American Indian Law Review

Volume 12 | Number 2

1-1-1984

Tribal Sovereignty: Alaskan Native Exercise of Sovereign Powers

David Blurton

TRIBAL SOVEREIGNTY: ALASKAN NATIVE EXERCISE OF SOVEREIGN POWERS

David Blurton

As a result of the Alaska Native Claims Settlement Act,[1] Alaskan natives have undisputed title to several million acres of land. However, the recognition of tribal sovereignty which has been accorded to the Indians of the contiguous United States has not been readily accorded the Alaskan natives. The term "Alaskan native" includes Indians, Aleuts, and Eskimos, all of whom are treated similarly by the federal government. This note will examine the requirements an Alaskan native organization must meet to be recognized as possessing tribal sovereignty and the benefits that accompany such recognition. This paper will also explore the use of the Indian Reorganization Act[2] as a tool for meeting those requirements.

Tribal Sovereignty

Tribal sovereignty has two general attributes: the tribe and its members may be protected from the assertion of state authority, and the tribe may exercise certain regulatory powers. The United States Supreme Court has repeatedly stated that Indian tribes possess a "semi-independent position" with the power to regulate their internal and social affairs.[3] This "semi-independent position" and Congress' authority to regulate Indians under the Indian commerce clause,[4] raised two independent barriers to state regulation of tribal reservations and members.[5] State authority may be preempted by federal law or restricted if it infringes on the right of reservation Indians to make and enforce their own laws.[6]

Tribal Exercise of Sovereign Powers

A tribe may exercise its sovereign powers over tribal members and territory to the extent that such powers have not been with-

1. 43 U.S.C. §§ 1601-1628 (1982).
2. 25 U.S.C. §§ 461-479 (1982).
3. White Mountain Apache Tribe v. Bracker, 448 U.S. 136, 142 (1980); McClanahan v. Arizona State Tax Comm'n, 411 U.S. 164, 173 (1973); United States v. Kagama, 118 U.S. 375, 381-82 (1886).
4. U.S. CONST. art. I, § 8, cl. 3.
5. *White Mountain Apache Tribe*, 448 U.S. at 142.
6. *Id.*

drawn by treaty, federal statutes, or by implication as a necessary result of their independent status.[7] It may be inferred from the holding in *Settler v. Lameer* that a tribe's regulatory authority over its members is generally limited to the members' activities within the tribe's territory.[8] In *Settler*, a tribe's authority to regulate off-reservation fishing by tribal members was upheld, but only because a treaty reserved the tribe's right to regulate the fishing by tribal members at the tribe's "usual and accustomed" off-reservation fishing places.[9] This implies that a tribe has no authority to regulate a member's activities outside the tribe's territory unless the federal government has specifically recognized that authority. Nevertheless, the tribe's sovereign immunity from suit does extend tribal sovereignty beyond the tribe's territory. For example, the Alaska Supreme Court has held that recognition of a tribe's tribal status by the federal government is the sole condition precedent to judicial recognition of a tribe's sovereign immunity.[10] Thus, recognition of a tribe's sovereign immunity is not dependent on location of the tribe's activity.

Limitations on Alaska's Regulation of Natives

Absent express federal law to the contrary, Indian actions outside their reservation's boundaries are generally subject to nondiscriminatory state laws.[11] Because the Annette Island Reservation is the only Indian reservation remaining in Alaska,[12] Alaskan natives must rely upon federal law to exempt them from state regulation.

The Alaska Statehood Act imposes some restraints upon the state's regulation of Indians.[13] Section 4 of the Act provides that land or other property owned by natives or held in trust for them by the United States shall be under the "absolute jurisdiction" of the United States, except to the extent that Congress provides otherwise. The meaning of this provision was the primary focus of the United States Supreme Court in two companion cases,

7. United States v. Wheeler, 435 U.S. 313, 323 (1978).

8. 507 F.2d 231 (9th Cir. 1974).

9. *Id.* at 236.

10. Atkinson v. Haldane, 569 P.2d 151, 161 (Alaska 1977).

11. Mescalero Apache Tribe v. Jones, 411 U.S. 145, 148 (1972).

12. All Indian reservations in Alaska except for the Annette Islands Reservation were revoked by the Alaska Native Claims Settlement Act, 43 U.S.C. § 1618 (1982).

