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**University of Alaska Radio Forum: Alaska Native Land Claims - Barry Jackson**

**Summary created by: Summer Dougherty**

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Jim Thomas, the public relations officer for the Alaska Federation of Natives, and Barry Jackson, a Fairbanks lawyer and legislator active in the Native land claims issue are today's guests.

The moderator asks Barry Jackson to elaborate on the legal aspects of the land claims issue.

Barry explains that legal aspects go back to the time of Catherine the Great. She said in a charter to the Russian American Company that they should not disturb natives in Alaska and that their only right is to establish trading posts. The modern history of native land claims really starts with statehood. And the right of the state to select 103 million acres of vacant, unappropriated, unreserved land in Alaska, while, at the same time, there was disclaimer in the statehood act disclaiming any interest in lands held for natives. After statehood, the state began selecting lands near Minto. Minto became aware of this and disturbed by this. At that time it looked as if things might be worked out. About half the lands of the Minto areas were actually selected by the state at the request of Minto to protect Minto from third party interests. Unfortunately, says Mr. Jackson, the state now wants to keep the land that they selected from Minto. Minto brought the issue to a head with a meeting in Fairbanks which effectively stopped the program the state had begun to open up the lands for general public recreation. This, in turn, led to the formation of the Tanana Chiefs' Conference. This movement of regional organizations soon spread statewide. The Alaska Federation of Natives was formed around 1966.

Jim Thomas adds that in the southeast the Alaska Native Brotherhood started its land claims proceedings for the southeastern area which developed into the Tlingit and Haida Central Council. They received a settlement which was very inadequate.

Barry Jackson adds that this was also important in that it demonstrated that court proceedings to settle claims were time consuming, expensive, and very complicated. These court proceedings involved very high attorneys' fees of around 8% to 10%, while, in this case, Mr. Jackson says, Congress is expected to keep the attorneys' fees down to one half of one percent. And so, the attorneys and the Native leaders realized it would be in their best interest to seek settlement through Congress.

Jim Thomas interjects that the situation brought the Natives to their attorneys. He says just because a man enters a divorce proceeding does not make him an expert on divorce and so it is with Native land claims. Just because the Native people have brought the issue up does not make them experts on land claims. Natives need legal help and that is why they have the expertise that they have on regional levels as well as on the national level with national attorneys.

The moderator asks Jim about the situation which got the whole ball rolling, that is, the state selecting land.

Jim says that once the state began selecting millions of acres, the state began encroaching on the Native, who up to that point in time had been free to roam where they wished for their food and survival.

Barry adds that the attorneys working with Native leaders through the course of the land claims movement have taken the attitude that they are not the ones to determine policy, but instead their role is to suggest policy problems and possible solutions, a role very similar to the legislative affairs agency in the state legislature.

The moderator asks Jim what has been the AFN policy in regard to what it wants and in regard to non-Native Alaskans. Jim responds that this brings the conversation to a point where some of the things that have been said about the Alaska Natives are now relevant, specifically the Goldberg Bill. The AFN, with the help of their regional attorneys, carefully drafted a policy statement from which a bill was drafted by an attorney, Arthur Lazarus in Washington, D.C. This bill was in no way a Goldberg Bill, says Jim, but rather a bill that was drafted from the Natives' own position, desires and hoped for outcome in the land claims settlement. Jim asks Barry to explain the provisions of that bill.

The bill has four features: land, money, interest in "the fruits of the land", and the structure and administrative provisions, i.e. how the land and money will be handled. Regarding the land, the Natives have asked for 40 million acres. Originally the task force set up by Governor Hickel wanted 80 million acres. They are requesting \$500 million which the Nixon administration supports. They have asked for a continuing interest in "the fruits of the land", in the form of a 2% royalty, similar to a 1968 royalty enacted by the state legislature equal to 5% of the state's proceeds on future revenues from state lands. Fourthly, structure-wise, the AFN has asked that the money be distributed among 3 levels of business corporations. It is hoped that the money and land will be used for economic development of the whole state which will benefit society, while giving the basic means of employment and ownership, that is, full participation in a capitalist society, to Alaska Natives. The corporations are 1) a statewide corporation, 2) 12

regional corporations which racial and geographic divisions within Alaska and, 3) village corporations may be established for those villages that want them.

The Nixon administration has agreed with the idea of land, but not 40 million acres. The administration has suggested something closer to 12 million acres. The administration has suggested that all of the money be vested in a single corporation composed of all of the Natives and that significant federal control be retained on this corporation. This would be one of the 100 largest corporations in a state which has perhaps two tenths of one percent of the gross national product. This concentration of economic and, necessarily, political power would not be in the best interests of the natives or the state. Fortunately Governor Miller supports the ANF in its approach to how the land and money should be handled. The Nixon administration does not support the idea of a continuing interest in the "fruits of the land," either as a 2% royalty or in any other form.

The moderator notes that the idea of federal participation in an advisory capacity conjures up ideas of organizations like the BIA, which the Natives have had concerns over. The moderator asks Jim if this is a matter of concern for the Natives now.

Natives would like the opportunity to make their own successes and their own failures. They know, as a Native people, what their problems are and what some of the best solutions to those problems would be.

The moderator mentions that he read in the paper that they consider Secretary of the Interior Hickel one of the most viable and energetic men in the cabinet and asks if he has been influential in the Nixon administration's policies.

Berry responds that he has been very influential and deserves credit for getting the Nixon administration to come up with \$500 million.

