

The Sword and the Shield

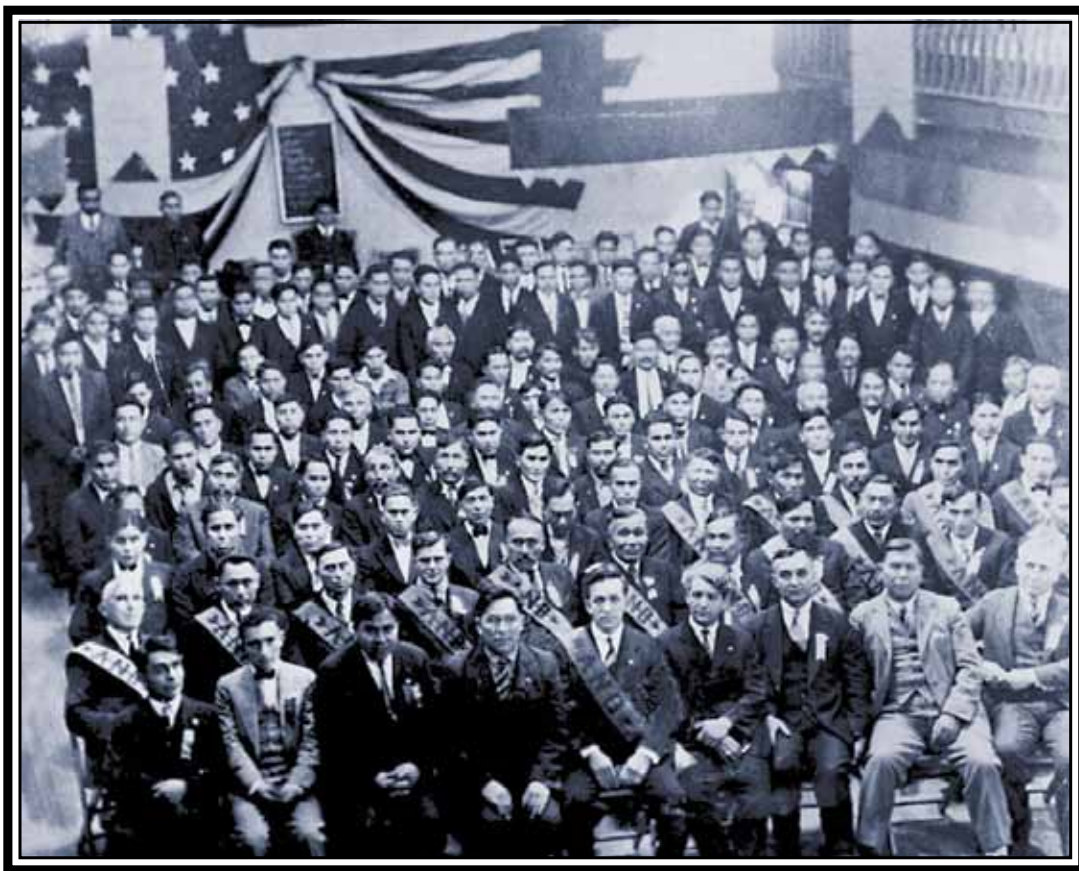
The Defense of Alaska Aboriginal Claims by the Alaska Native Brotherhood

By Peter M. Metcalfe

Research Assistant: Kathy Kolkhorst Ruddy

Project Advisor: Professor Stephen Langdon, UAA

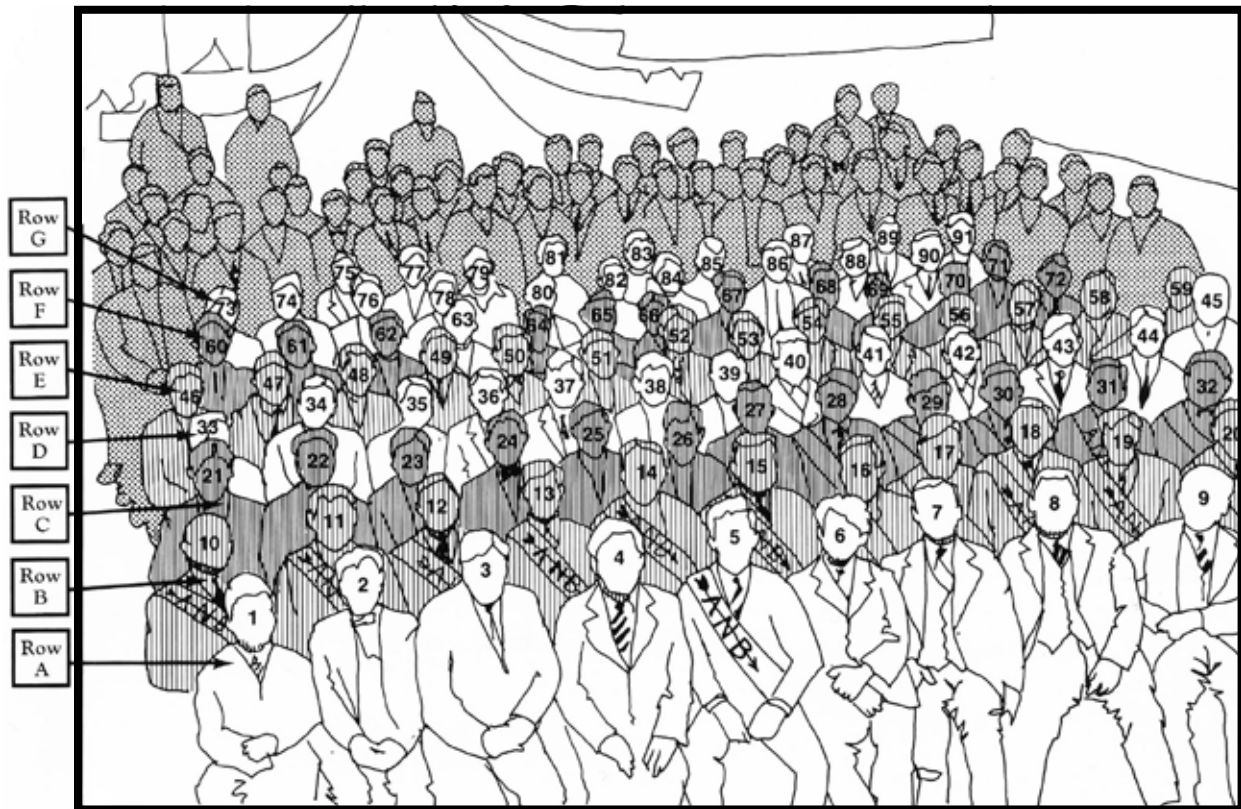
Grant administrator: Richard Dauenhauer, Tlingit Readers Inc.



The Alaska Native Brotherhood in Grand Camp Convention, Haines 1929. (See key to identification, next page.)

An Alaska Statehood Experience grant awarded by the
Alaska Humanities Forum and funded by the Rasmuson Foundation

Alaska Native Brotherhood Delegates to the 1929 Grand Camp Convention in Haines.



Row A	1. Andrew Hope, Sr.	2. Sandy Stevens	3. George Demmert	4. Charles Newton	5. W. L. Paul, Sr.	6. Louis F. Paul	7. Frank Price	8. George Ward	9. Ralph Young, Sr.
Row B	10. Sam Davis	11. John Ward	12. George Haldane	13. Johnnie Hanson	14. Albert Kookesh	15. Peter Simpson	16. Ray James, Sr.	17. Edward Marshall	18. James Fox
Row C	19. Jack Ellis	20. Charlie Jones	21. Jim Stevens	22. Bill Brady	23. Mark Jacobs, Sr.	24. Ray James, Sr.	25. George Betts	26. Sam Johnson	27. Sam Martin
Row D	28. Haines Dewitt	29. UNKNOWN	30. James Brown	31. Frank Mercer	32. Frank G. Johnson	33. UNKNOWN	34. James D. Jackson	35. Ed Warren	36. Rudolph Walton
Row E	37. Shorty Johnson	38. George Williams	39. James Klanott	40. UNKNOWN	41. David Howard	42. Sam Jackson	43. UNKNOWN	44. John M. Thunaut	45. UNKNOWN
Row F	46. UNKNOWN	47. UNKNOWN	48. Seward Kunz	49. Arthur Johnson	50. Frank Peratrovich	51. Cecil Nix	52. Joseph Allen	53. UNKNOWN	54. John Shorty
Row G	55. Leo Dennis	56. UNKNOWN	57. Sam Dennis	58. Joe Wright	59. James Willard	60. UNKNOWN	61. Mathew Lawrence	62. Gus Klaney	63. John Benson
	64. Frank S. James	65. Fritz Willard	66. Frank Jimmie	67. John David	68. Steve Perrin	69. UNKNOWN	70. UNKNOWN	71. Patsy Davis	72. UNKNOWN
	73. UNKNOWN	74. James Lee	75. Henry Brown	76. Mr. Andrews	77. Bill Johnson	78. Tom Johnson	79. John Jackson	80. Jack David	81. UNKNOWN
	82. Tom Jimmie	83. Charlie James	84. Dave Klanott	85. Chief John Donanak	86. Jimmie Young	87. UNKNOWN	88. Mr. Young	89. Harry Williams	90. UNKNOWN
	91. James Watson								

Peter Metcalfe, working with Judson Brown in the winter of 1980-81, created the key to the identification of the 1929 delegates. It was first published in the "Historical & Organizational Profile of the Central Council of Tlingit and Haida Indian Tribes of Alaska" (1981). In early 2011, Selena Everson identified the previously unidentified #37 as her grandfather, Shorty Johnson.

Among those standing in the back are: James Clark, Ben Watson, Andrew Johnson, Jerry Williams, James Martin, Sergius Sheakley, Willie Williams, Charles Anderson, Johnnie Willard, Judson Brown, Robert Perkins, and Chauncy Jacobs.

