

"I may not agree with a word you say but I will defend unto death your right to say it." - Voltaire

Tundra Times



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The Shrinking Lands

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timacy of living with it, upon it, and tasting of the meat thereof is to feel its blessing--the closeness of it to our well-being.

The taking of this land, however poor it might seem to some people, is an injury so profound that it leaves a void--a grievous feeling that something most precious has been wrested from one's grasp. It is something that somehow goes beyond tears because it also represents the habitation grounds of one's ancestors--the lands on which we live. To have it wrested from one's grasp is a grievous and a profound loss.

Back in 1930's our government, under an executive order, set aside 328,000 acres of land of the Eklutnas as an education reserve for the benefit of those people. World War II came and the Eklutna Indians, along with many others of course, felt the brunt of that war. The impact mostly involved land and a lot of it. Of the 328,000 acres that had been set aside, the military acquired more than 318,000 leaving less than 10,000 acres to the Eklutna Indians and this, apparently, without consulting them. Subsequently, other agencies kept nibbling away at the Eklutna lands until now there is about 1,800 acres left of the original acreage. When the initial big bite of land was made, the Eklutna people felt the pinch and they were forced to make a request of the military for permission to get firewood which they were accustomed to getting on the lands.

"They had a hard time getting the permit," said Anchorage attorney Stanley McCutcheon who has been assisting Native people legally on their land problems. McCutcheon is the man who successfully aided the Tyonek Indians on their land matters.

Another, and most recent disregard of the Eklutna people's rights, was when the federal government allowed the State Department of Highways to take gravel from the remaining 1,800 acres. It has been reported that between \$125,000 and \$230,000 worth of gravel has been excavated from the site. None of this money, according to Chief George Ondola of the Eklutnas, has found its way to his people who, apparently, had been considered "squatters" on the lands they occupied. The village people, however, have gone to court in an effort to get some of the money.

The Anchorage Daily News said recently, "Then early last year, a solicitor for the Department of the Interior stated that the Eklutnas did indeed have rights to the lands they occupied and could control that land. These rights, according to solicitor Richard Bradley, included those of leasing similar to that enjoyed by the Tyoneks.

"Harry O. Arend, then Interior Department solicitor for Alaska, agreed with Bradley's opinion. It was sent to Washington, D.C., where, apparently, it was filed away and forgotten. Nothing more has heard of the rights of the Eklutnas."

"Nothing more was heard" is getting to be too much of an OUT where our people's rights are concerned.

Letters to Editor

Dear Editor:

We have become quite concerned over the "swing" to complete contemporary arts by the Indian Arts and Crafts Board people. We feel that this concentrated "policy" is taking away from the Alaska Native one of the greatest unsurpassed art forms in the world.

We note that a high pressured public relations program is going on to "advertise" what is being done for the Native craftsman. We are not against fine arts...art education, etc, but we cannot help but point out that the five Eskimos in training at the University of Alaska receive training and a stipend. There is some \$16,000 involved and could provide an ample return. When the products of these people can be sold, it certainly gives them a tremendous advantage over any other craftsman.

There is a combination of advantages in producing Native art. One, the work itself attracts the tourist, which we have found in our totem poles carving. Two, the art form is one of the greatest of primitive art forms and should be continued.

In our opinion, there should be a definite division in the fine arts and the primitive arts development. Certainly, both can be produced by the good craftsman, but if contemporary art is the only effort, it will not be long before Alaska will have that only, and as we can see, the fine Native craftsman will become a thing of past history. There is ample funds available under the Fine Arts and Humanities Act...and through Bureau of Indian Affairs educational funds, so why use the Indian Arts and Crafts Board funds which are to aid the economic welfare of the INDIAN (and Eskimo) for contemporary arts? Mainly, the fund is there and in the hands of those who do not want to work with the deprived and unemployed...this is very hard work.

What would happen to the excellent Eskimo art program in Canada if they began turning out nutbowl, salad servers, Scandinavian silver work, etc.?

We would like your opinion as we value it.

Sincerely,
ALASKA INDIAN ARTS, INC.
Carl W. Heinmiller
Port Chilkoot-Haines
Alaska

Dear Sirs:

I am pleased to renew my subscription to your fine paper. It is a very interesting sheet and is doing important work in making events known not only to the whole of Alaska but to people in every state.

