

B. The Validity of the Claims

The legal validity of Native's title to lands in Alaska, based upon aboriginal use and occupancy, is not subject to serious challenge at this late date in history. The Federal policy of protecting aboriginal occupancy has been established by, and is embodied in, a long series of statutes and Supreme Court decisions. Under these statutes and decisions, continuous occupancy of land from time immemorial creates a protected property right which the United States alone has power to extinguish.

As early as 1783 the Congress of the Confederation issued a proclamation prohibiting all persons from making settlement "on lands inhabited or claimed by Indians", and "from purchasing or receiving any gift or cession of such lands or claim without the express authority and direction of the United States in Congress assembled." 8 Journals of Cong. (1783) (1800 Ed.) 274. The Ordinance for the Northwest Territory provided that the land and the property of the Indians "shall never be taken from them without their consent" and that "their property, rights, and liberty, . . . never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress. . . ." 1 Stat. 50, 52.

Judicial recognition of Indian possessory rights, based upon aboriginal occupancy, has been consistently expressed