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ABSTRACT

The success of the Alaska Native Brotherhood (ANB) during the 1930s in compelling the federal government to consider aboriginal claims, and then, during the years of the Alaska Statehood Movement (1945-1958), in resisting uncompensated extinguishment or premature settlement of these claims, held profound consequences for the early history of the State of Alaska.

The successful defense of aboriginal claims by the ANB and its allies deflected, delayed, and in some cases, defeated adverse legislation, holding the line until the national political climate became more favorable to Native Americans. As a result, Congress accepted a disclaimer section to the Alaska Statehood Act of 1958 that served to maintain rather than circumscribe aboriginal claims.

Alaska thus entered the Union as a state with these claims intact and with the stage set for the Alaska Native Claims Settlement Act (ANCSA) of 1971 and, subsequently, the Alaska National Interest Lands Conservation Act (ANILCA) of 1980.

DEDICATED TO THE MEMORY OF ANDREW “ANDY” HOPE III

It was Andy Hope’s idea to write the Alaska Statehood Experience grant that funded this project. Tragically, during the summer of 2008 when the grant was awarded, Andy was diagnosed with an aggressive form of cancer. He died six weeks later. Both the author and research assistant were Andy’s close friends and colleagues over many years when we each worked with Andy on publications, and on radio and video projects, that involved Tlingit and Haida history, culture, and language. Like his father, Andrew “John” Hope, and grandfather, Andrew Percy Hope, Andy left behind a powerful legacy. Of relevance to the Statehood Experience Grant were the historical records he had compiled over a lifetime of research, which he left in the care of the author — about 30 file boxes — that provided documentation substantiating the findings of this paper.

ACKNOWLEDGEMENTS

We gratefully recognize the assistance, time, and hospitality afforded by Ben Paul, son of Bill Paul Jr., in providing access to his father’s and grandfather’s personal files. We also thank Frances Paul DeGermain, William Paul Sr.’s daughter, for granting an interview and for providing access to her father’s records. Ben’s son, Jared (William Paul Sr.’s great-grandson), went above and beyond what we asked of him in copying important files.

We also acknowledge the access to records provided by Dr. Rosita Worl and the staff of the Sealaska Heritage Institute, especially Zachary Jones, archivist, for his assistance with the Walter Soboleff Collection; and also Jim Simard and the staff of the Alaska State Historical Library for their aid during this project.

In addition to our project advisor, Professor Stephen Langdon, early reviewers of this paper included Wallace Olson, Professor of Anthropology (Emeritus), University of Alaska Southeast; and Robert Price, retired federal solicitor and former ANCSA corporate attorney. Historian Don Mitchell, and former attorney for the Alaska Federation of Natives, critiqued the paper, resulting in numerous changes and corrections. To him in particular our debt is obvious in the extensive attributions found in this paper to his two-volume history of the Alaska Native Claims Settlement Act. Stephen Haycox, Professor of History, UAA, provided access to an early, unpublished paper (“Promises and Denouement”) and much encouragement. We thank all of them for their comments that resulted in many improvements.

Liz Dodd of Juneau edited the copy. We are thankful for her suggestions that tightened sentence structure and for finding the many typos, widows, orphans, and spacing errors that would be in the copy still without her skills.

Thanks also to Sean Topkok of the Alaska Native Knowledge Network (ANKN) for arranging the web post of the chronology: <<http://www.ankn.uaf.edu/ANCR/Southeast/Chronology/>>.

And finally, we acknowledge the Alaska Statehood Experience Grant funding provided by the Rasmuson Foundation and administered by the Alaska Humanities Forum, that made this project possible.

ABOUT THE PRINCIPALS

Peter Metcalfe, Author

A writer/publisher and communications specialist, and life-long resident of Juneau, Peter Metcalfe has worked for every major Native organization in Southeast Alaska, including most of the Alaska Native Claims Settlement Act corporations in the region, producing books on Southeast Alaska Native history, newsletters, annual reports, and numerous television documentaries. He also produced the video documentation for the 1993, 2007 and 2009 Sharing Our Knowledge “Clan Conferences.” He received the 2006 National Book Award from the Before Columbus Foundation for *Gumboot Determination* (2005), the history he wrote of the Alaska Native owned and managed Southeast Alaska Regional Health Consortium (SEARHC).

Kathy Kolkhorst Ruddy, Research Assistant

At the time the Alaska Statehood Act was signed into law in 1958, Kathy Kolkhorst Ruddy was a child living with her U.S. Coast Guard family on Kodiak Island. Following law school, she returned to Alaska, arriving in Juneau in 1977 to begin her career in law as a clerk for Justice Robert Boochever of the Alaska Supreme Court. Later, she began working for the State of Alaska Department of Law as an Assistant Attorney General. In 1986, she entered private practice. Her interest in Alaska Native culture found expression during her service as a volunteer producer for Southeast Native Radio, a weekly show that ran from 1985 to 2001 broadcast on KTOO-FM. She was also involved with documenting the “Sharing Our Knowledge” Clan Conferences in 1993, 2007, and 2009. With her husband, Bill Ruddy, she owns the M/V Princeton Hall, a vessel built by Andrew P. Hope and the boat building classes at Sheldon Jackson School, and launched on December 3, 1941.

Stephen Langdon, PhD, Project Advisor

Professor and Chair of the Department of Anthropology, University of Alaska Anchorage, Dr. Langdon has for over thirty years conducted research in ecological anthropology, economic anthropology, and ethnohistory of Northwest Coast maritime societies. While he has conducted numerous research projects throughout Alaska on a variety of Alaska Native public policy issues, he has specialized in Southeast Alaska topics related to precontact, historic, and contemporary fisheries of the Tlingit and Haida people. In addition to a lengthy list of field research, studies, publications, and reports, Dr. Langdon is the author of *The Native People of Alaska*, now in its fourth edition.

RESEARCH METHODOLOGY

We focused our research on the Alaska Native Brotherhood because the ANB was the only Alaska Native organization in the years prior to Alaska becoming a state with the resources to take an active and substantial role in the political and legal issues of the day.

During our research, we accessed private correspondence from Paul Family records, the Andy Hope Collection, public archives, congressional records, transcripts of interviews with Alaska Natives who were politically active during the Alaska Statehood Movement, transcripts of government hearings, newspaper articles, and histories of the period, including manuscripts (some unpublished), academic papers, and books.

In referencing this period, we attempt to present the points of view held by those participating in the issues of the day, and the *zeitgeist* — the spirit of the era — without the distortion of present day perspectives. One result of this may seem to diminish the importance of the Alaska Native Sisterhood. However unfair and sexist it may have been, in those days the Sisterhood played a supportive, often tangential, role to that of the Alaska Native Brotherhood. The ANB leadership — primarily the members of the ANB Grand Camp Executive Committee — corresponded frequently with each other, with their attorneys, and with government agencies. This correspondence is extensive, although not fully compiled, annotated, or easily accessible. Fairly complete archival records of Grand Camp annual meetings during the years of the statehood movement do exist, although they tend to vary in quality from one annual assembly to the next.

Most footnoted citations are from published sources that are easily cross-checked. Where appropriate, we add quotations from people with a direct knowledge of the issues under discussion, excerpted from interviews conducted during this project, as well as from the transcriptions we made of audio recordings, and from correspondence, meeting minutes, Grand Camp annual meeting reports, and newspaper clippings, all gathered in the course of our research.

A NOTE ON TERMINOLOGY

For the sake of clarity, we most often refer to aboriginal or Native in the context of the rights and claims of Alaska’s indigenous people. Sovereignty and tribes were terms rarely (if at all) applied to the debate regarding Alaska Native claims during the statehood movement.

While it is perhaps unnecessary to explain to an Alaskan audience the utility of the term *Alaska Native*, within the context of the discussion that follows the origin of the expression may be worth reviewing. Early American missionaries first began using the term *Alaska Native* in the late nineteenth century to distinguish Alaska’s indigenous people from Lower 48 *Indians*.

Professor Stephen Langdon believes there was more to the term than mere grammatical convenience or a benign desire to distinguish Alaska Natives from Lower 48 “reservation Indians.” He contends that for aggressive assimilationists such as Sheldon Jackson the term Alaska Native served to separate the indigenous people of Alaska from the legal affirmation of aboriginal rights under the principles of “Indian Country” — the operational doctrine at that time. In his view, such verbal manipulation was part of a strategic move to treat Alaska’s indigenous people as “citizens” in order to avoid having “Indian country” policies apply in Alaska.

During the years of the statehood movement, “Native” was commonly used inside Alaska, but since the expression had to be explained when used in the Lower 48, most Alaskans, Natives included, would revert to *Indians*, at times using other terms for various groups of Alaska Natives, including *Eskimos* (Inupiat and Yupik) and *Aleuts* (Unangan & Alutiiq).

There is also the matter of the phrase “Alaska Native land claims,” perhaps the most common narrative error made in the past and to this day. The claims made by Alaska Natives began on a broad basis and included, in addition to land, hunting and fishing rights. “Aboriginal title” or “Indian title” was also used generically when speaking of property claims inclusive of hunting and fishing rights. While the resolutions of aboriginal claims were reached almost entirely on the basis of land, using “Alaska Native land claims” as synonymous with “aboriginal claims,” or to describe “land claims” within the context of Alaska Native aspirations, is incorrect generally, and in particular in reference to the indigenous people of Southeast Alaska, for whom the sea and intertidal areas provided primary sustenance.

GLOSSARY OF TERMS

Aboriginal rights/title: the right of indigenous people to occupy land and use the surrounding resources, including fisheries, undisturbed by third parties and subject only to the laws of the United States — as distinguished from privately held *fee simple* property, which could be sold without the permission of the government.

