenant that would provide for strong participation of native groups in management of the herd.

Last October, State Senator John Sackett, R-Ruby, organized a meeting between Governor Bill Sheffield and IPCC members Jonathan Solomon of Ft. Yukon, Paul Williams of Beaver, Sara James of Arctic Village and Nolan Solomon of Kaktovik. Also present at the meeting were Alaska Fish and Game Commissioner Don Collinsworth, Deputy Commissioner Dennis Kelso, and Game Division Director Lew Pamplin.

The position of the new Sheffield

administration on the issue had been sought by the federal government, and Sheffield had been coming under increasing pressure from native users. The Alaska Federation of Natives resolved last year to support an international agreement to manage the herd, citing the herd's international significance and its value as a subsistence resource. The agreement was also endorsed by the Yukon Flats Fish and Game Advisory Committee and in a letter urged the governor to support the negotiations. Finally, the Governor's Office had received a memo from Fish and Game supporting the international negotiations, and detailing the conditions under which the state should participate.

Impressed with the efforts of the villagers in pursuing the agreement, Sheffield said at the meeting, "This thing has been on the desk for five years now. It is time to get going with it." He assigned Fish and Game to work with the villages on the issue.

In the memo to the governor's office, Commissioner Collinsworth had expressly rejected using the word "treaty" because it implied federal control or oversight rather than continued state control of the herd. The memo also included these points:

- continued state management and responsibility for the herd;
- the state's informal concurrence on any international or national negotiations;
- continued state cooperation with the U.S. Fish and Wildlife Service in research projects;
- international sharing of biological and harvest data;

- state representation on any international board that may be set up;
- overall international harvest quotas, including a prohibition against commercial use;
- limit the agreement to the Porcupine caribou herd and its habitat range.

State's Role in International Management

The purpose of the Arctic Village meeting was to allow the Alaska members of the IPCC and other village users to respond to the state's position. (Canadian members of the IPCC did not attend, because they were occupied with negotiating their own caribou management plans in the context of the land-claims settlements. They were also finalizing an agreement with the federal government, and the governments of the Yukon Territory and the Northwest Territories on the management of the PCH.)

Dennis Kelso, Deputy Commissioner of Fish and Game, told the meeting in Arctic Village that the state's interest in the negotiations centered on habitat protection. They were hoping that by their participation in the international process, they would have more to say about the protection of PCH habitat, which in the U.S. is entirely on federal land.

Kelso presented a draft paper on the state's position which included the following remarks which drew much attention:

The purpose of any future international agreement for the Porcupine caribou herd should be to ensure the international coordination of management and conservation of

Continued next page

On cover: Medina Flynn celebrates in dance the opening hearings of the Alaska Native Review Commission in Tununak.

The ARCTIC POLICY REVIEW



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The North Slope Borough was incorporated as a first-class borough 1 July 1972. A Home Rule Charter was adopted by the Borough on 30 April 1974. The North Slope Borough is the regional local government of northern Alaska, with mandatory powers of taxation, assessment, education, planning, and zoning. Within its boundaries are eight Inupiat Eskimo communities (pop. 4,693), seven military installations (pop. 193), and the Prudhoe Bay Resource Development District (pop. 7,843), 88,281 square miles of land and nearly 800 miles of arctic coastline, constituting 15 percent of the State and the largest municipality in the U.S.



Left, governor's representative Andrew Ebona (seated) and Jonathan Solomon confer on caribou range. Right, Arctic Village scene: "We like this place and we like the caribou."

the PCH but not international management per se . . . The State of Alaska will retain management authority and responsibility for the PCH within Alaska . . . If an administrative body is established as part of this agreement, its function should be to further international coordination and cooperation for management and conservation of the PCH and its habitat. This body should be advisory only.

After discussing the state draft paper along with the state's role in the international regime, the meeting agreed that there was need for an international convention with real management powers, leaving to existing management bodies (national, state, and local) those responsibilities not specifically assigned to the international management body. The ability to allocate national quotas and to be involved in issues of habitat protection was seen as appropriate for the international body.

The members of the commission felt that if the international agreement was not a formal convention, it would lack the strength needed to bring together all the different governments and user groups involved in management of the herd. Secondly, they saw that an international

convention would automatically guarantee federal oversight of state management of the herd in Alaska, a condition native users felt was necessary to protect subsistence use.

As Jonathan Solomon stated: "We are giving the state a seat on the commission and not taking anything away from the state, which has been given management. First of all, we see the Commission protecting habitat first of all and regulating the course of development within the range. Within this context, the state will be allowed to define subsistence, set seasons, and the like"

Spud Williams reflected this willingness to share responsibilities with the state: "We should look at what is being gained by each party than what is being taken away. The state is still resisting oversight authority. We are inviting the state to be a party in an organization with oversight authority over Canadians . . ."

"The state says we want everything to ourselves. We are the ones who are sharing until it hurts, its our nature. But we cannot share with white people. When you share with them, they want everything. They are not satisfied with part. Why is this particular herd so much different from other international wildlife resources such as fisheries, migratory birds, and seals, which are now governed

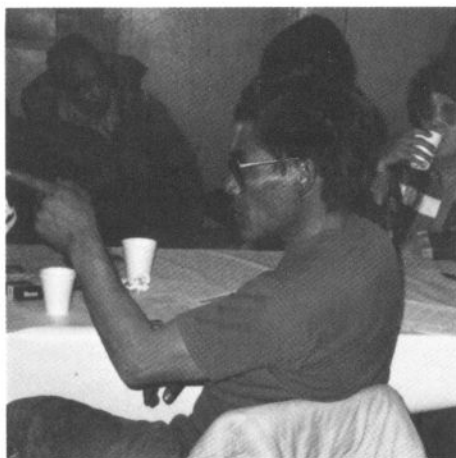
by international conventions? Why does the state make exception for this herd and not allow real international management? Because we are natives? The state is reluctant to allow us to take care of ourselves. We have been governing ourselves for thousands of years, long before the U.S. became a nation, yet this scares the state. Our status as native peoples also scares them to death. I don't know why we share so much with them. When the day comes when they have destroyed our food, then we will not be able to share with them any more."

The meeting also took strong exception to the state's failure to include subsistence users in its draft position. While subsistence is currently covered under state law and federal law, they felt that it needed the added protection of an international covenant.

A letter in response to the state's condition was drafted and approved. It said in part, "We expected your Department to be more positive and supportive of our efforts to get a strong convention; strong enough to assure our elders that the caribou will be safe for our grandchildren. The draft paper does not call for strong habitat protection; it does not call for the strong international commission what will be necessary to implement a meaningful agreement; it does not call for

subsistence priority in the international convention; and it ignores the herd's special importance to local people."