13. Act of July 7, 1958, Pub. L. 85-508, § 4, 72 Stat. 339 (codified as amended at 48 U.S.C. § 21 (1982)).

Organized Village of Kake v. Egan and *Metlakatla Indian Community, Annette Islands Reserve v. Egan*.[14] These cases involved the applicability of Alaska's regulation banning the use of fish traps to the native villages which had received permits to operate fish traps from the Secretary of the Interior. In the *Kake* decision, the Court held that "absolute jurisdiction" did not mean exclusive jurisdiction, and that the state regulation banning the use of fish traps was applicable to the Kake village.[15] In contrast, in *Metlakatla*, the Court held that the state regulation was preempted by the Secretary of the Interior's action granting the Metlakatla village a permit to operate a fish trap.[16] These two cases are facially distinguishable on the grounds that *Metlakatla* involved native activities on a reservation, while *Kake* did not. However, these two cases are distinguishable on a more critical factor. In *Kake*, the Court held that the Secretary of the Interior did not have the authority to grant the village a fish trap permit,[17] while in *Metlakatla*, the Secretary of the Interior did have such authority as a result of the statute that created the village's reservation.[18] The rule of these cases, then, is that *authorized* federal action may preempt state regulation of related native property rights.

Section 4 of the Alaska Statehood Act also provides that, unless Congress prescribes otherwise, state taxation will not be imposed on any lands or other property owned by natives or held in trust for natives by the United States,[19] except for lands or other property held by individual natives in fee without restrictions on alienation. It seems apparent from the plain language of the Act that property rights owned by native organizations in fee without restrictions on alienation are exempt from state taxation unless specifically authorized by Congress. However, in *Board of Equalization for the Borough of Ketchikan v. Alaska Native Brotherhood & Sisterhood, Camp No. 14*, the Alaska Supreme Court held that a native organization was subject to a local ad valorum tax.[20] The court focused on the tax exemption provisions of the Indian

14. Organized Village of Kake v. Egan, 369 U.S. 60 (1962); Metlakatla Indian Community, Annette Islands Reserve v. Egan, 369 U.S. 45 (1962).
15. *Kake*, 369 U.S. at 71.
16. *Metlakatla*, 369 U.S. at 59.
17. *Kake*, 369 U.S. at 62.
18. *Metlakatla*, 369 U.S. at 59.
19. 43 U.S.C. § 1618 (1982).
20. 666 P.2d 1015, 1022 (Alaska 1983).

Reorganization Act (IRA), rather than the Alaska Statehood Act, and held that the tax-exempt status of property not held in trust by the United States depends upon whether the state taxation infringes on the natives' right to make and enforce their own rules.[21] Furthermore, the court held that the federal government's and the natives' interests must be weighed against the state's interests.[22] Interestingly, the Alaska Supreme Court has applied case law, previously used only with taxation issues arising on reservations, to the taxation of native-held property rights not involving a trust relationship with the United States. Although this extends the traditional recognition of native sovereign rights, it falls short of the plain language requirements of the Alaska Statehood Act. In *Alaska Native Brotherhood*, the court failed to find congressional authorization of state taxation of property held by an Alaskan native organization, and yet it upheld such taxation.[23]

As recognized by the Alaska Supreme Court in *Alaska Native Brotherhood*,[24] the IRA prohibits the state and local taxation of land or the rights associated with the land held in trust by the United States for Indians.[25] This provision was specifically made applicable to Alaskan natives.[26] The United States Supreme Court limited the scope of this tax exemption to exclude the taxation of income derived from such lands located outside of a reservation.[27] Consequently, the IRA serves only as a bar to state or local property taxes on IRA trust property.

Provisions concerning state and local taxation of native property are also contained in the Alaska Native Claims Settlement Act.[28] Revenues originating from the Alaska Native Fund and received by a regional corporation, village corporation, or individual Alaskan native are not subject to any form of federal, state, or local taxation.[29] Real property interests conveyed to individual natives, regional corporations, village corporations, or corporations established pursuant to section 1613(h)(3) of the Act

21. *Id.* at 1021.
22. *Id.*
23. *Id.*
24. *Id.* at 1018.
25. 25 U.S.C. § 465 (1982).
26. *Id.* § 473.
27. *Mescalero Apache Tribe*, 411 U.S. at 157.
28. 43 U.S.C. § 1620(a) (1982).
29. *Id.* However, this exemption does not apply to income derived from investment of revenues originating from the Alaska Native Fund.