Clans: The cultures of the Pacific Northwest had a variety of social divisions. The Tlingit people were organized by moiety — equal divisions between Raven/Eagle (Wolf). Haida societies were similar, though some had more than two social divisions. Each moiety had subclans, and most clans included clan houses. The clan constituted the highest governing unit of Tlingit and Haida societies and was therefore the closest definition to the Western legal concept of a tribe. The tension imposed by Western law, which ignored the clan structure, pressured the Tlingit and Haida people to adapt by creating such organizations as the Indian Reorganization Act village councils and the Central Council of Tlingit and Haida Tribes.

Extinction: The act of nullifying ownership or title. In the United States, aboriginal title can only be extinguished by acts of Congress; prior to 1871 this was done through the treaty process.

Indian Reorganization Act (IRA): also known as the “Wheeler-Howard Act” and the “New Deal for Native Americans,” the IRA, which was enacted in 1934 under the administration of President Franklin D. Roosevelt, was amended and extended to Alaska in 1936. In Alaska, the community councils that organized under the terms of the Indian Reorganization Act, and that were approved by the Department of Interior, Bureau of Indian Affairs, became federally recognized *tribal entities*. In 1994, by executive order, over 200 Alaska tribal entities were recognized as tribes.

Treaty: an agreement with Indian tribes or foreign countries negotiated by the executive of the U.S. Government, and ratified by Congress. The power to forge treaties with Indian tribes ended in 1871.

Tribes: federally recognized self-governing groups of Native Americans.

Trust Relationship: The recognition by the U.S. Government that Native Americans tribes are domestic dependent nations subject to federal oversight and protected by the federal government from third-party intrusions. Through this trust relationship, the U.S. Government acts as a fiduciary. In the Territory of Alaska, in absence of a formal federal recognition of Alaska tribes, the federal government did recognize that a trust relationship existed. Hence, the U.S. Government took responsibility for education, health care, and, where applicable, land management for Alaska Natives. The Indian Self-Determination Act of 1975 brought fundamental changes to the trust relationship by allowing the transfer of administrative responsibility for Native American programs to tribes and tribal entities.

The Sword and the Shield

THE DEFENSE OF ALASKA ABORIGINAL CLAIMS BY THE ALASKA NATIVE BROTHERHOOD

INTRODUCTION

This project began as a grant application accepted by the Alaska Humanities Forum for the Alaska Statehood Experience program, which was funded by the Rasmuson Foundation to celebrate the 50th anniversary of Alaska Statehood. The stated purpose of this grant was to determine the level of Alaska Native participation in the Alaska Statehood Movement. During the research phase it soon became apparent that while most Alaska Natives seemed to have supported Alaska statehood for reasons similar to those of the general public, little evidence was found that Alaska Natives had been involved in promoting (or opposing) the statehood movement in any organized fashion. There was, however, evidence of substantial involvement by one organization, the Alaska Native Brotherhood,¹ in resisting efforts to achieve statehood at the sacrifice of Native claims. The activities of the ANB in this regard had a profound effect on the early history of the State of Alaska.

In the study of Western legal theory, students learn that laws can act as swords to compel or shields to prevent. Prior to the statehood era, the Alaska Native Brotherhood proved adept at lobbying the government to carve out new laws by which Alaska Natives won the right to vote, pursued aboriginal claims, gained access to federal funding, and achieved civil rights. During the post-war years of the Alaska statehood movement, 1945 to 1958,² a time in which U.S. Indian policy was under attack on a broad front, the ANB proved equally adept at shielding the aboriginal rights they were testing in courts from legislation that sought to eliminate or compromise those rights.

In his single volume history of Alaska, Professor Stephen Haycox, an American cultural historian with the University of Alaska Anchorage, describes the Alaska Native Brotherhood as the “...only viable Native organization in the territory before statehood.”³ During this period, the ANB’s structure and cadre of educated leaders gave it the capability to effectively combat the politically powerful interests that sought to gain statehood at the expense of Alaska aboriginal claims.

Alaska Natives were not without friends and allies in their legal and political battles to gain recognition of these claims. Organizations such as the National Congress of American Indians and the Association on American Indian Affairs came to their defense at crucial junctures. While these efforts helped, the first ten years following World War II remained a time of great peril for Native American interests in general, and those of Alaska Natives in particular. During this period, even Alaska’s highest ranking political leaders — Governor Ernest Gruening and Alaska’s Congressional delegate, E.L. “Bob” Bartlett, both sympathetic to Alaska Natives and supportive of compensation for lost aboriginal rights — showed little enthusiasm for broader Native claims, especially when perceived to be in conflict with their top political priority: statehood for Alaska.

In retrospect, it is worth considering one of the great “*What ifs?*” of Alaska history: What would Alaska look like today if aboriginal claims had been eliminated or settled prior to statehood? It is not difficult to imagine that with no Native claims to be addressed there would have been no Alaska Native Claims Settlement Act (ANCSA) of 1971 and, of great significance to Natives and non-Natives alike, no ANCSA Section 17(d)(2), by which 80 million acres of Alaska land were set aside for future consideration as national parks and other protective designations. This section — “D-2” — ignited the “Alaska Lands Battle” of the late 1970s that resulted in the Alaska National Interest Lands Conservation Act (ANILCA) of 1980, which, among other things, more than doubled the total acreage in the United States under wilderness designations.

Without Section 17(d)(2), it is difficult to imagine a scenario in which national political forces could have otherwise aligned to achieve, in a relatively short period of time, as comprehensive a disposition of federal land in Alaska as was accomplished through ANILCA. And a strong argument can be made that, without ANILCA, the amount of Alaska acreage that may have been given wilderness designations would have been a fraction of that 80 million acres.⁴

The Alaska Native Claims Settlement Act represents a huge social experiment, the benefits and consequences of which remain a source of lingering dispute. Departing from the land reservation paradigm that controlled the aboriginal claims of Native Americans in the Lower 48, in ANCSA Congress fashioned a settlement based on a corporate model of privately held equity instead of common property held in perpetual trust by the U.S. government. In exchange for money and title to defined tracts of land held by Native-owned, private for-profit corporations, Native land claims to vast expanses of Alaska were extinguished, although other claims, like hunting and fishing (subsistence) rights, were left unresolved. The settlement was legislatively imposed by Congress. There was no referendum by which Alaska Natives could weigh the costs and benefits and then vote for or against the settlement.⁵

The corporate model proved to be an awkward and, for many Alaska Native groups, a culturally inappropriate method to effect a Native claims settlement. Yet it was through ANCSA that Alaska Natives gained the political power that comes with the immense financial strength embodied in the 12 regional corporations and more than 200 village corporations created under the terms of the Act.⁶ The Alaska Federation of Natives, organized in 1966 to lead the Alaska Native claims effort and, since the settlement, financially supported by ANCSA corporations, is today one of the most powerful lobbying interests in the State of Alaska.

The Alaska Native Brotherhood can justly take pride that its leadership proved through litigation — *Tee-Hit-Ton Indians v. United States* and *Tlingit and Haida Indians of Alaska v. United States*⁷ — the validity of aboriginal title in Alaska. While important, these cases would have been moot had Congress adopted any one of several pre-statehood proposals hostile to Alaska Native interests. The shield that was deployed by the ANB and its allies during those legislative maneuvers protected aboriginal rights in Alaska. Had the ANB failed, there would have been no claims to settle after statehood, and therefore no Alaska Native Claims Settlement Act.

ABORIGINAL CLAIMS IN ALASKA

In the history of Alaska, it would be difficult to find a more uncertain legal concept that had greater consequences than aboriginal title.⁸

Unlike the circumstances that prevailed in the continental U.S., there had been no formal military actions against or treaties with Alaska Natives. Instead, in the years following the Treaty of Cession (1867) with Russia, the United States simply expropriated Alaska Native property.

The problem, as became uncomfortably apparent to non-Native political leaders during the Alaska Statehood Movement, was that such expropriation was ripe for legal challenge. Although European powers had argued among themselves over rights of possession of Alaska,⁹ no treaties had been made with Alaska Natives that might otherwise have brought some clarity and resolution to the issue of aboriginal claims. The Treaty of Cession between the U.S. and Russia was so ambiguous that it was cited in various judicial decisions to both support and deny the existence of aboriginal title.¹⁰ The Organic Act of 1884, which established an abbreviated form of territorial government for Alaska, sidestepped the issue of aboriginal claims by deferring to “future legislation by Congress.” All subsequent acts of Congress had failed to directly address the question of whether or not Alaska Natives owned the land they used and occupied, or if they held any other inherent rights.¹¹

From a military point of view, the United States had an “exposed flank.” To exploit that vulnerability the Alaska Native Brotherhood picked up the *sword* and *shield* found in American law.

There can be no accounting of all the individual Alaska Natives who contributed to the validation of aboriginal claims, but no one person or group of loosely affiliated Alaska Natives could have exerted the influence during the era prior to statehood demonstrated by the ANB — an organization whose political effectiveness in representing Alaska Native interests at that time compares favorably to that of the Alaska Federation of Natives in more recent decades.

In the 1920s, ANB leaders were focused on achieving the full benefits of citizenship.¹² According to William Paul Sr.’s version of the story, the thought of pressing the issue of aboriginal claims seemed to most ANB members a dangerous fantasy. But, urged on by Alaskan jurist and politician James Wickersham and goaded by the ANB’s preeminent leader, Peter Simpson, they took the risk. At the 1929 ANB Grand Camp Convention in Haines, the ANB resolved to pursue a course of action that would allow the filing of a lawsuit against the United States seeking compensation for expropriated lands and fisheries.