A resolution, #84-1, was approved by the body, which generally reiterated the former resolution #82-1, with more detail given to habitat protection. A second resolution was passed thanking the people of Arctic Village for their hospitality and support.



Timothy Sam of Arctic Village makes a point.

A Potlatch Celebration

The enthusiasm of the local residents for the international covenant was repeated over and over by local elders who rose to address the meeting in English and Gwitchen. Elder Steven Peters of Arctic Village was among those thanked those who "had spent so much money and who had travelled so far to save the caribou and make them strong." The teen-agers of the village passed around a petition instigating an evening potlatch to which the guests and villagers were invited. After the potlatch meal (which guests are invited to take home after having their fill), there were Indian dances presented by the children in traditional dress followed by a long evening of lively square dancing ("fiddle dances"), with the village priest Trimble Gilbert on the fiddle and his son Albert on the guitar.

State Calls for Public Comment

On 11 May, IPCC representatives Robert Childers, Jonathan Solomon, Paul Williams of Beaver, and Ron Nalikak of the NSB met with Kelso and

other state officials in Juneau to discuss the revised state draft position and the schedule for its implementation. The new draft position was then distributed with requests for written comment. A public hearing on the state draft was held in Fairbanks on 7 June 1984, and the draft was revised accordingly. On 14 June 1984, Governor Sheffield announced his approval of the new draft and sent it along to federal officials who will negotiate the joint management policy with Canada. According to IPCC consultant Bob Childers, the final signing of the convention may be as long as two years away.

The communities utilizing the Porcupine caribou herd are among the oldest in the New World. Human artifacts made of caribou bone have been found in the area dated at over 25,000 years old, pointing to the timeless relationship between humans and this herd. As Father Gilbert stated at the conclusion of the Arctic Village meeting, "I don't know how many years we have lived here, but we like this place, and we like the caribou." ■

State of Alaska Position on International Management of the Porcupine Caribou Herd and Its Habitat

Scope

- A. The purpose of any international agreement for the Porcupine caribou herd (PCH) should be to ensure the international coordination of management and to conserve the size, health, and productivity of the PCH and its habitat.
- B. Any agreement should be limited to the PCH and its habitat on lands within specific geographic boundaries.
- C. Any issues not germane to the objective stated in I(A) above should be excluded from any agreement and negotiations leading to an agreement.

State Role

- A. The state will retain management authority and responsibility for the PCH within Alaska in accordance with applicable law.
- B. The state will be represented and participate in all discussions or negotiations involving the development of any international agreement.
- C. State concurrence is a pre-condition to

acceptance of any agreement by the U.S. Government and to any subsequent federal actions.

- D. The state will continue to have the opportunity to conduct research and to participate in any government agency research projects involving the PCH in Alaska.
- E. The state will coordinate PCH negotiations and any proposed actions with appropriate use groups and other concerned parties.

Administrative Structure

- A. Any international agreement should be designed to mesh smoothly with state management and regulatory processes.
- B. An administrative body established as part of any international agreement should include state representation and appropriate use-group representation.
- C. An administrative body established as part of any international agreement should further international coordination and cooperation for man-

agement and conservation of the PCH and its habitat.

- D. An administrative body established as part of any international agreement would serve in an advisory role with functions to include the coordination of the development and exchange of information; the development of habitat protection measures and oversight; and, when necessary, the establishment of national harvest quotas based upon sustained yield.

Other Major Considerations

- A. Any agreement should include a prohibition on the commercial sale of caribou meat taken from the PCH.
- B. Any agreement should contain provisions which recognize the importance of the PCH's habitat and which provide general habitat protection measures.
- C. Provisions for the human use of the PCH should recognize existing state and federal laws and the importance of the PCH to Alaskans. ■

International Porcupine Caribou Commission Alaska Delegation

Resolution 84-1

Entitled: Resolution on an International Convention to Protect the Porcupine Caribou Herd

Whereas, the Porcupine caribou herd ranges widely over Northeast Alaska and Northwest Canada regularly migrating across the international boundary; and

Whereas, for generations the peoples of Northeast Alaska and Northwest Canada have depended on the Porcupine caribou herd to sustain them in all aspects of their lives; and

Whereas, local people continue to depend upon the Porcupine caribou herd to meet nutritional and other domestic needs and to sustain the cultural and spiritual lives of their communities, as they will for generations yet to come; and

Whereas, Article 1 of both the International Convention on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights state, in part, "... In no case may a people be deprived of its own means of subsistence"; and Article 27 of the latter covenant states, "In those states in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with others of their group, to enjoy their culture, to protect and practice their own religion, or to use their language"; and

Whereas, Recommendation 32 of the Action Plan adopted by the United Nations Conference on the Human Environment (Stockholm, 1972) and endorsed by the General Assembly of the United Nations, calls for international conventions to protect species that migrate from one country to another; and

Whereas, the Porcupine caribou herd and its habitat are subject to several different political jurisdictions and uncoordinated and poorly informed management decisions; and

Whereas, therefore, neither Canada, nor the United States, nor any political entity within their boundaries acting alone can adequately protect the Porcupine caribou herd and its habitat for future generations; and

Whereas, the people and communities of Northeast Alaska fully recognize that cooperative action is essential to conserve the Porcupine caribou herd and its habitat have charged this Commission to take immediate and continuing action for the long-term conservation of Porcupine caribou and their habitat;

Now therefore be it resolved, that the IPCC-Alaska calls upon the Governments of the United States and Canada to negotiate and implement an international convention to conserve the Porcupine caribou herd and the ecosystem of which it and the indigenous people of the area are a part; and to this end

Be it further resolved, that the State of Alaska join with the IPCC and take a lead role in developing an agreement that will ensure the continued health, size, and productivity of the Porcupine caribou herd and the viability of its habitat according to the following principles and concepts:

1. The convention will apply to the Porcupine caribou herd and its habitat on public lands north of 64°30' N latitude and north of the Yukon River.
2. The convention will create a strong international authority to carry out its purposes. At least one-half of each country's delegation to the PCH authority to be filled by IPCC nominees.
3. The Porcupine caribou herd authority will be informed by two or more advisory committees including:
 - a. A committee of caribou specialists, including at least one representative from each community significantly dependent upon the PCH for subsistence (could be local advisory committee members in Alaska) and appropriate professional biologists.
 - b. A committee of land owners, planners, and managers of Porcupine caribou habitat and other appropriate persons, to provide authority with an accurate overall view of PCH habitat issues and to encourage cooperative management

of these lands.