are exempt from state or local property taxes for a period of twenty years from the vesting of the title.[30] However, the tax-exempt status will not apply to such real property interests if the land is developed or leased to third parties for other than exploration purposes.[31]

The Alaska Native Claims Settlement Act addresses another state jurisdiction aspect, authorizing Alaska's intestacy laws to apply to intestate shareholders of stock in regional and village corporations.[32] The Alaska Supreme Court has noted that 28 U.S.C. § 1360 bars state jurisdiction over cases involving regional corporation stock unless a federal statute specifically grants the state such authority.[33] The court found such authority in the Claims Act, and applied Alaska intestacy law.[34] Arguably, native custom or law could be applied to intestate issues under the Act because, although the Act provides for state jurisdiction to litigate the issue, it does not specify a choice of law. However, whether state or native intestacy law should be applied is probably academic because the Alaska Supreme Court has adopted the doctrine of equitable or virtual adoption, which appears to apply native customs and laws to the intestacy issue.[35]

Finally, Public Law 280 gives Alaska exclusive criminal jurisdiction over all Indian country within Alaska,[36] except the Metlakatla

30. 43 U.S.C. § 1620(d) (1982).

31. *Id.*

32. *Id.* § 1606(h)(2).

33. Calista Corp. v. Mann, 564 P.2d 53, 57-58 (Alaska 1977). In this case, two women were adopted by native shareholders in a regional corporation formed under the authority of the Alaska Native Claims Settlement Act. The adoptions were valid under the traditional cultures in which the parties lived, but were not statutory adoptions under Alaska law. Upon the death of the shareholder, the daughters requested the corporation shares through intestate succession from the corporation, but were refused. The district court found that they were appropriately adopted.

34. *Id.* at 58-59. The court said:

> Section 7(h)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1606(h)(2), directs that upon the death of a stockholder, ownership in his stock shall be transferred in accordance with his last will and testament or "under applicable laws of intestacy." We conclude that this language, which requires disposition of property in accord with state laws, also grants to the state courts the powers to interpret those laws. Further, we conclude that this interpretation is not violative of 28 U.S.C. § 1360(b)'s limitation on the power of state courts in probate proceedings to adjudicate rights in affected Indian properties.

35. *Id.* at 61-62. The court set out five criteria that must be met before it will apply the doctrine of equitable adoption and requires proof to meet the standard of clear and convincing evidence.

36. Act of Aug. 15, 1953, Pub. L. No. 83-280, §§ 1-4, 6, 7, 67 Stat. 588 (1953), as amended (codified at 18 U.S.C. § 1162 and 28 U.S.C. § 1360 (1982)).

Indian community of the Annette Islands Reservation, which may exercise jurisdiction over crimes committed on the reservation by Indians.[37] Similarly, Public Law 280 gives Alaska "jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in. . .Indian country."[38] The statute specifically excepts jurisdiction from the state in adjudicating Indian ownership or possession of property held in trust by the United States or subject to restrictions against alienation.[39] The Alaska Supreme Court has held that this restriction prevents the state courts from taking jurisdiction over issues involving tribal membership if a determination of tribal membership affects a tribal member's rights with regard to trust or restricted property.[40] Furthermore, the United States Supreme Court has noted that the legislative history of Public Law 280 reveals no intention of conferring general regulatory control over Indian country upon the state.[41] Rather, the intent in granting civil jurisdiction was to provide an adequate forum and laws for resolving private legal disputes to which an Indian was a party. While Public Law 280 confers exclusive criminal jurisdiction upon the state of Alaska, it does not contain any terms implying exclusive state civil jurisdiction. Instead, the statute provides for the application of tribal ordinances or customs when not inconsistent with state law.[42] Thus tribal civil ordinances and customs may be used as a choice of law in the state courts and, arguably, there is nothing in the statute prohibiting the establishment of tribal courts in Alaska with the jurisdiction to hear civil causes of action arising in Indian country and involving natives as parties.