From 1929 through the statehood era, ANB leaders persisted in seeking redress for lost lands and rights. As will be supported throughout this paper, the only two options for redress available to Alaska Natives in the decades before Alaska became a state were to seek compensation through the courts for lost property rights or to petition the government for reservation status. The path chosen during the 1929 convention was to seek compensation, which led to parallel lawsuits that would be decided in the 1950s: *Tee-Hit-Ton Indians v. United States* (1954 and 1955) and *Tlingit and Haida Indians of Alaska v. United States* (1959). While the first lawsuit failed, the decision confirmed, indirectly, that aboriginal title existed and had

not been extinguished.¹³ The ruling in the second lawsuit established the validity of aboriginal title, confirming the principle that compensation was due for property rights taken by the U.S. government. The subsequent judgment award in the Tlingit and Haida lawsuit, issued nine years later, set recompense at \$7.5 million for the taking of nearly 20 million acres — far below the litigants' expectations.¹⁴

The outcome of these lawsuits demonstrated that settling aboriginal claims through the courts came with a high degree of risk, could take decades, and, even if won, might garner monetary awards that would barely compensate for the effort.

The only alternative routes to making good on Native claims were through Congress or the Executive Branch. By the post-World War II era, the ANB's leadership had gained sufficient experience with Congress to know the odds they faced and were quite aware of the prevailing negative attitudes about Native American rights. Given the political climate during those years, Congressional action then might well have extinguished aboriginal claims in Alaska without compensation.

The Roosevelt and Truman administrations were sympathetic to Native American rights and concerns, but the political realignments that followed World War II limited the effectiveness of the Executive Branch, as was evident in the Truman Administration's well-intended but feeble response to Alaska Native claims.

In retrospect, it is clear that even the most benign and generous Congressional settlement of Alaska Native claims in the decade following World War II would have been in the millions of dollars and thousands of acres, rather than the nearly one billion dollars and 44 million acres conveyed under the terms of the Alaska Native Claims Settlement Act (ANCSA) of 1971.

The legal basis for aboriginal title in Alaska is now well established, and a retrospective review of the court cases that established this title might lead one to believe that ANCSA was all but inevitable. Such 20/20 hindsight ignores the political reality that few, if any, major national political leaders during this period believed that aboriginal title extended beyond the immediate vicinity of Native villages. In the halls of Congress, the issue of Alaska aboriginal claims stood on extremely thin ice.¹⁵

During the Alaska Statehood Movement, representatives of the Alaska Native Brotherhood were busy in Washington, D.C., shielding aboriginal claims from several Congressional actions that would have had long-term adverse consequences for Alaska Natives. ANB leaders also immersed themselves in a series of proposals to establish reservations in Southeast Alaska and, at the same time, fended off attempts to eliminate the option of creating such reservations. In the meantime, lawyers under the organization's direction were pushing forward *Tlingit and Haida Indians v. United States*, the lawsuit filed under the aegis of the Central Council of Tlingit and Haida Indians to seek recompense for lost lands and rights.¹⁶

NATIVE CLAIMS IN THE EARLY 20TH CENTURY

The Western legal theory of aboriginal title holds that there can be but one sovereign. By right of “discovery,” a sovereign power was entitled to all the lands under its dominion. This theory (in the United States, an extension of British law and customs) recognized aboriginal title as a right of occupancy distinct from “fee simple title.” Land held in common by a tribe could only be ceded to, or by, the federal government — a tribe could not sell land to a state or to private individuals, nor could states or private interests claim or otherwise take land subject to aboriginal title. According to U.S. constitutional law, worked out in a series of Supreme Court decisions in the early nineteenth century, aboriginal title conferred a right of occupancy, and only Congress could extinguish this right. Tribes were designated “domestic dependent nations” subject to the supremacy clause of the U.S. Constitution.¹⁷

In the first century of the country’s existence, extinguishment of aboriginal title had been achieved through treaties negotiated with various tribes by the federal executive and ratified by the U.S. Senate. Through such treaties, “the United States agreed to pay money and distribute sundries to tribal members as compensation for the land the treaties ceded.”¹⁸ The land that was retained by Native Americans became “Indian reserves” (i.e., reservations), a common feature of treaties with tribes west of the Mississippi. Federal statutes and constitutional law have served to define the fiduciary duty and trust responsibility of the federal government to, among other things, protect Indian reservations from unwelcome third party intrusions.

Since 1871, when Congress ended treaty making, it continued to pass laws that further defined the government’s trust relationship with Native Americans.

In the first quarter of the twentieth century, legislation that created the Tongass National Forest (1905) and the Glacier Bay National Monument (1925) effectively extinguished aboriginal title to all but a small percentage of Southeast Alaska, a region that had been the domain of the Tlingit and Haida people. Under these circumstances, the only politically practical option available to the Alaska Native Brotherhood was to seek compensation from the federal government for lost lands and rights.

Several acts of Congress in the early twentieth century addressed property rights for Alaska Natives. The 1906 Allotment Act authorized the Secretary of the Interior to allot homesteads to individual Alaska Natives, but the process was so onerous and the bureaucracy so disinterested that, according to Prof. Langdon, most Natives knew nothing about the program; those that did found many obstacles to submitting homestead claims, and the program did not fit with traditional concepts of property rights. By 1970, only 60 allotment claims had been filed.¹⁹ In 1926, two years after Congress passed legislation granting citizenship to Native Americans, it provided, through the Alaska Native Townsite Act, a means for Alaska Natives to gain title to the land on which their habitations stood. However, the title was under a restricted deed, held by the Office of Indian Affairs, that did not provide for a direct transfer of ownership. The outcome was that within a few generations, multiple Alaska Native descendants held joint title to family property.

By the 1930s, the ANB was focused on winning compensation for lost fishing rights and for land taken to create the Tongass and Glacier Bay. In the 1940s, ANB leaders began to debate

the merits of reservations as a means to re-acquire aboriginal hunting and fishing rights, and to recover large sections of traditional lands.

While the legal claims that sought compensation for lost lands eventually received consideration by federal courts, claims for fishing and hunting rights fell on deaf ears because, according to the laws of the United States (as ANB leaders were to learn much later as a result of their experience with the U.S. Court of Claims), all citizens had equal access to such resources. The court reasoned that if there had been no prior right, there could not have been a “taking.” It would not be until the ANCSA debates of the late 1960s that Congress would entertain the issue of aboriginal hunting and fishing rights in Alaska, now commonly referred to as “subsistence rights.” And not until the passage of ANILCA in 1980 would these rights be addressed. In the end, ANILCA provided a “subsistence preference” for all rural Alaskans, not just Natives.

THE ALASKA NATIVE BROTHERHOOD PRIOR TO WORLD WAR II

Founded in 1912, the Alaska Native Brotherhood became the champion of equal citizenship for all Native people of Alaska. At the time of the organization's founding, Natives could not vote, own title to real estate, be licensed to operate commercial boats, or be educated in locally administered schools. Among the many daily humiliations faced by people who could not even claim second-class citizenship, Alaska Natives were routinely denied service in retail establishments.

Those who founded the ANB, most of whom were graduates of the Sitka Industrial and Training School (later renamed Sheldon Jackson School), were well educated by the academic standards of the day, especially in comparison to their fellow Alaska Natives. They were also deeply imbued with the values of their Presbyterian instructors.

Sheldon Jackson and his colleagues passed on to their students the belief that citizenship was attainable through education, hard work, practice of the Christian faith, and the disavowal of Native culture. It was the persistent denial of citizenship and what we now refer to as civil rights that inspired these men, along with the women who founded the Alaska Native Sisterhood in 1915, to take action and win those rights on their own.

Peter Simpson (1871?-1947), a Tsimshian from Metlakatla who moved to Sitka in the early 1900s, is rightly considered the "Father of the Alaska Native Brotherhood" and, in respect to his foundational role, also deserving of the honorific "Father of the Alaska Native claims movement." Simpson served as the first president and remained a guiding light of the ANB until his death in 1947.²⁰

According to ANB historian John Hope (1923-1999), the early leaders — Peter Simpson, Ralph Young, and Frank Price, among others — believed that "we as a people had to move into a new society. We had not much choice in this and that to do that we had to give up our heritage, and our customs, and adopt [a] new language and a new religion, part and parcel. Learn it very thoroughly — and then compete..."²¹

In 1914, the first "Grand Camp Convention" took place in Sitka. Thirty-one men were in attendance, representing Juneau, Haines, Kake, Ketchikan, Metlakatla, Saxman, Sitka, and Wrangell.

By the 1920s, Alaska Native communities throughout Southeast Alaska had established local camps. While the ANB styled itself an Alaska-wide organization, encouraging the establishment of "camps" throughout the Territory of Alaska, it never succeeded in maintaining permanent camps whose membership were predominantly indigenous to areas outside of Southeast Alaska. All of the men who have served as Grand Camp presidents were Tlingit, Haida, or Tsimshian. To this day, all annual ANB Grand Camp conventions have been held in Southeast Alaska communities.

Members paid dues, and with the fundraising efforts of the oft-credited Alaska Native Sisterhood, the ANB acquired the financial strength to support political candidates and to fund lobbying efforts in Juneau, the capital of the Territory of Alaska, and in Washington, D.C.

Although initial members of the Alaska Native Brotherhood were all church-going Christians who adhered to strong Christian principles, the ANB — all Native and secular — stood apart from Native religious brotherhoods common in this era, most of which were dominated by their white co-religionists. There can be little doubt that the ANB's independence from white religious leaders, who were often as controlling as they were condescending, added to the organization's credibility with other Alaska Natives — even those who had no intention of setting aside their Native heritage.²²

The primary issues in those days included full citizenship with voting privileges, public access for Alaska Natives (i.e., civil rights), education, health, and the abolition of fish traps.