4. The convention should provide strong habitat protection as follows:
 - a. Governments will agree to avoid, when possible, terrain-alteration or other activities that might significantly impede, delay, or disrupt movements of the Porcupine caribou herd or affect essential herd-behavior patterns.
 - b. The convention will include procedures to ensure that Porcupine caribou and their habitat requirements are given effective consideration in evaluating the proposed activities within the range of the PCH.
 - c. The convention will encourage communication and cooperation among land owners and planners of PCH habitat through the advisory committee called for in 3b, above.
5. The convention will provide for establishing an overall harvest limit for the PCH and an equitable allocation between the two countries. Setting a limit would not be a routine function of the PCH authority but come into force only when and if necessary for the conservation of the PCH. Under normal circumstances all regulation of take would remain entirely a domestic responsibility.
6. Subsistence harvest will have priority over any other use of Porcupine caribou. The definition of subsistence should not be included in the convention but should adhere to the laws and regulations which prevail in each country.
7. The convention will provide for the cooperative development of a PCH research plan to identify what research is needed on the conservation, biology, and use of Porcupine caribou or their environment in order to meet the objectives of the convention.

Adopted on 19 April, 1984 at Arctic Village, Alaska. ■

House Passes Gas Fields Act

On 18 June, 1984, Mayor Eugene Brower announced the passage of the Barrow Gas Fields Transfer Act of 1984 by the House of Representatives, sending the bill over to the Senate for action. The bill would transfer the south and east Barrow gas fields from the Department of Interior to the North Slope Borough effective October 1, 1984. The legislation also would provide a lump sum of \$30 million to the Borough to be used to support the gas fields operation.

Although the Barrow gas fields have been in production since 1949, initially to supply energy to the Naval Arctic Research Laboratory, it was not until 1964 that the community was allowed to purchase gas from the federal government. During the last few years, especially with the decommissioning of the Naval Arctic Research Laboratory, the North Slope Borough has been under pressure from the federal government to take over the gas fields. Finally in late 1982 Mayor Eugene Brower entered into intensive negotiations with former Secretary Watt to develop a transfer package which contained enough revenues or revenue producing assets to cushion the residents against the possibility of substantial rate increases following the transfer. The package includes \$30 million, the Barrow gas fields and related facilities, and other gas resources including the Walakpa gas finds to insure that the residents of the Borough are amply provided for.

Passage by the House is the first landmark in a year-and-a-half effort by the Borough initiated by Mayor Eugene Brower in late 1982 with former Secretary of the Interior James Watt.

Eugene Brower, Mayor of the North Slope Borough said:

"I am very encouraged now by passage of the legislation by the House of Representatives. Arctic Slope Regional Corporation also



NSB Mayor Brower and U.S. Senator Frank Murkowski in Washington, D.C.: all interested parties fell in line.

gave their full support and even the conservationists testified supporting the measure. This is a landmark step toward the North Slope Borough achieving energy self-sufficiency.

On June 5, the Mayor along with officials from Arctic Slope Regional Corporation testified before the Public Lands Subcommittee on behalf of the legislation, the Mayor telling the Committee that "the Borough cannot afford to gamble that Barrow's total energy resource needs will continue to be provided at reasonable rates by the Reagan Administration or succeeding Administrations." The Mayor said that any delays in putting future gas resources on line to meet total Barrow demand would result in the need to supplement the system with diesel oil at 60 times the cost per equivalent BTUs. "This would be disastrous to the rate payers of Barrow."

"I think that I negotiated the best deal possible, with the help of Senator Stevens and Murkowski and Congressman Don Young. The Arc-

tic Slope Regional Corporation also stood behind me as did the State of Alaska. As part of the transfer package, Arctic Slope will be receiving 70,000 acres of valuable subsurface lands south of Barrow. And UIC will receive the sand and gravel rights in their lands overlaying the gas fields. While we had an earlier set back a couple of months ago when the conservationists objected to procedural aspects of the bill, they too fell in line in support of the bill. This was one of those happy occasions where all interested parties got what they wanted and the obstacles in the House to passage fell over one by one."

The bill, assisted through the House by Congressman Young, will now go to the Senate where it is expected that it will be passed without any problems or amendments. The legislation spearheaded by Senator Stevens and solidly supported by Senator Murkowski unquestionably will receive prompt affirmative Senate action. ■

Berger Launches ANCSA Hearings

Focus on Native Sovereignty



In the face of mounting concerns about the future of Alaska Natives, Canadian Judge Thomas R. Berger opened the hearings of the Alaska Native Review Commission (ANRC), the projected 2-year, \$1.7 million study of the Alaska Native Claims Settlement Act (ANCSA). Now sponsored jointly by the Inuit Circumpolar Conference (ICC) and the World Council of Indigenous Peoples (WCIP), the inquiry is looking at the impact of ANCSA upon Alaska Natives and is expected to make long-term recommendations regarding the enhancement of Native societies, culture, and land.

The passage of ANCSA brought major changes to Native communities, especially those in rural areas of Alaska—which are the special concern of Judge Berger. “I want to hear what the people in the villages have to say, not only about their experience with the Act, the profit and non-profit corporations, but with their experience with tribal institutions,” Berger stated before the hearings began.

The International Structure of Native Rights

The international coverage given the ANRC was no a surprise to those familiar with Judge Berger's advocacy of aboriginal rights in Canada. Regarding the ANRC, Berger had remarked, “The international significance of the Alaskan experience cannot be overlooked. Many view Alaska as a case study—one example of a major attempt by aboriginal peoples to establish a distinct and contemporary place for themselves in Western society. It also may be that the forms of Native governance and land holding in other countries will be of interest here in Alaska.”

The international significance of the ANRC was described in a paper presented at the Anchorage hearings by ICC board member Rhoda Innuksuk and Mark R. Gordon, ICC Vice-president and Vice-president of Makivik Corporation, one of the native corporations set up by the James Bay and Northern Quebec



Berger and Rosing at the overview discussions: was ANCSA fair and just?

Agreement of 1975, the first important land-claims settlement after ANCSA. Their paper stressed the importance of international relations in the settlement of Canadian land claims. “Just as Canada has a growing need to strengthen its international circumpolar relationships, Inuit could perform a particular mission on behalf of all Canadians in this regard . . . Inuit believe that we can learn from others in the Arctic and there are many technological and administrative, social and economic, legal and cultural experiences which can usefully be shared . . . More northern experience is needed.”