Indian country is not defined in Public Law 280. However, 18 U.S.C. § 1151 defines "Indian country" for criminal jurisdiction to include (a) "all land within the limits of any Indian reservation," (b) "all dependent Indian communities," and (c) all Indian allotments [to which] Indian title . . . has not been extinguished."[43] There is nothing in the legislative history of the Alaska amendment to Public Law 280 that directly indicates Congress' intended mean-

37. 18 U.S.C. § 1162(a) and (c) (1982).
38. 28 U.S.C. § 1360(a) (1982).
39. *Id.* § 1360(b).
40. Ollestead v. Native Village of Tyonek, 560 P.2d 31, 34 (Alaska 1977), *cert. denied*, 434 U.S. 938 (1977).
41. Bryan v. Itasca County, 426 U.S. 373, 383-84 (1976).
42. 28 U.S.C. § 1360(c) (1982).
43. 18 U.S.C. § 1351 (1982).

ing of "Indian country" with respect to civil jurisdiction, but the meaning can be inferred from the context to have the same meaning in both civil and criminal jurisdictional contexts. The legislative history begins by referring to 18 U.S.C. § 1151 in connection with criminal jurisdiction, then addresses civil jurisdiction without any indication that "Indian country" is being used differently, and finally uses "Indian country" in reference to both civil and criminal jurisdiction.[44] The Supreme Court has similarly concluded that the criminal jurisdiction definition of "Indian country" applies to the civil context as well.[45]

Indian Country

The determination of what is Indian country is important in setting tribal and state jurisdictional boundaries. Of the three categories of land that constitute Indian country, the dependent Indian community category is of the most significance to Alaskan natives. This is because Alaska has only one Indian reservation, and the aggregate size of allotted lands in Alaska is small compared to the lands received by Alaskan natives under the Alaska Native Claims Settlement Act that may have some potential for being classified as dependent Indian communities.

The Supreme Court addressed the determination of the dependent Indian community status in *United States v. McGowan*, a case involving the transportation of alcoholic beverages in Indian country.[46] The Court stated that the particular land in question had been validly set apart for the Indians and noted that since the government had retained title to the land it permitted the Indians to occupy, it had authority to enact regulations and protective laws respecting this territory.[47] Similarly, in *United States v. Martine*,[48] the Tenth Circuit determined that land outside the reservation, purchased with tribal funds, was a dependent Indian community. The court stated that the manner in which the land had been treated by the federal legislature and executive agencies was central to the determination, and that four factors were to be considered: (1) the nature of the area in question; (2) the relationship

44. S. REP. No. 1872, 85th Cong., 2d Sess., *reprinted in* 1958 U.S. CODE CONG. & AD. NEWS 3347, 3348.

45. DeCoteau v. District County Court, 420 U.S. 425, 427 n.2 (1975).

46. United States v. McGowan, 302 U.S. 535 (1938).

47. *Id.* at 539.

48. United States v. Martine, 442 F.2d 1022, 1023 (10th Cir. 1971).

of the inhabitants of the area to Indian tribes; (3) the relationship of the inhabitants to the federal government; and (4) the established practice of government agencies toward the area.[49] In *United States v. South Dakota*,[50] the Eighth Circuit Court of Appeals considered the factors applied in *McGowan* and *Martine*, along with whether the inhabitants manifested an element of cohesiveness in their common economic pursuits, interests, or needs. The court held that a city housing project operated by a tribal housing authority was a dependent Indian community.[51] Facts pertinent to the determination were that the tribe provided many social services to the housing project, some in cooperation the Bureau of Indian Affairs and the Department of Health and Human Services' Indian Health Service, and that the tribe contributed equipment and facilities to the city to help in providing municipal services to the housing project.[52]

Alaska has been reluctant to recognize areas as being dependent Indian communities. Early in Alaska's territorial history, the nonrecognition of Indian country became an established practice. In *In re Sah Quah*, a territorial court considered the federal statute that extended the laws of the United States to the Territory of Alaska in conjunction with the statute that dealt with liquor trafficking in Alaska's Indian country. It concluded that Alaska was Indian country only for the purpose of liquor trafficking laws.[53] No Alaskan court recognized the presence of Indian country until 1957, when an Alaska federal district court held that an Indian village was Indian country in the case of *In re McCord*.[54] That court stated two requirements for an area to be Indian country: (1) the area must be set apart from the public domain and dedicated to the use of Indians, and (2) an operational tribal organization must be present within the area.[55] In apparent conflict with this decision, another Alaska federal district court subsequently held that the Annette Islands Indian Reservation was not Indian country.[56] In reaching its decision the court applied the two-part

49. *Id.*

50. United States v. South Dakota, 665 F.2d 837, 839 (8th Cir. 1981), *cert. denied*, 459 U.S. 823 (1982).

51. *Id.* at 843.

