

Questions, Answers on Land

QUESTION 11: Did the United States take possession of Alaska Native lands by conquest?

No. By act of Congress, the United States agreed in a treaty with Russia signed by Secretary Seward and the Russian Edouard de Stoeckle at 4 a.m. of March 30, 1867, to pay \$7,200,000 for Alaska. Alaska was formally turned over to the United States at Sitka on October 11 of that year.

Although most of the Indian lands of the Western United States, on the continent proper, were taken by forced treaties or conquest; there were no formal wars between the Alaska Natives and the U.S. Army. Outside, Indian tribes were treated as independent nations possessed of certain rights, sovereignty, and benefits—though they were still placed under government “protection.”

But within four years after the the purchase of Alaska, and before there was any civil government up here, Congress had put an end to the policy of making treaties with Indians. The Native people of Alaska were never forced to make any treaties with the United States or to sell their land for any price, good or bad.

QUESTION 12: Did the United States Government, then, recognize the aboriginal title of the Alaska Natives to their land?

Officially, yes. In a long series of Congressional actions and court decisions, the United States provided for the use and occupation of land claimed by the aboriginal tribes of Alaska. Such intention was contained in the original purchase treaty, and was embodied in the Organic Act of 1884, when Congress provided civil government for Alaska. The Act specifically states:

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 but the terms under which persons may acquire title to such lands is reserved for future legislation by Congress. . (23 Stat. 24 (1884)).

This intention was repeated by Congress in 1900 and 1912, and summarized in a court decision of August 3, 1927:

Indians, who are of the aboriginal tribes inhabiting Alaska at the time of its cession to the United States on March 30, 1867, and who resided upon and used and occupied lands therein for homes and camping places, and were so in possession on May 17, 1884, and June 6, 1900, and have not yet surrendered or abandoned the same, shall not be disturbed in the possession thereof by the courts of Alaska.

The United States has repeatedly recognized that aboriginal group or “tribal” territory with definable boundaries did exist in Alaska, and has over and over again re-affirmed that Alaska Natives have Indian title to all parts of Alaska which they have used and occupied, except where the government has physically moved in and taken the land away.

Aboriginal title was recognized by both the United States government and the new State of Alaska in the Statehood Act, which say:

The “State and its people do agree and declare that they forever disclaim all right and title. . . to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts. . . or is held by the United States in trust for said natives. . .” P.L. 85-508, 72 Stat. 339 (1958).

In the same Act, Indian lands were exempted from tidelands granted to the State.

Perhaps the most convincing of the court cases which establish the right of Alaska natives to their lands is the cash settlement for lands taken from the Tlingit-Haida Indians, in a decision by the Court of Claims.

QUESTION 13: Did the United States carry out its promise to protect our aboriginal title?

Not entirely. Despite its official policy, the government made no provision to carry it out. Much of the land used and occupied by Natives has been expro-

riated in various ways since the purchase of Alaska. During its first years, Alaska was left without administrative supervision whatever. In 1880, all but 30 of the 300 whites then living in Alaska were in Sitka. Until the Organic Act of 1884, white claims to land were forbidden, but even then no effective machinery was set up for land use or appropriation. Miners, fur traders, missionaries, canneries, and settlers with various interests simply “squatted” on desirable land and took out valuable resources without regard for Native title. Usually they were as much unaware of that title as the Natives themselves. A large part of such appropriation took place within established Native communities, especially among the Tlingits and Haidas, who felt the first pressure, losing many of their most valuable sites.

When the Tlingits and Haidas asked for reservations, in hopes of saving some of their homes and resources sites, their pleas were ignored. Around 1902, enormous public reserves of one kind and another began to be set aside for national forests, wildlife refuges, and national monuments. The building of the Alaska Railroad in 1914, opened the Interior, and incidentally, itself encroached on valuable Native lands, as at Nenana.

Another series of land grants, such as Mental Health lands, even before Statehood, began to threaten Indian title following World War II.

All together, since the “law” did move into Alaska with a legal system and a concept of title and private ownership of land which never had a place in Native culture, much of the original Native-used land has passed into other hands. Through the Homestead Act, federal mining-land law, federal mining lease practices, and many other acts of Congress, the government has turned over to non-Native people and companies the title to large and valuable parts of Alaska. Numerous governmental agencies have also acquired land.

Titles already issued are recognized as irrevocable under the American legal system, though such titles were not formerly known to the Natives.

In general, it has been easier for Outsiders to get title to lands in Alaska than for the Native people themselves.