I find the letters that people write in interesting and some of the photographs are excellent. I keep the paper on my living room table so that any friends who come in can see and read, and many do.

With best wishes to the "Tundra Times" for 1967.

Sincerely,
Anne L. Thorp
115 Brattle Street
Cambridge 38, Mass.

Part three of four parts--

Use of Lands

These cases taught me that Indian title does not depend on any treaty, statute, or executive order, but is accepted by all the European nations because it was the interest of all to acknowledge it, for it gave the land to the nation making the discovery. These nations agreed to divide the swag.

By this same international law, the US Supreme Court said in WORCESTER vs GEORGIA (6 Pet. 515) "could not affect the rights of those already in possession, and these were the aboriginal occupants. The grants of the King of England demonstrates the truth that these grants asserted title against Europeans only and were considered only as blank paper so far as the right of the natives were concerned (p. 546)."

To put this in simpler words, discovery only gave to the discovering nations the exclusive right of purchase.

In JOHNSON vs. MCINTOSH (8 Wheat, 543, (1823), the court said; the feeble settlements made on the seacoasts, or the companies under whom they were made, acquired legitimate power to govern the people, or occupy the lands from sea to sea did not enter the mind of any man. (The crown grants and patents to chartered companies) were well understood to convey title....This was the exclusive right of purchasing such lands as the natives were willing to sell." p. 572-3.

Now we come to the key words of our tenure by Chief Justice Marshall in the case of MITCHELL vs UNITED STATES (9 Pet. 711 (1835))-- "Indian possession or occupation was considered with reference to their habits and modes of life; their hunting grounds were as much in their actual possession as the cleared fields of the whites; and their rights to its exclusive enjoyment in their own way and for their own purposes were as much respected, until they abandoned them, made a cession to the government, or an authorized sale to individuals.

".....It is enough to consider it as a settled principle, that their right of occupancy is considered as sacred as the fee-simple of the whites. Pp. 745-747."

While the USA seems never to have offered its active protection to the natives of Alaska, yet the law was there for them to use IF they only knew about it. This protection has been tried many times and always the Indian has won when he produced the evidence of his use of land as defined in the Mitchell case, namely, the use of land for hunting purposes.

(In the POISAL vs FITZGERALD case (14 L.D. 19...) the admitted homestead entry by a white man.

In MA-GEE-SEE vs JOHNSON 30 L.D. 125; it appeared that at the time of the entry and for sometime thereafter, the land had been in the possession and use of the Indian plaintiff. It was held that the land was not unappropriated within the meaning of the statute and therefore not open to entry.

In the case of SCHUMACHER vs STATE OF WASHINGTON, 33 L.D. 454, 456, certain land claimed by the defendant in a school grant, were occupied and had been improved by an Indian living apart from his tribe but his application for an allotment had not been made until after the state had sold the land, it was held that the grant of the state did not attach under the provisions excepting lands otherwise disposed of by authority of an act of Congress."

In the case of CRAMER et al vs USA 261 US 219, the court said the USA as guardian of INDIVIDUAL Indians who have

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Nicholls Rebuts Hopson's Stand On Atom Blasts

Dear Editor:

I can only refer to the libelous, false and unfounded statements which former State Senator Hopson has, in ignorance, seen fit to publicize as the desperate efforts of a former politician to maintain his name before the public by the hackneyed gimmick of all such politicians of casting doubt on someone else who is serving the people.

In that forewarning of such an attack came from Fairbanks, the originality of the idea cannot even be credited to him but it is presumed he was coached in such a manner by others who are in his same position.

The vote of the people in coming Arctic Slope Native Association elections, in which he has chosen to run, will give the answer to him in no uncertain terms.

Hugh Nicholls
Executive Director
Arctic Slope Native Assn.

Kodiak Group Meets to Draw Up Constitution

Members of the Kodiak Area Native Association will meet January 17th to vote on a constitution and by laws for the newly formed group, and elect a board of directors.

Guest Speaker at the KANA meeting will be Anchorage Attorney Stanley J. McCutcheon, legal representative for the Tyonek Indians.

Harry Carter, who has assisted in sparking organization of Kodiak Native people, said he had accepted McCutcheon's offer to speak before the KANA group here on aspects of filing legal land claims based on aboriginal rights.

Carter reported that he had also been making arrangements through the "Grass Roots" program to provide round trip transportation of representatives from all Kodiak area villages to attend

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