

*Question 8. Do you think the test for actual possession of native land should be the same as for white's?*

Answer. The term actual possession is improper. The term possession is the proper term. The word "actual" probably creeps in because of its use in the Act of 1884, but notice that in the Act of 1884, that there is a second phrase, thus: "that the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them."

Those who stand to gain by diminishing native rights put some hope in the term "actual." But the basic right of aboriginal rights in Alaska is not the Act of 1884, but basic American law which we have discussed at some length in the accompanying papers.

Now, in comparing native possession with white possession, the two thoughts are of a different world. White people cannot ripen their possession into anything; when they squat on land, they are always squatters. The native, however, is not a squatter; he is an owner and has been protected by private international law, by all of the European countries, as well as the United States. I, therefore, cannot compare the same.

*Question 9. Do you think the changing mode of native life from a hunting and trapping economy (e)ffects (sic) the premise that natives need large sections of land to maintain this type of economy?*

Answer. Your question has two aspects: what he owns and what is good for him. As an advisor to the Eskimo and Athabascan, I am only secondarily interested in their social progress. It is our duty to protect their legal rights. Whether it is good for them or not to have a lesser quantity of land is not our primary concern. We do say that just because the white man thinks it socially better for the Indian to have a lesser quantity of land, that so far as we are concerned, such is not a justifiable reason for taking away from the native his ownership rights.

Your question reminds me of the reservation problem in continental United States. There are many profound thinkers who believe that the reservation system is wrong. They may be right. It may well be that the reservation system has injured the American Indian. But is that a sufficient reason for the reservation Indian to be summarily dispossessed of his reservation? Why is it not better to follow the usual capitalistic system that we have in the United States of paying the Indian for the change. We are in danger of forgetting the strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change.

When we realize that the native in this day and age is becoming a little bit sophisticated and able to manage his own money, and when we begin to realize that the natives' having money is good for Alaska, then perhaps we will forget about the idea of merely dispossessing the native.

*Question 10. Do you see a problem in differentiating between the land rights of native citizens and the land rights of white citizens?*

Answer. Probably, this question has been answered by much of the foregoing.

*Question 11. Do you think that natives have a right to the mineral and forest resources of the land they claim on the basis of having used that land only for hunting and trapping? Why?*

Answer. You oversimplify the native economy. The natives, whether the Tlingit and Haida or Aleut or Eskimo or Athabascan, utilized all the resources of his country, except perhaps some of the minerals. But certainly as to forests, all of the native economies directly used the forests. Therefore, the forests are but an incident to aboriginal rights, which all of us who have studied the problem traditionally understand.

As to subsurface rights, Alcea Band of Tillamook Indians prevailed against the United States in their claims case in seeking damages against the United States for, among other things, subsurface rights. Thus, minerals are included within aboriginal rights.

Logically speaking, this makes sense, because aboriginal rights comprehends dominion over an area. Whatever is there is owned by that respective native group.

*Question 12. Are you working on legislation to be introduced to Congress concerning native land claims? If so can we obtain a copy of this legislation?*

Answer. I attended the native conference of chiefs in October, 1966, in Anchorage. It was my idea that the Court of Claims be entrusted with the determination of the area of present Indian ownership of lands by having the Court define the area. I endorsed that legislation and still do.