

upon land belonging to the United States. This is the difficulty that we are trying to clear up. We are trying to establish the titles. Is that right or am I wrong?

Mr. JACKSON. I would disagree with you, but I may be in error, Mr. Chairman.

Mr. ASPINALL. I don't want to be agreed with just for the sake of agreement. I want to disagree in an agreeable manner. If you have something to offer, I would like for you to offer it to me.

Mr. BORBRIDGE. May I speak to this?

Mr. ASPINALL. You may comment.

Mr. BORBRIDGE. We realize Indian title can be extinguished at the will of Congress and we are not saying this is a right Congress may not invade, but at the same time we are appealing to Congress as a matter of consistency with its whole policy of dealing with the extinguishment of Indian title, the very unique feature in Alaska that makes it so far different from almost any other situation similar to this, is that there is presently existing Indian title where there has been no extinguishment whatsoever. We realize here then that while historically—and this is almost redundant to say so, but while historically this has been extinguished through treaty and later through executive agreements and finally the course of adjudicatory process, in this instance we are asking for political negotiation.

Mr. ASPINALL. I understand that, but in reality, when the treaty was signed between the two Governments, Russia and the United States, as far as legal rights were concerned, the natives' rights, as such, to any particular property were extinguished.

Mr. BORBRIDGE. May I address myself to that?

Mr. ASPINALL. Yes.

Mr. BORBRIDGE. Congressman, in 1968, in January, the Court of Claims held in the case of the *Tlingit-Haida Indians v. The United States*, Docket 47900, that the Indian title still survived. There had been no extinguishing whatsoever. This was one instance where the Tlingit-Haida Indians, by virtue of the jurisdictional act of 1935, were able to get into court so this is presently a judicial term that there can be and is a survival of Indian title as of this date.

Mr. ASPINALL. But it is all dependent on congressional action to make it possible for a decision, isn't that correct?

Mr. BORBRIDGE. Not only is that correct, but I would say I have confidence that Congress will follow its past policies of assuring that such extinguishment will have as a party to this extinguishment the people who claim this Indian title.

Mr. POLLOCK. Mr. Chairman, I would like to make a comment about this. Under the treaty of cession in 1867 there were rights of the Indians that were preserved and not extinguished. As you very well know about the statehood-enabling legislation in 1958, this same thing was continued so that their status, whatever it was, would be preserved and not extinguished.

Mr. ASPINALL. Of course, that is what I was trying to get to, to fix up the record, whatever it was. The Russians didn't recognize anything because they ran rampant over the people of Alaska. This is what I was trying to get to. Whatever they wanted, they took, and they were doing that even up to the time it was ceded to the United States.