“Inuit are especially concerned with the international circumpolar north. It

has occurred to few Canadians that the northern part of the world contains a ring of societies, both aboriginal and European, experiencing remarkable similar problems and fighting remarkably similar campaigns to correct them . . . These people have their histories to assure them of their own identities, but face severe legal and material pressures to surrender to outside interests. It is little wonder they resist, and yet many Canadians think this unique and even somewhat eccentric."

In the face of government attempts to sweep the issue of native sovereignty under the table and to limit the scope of discussion, the paper noted that "native people instead of passively reacting to official initiatives are learning how to take their own. The Alaska Native Review Commission is a case in point. For the first time, native peoples have established their own international commission to address issues on their own terms."

"Canadian Inuit propose that the Alaska Native Review Commission be the catalyst and a focal point for developing this work in Canada, for domestic benefit and for international exchange. The timing is critical. The Canadian Constitutional talks have only a few short years remaining . . . If we do not carry out this work now, there may never be another opportunity to do something so constructive?"

The Sovereignty of Alaska Natives

Although Congress recognized the sovereignty of Alaska Natives in addressing their land claims, the issue of native

government was not addressed in the act. It has been described as a "very large real-estate deal," perhaps the largest in history, in which Alaska Natives traded in aboriginal title to nearly the whole state for fee-simple title to 40 million acres and \$1 billion cash. But there was nothing in the act regarding native government, the institutions by which the Natives could control their lands and their lives.

Congress went out of its way, in fact, to reach a settlement "without establishing any permanent racially-defined institutions . . . without creating a reservation system . . . and without adding to the categories of property and institutions enjoying special tax privileges" (Sec. 2.). Aboriginal title to the land and aboriginal hunting and fishing rights were extinguished by the act (Sec. 4) in exchange for the fee-simple title and monetary grants made to the Native corporations. Other aboriginal rights—such as subsistence and medical care—accorded Alaska Natives are still protected under a wide range of laws including the Nelson Act of 1905, the Snyder Act of 1921, the Indian Health Facilities Act of 1957, the Marine Mammal Protection Act, the Environmental Protection Act, the Indian Self-Determination Act of 1975, and the Indian Health Care Improvement Act of 1976. It is clear that federal law makes no distinction between Alaska Natives and other Native Americans.

While there may be some who see ANCSA as a "termination" document designed merely to assimilate Alaska Natives into white society, this was not the intent of Congress nor can it be

deduced from the Act. The federal policy of termination, begun in 1887 with the General Allotment Act, was recognized as a complete failure by Congress. It was a wasteful experiment resulting in dislocation of peoples, broken families, demoralization, and high social and financial costs. Congress reversed this policy in 1936 with the Indian Reorganization Act (IRA). Later, in the 50's and 60's, termination was attempted again but was finally abandoned under President Johnson. In the language of ANCSA, Congress recognized the right of Alaska Natives to contribute to the nation's welfare in the context of their own unique cultures.

The Tribalization of Alaska Native Lands

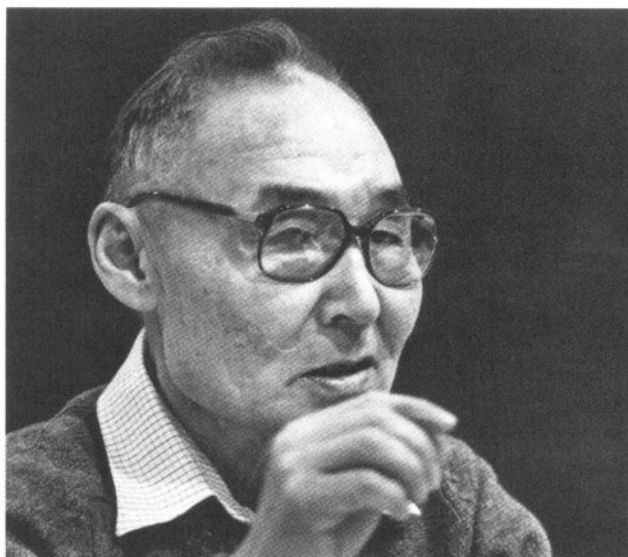
The international character of the indigenous peoples of the U.S. was stated clearly in President Reagan's January 1984 statement on Indian Policy:

When European colonial powers began to explore and colonize this land, they entered into treaties with sovereign Indian nations. Our new nation continued to make treaties and to deal with Indian tribes on a government-to-government basis. Throughout our history, despite periods of conflict and shifting national policies in Indian affairs, the government-to-government relationship between the United States and Indian tribes has endured. The Constitution, treaties, laws and court decisions have consistently recog-

Continued next page



Camera and sound crews at the overview discussions: facing 1991 and the need for consensus.



Left, Mike Albert testifying in Tununak. Above, land claims organizers Martha Demientieff, Don Wright, and Harry Carter: Natives were unified in a concern for the land.

nized a unique political relationship between Indian tribes and the United States which this administration pledges to uphold.

The extent to which this doctrine applies to Alaska Natives, however, has been subject to question. Opening the overview hearings in Anchorage, Judge Berger said, "Although ANCSA is a remarkable achievement, it seems to me that it did not resolve the question of political autonomy for Native people in Alaska, and thus the issue of sovereignty has arisen." A growing number of native societies in Alaska are beginning to establish new institutions for the exercise of "native government."

The tribal council of the village of Tyonek on the east side of Cook Inlet has attempted to expel several non-native residents. In 1982, the residents of Venetie went to court claiming that the state has no right to prosecute Jimmy Roberts for taking a caribou out of season on the grounds that the land is "Indian country," and owned by the tribal councils. Village officials also claim the right to tax oil leases on their property as well as exemption from state taxes.

Some village leaders and law experts hold that strong tribal councils can exercise control of their lands no matter what happens to the ANCSA corporations. *Anchorage Daily News* writer Tom Kizzia stated, "Legally undefined, the Indian country idea has become an almost mystical focus for the dissatisfactions and inspirations of many rural Native Alaskans."

Last year saw the establishment of the United Tribes of Alaska (UTA), which is demanding a greater role for native governments in the villages. State funds

for the tiny village of Akiakchak on the Kuskokwim River were thrown into chaos last year when the villagers dissolved their city council in favor of native government. The State Attorney General Norm Gorsuch said that the status of the village IRA council "is in need of clarification at both the state and federal levels."

In October 1983, the Alaska Federation of Natives (AFN) passed a recommendation that the Native corporations should consider transferring their land to the tribal governments to prevent taxation and loss of the shares to non-natives. "The Alaska Federation of Natives . . . endorses the concept of retribalization of Native lands through transfer of ANCSA lands . . . to tribal governments," the resolution said.