The founders' adamant rejection of Native traditions and language moderated during the 1920s as the membership expanded, and as citizenship and voting rights were achieved. In the face of the political reality that most of the village leadership spoke little, if any, English, the rule that membership be limited to only English speakers was quietly dropped.

It was during the 1920s that the Paul brothers, William and Louis, rose to prominence through their association with the Alaska Native Brotherhood. They are generally recognized as among the most important of the second generation of ANB leaders. "I really don't know what we would have done without them," said Judson Brown (1912-1998), an important leader from the Haines area.²³ Brown became a member of the ANB in the 1920s and, as a teenager, was in attendance at the historic 1929 Grand Camp convention in Haines.

Louis and William were the sons of Louis and Tillie Paul, each half-Tlingit. Tillie's husband, Louis, disappeared in December 1886 during a canoe trip, leaving the young mother caring for two boys: Samuel (3), and the one-year-old William. She was also pregnant with the son she would name after her late husband. At the invitation of Sheldon Jackson, the widow moved her family to Sitka, where she went to work at the Sitka Industrial and Training School, working herself up from laundress to matron and resident musician. During this time she married William Tamaree. Tillie earned her place in history when, in 1922, she challenged the laws that prohibited Natives from voting. She was arrested in Wrangell for violating voting laws, went to trial, and was successfully defended by her son William. There can be little doubt that many of William Paul's strongest characteristics — intelligence, stubbornness, certitude, and determination — owed much to his mother.²⁴

William and Louis attended Carlisle Indian School in Pennsylvania. William later graduated from Whitworth College, a Presbyterian school located at the time in Tacoma, Washington. He attended San Francisco Theological Seminary for one year, and then took a correspondence course in law from LaSalle University of Philadelphia, Pennsylvania. Among his many firsts, Paul became Alaska's first Native attorney (1921) and the first Native elected to the Alaska Territorial Legislature (1924).

At the urging of his brother Louis, then Grand Camp President of the ANB, William attended the 1920 Grand Camp Convention in Wrangell, where he was elected Grand Secretary. Thus commenced Paul's turbulent, productive, and controversial association with the Alaska Native Brotherhood, lasting until his death in 1976 at the age of 91.

In his book, *Then Fight For It*, Fred Paul, William's son, recalls that the issue of Natives not being able to hold title to land came to a head in 1921, when George Dalton and his family, Tlingits from Hoonah, were run off their potato patch on an island in Icy Strait by a rifle-wielding white man who claimed his rights to the island by virtue of a federal fox farm permit.²⁵ This was but one of many similar incidents that outraged Alaska Natives.²⁶

According to William Paul, there were those in the ANB's membership who questioned the wisdom of making a fight over "Indian title," fearing that to do so would jeopardize the organization's top priority, the attainment of first class citizenship — what we now refer to as civil rights. But the old man himself, Peter Simpson, was not put off by such fears. In the mid-1920s, he famously whispered in the ear of William Paul Sr., asking rhetorically, "Is the land yours, Willie?" Paul, answering in the affirmative, heard in reply, "Then fight for it!"²⁷

Apparently, this was typical of Simpson. "He wasn't the kind of orator who was a forceful speaker," John Hope recalled. "He was very sincere; he spoke very gently and with a lot of wisdom. And he was responsible for many of the things that were accomplished by other leaders because he was behind the scenes leading things along."²⁸

At the 1929 Grand Camp Convention in Haines, Grand Camp President William Paul Sr. introduced his friend and mentor Judge James Wickersham (1857-1939), who had served several terms previously as Alaska's non-voting delegate to Congress, and was again seeking re-election to succeed his protégé, Dan Sutherland.

"After listening to the Hon. James Wickersham give a lecture on the relation of the Tlingit and Haida Indians to dispossessed lands without compensation, the convention appointed a committee to investigate and reports its findings [on bringing suit against the government]," John Hope recalled in his unpublished manuscript history of the ANB.

The Grand Camp accepted the committee's report, and thus was born the Alaska Native claims movement.²⁹

Judson Brown, who witnessed the speech at the 1929 convention, recalled that Wickersham, "as early as 1912, had gone up to consult with the Athabascans and with several Eskimo groups, and had tried to urge them to organize so that they could bring suit against the government for lands that they had lost. In each attempt, Judge Wickersham had been unsuccessful."³⁰

According to Wickersham's diary entries,³¹ he had consulted with the Athabascans of the Tanana region in July 1915 about establishing reservations to protect fishing and hunting rights, though the assembled chiefs chose not to petition the government for such protection. ANB members were undoubtedly aware that if they followed Wickersham's advice they would be the first Alaska Natives to sue the United States.

With the Convention's acceptance of the committee report, Wickersham's recommendations were put into effect. "We began actively seeking out lawyers and solutions and bending the arms of several legislators, principally the delegates from Alaska, toward getting the legislation that we would need to actually permit us to sue the United States government," Brown said.³²

As Wickersham had explained to Grand Camp delegates, Congress had to pass a jurisdictional act to grant the Tlingit and Haida people standing in court so they could seek compensation from the federal government for any outstanding claims.

During his prior service as Alaska's delegate to Congress, Wickersham had witnessed several jurisdictional acts pass Congress, granting certain Native American tribes the right to sue the federal government in the U. S. Court of Claims for compensation for the expropriation of traditional lands and resources. Knowing that Sutherland had chosen to not enter the race, Wickersham was beginning his campaign for another term as Alaska's congressional delegate when he spoke to the Convention promising to introduce a jurisdictional act should he be elected.³³

In December 1931, Wickersham fulfilled his promise and "persuaded Sen. Lynn Frazier to introduce Wickersham's Court of Claims bill in the Senate." As Don Mitchell explains, the bill met with resistance from Pres. Herbert Hoover's Commissioner of Indian Affairs, Charles Rhoades, who "opposed the measure... because there was no precedent for paying a group of Native Americans compensation for the extinguishment of aboriginal title that had not been recognized by a treaty."³⁴

Rhoades' objection underscored what was to become a core issue: Does aboriginal title exist if not recognized by treaty? According to Prof. Langdon, Felix Cohen later articulated the concept that aboriginal rights are inherent and pre-existed European colonization. In other words, aboriginal rights existed unless specifically extinguished by Congressional action (e.g., through ratification of a treaty). Eventually, federal courts would agree, finding that, in regard to Alaska, no treaty or other act of Congress had previously extinguished aboriginal title, and that if these rights were to be extinguished or modified, then Congress, the arbiter of federal Indian law, must do so through legislation.

In 1932, Alaskans sent Democrat Anthony "Tony" Dimond to Congress. Dimond, one of many Democrats carried into office on the coattails of Franklin Delano Roosevelt, would be re-elected to five succeeding Congresses. During his tenure as delegate, Dimond "was a strong supporter of Alaska Native interests..."³⁵

William Paul, who was to work closely with Dimond, was then at the height of his influence inside the ANB. A relentless advocate of Alaska Native rights and progressive issues, Paul also published the Ketchikan-based monthly, *The Alaska Fisherman* (1923-1932), an outlet for his opinions on the issues of the day and an effective means of advancing his political objectives.

Although a registered Republican, Paul, like Wickersham, was of the progressive wing of the party. He championed issues that were, in that era, rapidly becoming the province of Democrats: wage equity, the right to unionize, and civil rights.³⁶

Paul's first experience lobbying Congress came in 1922, when he was sent by the ANB to Washington, D.C., to testify in opposition to fish traps.³⁷ By 1934, when Congress took under consideration the Jurisdictional Act and, on a much larger scale, legislation to reform the Indian policy of the United States, Paul was a recognized leader of the ANB. Dimond described him as "an attorney at law, [who] has served as a member of the Alaskan Legislature and

is a very able man. He is now a member of the executive committee of the Alaskan Native Brotherhood...”³⁸

Dimond re-wrote the Jurisdictional Act first drafted by Judge Wickersham and had it introduced in Congress. After some amendments requested by the Department of Interior, Congress passed the Jurisdictional Act of 1935, which enabled the Tlingit and Haida people to pursue “...all claims of whatever nature, legal or equitable, [that they] may have against the United States” in the U.S. Court of Claims.³⁹ If it could be proved in court that the Native people of Southeast Alaska had held aboriginal title to the land and resources taken for the creation of the Tongass National Forest and the Glacier Bay National Monument, then the United States would be obligated to pay compensation. While the court could validate a claim and establish the compensation due, it could not grant title to land or resources — it could only award compensation.

Considering that the federal government had made it illegal for Alaska Natives to fish by traditional methods in the salmon streams from which they had harvested the majority of their sustenance, the litigants believed this loss of fishing prerogatives deserved as much or more compensation than the lands that had been taken.⁴⁰

The Jurisdictional Act held relevance only for the Native people of Southeast Alaska. Of much greater national importance, the Indian Reorganization Act (IRA) of 1934 — the “New Deal for Native Americans” — which was under consideration the previous year, would overhaul U.S. Indian policy.

Those serving as Alaska’s congressional delegate had come to depend on the ANB as the go-to organization on all matters of concern to Alaska Natives, and for this reason, Dimond consulted the ANB on this effort by Congress to reform Indian policy.

In reply to Dimond’s questions about the relevance to Alaska of the 1934 Indian Reorganization Act, Paul noted, “There is very little that can apply to Alaska, and that little appears to be entirely beneficial—the matter of education principally.”⁴¹

Responding to Paul’s observations, Dimond, whose election to his post as Alaska’s delegate to Congress was aided by Paul’s ability to deliver the “Indian vote,”⁴² attempted to modify the language of the bill “to insert references to Alaska Natives at appropriate locations in the text to enable Natives to obtain the educational and other benefits the bill made available, including the right to organize the same business corporations that tribes whose members resided on reservations were authorized to organize.”⁴³

The Alaska references, for the most part, failed to survive the conference committee, of which Dimond was not a member. As a consequence, Alaska issues were not addressed in the 1934 Act.