52. *Id.* at 839-41.

53. *In re* Sah Quah, 31 F. 327, 328 (1886).

54. 151 F. Supp. 132 (D. Alaska 1957).

55. *Id.* at 135.

56. United States v. Booth, 161 F. Supp. 269, 273 (D. Alaska 1958).

test stated in *McCord*, but held that despite the presence of a mayor and village council, the reservation did not have an operational tribal government. The court thought that the absence of a chief or medicine man precluded the government from being a tribal government.[57] Thus, although the two-part test stated in *McCord* was not disputed, this particular district court was reluctant to depart from the long-entrenched practice of not recognizing Indian country in Alaska.

McCord represented a drastic change in judicial recognition of Indian country in Alaska and prompted Congress to extend the mandatory provisions of Public Law 280 to Alaska. The Senate report on the bill referred to the long-established practice of not recognizing Indian country in Alaska, and then stated that under the *McCord* holding there were many native villages that would qualify for Indian country status.[58] Implicit in Congress' extension of Public Law 280 to Alaska is the recognition of the *McCord* holding as being valid. If Congress had thought that the holding was incorrect, it could have simply declared that none of Alaska would be considered Indian country.

Recognition of Tribes

It is implicit in the *McCord* test for Indian country that a recognized tribe be associated with the land. The Supreme Court has stated that if a group of Indians is distinctly an Indian community, then it is for Congress to determine to what extent the group will be recognized as a dependent tribe.[59] However, the Supreme Court has also held that Congress cannot arbitrarily label a group of people a tribe.[60] In *Montoya v. United States*,[61] the Court stated four elements necessary for a group to be a tribe: the members must be "of the same or similar race," united in a community, under one leadership or government, and inhabit a particular territory.[62] The First Circuit Court of Appeals has elaborated on these elements in *Mashpee Tribe v. New Seabury Corp.*[63] The government element merely required that the alleged

57. *Id.* at 274.
58. S. REP. No. 1872, *supra* note 44, at 3348-49.
59. United States v. Sandoval, 231 U.S. 28, 46 (1913).
60. United States v. Candelaria, 271 U.S. 432, 439 (1926).
61. 180 U.S. 261 (1901).
62. *Id.* at 266.
63. 582 F.2d 575 (1st Cir.), *cert. denied*, 444 U.S. 866 (1979).

leaders be role models with whom a majority of the alleged tribe consulted and followed on questions of tribal significance, and that the leadership be continuous and not sporadic.[64] Arguably, this standard of "government" as an element for determining a tribe is also applicable in the "operational tribal government" requirement of *McCord*. Furthermore, since recognition of tribal status by Congress presupposes that the group is distinctly native, congressional or executive recognition of an Alaskan native village should satisfy the *McCord* operational tribal government requirement for Indian country.

Tribal Sovereignty and the Indian Reorganization Act

Generally, courts seem more prone to recognize tribal sovereignty when it is associated with lands held in trust for the tribe or native village. With the advent of the Indian Self-Determination Act,[65] placing lands in trust should not diminish the natives' control of the lands to as great an extent as it would have under policies prevalent before the Act. Section 465 of the IRA provides a means by which Alaskan natives may convert lands received pursuant to the Alaska Native Claims Settlement Act into trust lands. This section provides that the Secretary of the Interior may acquire lands to be held in trust for Indians, and such lands are exempt from state and local taxation.[66] Lands not held in trust receive no exemption, even if the federal government is involved with the tribe's use of the lands and has contributed funds.[67] Nor does the tax exemption apply to income derived from the property.[68] An Alaska district court held that a tribal government has sovereign immunity solely on the ground that the tribe has an IRA-organized government.[69] Consequently, the use of the IRA may be beneficial to Alaskan natives in their quest to have their sovereign powers recognized.

A case decided in the Washington, D.C. District Court is relevant to the Alaskan natives' use of the IRA to acquire trust lands.

64. *Id.* at 584-85.

65. 25 U.S.C. §§ 450-450n, 455-458e; 42 U.S.C. §§ 476, 2004b; 50 U.S.C. § 456, and 5 U.S.C. § 3371 (1982).

66. 25 U.S.C. § 465 (1982).

67. Alaska Native Bhd. & Sisterhood, Camp No. 14, 666 P.2d 1018-29 (Alaska 1983).

68. *Mescalero Apache Tribe*, 411 U.S. at 155-57.