The AFN passed seven other resolutions pertaining to 1991 issues and has also undertaken detailed studies of the all the options pertaining to stock and land protection, new Natives, and changes to the corporate structure, as well as drafting proposed legislation regarding benefits to elders.

In April of this year, the southwest community of Chefornak voted to dissolve its second-class city government and transfer its responsibilities over to the traditional council. Council Chairman Charlie Kairaiuak was reported in the *Tundra Times* as saying that the council would "better protect our lands and native rights in the future . . . We want to be a traditional government. We have our own duly-voted constitution."

The native village of Eagle on the Yukon River near the Canadian Border (pop. 147) has petitioned the Department of Interior to approve new IRA charter that contains broad municipal powers

including the right to tax, manage fish and game, administer some forms of criminal justice, and regulate resource development. The action prompted Governor Sheffield to write a letter asking the federal government to hold up making a decision until the state has time to study the issue. Sheffield said he does not oppose tribal governments in Alaska as long as they do not expand or diminish the current legal situation. He also was setting up a special task force to investigate native governments.

In May 1984, Interior Secretary Clark had not yet acted on the village request, but said that Alaska Natives were to be denied the same government-to-government rights accorded Indians in the lower 48 because of the absence of reservations, where the federal government has a trust responsibility. He claimed that ANCSA changed the ball game for Alaska Natives, and that they cannot go back to a trust relationship. His statements were quickly modified by Deputy Secretary Bill Horn, who said that there are some legal arguments for "dependent Indian communities" in Alaska.

Village Hearings Begin

While native sovereignty was already the major issue facing Alaska when Judge Berger opened the hearings in the Western Alaska villages of Emonak and Tununak on 20 and 23 February, testimony seemed to settle on two major concerns regarding ANCSA: the disenfranchisement of Native children born after 1971 and the approach of 1991, when tax exemptions protecting the Native corporations will be ended along with the prohibition against selling the stock. The

prospect of the transfer of stock to non-Natives and the inability of Native children born after 1971 to own stock seemed to strike at the permanence of Native societies and their attachment to the land. Many argued that if their Yup'ik culture was to survive, ownership of the ANCSA lands should be transferred from the corporations to the native governments. Others talked about the lack of sensitivity of the regional corporations to native issues and the manner in which this has pitted native corporations against the villages (sometimes in court) in contrast to their tradition of sharing and cooperation.

In Tununak, they spoke of two different local governments, the tribal government established under provisions of the IRA and the city government chartered under the state. The two governments now meet and work together. The plan is to eventually eliminate the city government entirely. Mike Albert, President of the Tununak IRA council said, "This Alaska Native Claims is creating nothing but problems for the people today, and the people in the future."

The meetings were the largest ever attended in the two villages, in spite of the

bitterly cold weather which prevented many from other villages from attending. Berger was received in the villages with notable warmth and enthusiasm, and performances of Native dances were staged in his honor.

The Overview Hearings

The inquiry returned to Anchorage for three weeks of "Overview Roundtable Discussions" intended by Berger "to provide the intellectual framework" for the work of the Commission. Beginning February 27, the first week was dedicated to a discussion of Native aspirations at the time of ANCSA and on ANCSA legal regimes and institutions. The second week included discussions on U.S. national policy towards its aboriginal societies. The third week covered the response of aboriginal groups in other nations towards ANCSA.

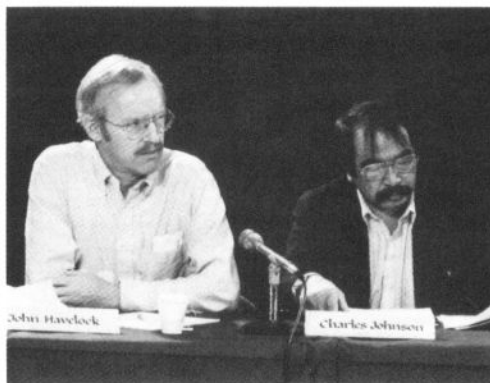
The overview discussions were opened by Hans-Pavia Rosing, President of the ICC. "Our land is our life," he said quoting from a poem by ICC board member Arqaluk Lynge. "It is my experience," he said, "that all aboriginal peoples wherever we live and whatever

our conditions, share a feeling that our connection to the land is essential to our well-being." Congress called for a "fair and just settlement." "Was that what the indigenous people got?" he asked.

The Commission heard from several of the original leaders of the land-claims movement in Alaska, along with many of the attorneys and Congressional aides who helped usher the Act through Congress. Cultural anthropologist Ann Fienup-Riordan of the University of Alaska at Anchorage led off the discussion with a paper on "The Spirit of ANCSA," which summarized the 2,000 pages of testimony given by Alaska Natives during Congressional hearings prior to passage of the ACT.

"Although the hearings drew Native speakers at all levels of involvement in the settlement discussion," she stated, "some more and some less powerful and eloquent, all who testified clearly stated the value of the land to them personally and to the future of their people. All favored a settlement of claims, although for a variety of reasons." She noted the universal emphasis placed on preserving the "subsistence way of life," while the

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Scrutinizing ANCSA: a bold social experiment emerging from the concerns of the 60's. Top left: left to right, Flore Lekanoff, of St. George Tanaq Corp., John Borbridge of Juneau, Frances Degan of Unalakleet. Top middle: left, Arctic Slope organizer Joe Upicksoun and Sealaska's Byron Mallott. Top right: historians Joseph Jorgenson, left, and Walter Parker. Bottom left: Paul Tiulana of King Island, Ahtna Director Roy Ewan, and Ralph Perdue of Fairbanks. Bottom middle: former Attorney General John Havelock and AFN Chairman Charles Johnson. Bottom right: left to right, Tlingit attorney Fred Paul, Alfred Starr of Nenana and Tlingit-Haida President John Hope.

younger Native leaders focused on the need for economic self-sufficiency and development. "If Natives had reservations about the implications of adopting the corporate vehicle," she states, "these reservations did not appear in the testimony." In her conclusion she said that although "the Native community has won many of the goals for which they originally fought . . ." the land claims settlement has not been able to provide an effective barrier to the harmful effects of rapid social change. "The technological improvements of new high schools and better housing have so far not only been unsuccessful in eliminating problems of Alaskan Natives, but may in many instances have actually contributed to them."