The moderator asks how the Alaskan Congressional Delegation Senators Gravel, Stevens and Congressman Pollock stand on this issue.

Jim responds that they have switched positions so many times that he has to ask Barry to fill him in on what the latest position is.

Barry says that it is hard to tell. It seems that all three would like to support the AFN Bill as far as they can but each has problems with particular features of the bill. Now, they all seem to agree that there should be some form of state participation. This has been proposed in the form of a 2% royalty on both state and federal lands. Though Barry is not sure that this is how it will work out, he is convinced that Congress will provide for some kind of a continuing interest in some form or state participation, which he believes will be healthy for the Alaska. He

mentions that Congressman Saylor(?) has been introducing a bill in Congress for the past several Congresses to do away with the state's 90% revenue sharing split with the federal government. Barry's position is that if Natives could get a portion of that diverted to them, they could perhaps stop Saylor from having his way in having the 90% taken away completely.

Jim adds that this has been the problem all through the land claims history, particularly in relation to the 2% override. In the past, under the statehood act, the United States Congress has been extremely generous with the state of Alaska. They got almost one third of the land and almost 100% of the royalties. The state has been very fortunate in this respect and it is very difficult, he says, for us, as Natives, to understand the position of the Governor in not wanting the state to share any of this fortune with the Native people, who are the first people of the land.

The moderator asks what Governor Miller's suggestions have been. Jim responds that the Governor does not want the state to participate in any way, particularly on a revenue sharing basis which means he is very much opposed to the 2%. The Governor is also against the 40 million acres of land, preferring a number of 12 million or less and prefers a cash settlement of \$500 million.

The moderator says that many people are concerned about the land, including trappers, recreationists, hunters and miners. He asks Barry what happens if a miner is mining in a certain spot that is then awarded to the Natives. Do prior rights stand up in this case?

Barry says, yes, they do. It has been the position of the Native leaders throughout the whole movement that they would respect the prior rights of people in the land, including homesteaders. He adds that Native leaders have also tried to follow a policy of accommodation to meet the legitimate needs of private interests including miners, conservationists and sportsmen and the legitimate needs of the state itself.

Jim adds that the Natives have tried to encourage as much public discussion on this issue as possible and are willing to sit down and discuss the issue with any concerned.

The moderator asks Jim what the opposition and what the points of contention are.

Jim responds that the opposition is coming primarily from the administration within the state as well as some businessmen who have gone to Washington D.C. to lobby, particularly, against the 2% override. Otherwise, Jim adds that Natives have gained substantial support across the country. The Alaska Federation of Labor has substantially endorsed the AFN as have the Alaska Teamsters. The National Council of Churches came out with a unanimous endorsement for the AFN position. Mr. Walter Reuther, president of the United Automobile Workers came out in support.

The moderator asks Barry what will come out of Congress.

Barry says it is difficult to predict what any legislature will do. He thinks Congress will provide for something between 10 and 25 million acres and up to \$500 million. He believes there will be some form of revenue sharing with the state and some form, probably the same thing, for providing for continuing interest in "the fruits of the land." This may or may not be in perpetuity. Finally, the bill will provide for some means of settlement. To Barry, the greatest danger is whether Natives will be allowed to manage the land and money through time or whether Congress will exercise perpetual supervision. Barry hopes that there will be a bill through both houses by August or September.

The moderator asks Jim if the Natives will settle for anything less than what they have asked for. Jim responds by saying that there are many forms of settlement. There are various formulas that can come up to nearly the same thing. It all depends on what comes out of the Senate and the House.

Barry explains that the Senate bill will not be the bill that passes the House. The House will write its own version which will vary, probably substantially, from the Senate bill. He thinks that the Senate will be more generous, but, at the same time, he has the feeling that the House is more sympathetic to the ideas of regional corporations and to the amount of land requested. He explains the process of passing the bill. Barry elaborates on the strong ties and deep feelings of the Natives for the land. He warns that if not enough land is granted, there will be opposition.

The moderator asks Jim what would happen if the Natives did oppose the settlement that came out of Congress. Not being a lawyer, Jim says he does not know what legal action could be taken. He reports that Congressman Lloyd Meeds has said if the settlement out of Congress should be completely inadequate then the Native people should take the recourse of taking this to the Court of Claims.

Barry says that this would be a long process and would require that Congress pass a bill authorizing the Natives to sue in a court of claims. This raises the danger of tying up Alaska's land so that no one can use it for years to come.

Jim adds, for the sake of clarity, that the funds will not go into individual hands.

The moderator asks if it will be a system somewhat like the Tyoneks(?) had after their settlement. Jim says that he thinks Tyonek(?) is one of the glowing examples of what could happen across the state of Alaska if Natives are allowed to use the funds as they see fit.

Barry brings up the point that the Tyoneks(?) had become deeply engaged in business in Anchorage. They own a major portion of Spenard Utilities, a title company, an airline, a major interest in a construction firm, buildings. The money from the settlement will be fed into the Alaskan economy and controlled from Alaska, not from New York or Houston. It will be used for the development of Alaska and all business will benefit: airlines will be carrying more freight as housing is developed in the villages, transportation companies will benefit, construction companies will benefit. This will be a major capital source for the state of Alaska which will stay in and be responsive to the needs of Alaska.

The moderator asks if Natives will be able to stand affluence. Clearly the Tyonek(s) have been able to handle affluence well.

Jim says he does not believe it will be affluence. It will be some time before Natives reach what Alaska's non-Natives are now enjoying.

The moderator thanks the guests for their participation.