ALASKA PUBLIC POLICY

CURRENT PROBLEMS AND ISSUES

Edited by Gordon Scott Harrison

Institute of Social, Economic and Government Research
University of Alaska
Published by
Institute of Social, Economic and Government Research
College, Alaska
1971
THE ECONOMIC CONSEQUENCES OF A LAND CLAIMS SETTLEMENT

Arlon R. Tussing and Douglas N. Jones

It is a fair generalization that Alaska Natives as a class are not owners of commercial property assets. Nor are they possessors of the acculturation, education, training or experience to take advantage of the new job opportunities in the kind of economic growth now occurring in the United States and in Alaska. This generalization is confirmed by a variety of statistical series, which show that the economic position of Alaska Natives, and of the communities in which they live, is steadily falling further behind statewide averages.¹ It is a common notion that any obstacles to economic development resulting from the impasse over Native claims hurt the interests of Alaska Natives above all, but this is a serious exaggeration. On balance, it appears that Alaska Natives as a group now have little if any stake in a continuation of the present pattern of regional economic development. It follows also that they have little stake in a resolution of their protests and claims for the sake of removing obstacles to economic development, unless that resolution involves either the creation of new kinds of economic opportunity for individual Natives or Native groups or a substantial transfer of commercial assets to them.
The Native interest in economic development as it touches on a resolution of the protests can be subdivided into four concerns:

1. **Protection of the Indigenous Way of Life.** Commercial development of Alaska’s natural resources or the population growth it supports may endanger, or compete for, resources required in the subsistence economy. Native groups seek land title to increase their control of, and ability to protect, these subsistence resources.

2. **Employment Opportunities.** Exceptionally high rates of unemployment result from a shortage of job opportunities for Alaska Natives at their present levels of education, training, and acculturation. Federal and state agencies in Alaska, particularly in the forestry and fishery fields, use primary processing requirements and other policies as means toward creating otherwise uneconomic employment within the state. Native groups aspire to control land and water resources in the hope that their own management of them can be used to create jobs specifically for Natives.

3. **Property Income.** The prospective value of mineral and timber rights and of urban land now in public ownership in Alaska is on the order of hundreds of millions and probably billions of dollars. It is not surprising that Native groups look toward the potential income from public lands as a means of directly alleviating the poverty of their constituents and of providing the capital for Native enterprises. The example of the Tyonek Indians, who have used their oil revenues to build houses and village facilities and to invest in urban real estate and construction, as well as to raise their individual incomes, has been a powerful one.

4. **State and Local Revenues for Education, Health, Welfare and Community Development.** Regional economic growth can normally be expected to expand the revenue base for state and local government. In addition, the state receives income from mineral leases and timber sales both on state and on federal lands. The extent to which the growth of
state and local revenues benefit Alaska Natives depends, however, on precisely how they are spent. In the absence of a comprehensive strategy on the part of the state for dealing with the problems of the Native people, Native groups can be expected to continue to rank this interest in economic development considerably lower than the previous three.

Any forecast of the pace and pattern of economic development in Alaska is limited by the accuracy of its assumptions and must be accepted with great caution. The same caution is required with respect to forecasts of the economic consequences of any legislative package designed to settle the Native claims. The following remarks are intended to set out in what general direction will be the probable effect on the economic status of the Natives and on Alaska's general economic development of the individual elements of various settlement proposals, including those before the Congress.

**Protection of Subsistence Resources**

None of the legislation introduced so far deals in a definitive way with protection of fish and wildlife stocks used in the indigenous economy, or with protection of Native access to these stocks. With the partial exception of migratory wildfowl, fish and game are a matter of state title and state responsibility. Article VIII, Section 3, of the state constitution appears to preclude establishing proprietary rights in fish or wildlife harvests. Under these circumstances, the only provisions of any of the existing bills which might effect exclusive Native access to fish or wildlife resources would be large grants of land in fee simple, or unrestricted grants of the surface estate. Such measures, while not conveying a property right in fish or wildlife, would enable Native proprietors to post the land against entry by others for hunting, fishing, or trapping.

Congress might, however, protect public access, Native and non-Native, to fish and wildlife by providing that state-selected land and other land withdrawn from the public domain in Alaska for
other purposes remain open in perpetuity to (all) the public for hunting, fishing and trapping. Under either of these provisions, the harvest in fact available to Natives would still depend upon state management and regulations.

The general economic impact of legislation in this area would depend upon the amount and location of lands and waters involved. There might conceivably be local effects on recreation and tourist-oriented enterprise, but these effects in the aggregate are not likely to be large.

**Grants of Homesites, Townsites, and Special-Purpose Locations**

The absence of title to land occupied by Natives in Alaska villages is clearly an obstacle to financing homes, businesses, and community facilities. The grant of title to these lands would just as clearly have a beneficial effect on the village economy. The same is true of grants of land for expansion in the vicinity of each village. One necessary reservation here is that, unless some provision is made for future exchanges of land or otherwise for the occupation of new sites, families and communities may be tied to places which turn out to be poorly located from an economic or physical standpoint.