John Borbridge, a Tlingit-Haida land-claims leader and early president of Sealaska, addressed the manner in which Congressmen addressed the sovereignty issue. "It is not true that Congress avoided the issue of Native sovereignty," he said. "The whole process of settling the claims was based on clear understanding of sovereignty. The committee chairman had asked us, 'What claims do you bring against our nation?' In spite of this recognition, he said the Act "was flawed by unanswered questions" and ambiguities. Talking about the propriety of the regional corporations to manage the land, Borbridge said, "They don't possess the personal, timeless quality that tribal governments have."

Douglas Jones, who had been a member of the Federal Field Committee which had done the groundwork for the claims

act and later served as Senator Mike Gravel's assistant, stated that "Congress was trying to do what was right and best for the Alaska Natives," taking cues from the Native leaders themselves. He said there was no attempt or conspiracy at assimilation, "though ANCSA was a bold attempt at social engineering," based on the values and programs "coming out of the 1960's: economic development, equality, and upward mobility."

Byron Mallott, President of Sealaska (the largest regional corporation) spoke frankly about the incompatibility of the native and the corporate ethic. "I wear two hats," he said. "And it often causes me conflict . . . The land now does not belong to Natives as native land, but to the corporations, which have their own discipline and values sometimes far removed from the shareholders."

Some of the participants such as Guy Martin, assistant to Alaska Congressman Nick Begich during the ANCSA era, and William Van Ness, then assistant to Senator Henry Jackson, talked about the special combination of favorable economic and political factors which conspired to support the settlement, factors which would be absent if Congress were to be approached now with significant alterations to the Act. Former State Attorney General John Havelock pointed out that the most radical feature of ANCSA was that federal many responsibilities for the Natives were passed over to the State of Alaska, not to the regional corporations as many people suppose. "These problems can be worked out with the state," he said, "and we might even go

back and look at the state statutes."

Historian and economist Walter Parker stated that it would be a mistake for Alaska Natives to seek new implementations of native sovereignty. "The way in which parcels of native lands have been interspersed with state and federal lands over most regions of the state would make it difficult to give such sovereignty any cohesive geographical expression," he said. Parker had served as co-chairman of the Alaska Joint Federal-State Land-Use Planning Commission set up to aid the state and native land selections.

Others, such as Tlingit attorney Frederick Paul, spoke of the many advantages of native government and urge the transfer of corporate lands to the IRA's. "I believe in the IRA's," he said. In legal concept they have few disadvantages," Paul noted that IRA's are able to establish their own corporations which could carry out the same kind of business enterprises as those promoted by the ANCSA corporations. "So what if Congress is not favorable now (to amending the Act)?" he asked. "The cause is right and just. We just keep going back until they listen to us. This is how we have always done." Paul served as attorney for the Arctic Slope Native Association during land-claims negotiations and stated that the Natives supported the idea of the corporations because traditional tribal governments at the time were seen as tools of the much hated Bureau of Indian Affairs (BIA) and the Natives wanted to become "first-class citizens" by emulating the whites.

Paul was joined in his appeal for transfer to IRA's by Don Wright, who was AFN president during ANCSA and has worked closely with the IRA government of Venetie. Others, however, such as Byron Mallott and Martha Diemientieff, felt Alaska Natives should not be rushed into such a decision. "We don't want to exchange one set of problems for another," Mallott said and expressed his belief that different areas will adopt different solutions to the problem.

The Progress of American Indians

During the second week of the panel discussions, some of the Indian leaders from outside Alaska warned about the problems that arise in reservation status under the federal government while others noted that much has improved in the relationships between reservation Indians and the federal government since 1971. Indian law expert Ralph Johnson of the University of Washington said that

Newsletter Focuses On Inupiat Culture

The Nuvuk News is a newsletter devoted to the cultural heritage of the people of the North Slope Borough with articles on archeology, traditional lifeways, land use sites, use of natural resources, and traditional and modern subsistence practices. It is published by archeologist Edwin Hall, who worked for the U.S.G.S. on the North Slope for 12 years. The newsletter is distributed free of charge to high schools and other interested institutions and individuals. Contributions for publication are welcome. Correspondence should be sent to: Edwin S. Hall Jr., Edwin Hall & Associates, 291 Main St., Brockport, NY 14420.

Indian law is advancing so rapidly, "most of it has been written in the last ten years." Court decisions regarding Native sovereignty have almost exceeded the capacity of domestic law to deal with them, "and we are looking towards a combination of domestic and international law," to resolve some of these problems.

Joseph Jorgensen of the University of California at Irvine presented a paper on "Indian Claims to Resources in the Lower 48 and United States Policy." He talked about the "waffling policies" of the federal government in dealing with issues of native self-determination. His paper revealed how the Johnson Administration backed out of a termination policy through its concern with "the symptoms of Indian underdevelopment rather than the political and economic causes of that underdevelopment." President Johnson's "War on Poverty" swept onto the reservations with funds for housing, legal assistance, community action projects, job training, and education programs. (These same programs have been credited for stimulating the land claims movements in Alaska.) At the same time, defense contractors and multi-national corporations were urged to settle on tribal lands, and the Indians urged to lease oil, gas, coal, uranium, and geothermal resources at unconscionably low rates.

In spite of the many new programs authorized under Johnson, Nixon, Ford, and Carter, few tribes benefitted because of lack of coordination at Cabinet level, according to Jorgensen. Among the important pieces of Indian legislation enacted between 1962 and 1980, the most important were: 1) those which reinstated terminated tribes; 2) those which have restored some portion of former tribal lands to the tribes; and 3) the Indian Self-Determination and Educational Assistance Act.

"Legislation, not litigation, has begun to rectify some of the worst problems created by previous legislation," he said, even though court suits have been important in prompting Congress to seek political solutions. The Indian Self-Determination and Educational Assistance Act gives tribes "considerable possibilities for the management of public funds and publicly-sponsored services," authorizing federal agencies to contract directly with the tribes for deliver of services. According to Jorgensen, such powers will create "fewer bad deals, less poor management, and much stronger negotiating with the corporations, state and federal agencies than in the abortive

attempts to develop in the past."

He also brought up the importance of the Indian Nonintercourse Act of 1790 for contemporary Native affairs. This act prevents Indian tribes from dealing directly with the states and had significant influence in the settlement of the Passamaquoddy-Penobscot claims against Maine. (Grants made by the Indians to what was once the Commonwealth of Massachusetts were seen as violations of the act.) In the Maine Indian Claims Settlement Act of 1980, Congress awarded a settlement of over \$80 million to the Passamaquoddy and Penobscot, along with 12.5 million acres of land to be held in federal trust. The Indians were authorized to organize their own tribal governments and to avail themselves of all the benefits of federal laws affecting Native self-determination.

