

All who have seriously studied the situation in Alaska, most recently the Federal Field Committee, have concluded that the Natives have aboriginal title to almost all land in the State. The only issue about which there has been even color of legitimate doubt is whether the provisions of the Statehood Act which authorize the State to select a quantity of land engendered a mode of extinguishing aboriginal title. Our attorneys' conclusion that they did not has been confirmed by the United States Court of Appeals for the 9th Circuit in the decision in the case of Alaska v. Udall.

This case involved an attempt by the State to force the Secretary of the Interior to approve a selection of one tract of land, and to issue a patent to a second tract which had been selected and tentatively approved. The Natives of the village of Nenana had protested the selections of both tracts contending that they held aboriginal title to the lands involved. The district court ordered the Secretary to take the actions demanded by the State apparently on the theory that the Statehood Act gave the State the right to select and be granted the lands without regard to the existence of aboriginal title.

The Court of Appeals reversed the decision of the district court pointing out that the only way it could affirm would be by holding, as a matter of law, that the uses which the Natives alleged they made of the lands were not sufficient to establish aboriginal title or that, in any event, the existence of aboriginal title would not preclude conveyance to the State. The Court of Appeals said it was unwilling to so hold and sent the case back to the district court with instructions to determine