69. Parker Drilling Co. v. Metlakatla Indian Community, 451 F. Supp. 1127, 1131 (D. Alaska 1978). Here the government was organized pursuant to the Indian Reorganization Act, 25 U.S.C. § 476.

In *City of Sault Ste. Marie v. Andrus*,[70] the court held that the Secretary of the Interior had acted properly in acquiring land within the city to hold in trust for the tribe. The exercise of the Secretary's discretion in acquiring the lands was not contingent upon the beneficiary Indians being landless; nor did it matter that the tribe purchased the land and then donated it to the Secretary to be held in trust for the tribe.[71] In fact, the court concluded that the Secretary's action was "entirely consistent with the letter and [the] spirit of the statute."[72] The court also held that, although a tribe must be recognized to qualify for treatment under the IRA, it needs only to have been *recognizable*, not actually recognized, in 1934. Thus tribes or native villages in Alaska that can qualify for IRA treatment may be able to take lands they already own and transfer the lands to the Secretary of the Interior to be held in trust for the tribe or village. Such actions should not be barred by the lands being within an existing town, nor by the native organization owning other land.

The use of the IRA to convert lands received pursuant to the Claims Settlement Act to trust status may be barred by this Act for two reasons. First, section 1601 of the Act declares that the Act's intent was neither to create a lengthy trusteeship nor to create any additional categories of property with tax-exempt status.[73] It is certainly arguable that it is contrary to the express intent of the Act for such lands to be converted to trust lands, and that it is beyond the Secretary's discretion to acquire and hold such lands in trust for Alaskan natives. Even if it is not beyond the Secretary's discretion, the Secretary may consider the intent clause of the Act as a deciding factor in choosing not to acquire the land in trust for the natives.

Sections 1611 and 1613(c) of the Act may also operate as a bar to the use of the IRA to place these lands in a trust status. Section 1611 provides that title to such lands is to be initially held by village and regional corporations created under the Act.[74] The lands selected by the village corporations were required to include the townships in which the village is located.[75] Section 1613(c)

70. 532 F. Supp. 157 (D.D.C. 1980).
71. *Id.* at 162.
72. *Id.*
73. 43 U.S.C. § 1601(b) (1982).
74. *Id.* § 1611(a)(1).
75. *Id.*

requires the village corporation, upon receipt of the land patents, to transfer title of tracts, in order of priority, to native and non-native occupants of such tracts, to nonprofit organizations that are occupants of such tracts, and, finally, the remaining improved tracts upon which the village is located to municipal corporations established within the native village.[76] If a municipal corporation is not established in the village, then the remaining improved land upon which the village is located is to be conveyed to the state to be held in trust for any such municipal corporation to be established in the future.[77] Section 1613(c) places title to land, central to village locations, in the name of state-incorporated municipalities. Consequently, if these particular lands are to be conveyed to the Secretary of the Interior to be held in trust for the tribe or native village, Alaska's state statutes will have to be considered with regard to the permissibility of the incorporated municipality's actions.

Conclusion

The concept of Indian country is important with regard to the exercise of Alaskan natives' sovereign rights. While the status of Indian country may not prevent the incursion of state jurisdiction, the status does define the geographical extent over which a native organization may exercise its sovereign powers, including its regulatory powers. Essential for recognition as Indian country is the existence of a functioning native government and land that has been set aside for the use of the natives. The courts have a greater tendency to recognize the Indian country status of an area if the land is held in trust for the natives. Thus it may be useful for the natives to attempt to use the IRA to place their lands in a trust status. Because the determination of Indian country status is dependent upon the establishment and federal recognition of a native government, such governments should attempt to use federal programs that are designed to encourage their development. Programs developed under the Indian Self-Determination Act might be considered as a means to expand native government services to the natives and at the same time establish sufficient federal government involvement to meet the requirements for recognizing the village as Indian country.

76. *Id.* § 1613(c)(1).
77. *Id.* § 1613(c)(4).

For protection from incursions of state jurisdiction, the natives must rely upon preemption of the state's jurisdiction by federal statutes. Section 4 of the Alaska Statehood Act may provide the greatest protection. In relying upon the Act, natives should emphasize authorized federal agencies' actions which may preempt state regulation of certain native activities. Consequently, it may be desirable for the native governments to involve the federal government in their activities by utilizing programs developed under the Indian Self-Determination Act.