Of the issues now before the courts and Congress, the most important is that of the Western Shoshones occupying the Great Basin. A treaty of 1863 ceded to the Indians several million acres in Western Utah and Nevada. In 1980, the Western Shoshone Sacred Lands Association filed suit in federal court seeking title to the 1863 lands. In March of this year, their representatives met with the Senate Select Committee for the purpose of framing legislation that will restore the treaty lands, along with all the revenue made by the BLM and other federal agencies from the land over the past century.

The Menominee Experience: Retribalization

Ada Deer of the Menominee Tribe in Wisconsin described the suffering caused by Congress's termination of their tribe in 1954. The State of Wisconsin assisted the termination by creating the Menominee County and Town, covering the same area as the reservation, which assumed many of the federal responsibilities, paying for them from the local tax base. The state proceeded to deny treaty hunting and fishing rights to the Menominees.

The tax base—mainly a lumber operation—could not support services and the white-dominated land-holding trust began selling off land to meet expenses. The sales had a traumatic effect on the tribe. While the federal government continued to provide assistance to the tribe (some \$20 million between 1953 and 1973) the tribe suffered a painful series of deprivations.

The tribe began to bring suits against both the state and the federal govern-



Top, Menominee organizer Ada Deer and Yakima Indian leader Russel Jim: A warning from American Indians.

ment, gradually restoring treaty rights, tribal status, and other crucial factors in their collective life, including the right to contract and receive grants and to maintain tribal roles.

But they found it difficult to implement these rights without native jurisdiction over the land. Ada Deer, then a social worker, helped organize the political movement that emerged. After a series of demonstrations in which she and others were arrested, Congress was finally persuaded to pass the Menominee Restoration Act of 1973, the first of several similar acts affecting tribes in Oregon, Oklahoma, Arizona, and Utah.

While the new arrangement has not been entirely satisfactory, the Menominees are immeasurably wiser than 30 years ago. The land was restored to the tribal council, but they have retained the corporation to manage their economic enterprises and the municipal-county government to handle their affairs with the state. Deer agreed that the corporation structure was not proper for administration of native lands. "The corporations will destroy you," she warned.

Russell Jim, formerly Chairman of the Yakima Nation in Washington State, spoke strongly about native sovereignty but said his tribe preferred a traditional council rather than adopting an IRA charter. Talking about the exemption of native lands from taxation, he said that in their treaty with the U.S., "We ceded

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10.8 million acres to the State of Washington and retained 1.3. We feel we paid our taxes!" He also urged Natives to regain lands wrongfully taken from them. Under the Nixon administration, the Yakimas regained title to 21,000 acres including Mt. Adams, a sacred place in their tradition.

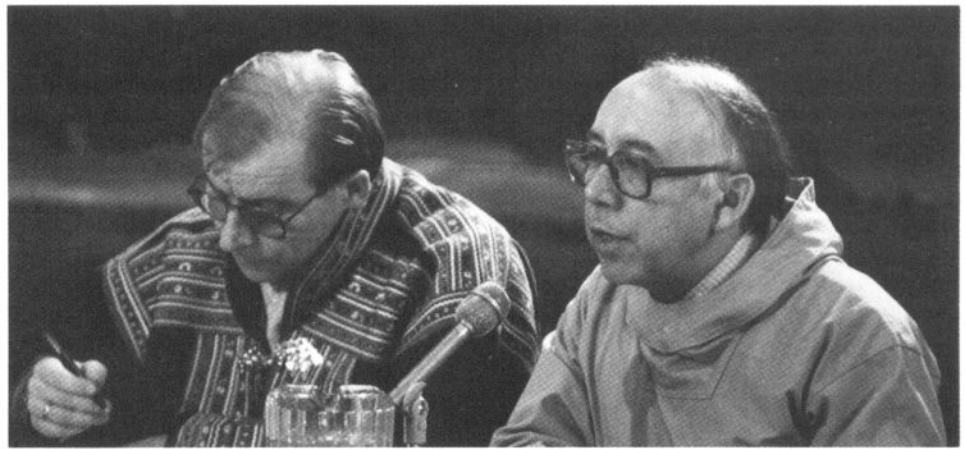
Native Sovereignty and International Law

The third week of the discussions focused on the international aspects of ANCSA. A paper on the recognition of aboriginal rights in international law was delivered by law professor Douglas Sanders of the University of British Columbia, who is also legal counsel to the World Council of Indigenous Peoples. "Indigenous people have repeatedly sought support beyond the borders of the nation state within which they live," Sanders stated. He described the history of Canadian Indians in appealing to the United Kingdom and to international bodies for support. These appeals have been effective in producing changes in the Canadian Constitution honoring aboriginal rights.

The second part of the paper described the response of the U.N. to aboriginal appeals and issues. No minority rights provisions had been written into the Covenant of the League of Nations precisely because Australia and New Zealand wanted to avoid international scrutiny of their treatment of aboriginals. But there already existed in Europe a number of societies for the protection of native races of which the Anti-Slavery and Aborigines Protection Society of London was the oldest and most influential. The work of these support groups in influencing the direction of the U.N. cannot be underestimated, according to Sanders. During the 1920's, the Six Nations Iroquois Confederacy made a number of significant appeals to the League of Nations. Debate on these issues were terminated by Canada, but the protests continued, and the Iroquois sent representatives to San Francisco when the U.N. was founded.

"The opening for indigenous peoples in post-war international law proved to be in the fight against racial discrimination," Sanders reported. "Racial discrimination is condemned in the Charter and in the Universal Declaration of Human Rights." In 1978 the United Nations Conference on Racism, held in Geneva, approved the following passage:

8. The Conference urges States to rec-



Indigenous people's scholars Alf Isak Keskitalo of Norway, right, and Robert Petersen of Greenland: international support for Native sovereignty.

ognize the following rights of indigenous peoples:

- (a) To call themselves by their proper name and to express freely their ethnic, cultural and other characteristics;
- (b) To have an official status and to form their own respective organizations;
- (c) To carry on within their areas of settlement their traditional structure of economy and way of life; this should in no way affect their right to participate freely on an equal basis in the economic, social and political development of their country;
- (d) To maintain and use their own language, wherever possible, for administration and education;
- (e) To receive education and information in their own language, with due regard to their needs as expressed by themselves, and to disseminate regarding their needs and problems.

Sanders noted that although the Queen of England and the U.N. are powerless, the "experts" who have advised Native groups against taking their issues to international forums have often been proven wrong. "When the Australian Aborigines appeared before the U.N. Human Rights Commission in 1980 to denounce the mining of sacred sites at Hookanbah," Sanders said, "Australia was embarrassed, but could do nothing. The tactics of international accusations serves both the short-term goal of applying international pressure on the nation state and the long-range goal of developing international standards."