In 1935, the ANB sent William Paul Sr. to Washington, D.C. Working in concert with Dimond, Paul appealed to sympathetic officials at the highest levels of the Department of Interior — Felix Cohen, a solicitor with the Department of Interior, and the principal architect of the IRA; and John Collier, Commissioner of Indian Affairs. The IRA was redrafted by Cohen to apply to Alaska. According to Mitchell, Collier and Cohen also “decided to grant the secretary of the interior new authority to protect Native land use and fish and game harvest

opportunities” — a development that held enormous long-term consequences for Alaska.

At Paul’s urging, Dimond also lobbied the bill’s drafters to resolve the problem of Alaska Natives organizing outside of a reservation. As Robert Price observes in *The Great Father in Alaska*, “The version of Felix Cohen’s bill that Dimond introduced in January 1936 contained a proviso that authorized ‘Indian-chartered corporations in Alaska’ to be organized ‘without regard to residence on any Indian reservation.’ ”⁴⁴

Courtesy of President Franklin Delano Roosevelt’s “New Deal” for Alaska Natives, the IRA allowed Alaska villages to create organizations that qualified to apply for federal loans. While the resulting entities (e.g., Angoon Community Association, Organized Village of Kake, the Hydaburg Cooperative Association, etc.) were closer in concept to savings and loan institutions than to conventional tribes, the Alaska “IRAs” much later became, thanks largely to the Self-Determination Act of 1975, de facto tribal entities, and in 1994, federally recognized tribes.

The provision of the Indian Reorganization Act of 1936 that was to have more immediate consequence was Section 2 of the Act, which delegated to the Secretary of the Interior the authority to establish reservations in Alaska without congressional ratification.

The lawsuit *Tlingit and Haida Indians of Alaska v. United States* would absorb the attention of the ANB membership for more than three decades (1935-1968), but the effort to get a lawsuit underway got off to a rocky start when the Alaska Office of Indian Affairs (OIA — renamed the Bureau of Indian Affairs in 1947) insinuated itself into the process. The Jurisdictional Act required the Secretary of the Interior to approve attorney contracts, which Paul and other ANB leaders expected to be a mere formality. But the Alaska OIA used the provision to *assert control* over attorney selection, offending the ANB’s leadership. As Haycox observes, “In the lower forty-eight states, most Indian groups were poorly organized... In Alaska, however, the Tlingit and Haida people were well organized politically, and operated quite independently of federal advice and control.”⁴⁵ The ANB may have accepted help from the OIA, but they were not about to be told what to do, how to do it, and who to hire to act on their behalf.

The tension between the Alaska Office of Indian Affairs and the ANB took the lawsuit issue down a tortuous path. William Paul opted to ignore the OIA, which not only delayed the legal process, but also worked to his personal disadvantage when other events overtook him and suddenly, he was no longer a lawyer. In 1937, William Paul was disbarred over a charge that he had embezzled from clients of his law practice. Exactly what happened is clouded by the politics and prejudices of the era. By this time, Paul had come to be despised by the cannery and mining interests that depended to one degree or another on Native labor and felt threatened by the Native voting block that Paul had largely organized. He was also much disliked and distrusted by what had become the anti-Paul faction of the ANB leadership, which coalesced around the Peratrovich brothers — Frank and Roy — from the Klawock area. In any event, Paul chose not to defend himself in the disbarment proceedings.

Don Mitchell, who takes a jaundiced view of William Paul in *Sold American*, nonetheless gives him due credit: “...during (Paul’s) first years of prominence his work on behalf of the

ANB was as courageous as it was important, since many whites considered Paul a dangerous and impudent Indian.”⁴⁶

Although in the eyes of his antagonists, the disbarment brought shame upon Paul, and to a certain degree, upon the ANB, for the rest of his life he retained the loyalty of a substantial percentage of the ANB membership, support that ebbed and flowed at the margin of of a majority.⁴⁷

After his disbarment, Paul was quite literally fighting a rear guard action, pinning his hopes and plans on his sons, William Jr. (hereinafter “Bill Paul Jr.”) and Fred, both of whom, after receiving their law degrees in the early 1940s, quickly engaged in legal work on behalf of both their father and their uncle, Louis, as well as the ANB.

For complex reasons — political, cultural, bureaucratic, and personal — the Department of Interior (through the machinations of the OIA) disqualified the Alaska Native Brotherhood from being the plaintiff in the lawsuit against the government. Not until 1939 did the ANB Executive Committee cut that Gordian knot by nominating itself to serve as the Central Council of Tlingit and Haida Indians of Alaska (hereinafter the Central Council) for the expressed purpose of pursuing the lawsuit under the terms of the Jurisdictional Act. Even after the ANB created the Central Council for the purpose of at least meeting the demands of the Office of Indian Affairs half-way, the agency could not come to terms with an Indian organization that refused to be controlled. The OIA’s mean-spirited and seemingly pointless bureaucratic obstructions continued unabated.

THE SIGNIFICANCE OF *TEE-HIT-TON* AND *Tlingit* AND *HAIDA*

In mid-November 1935, the first official meeting of Tlingit and Haida Indians took place in Wrangell, Alaska, for the purpose of taking “such action as might be deemed necessary to accept the terms of said [Jurisdictional Act].”⁴⁸ Before this meeting, several delegates had been elected from each Native community in Southeast Alaska. At the mass meeting in Wrangell, one delegate from each community was elected to the “Central Council.” The Central Council then appointed William Paul as attorney to prosecute the suit against the United States and advised him to select an associate whose name would be submitted to the Central Council. Paul promptly informed the meeting he would ask Judge James Wickersham to associate himself in the case.

This initial organizing effort proved futile in the face of resistance by the Office of Indian Affairs, which insisted that only a tribal entity, not a dues-paying membership organization like the ANB, could file a law suit under the terms of the Jurisdictional Act — despite the all too obvious problem that there were no tribal organizations in Southeast Alaska. The effort was further hobbled by fund raising difficulties in the middle of the Great Depression; the eventual withdrawal of the aging Wickersham; and William Paul’s distracting plan to organize the ANB as a region-wide corporation under the terms of the Indian Reorganization Act of 1936. Paul’s disbarment further complicated the initial organizing phase of the Central Council.

It is beyond the purpose of this paper to unravel the complications that ensued, other than to note that the 1939 Grand Camp Convention in Sitka passed Resolution #37, introduced by William Paul Sr., proposing to make use of the Jurisdictional Act of 1935 by having the Executive Committee of the Alaska Native Brotherhood serve as the Tlingit and Haida Central Council.

“[Our] ANB and Tlingit and Haida meetings ran concurrently,” Judson Brown recalled in an interview with Andy Hope. “We had the ANB Convention going on at the ANB Hall and we were able to get space at the Salvation Army Hall to hold our Tlingit-Haida meetings... That was when we first fulfilled the requirements of organizing.”⁴⁹ Department of Interior officials thought otherwise, viewing the ANB’s adoption of Resolution #37 as a provocation for ignoring their insistence that only tribes could prosecute Indian claims. According to Prof. Haycox, Alaska Native leaders viewed the objections by Indian Affairs bureaucrats as poor excuses, that in truth the officials “simply did not take easily to Natives controlling their own destinies...”⁵⁰

In 1940, Andrew P. Hope (1896-1968), a long-time ANB activist and former Grand Camp President, was elected to lead the newly organized Central Council. Continued strife with the Alaska Office of Indian Affairs stymied further progress over the next several years until, in 1946, James E. Curry (1907-1972), a Chicago attorney then working as general counsel for the newly formed National Congress of American Indians, was selected by the Central Council (at the recommendation of Felix Cohen⁵¹) with the approval of the Department of Interior, to pursue the case. Curry succeeded in filing the lawsuit with the U.S. Court of Claims in 1947. He then passed the case on to other attorneys — I.S. “Lefty” Weisbrodt and David Cobb

— who, after many false starts and delays, and after overcoming many procedural and bureaucratic obstacles, finally succeeded in getting the lawsuit to first hearing at the Court of Claims in 1957.

But William Paul had gotten there first. In 1951, Paul, with the aid of his sons William “Bill” Jr. and Fred, had succeeded in filing the lawsuit *Tee-Hit-Ton v. United States* with the U.S. Court of Claims. While Paul Sr.’s motivation for breaking away from the Central Council’s lawsuit, of which he was the progenitor, is too fraught a topic to discuss in detail here, it should be noted that the legal claims in *Tee-Hit-Ton* (the name of Paul’s clan — one of the dozen-plus clans of the Raven Moiety) were rooted in a solid ethnographic principle: for Tlingits, property ownership resided with the clan.⁵² William Paul and his sons based their case on the reasoning that Alaska Natives were not wards of the government, which (under the reasoning of the Pauls) they would be as members of the type of tribal entity the Office of Indian Affairs preferred to recognize. Instead, the Pauls presented the theory that Alaska Natives were citizens of the United States, and, as provided for in the U.S. Constitution, the property of citizens could not be taken without due process and fair compensation.⁵³ Since clan-owned property had been taken by the federal government without due process or compensation, if *Tee-Hit-Ton* prevailed, it would be the clan, not the collective Tlingit and Haida people, that would receive compensation. Other clans in each moiety would have to file separate lawsuits.