Grants of land title for homesites, businesses, community facilities, and special-purpose locations such as fish camps and burial grounds should not be expected to have any negative effects on general economic development. Some question might be raised about sites in existing withdrawals such as national forests. The total area of land involved is so small, however, that we can find no instance in which such transfers would subvert the purposes of the original withdrawal.

**Individual Land Grants**

The aggregate impact of granting individuals fee simple ownership, or title to either the surface estate or the mineral estate,
on large tracts of land is extremely difficult to predict. It is obvious, however, that the benefits would be very unevenly distributed, both because of the wide differences in value of land resource, and because of wide differences in individuals' ability to manage and exploit these resources. Some individuals would undoubtedly become very wealthy, while a great number would probably not benefit at all.

It is not clear whether such a provision would on balance speed up or retard commercial development of Alaska resources. What probably can be said is that the time horizons of individual proprietors would be shorter, and their focus narrower, than would be the case with government management.

**Land Grants to Native Corporations or Native Associations**

There is no reason to expect the quality of management employed by Native associations to differ from that available to the state. Generalizations about management policy, however, are extremely speculative. On balance, ownership by Native corporations, like private ownership in general, would probably result in a more rapid rate of development and a greater concern for maximizing the economic returns from the land resources than would management by government agencies. For instance, Native corporations would probably not require primary processing of extractive products or “sustained-yield” timber management except where they were clearly justified in dollar terms. Native corporations in attempting to maximize their net incomes from the land would pursue a multiple-use policy, and in doing so would probably be able to resolve conflicts among competing commercial land uses more economically and more satisfactorily than would government. On the other hand, to the extent their policies reflected a single-minded concern with the commercial revenues of the land, they might be less concerned than would government with such nonmonetary and collective values as those of wilderness and scenery.
The previous treatment assumes that Native corporations would manage their land grants for their income rather than distributing them to individuals or selling out in order to distribute the proceeds. The impact of either of these policies on Native welfare would approximate that of individual land grants and individual cash settlements, respectively. Grants of commercially valuable land managed for its income by Native corporations could be expected to provide an income flow to individual families and to provide a source of capital which Native enterprise could invest in other lines of business and capital for community improvements. It would also provide openings for the development of Native managerial talent.

**Individual Lump-Sum Settlements**

It is again difficult to generalize about the impact of lump-sum individual payments on Native welfare except to say that the effects would vary immensely among individuals. Some Natives undoubtedly would invest their money very effectively; but because of poverty, lack of education and of commercial attitudes, a great number of recipients would undoubtedly soon be no better off than they were before receiving the grant.

For the same reason (i.e., the Natives' high propensity to consume), the lump-sum settlement to individuals would probably provide stimulus to the general Alaska economy, but this stimulus would be of a "one-and-for-all" nature and would leave little lasting impact on Alaska income or employment.

**Individual Cash Annuities**

Substantial cash grants to individuals, distributed regularly over a long period of time, might be expected to make a contribution to Native living standards proportionate to the size of the grant, and to be a corresponding stimulus to the regional economy. It is not clear, however, that such payments would be any different in principle or in effect from increased, universal, public-assistance distributions.
This study is not the proper place for a full discussion of the philosophy and economics of welfare. Existing public-assistance programs are under critical examination throughout the United States, and several alternatives are being widely considered. It is appropriate to point out here, however, that some kind of family income maintenance program will be required in rural Alaska for many years. We would hesitate to generalize about the relationship of public-assistance payments to the feelings of self-respect and to the economic motivations of Alaska Natives, but it is clear there is a close connection among them in the thinking of the cultural majority in America. "Unearned" income is regarded as degrading and disgraceful if the recipient gets it because he is poor and unemployed. But such income is highly respectable if it comes from the ownership of land or securities. This consideration suggests that, dollar for dollar, public funds distributed to Alaska Natives may be more effective in raising their social and economic status if done wisely as part of a land-claims settlement than if done as public assistance.

**Cash Settlements to Native Associations or Corporations**

A large cash settlement distributed to a Native corporation or corporations, if treated as investment capital rather than distributed to individuals, could be expected to provide a continuing stream of income to individuals as well as a source of funds for enterprise and for community development. It would also provide openings for the development of Native management talent. Beyond this it is difficult to generalize, because the impact both on welfare of individual Natives and on overall economic development would depend on the investment policies pursued, and on the managerial skills provided by, or hired by, the Native groups.
Share of Revenues from Public Lands
(And/or Outer Continental Shelf)

Distribution to Natives of a specified share of revenues from all or from certain kinds of public lands in Alaska would have effects on Native welfare similar to that of cash disbursements and would vary similarly depending on whether the payments were to individuals or to Native corporations. In the latter case, they would vary depending on the managerial skills available to, and the policies of, those corporations. Unlike grants of commercially valuable lands to individuals or to Native corporations, land and resource management would remain a government responsibility and would probably be pursued with a broader range of policy objectives than would be the case under private ownership. The flow of funds to Native individuals or groups would begin sooner than they would in the case of grants of land title, unless the latter included lands presently under mineral lease.