Sanders concluded, "Indigenous pop-

ulations persist in their belief that their rights are not simply a matter for domestic law . . . It is only by ignoring advice and persisting in their beliefs that indigenous peoples have initiated changes in the Canadian constitution and international law."

Is Sovereignty Negotiable?

Participants from other countries were aware of the complex issues surrounding ANCSA and the settlement of land claims. Alf Isak Keskitalo, a Sami from Norway, noted that aboriginal peoples around the world at first greeted ANCSA very positively. "At our first knowledge of it," he said, it appeared fabulous that there had been a settlement on land rights," the first such recognition of aboriginal title by a government in the modern era. "But immediately when we discussed it," he continued, "it occurred to us that it was unnatural that eligibility for rights was given in the form of shares or stocks."

Dr. Robert Peterson of Greenland spoke at length of the negotiating give-and-take that has been characteristic of Greenlandic home-rule development. "Our leaders seem to know how far they can go," he said, referring to the need to avoid jeopardizing the substantial economic subsidies granted by Denmark to Greenland.

The Canadians also rejected an absolute definition of sovereignty in favor of a negotiated sovereignty that has been characteristic of land claims settlements there. "Coming down to earth," said Mark Gordon, "having sovereignty means having the biggest guns" and negotiating with what you have for what you can get.

Shorty O'Neil, spokesman for the



Top, Australian aboriginal leaders, left to right, Maureen Kelly of the Pilbara Land Council, Stanley Scrutton of the Central Land Council, and Shorty O'Neil of the National Land Council. Bottom, Canadian leaders Mark R. Gordon of Makivik, Dennis Patterson of the Government of N.W.T., and Peter Ittinuar, Member of Parliament and spokesman for the Nunavut Constitutional Forum: addressing the issues on the Natives' own terms.

National Land Council in Australia, objected to the need for negotiations at all. "Sovereignty is a birthright," he said. "You can't steal sovereignty and it can't be taken by treaty or anything else . . . You're born with sovereignty and you can't back down from that and still be responsible people." O'Neil compared native sovereignty to the rights of a homeowner over his tenants. "There are 15 million illegal immigrants living in our house," he said. "If they want to live there they must pay the rent. Also, they must

abide by the rules of the house. We as a people have many laws. Otherwise, they must be evicted."

O'Neil was particularly angry about the way in which the colonists treated the land. He described his country as one of the "most desecrated" areas of the world, noting that much of it has been turned into a desert by mismanagement. He also complained about the health condition of Australian aboriginals, who have infant mortality rates 10 times higher than others.

O'Neil and others kept bringing the discussion back to the need to preserve cultural homogeneity through control of tribal lands. "It's not that we want to kick these 15 million illegal aliens out of our country," he said, but some means must be used to control immigration. Another speaker said that most of the problems of Native Americans resulted "from not having stronger immigration laws." With Alaska Natives only being fifty two percent of rural Alaska, they are in danger of what control they have over state-chartered municipal governments. The same possibility exists in Greenland, which is part of the realm of Denmark. There is complete freedom of movement between the countries with no possibilities for curbing European immigration.

The Northern Quebec Inuit: Improving on ANCSA

Mark Gordon spoke of the important function of ANCSA as a model in the James Bay settlement. They sent a small delegation to talk to the leaders of the North Slope and NANA Region about ANCSA. "Even then, an assessment was taking place, and the people in Alaska proved very helpful. They told us to be sure to work in hunting and fishing rights into our settlement and to avoid the checkerboard selection of land title resulting from the ANCSA settlement."

Following the ANCSA model, the Quebec Inuit set up a regional corporation (Makivik) to handle the settlement funds, but with stronger restrictions on the investment of funds. Title to the settlement land was not invested in the regional corporation but in land-holding village membership corporations. Also,

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there were to be no restrictions on descendants' participation in the settlement. A regional government called Kativik was set up, modelled after the North Slope Borough, along with separate municipalities for the villages, but the powers of Kativik are still in negotiations with the Quebec government.

"Where the James Bay negotiations differed was that, rightly or wrongly, we had to negotiate for public services that we should have been able to receive and control simply as citizens of the province or the country," Gordon said. These services were "in a mess," resulting from often duplicated and competing federal and provincial programs, including education and health care. "We had to expend a lot of our negotiating strength and make a lot of trade offs for basic services that we should have received as citizens."

In their written statement, Gordon and Innuksuk said, "In Canada, as is now evident in Alaska, the early hopes of the land claims movement gradually gave way to a focus on the need for democratic self-governing structures, in other words for the forms of political activity and accountability which people the world over require to express themselves and build their futures. Because of the inhibiting quality of Canadian laws which denied their collective existence and ignored their ancient livelihoods by which economic resources had been managed, it became clear that nothing less than constitutional change could be the starting point for real reform."

Because of the failure of the federal government to honor the terms of the James Bay Agreement, the Quebec Inuit presented a strong case to Parliament

and redirected their efforts. "A few years of compressed experience gave the Quebec Inuit a strong sense of purpose, and it is little wonder that they have provided so much drive behind the national Inuit constitutional work, in recognition of which their founding president and constitutional committee chairman, Charlie Watt, has just been named to the Canadian Senate."

The NSB, the State and Native Governments

NSB officials have been supportive of the ANRC and are carefully studying the development of native governments in Alaska. With the approach of 1991, they are faced with the prospect of taxing the regional corporation lands on the same basis as other businesses. The present exemption from taxation might possibly be continued if they would come under the aegis of native governments.

The State of Alaska has most to lose if tribalization of native lands takes place. Jurisdiction over local resources could be lost, while state services to villages would be expected to continue. Many feel that the state has brought this situation upon itself by neglecting the political development of rural areas. While the framers of the Alaska Constitution had intended that all Alaskans exercise strong powers of local government and that all areas of the state be incorporated into boroughs, succeeding administrations have sided with industry in opposing this process, leaving rural Alaskans without the jurisdiction necessary to manage local resources on a partnership basis with the state. Judge Berger has promised to focus on this state problem in special discussions later this year. ■



Canadian participants at the overview discussions of the Alaska Native Review Commission. Left to right, Mike Smith and Glen Grady, Council of Yukon Indians; Doug Saunders of WCIP; Dwight Noseworthy, Land Claims negotiator for Government of NWT; Randy Ames, Tangavik Federation of Nunavut; Desmond Bryce-Bennett, Nunavut Constitutional Forum; and Sam Silverstone, Makivik Corp. attorney.

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