In April of 1954, the Court of Claims issued its decision in *Tee Hit-Ton Indians v. United States*, ruling that because neither the 1867 Treaty of Cession, nor the 1884 Organic Act, nor any other federal statute had recognized Alaska Native aboriginal title, then the plaintiffs — the members of the Tee-Hit-Ton Clan — were not entitled to compensation for land and resources taken over the years. The decision, reaffirmed by the U.S. Supreme Court a year later, found that Congress had yet to address the question of aboriginal title in Alaska.⁵⁴

As historian Stephen Haycox writes, there was a world of opportunity in the Court’s language: “[When] the Court said Congress had not recognized the Tee-Hit-Ton title, it implied that the title had been there either for Congress to recognize or not. It was the first judicial confirmation of aboriginal title in Alaska, and it would apply to all Native groups across the territory.”⁵⁵

While the decision represented a huge loss for William Paul and his sons, it proved to be a victory for the Tlingit and Haida people and all Alaska Natives: the highest court in the land had implicitly recognized the existence of aboriginal title in Alaska.

The lawsuit that followed *Tee-Hit-Ton* — *Tlingit and Haida Indians v. United States*⁵⁶ — receives incomplete attention in this paper for two reasons: it would be difficult to add more to the history of this lawsuit than has Prof. Stephen Haycox who, through a series of papers and his history of Alaska,⁵⁷ does the subject justice; and our primary focus is on the political efforts by the ANB to block attempts during the years of the Alaska Statehood Movement that would have severely circumscribed or eliminated aboriginal claims.

It would, however, be a disservice to the memory of Andrew P. Hope and all those who carried the lawsuit forward to fail to highlight the importance of the 1959 victory of the Tlingit and Haida Indians of Alaska in the U.S. Court of Claims.

As is amply detailed by Prof. Haycox, the suit made little progress in the period beginning in 1947, when it was filed, through the early 1950s. Most of the ANB leadership, the rank and file, and the Native population of Southeast in general, had lost faith that anything good would come of the suit. Andrew P. Hope and the attorneys who succeeded Curry nevertheless persevered. In the face of numerous setbacks and procedural obstacles, I.S. “Lefty” Weisbrodt and David Cobb succeeded in arguing the case before the U.S. Court of Claims, which found in 1959 that Alaska Natives did indeed have as yet uncompensated claims to lands and resources, the aboriginal title to which had been extinguished by action of the U.S. government. Not many dots had to be connected to realize that there remained vast portions of Alaska for which aboriginal title had not been extinguished.

The judgment award, by which the compensation would be determined, took another nine years. In the meantime, the Central Council grappled with an issue that had bedeviled the organization since its inception: how would the money be dispersed? Haycox explains how the matter was resolved:

In 1965, Tlingit-Haida Central Council requested the U.S. Congress to remedy this difficulty by making the award to a new organization, the Central Council of Tlingit and Haida Indians Tribes of Alaska (CCTHITA), and recognizing it as the proper recipient of the expected award rather than to the eighteen separate Southeast communities... [Congress agreed] and directed CCTHITA to elect members, prepare a roll of all Tlingit and Haida people living and to make plans for use of the settlement.⁵⁸

Even after the Court of Claims decision of 1959, most politicians persisted in discounting the significance of aboriginal title, but others began to ponder the longer term business implications — in particular the oil industry and the State of Alaska. In their eyes, since aboriginal title actually existed, it would have to be extinguished throughout Alaska before serious oil development could begin.

As Haycox explains, events surrounding the Tlingit and Haida court case would ultimately contribute to the successful drive for a comprehensive settlement of Alaska Native claims:

There were many aspects to the Tlingit-Haida [lawsuit] which contributed to the success of a drive for an all-Alaska claims settlement act between 1960 and 1971. Experience gained in working with the Indian Office and the Department of the Interior was passed from one generation to another, and from Tlingit-Haida leaders to other regional Native leaders, both before and after the formation of the Alaska Federation of Natives in 1966. The internecine battles within the ANB and its successor organizations helped to clarify the issues involved in aboriginal claims, and made plain the need for unity. The various suits undertaken by William Paul Sr. further clarified the issues, and showed the futility of relying on the courts for a clear confirmation of claims.⁵⁹

While the 1959 decision established a sound legal basis for aboriginal claims, the 1968 judgment award of \$7.5 million as compensation for governmental taking of nearly 20

million acres was a stunning disappointment to most of the Tlingit and Haida plaintiffs. The amount was based, as Haycox points out, “on the commercial value of accessible timber in 1905, the date of the taking [by the creation of the Tongass National Forest and the Glacier Bay National Monument].”⁶⁰

Ill with the cancer that would soon end his life, Andrew Hope Sr. replied to those who bemoaned the terms of the settlement: “In the greatest country on earth, in the highest court of the land, we won our case...”⁶¹

Carrying forward in Hope’s spirit, a new generation of leaders, with John Borbridge Jr. as Central Council President, invested the judgment award, the earnings of which were used as the foundation upon which the modern organization was built. As Haycox points out, the Central Council of Tlingit and Haida Indian Tribes was no longer operating under the wing of the Alaska Native Brotherhood, but was now a full-fledged organization with its own offices, staff, and financial resources.

“By 1971... [the Central Council] had been for some time in a position to make all of its valuable resources and experience available to the [Alaska Federation of Natives]. Indeed, in that year, the [Central Council] made a loan of \$100,000 to the AFN for the final months of the drive toward the settlement act.”⁶²

The Central Council of Tlingit and Haida Indian Tribes of Alaska today stands as an autonomous, federally recognized tribe that, under the terms of the Indian Self-Determination Act of 1975, has taken charge of most functions previously performed by the Bureau of Indian Affairs’ Southeast Agency.

RESERVATIONS IN ALASKA

ANB leaders had long been aware that reservations were an option, but from the beginning most were philosophically opposed to the idea. In the November 1919 issue of the *Verstovian*, Louis Paul, writing about the proceedings of a recent Grand Camp convention, recounted that Peter Simpson spoke against reservations because “American ideals develop best where American ideals exist and these are not found best on reservations.” Louis recounted his own remarks against reservations as “not conducive to proper advancement because of racial segregation. Such segregation does not give proper environment [and] is un-American in principle by setting apart the Indian American for special legislation...”⁶³

In Southeast Alaska, reservations for Klawock and Hydaburg had been established early in the twentieth century, but were withdrawn by executive order after protests were received from the village residents and others. As Wickersham learned in 1915 when he consulted with the Athabascan chiefs of the Tanana region, opposition to reservations was widespread. There were more than a few reasons for the opposition, none of which should be interpreted as an acceptance of the status quo. Natives throughout Alaska were keenly aware that they had once owned the land and resources that had been taken, and persisted in voicing their grievances and seeking just compensation or the return of property rights.

Twenty years after the meeting recorded in the *Verstovian*, ANB members began to take another look. The motivation was two-fold. First, the Indian Reorganization Act of 1936 authorized the Secretary of Interior to establish reservations, and Secretary Ickes, a leading “New Dealer” of President Franklin Roosevelt’s administration, was favorably disposed to wield this power on behalf of Alaska Natives. Second, as ANB leaders were beginning to realize, reservations had been the only means in the past by which Native Americans had retained ownership, however qualified, to significant sections of land. Furthermore, the Annette Island Reservation, a Tsimshian enclave, served as a model that proved the concept could be successfully applied to Alaska.

The problem with the reservation concept was that it offended the Tlingit and Haida aspiration to self determination. In the minds of most ANB members, becoming “reservation Indians” meant subjugating themselves to the authority of the Office of Indian Affairs. Intensely proud of their independence from government control, Alaska Natives preferred to think of themselves as “free Indians.”⁶⁴

The stubborn insistence on independence can be found in the sentiments recorded during the April 9, 1941, meeting of the “Tlingit-Haida Claims Committee,” held in spite of the objections by the Alaska Office of Indian Affairs. During the meeting, the political opposites, Roy Peratrovich and William Paul, expressed their common views: “I don’t think that there is a man in this room that would stand for the Office of Indian Affairs to dictate to us,” Peratrovich said when addressing the topic of how to organize the lawsuit allowed for by the Jurisdictional Act of 1935. William Paul, taking up the discussion, admitted that Peratrovich had “...just about taken my speech away from me.” Paul went on to say: “Never by a single word shall I concede a single right that belongs to me... I will have nothing to do with this suit if the record shows that there is some control over us by the Office of Indian Affairs.”⁶⁵

There was nothing surprising about the attitudes Peratrovich and Paul shared. The self-reliance of Southeast Alaska Natives had long been recognized, a characteristic that Sheldon Jackson and his fellow Presbyterians promoted for purposes Prof. Langdon believes were more political than benign (see *A Note on Terminology*, p. v). But in any event, the missionaries began referring to the Native people of Southeast as “Alaska Natives” rather than by the term “Indians,” distinguishing them from Native Americans of the “Lower 48” who were, for the most part, confined to reservations and dependent on the government.⁶⁶

In 1930 (before the Indian Reorganization Act), Alaska’s delegate to Congress, Dan Sutherland, was quoted as saying of Alaska Natives: “They are not wards of the government of the United States; they are absolutely a free people and have never yet been ... under the supervision of the Bureau of Indian Affairs... The Native people of Alaska do not want to come under this bureau. They live in dread of it.”⁶⁷

To Southeast Alaska Natives of this era, reservations were equated with imprisonment, wardship, and corruption. There was also the background fear, expressed frequently in letters and testimony during those years, that likened reservations to concentration camps.

During the 1941 Tlingit-Haida Claims Committee meeting, William Paul provided this succinct history of Indian reservations:

(The) earliest reservations that were established were military reservations and concerned Indians who were placed on reservations in the condition of prisoners of war. Then the Indian problem passed through a phase where control was turned over to civilian agents. Contracts were let by companies in which the agents themselves had interests, or their relatives, and a great deal of corruption came in that manner.