Any increased investment or expenditure in the state resulting from these payments would clearly be an impetus to overall economic development, except to the extent they preempted a share of royalties, lease payments, or timber sales revenues which would otherwise accrue to state or local government. The net effect on economic development in the latter case is not clear.

Tax Exemption

Tax exemptions could have significant fiscal implications for the state and local government. The real estate exemption of S.B. 3586, for instance, keeps all the lands granted off the property tax rolls whether they are “in fee or in trust.” This provision applies as well to any minerals associated with the land grant which could otherwise be made subject to ad valorem levies where tax bodies existed. Conceivably, these sums might amount to considerable amounts of public receipts foregone. Some caution is appropriate here, however, in that too early and too much land taxation can
result in confiscation of the land, which results would clearly be counter-productive to the policy resolution intended.

The problem here seems to be to distinguish among the different purposes for which land might be granted. In the case of homesites, fishing camps, and the like, or of lands granted to protect subsistence activities, maximum insurance is required against confiscation because of the owner's inability to pay taxes. In the case of grants of commercially valuable land for income purposes, however, the point is to get them into a productive, income-earning position and, indeed, to get them on the tax rolls. To the extent that these lands are in fact capable of producing income, there is no obvious justification for keeping them off the tax rolls simply because they happen to be owned by Natives or Native groups.

Any provision, however, that initial cash payments under the act are not taxable means simply that any monetary settlement is effectively larger in disposable income than its nominal dollar amount.

The provision in S.B. 3586 relating to Section 501 of the Internal Revenue Code indicates that another "nonprofit" enterprise would be created, a corporate status which is currently under serious review by government and public-finance scholars alike. In a state the vast bulk of whose land a great proportion of whose capital assets are already exempt from taxation, there seems to be no economic justification for this further departure from tax uniformity.

**Corporate Organization, Trusteeship, and Property Alienation**

To the extent that lump sums, tracts of commercially valuable land, or a share of the revenue from public lands in Alaska are transferred to Native corporations, a major purpose is to assist the Natives as a group to get a firm footing within the money economy and the capitalistic organization of the United States. Other aspects of the claims settlement may be designed to protect those Natives and Native communities which wish to maintain intact their
nonmarket economy and their distinctive ways of life. But legislation providing a special role for Native development corporations is directed toward economic equality for Natives with other Americans, and toward their economic integration into the life of the nation. For this reason, provisions establishing any trusteeship over the capital assets of the Natives, including land, or establishing a special status for Native development corporations, should be carefully examined and the time span of these provisions carefully considered.

The desire to protect a vulnerable people from exploitation or expropriation must be balanced against the desirability of giving them early control over their own livelihood and their own assets, and against the community's interest in avoiding franchise to private monopolies and special privilege. While restrictions on land transfer or stock sales to non-Natives provide some protection to the improvident and the gullible, these restrictions will sharply reduce the value of the assets involved. Land which cannot be alienated cannot be mortgaged. If the land is the owner's only capital asset, he is tied to it economically as securely as if he were a serf. Stock in a Native corporation which can be sold only to eligible Natives is ceteris paribus worth less than stock which can be sold to anyone; stock which cannot be sold at all is, of course, worth even less. To the extent that the property of individual Natives or of Native corporations is encumbered either by law or by covenant, the value of that property will be reduced, the economic freedom of the Natives impaired, and the most productive use of land and capital discouraged.

The bills so far presented to Congress for settlement of the land claims include two distinct approaches to protecting both Native assets and the public interest during a prolonged transition to full equality. One approach would hold much of the Natives' assets in trust and would rely heavily on the discretion of the Secretary of the Interior. The second approach, together with or separate from the first, provides a multitude of special provisions for Native development corporations, including tax exemptions and restrictions on the disposal of their assets and on stock ownership. Congress may wish to consider whether either apparatus is really necessary, if the Native development corporations commence with sufficient economic scale in terms of cash, land title, revenue shares, or some
combination thereof, to reduce uncertainty about future income to acceptable levels, to distribute its benefits widely among the Native communities of Alaska, and to engage first-rate professional management. In this case, the public interest, Native and non-Native alike, might best be served by the early transformation of the Native development corporation into one with all the rights and responsibilities of other businesses in our economy.

NOTES


2 The value of these properties is measured either by the amount for which they could presently be sold, or by the present capitalized value of the revenues which could be expected from leasing them or selling their products. Hence, for instance, since the Prudhoe Bay oil strikes, the leasing of additional land for oil and gas exploration on the Arctic Slope could be expected to yield several hundreds of millions of dollars in bonuses alone. The amount of timber sale revenue flowing to the government from timber sales on federal and state forest lands in Alaska has not been a central concern of management policy; but if managed by private owners on commercial principles, these forests might have an asset value in the billions of dollars.