

Alaska Native Claims  
The Ninth Circuit Deals a Hand

1/23/70  
For ACC  
Summit  
Jan B

When the Natives of Alaska, through the Alaska Federation of Natives, determined to petition Congress to legislate a just and equitable settlement of our aboriginal claims, the question we were most frequently asked at first was:

Do the Natives have any legally recognizable rights or are your claims simply an appeal to the conscience of the State and the Nation?

Although we never had any doubts about the answer, we asked our attorneys to research the question in depth. The product of their studies was presented to the Congress last session. In a nutshell, they confirmed that the law is what we always knew it to be.

Use and occupancy of land by a native group invests it with rights virtually as extensive as ownership. These rights, which coalesce in what is known as "aboriginal title", cannot be diminished or extinguished except by express action of Congress. It has been the policy of this Nation, even before it was organized under the Constitution, not to take land from the aboriginal owners except upon payment of its full value at the time of taking. Full value comprehends compensation for everything in, on, or over the land that contributes to its worth. Until Congress expressly provides for its extinguishment, aboriginal title is enforceable against all comers, including states, even those who may have obtained paper title to the land. Anyone who takes paper title to land owned by a native group under aboriginal title, prior to its extinguishment, gets only a formal estate that is completely subordinate and subject to the natives' rights to the use, occupancy, rents and profits of the land.