Reservations had one undeniable appeal to the ANB leadership: they had been the only means by which Native Americans succeeded in securing *title* to land and waters that could then be exclusively used by Natives. All other alternatives involved *recompense* for lands that had been taken. Even more appealing to Southeast Alaska Natives, establishing reservations meant taking control of surrounding ocean waters and resources, as did the Tsimshians on the Annette Island Reservation, who exercised exclusive control to waters along a 3,000-foot perimeter extending from the shoreline around the island.

During the 1940s, the ANB leadership began to imagine a type of Native reserve that would retain the benefits of exclusive land rights and control of fisheries along the shoreline, but preserve political autonomy free from federal bureaucratic control.

Joe Kahklen Sr. of Kake, a grade school teacher and a Tlingit fluent in his native language (he served as translator for Walter Goldschmidt and Theodore Hass in the land claims report of 1946, “Possessory Rights of the Natives of Southeastern Alaska”), captured the essence of the idealized reserve in a letter to Bill Paul Jr., in 1946:

If I have the information right, before our people (Indians) can claim legally any section of land collectively through aboriginal ownership, we must first file a petition

requesting same and which must be approved by the Secretary of the Interior. Such land when set aside would be called a 'reserve.' This land to be used exclusively by our people to further their economic livelihood, etc. I also know that such a move or an act on our part would not change or endanger our present status of citizenship. It seems to me under such a plan, we have everything to gain and nothing to lose; but we must act collectively and immediately if our demands are to be met with favorable results... Like so many of our people I personally dislike the term 'reservation' but look what it has done for Metlakatla... These people will continue for generations to come to draw on the natural resource of this land that has been set aside for them.⁶⁸

Efforts to establish reservations in Alaska met with early success due to the support of top Department of Interior officials in Washington, D.C., who clearly favored creating large reserves to protect Alaska Native lands.⁶⁹

In 1943, Secretary of the Interior Harold Ickes created by fiat huge reservations at Venetie, north of the Yukon River and near the border with Canada, and at Karluk on Kodiak Island, setting off widespread protests by politicians, industry representatives, and many federal officials of affected agencies in the Territory of Alaska. Despite the protests, Ickes proposed, several months later, to create three additional reserves in the Southeast villages of Kake, Klawock, and Hydaburg, primarily to protect fishing rights.

It was the specter of Natives reclaiming exclusive rights to land in Southeast that mobilized the opposition of timber interests, which had just begun planning the development of a pulp industry in the region; but the most vehement opposition came from a fishing industry that feared the potential loss of salmon resources in coastal waters.

W.C. Arnold, a lawyer for the salmon canning industry, attacked the reservation concept in "The Alaska Fishing News" in September 1944: "... if the (Indians') claims were recognized, it would result in the confiscation of a major portion of the salmon industry in Southeast Alaska."⁷⁰

In the fall of 1944, Secretary Ickes appointed Justice Richard Hanna⁷¹ to conduct hearings in Klawock and Seattle on the proposed Southeast Alaska reservations. Ickes directed Hanna to determine the "extent of Indian lands which should be protected by new legislation aimed at regulating Alaska fisheries."⁷²

The transcripts of the hearings provide fascinating reading. Alaska Natives, many elderly, testified to their long and continued use and occupancy of land in Southeast, describing their semi-migratory lifestyle to hunt, fish, and trap during the various seasons. Their testimony also described how the fishing industry's use of fish traps had circumscribed the participation of Alaska Natives in commercial fishing.

The testimony of George Edward Haldane, a Haida, provides insight into the Alaska Native perception of federally imposed fishing regulations. Haldane recounted how federal regulations had made it illegal to fish in streams, a traditional means by which Alaska Natives harvested salmon for subsistence purposes. He testified that Natives discovered new methods of "hooking off" (an early commercial seine fishing technique), commenting that by doing so "we

were getting along fine.” Government regulations required commercial fishermen to report, upon delivery of their catch, where the fish had been caught. “After several years of this system of catching fish,” Haldane said, “the traps were erected just exactly where we reported that we caught the fish from.”⁷³

Those favorable to the cannery interests used the opportunity afforded by the Hanna Hearings to mobilize opposition to the reserve concept. According to Prof. Haycox, certain business interests “felt the reserves would retard if not make entirely impossible the progress of the fishing industry, and the development of Alaska at all. Alaska’s Governor Gruening was among those opposed to reserves. Natives were clearly in the way, some witnesses implied, and reservations would lock them into place forever in the way of Alaska’s growth. Such views created an atmosphere which was oppressive to many Natives.”⁷⁴

Meanwhile, William Paul Sr. sponsored a resolution at the 1944 Grand Camp Convention in Kake that praised Ickes for his help, but disavowed reservations as the solution to the Native land question. Paul instead favored legislation that would transfer title to lands being directly used by Natives at that time, primarily land within village boundaries, as well as fish camps, smoke house sites, etc., and that would also provide compensation for the remainder of lands in Southeast that had previously been taken by government action. Although there is no direct link between this resolution and the Alaska Native Claims Settlement Act of 1971, it is interesting to note that the aspiration to receive private, fee simple title to defined tracts of land, and compensation for land taken, would constitute the essence of the future settlement.

While the resolution passed by majority vote at the 1944 convention, it did not have the support of Frank Johnson, an important leader from Kake, who had previously opposed reservations. He voiced his concern that the apparent disunity within the ANB on the question of the reserve concept would be exploited by anti-Native forces. Johnson, reflecting the shift of attitude that was taking place in the Native community toward “reserves” free of control by the Office of Indian Affairs, expressed his opinion that “it would be a tragic mistake to not ask for reservations...” because reservations might be the only opportunity Alaska Natives would have to reclaim land.⁷⁵

The subsequent Hanna Report, issued in the spring of 1945, recommended that only small tracts of land and limited waters be held in reserve. Judge Hanna’s decision satisfied neither the supporters of reservations nor the opponents. In any event, his recommendations would be ignored by the new Secretary of Interior, Julius “Cap” Krug (serving under President Harry S. Truman). Krug recognized the political obstacle presented by the Republican Party, which in the 1946 elections had won control of both houses of Congress.

Illustrating the stubborn independence of the people indigenous to Southeast Alaska, in December 1946, the village of Klukwan rejected the Department Interior’s approval of the petition for a 95,000 acre reservation that the village had filed in 1943. “They had thought in 1943 that the reservation would include full title to the land. When they learned that this was untrue, and that the reservation land would be held in trust for them by the Interior Department, they rejected the spectre of Indian Office control.”⁷⁶

At the 1947 ANB Grand Camp Convention at Hydaburg, the membership voted in favor of a 100,001 acre reservation encompassing the Haida community. (Secretary of Interior Krug, on November 30, 1949 — his last day in office — made official the Hydaburg Indian Reservation.⁷⁷)

The reservation issue did not appear to ignite passionate debate among the Alaska Native Brotherhood's general membership so much as spark disagreements over strategy among the organization's leadership. As explained by Edward K. Thomas, current President of the Central Council:

They knew that the people they represented did not really want to live on a single reservation but they also knew that if they were ever going to get land back or get compensated for the loss of aboriginal land title or both they could not tolerate language in any legislation prohibiting Indian reservations. Unappealing as they were to Alaska Natives, reservations were the accepted methodology of dealing with aboriginal land issues by the government of the United States.⁷⁸

In hearings held in Washington, D.C., during February 1950, Delegate Bartlett (1904-1968), consistently sympathetic to Alaska Native interests, stated his opposition to reservations in Southeast:

Now it is said that these won't be typical or customary reservations, as we know them in the States; they will be a different kind entirely. But I submit that when [Alaska Natives] aren't given the land and when, in addition, they aren't even allowed to cut the timber without the permission of another agency of the Federal Government on the land ostensibly handed to them, they are going to find their lives in every particular pretty seriously circumscribed.⁷⁹

Again, we note a conceptual framework consistent with the later settlement — ANCSA — conveying land to Alaska Natives free of the heavy hand of paternalistic government agencies.

Even though in retrospect it may seem difficult to square Bartlett's reputation as being empathetic to Alaska Natives with his steadfast opposition to reservations, he was adhering to his principles. Annette Island was but the exception to the rule: reservations in the Lower 48 were sinks of poverty, ill health, unemployment, and want. Like many New Dealers, Bartlett, an unrepentant assimilationist, believed in the "melting pot" theory of social dynamics that had worked for the disparate immigrants to America who had flooded through the gates of Ellis Island. An outspoken opponent of segregation, he believed the end result of reservations would be a division of the races in Alaska.⁸⁰

"Now the very same people who tell us that reservations in the United States have failed dismally are trying to convince us that reservations are the only answer of Alaska," Bartlett said in a floor speech in Congress: "I grieve that these people, the most of whom are so well intentioned, have not gone to the trouble of learning the facts."⁸¹

The Alaska reservation movement fell victim to obstructionists within the Alaska Office of Indian Affairs, contrary judicial opinions, intense opposition by the salmon canning, mining and logging interests of the day, and a lack of political support even from politicians friendly

to Alaska Natives. But more than anything, the concept of reservations lacked the support of the rank and file of the Alaska Native Brotherhood because of the fear that residency in reservations could mean losing rights of citizenship.

The denouement of the Alaska reservation movement came in 1952, when George W. Folta, federal district judge for Alaska, invalidated the Hydaburg Indian Reservation, ruling in favor of a salmon canning company. As Robert Price notes, “After sixteen years of contention, the one reservation established in Southeast Alaska under the Indian Reorganization Act was ordered out of existence.”⁸²

The election of Dwight Eisenhower later that year ushered in a conservative Republican administration. While the Secretary of Interior retained the right to establish new reservations in Alaska, the authority would not be exercised for the duration of the Eisenhower Administration, nor ever again.⁸³ As a final note on the reservation question, Price states: “In 1976, an obscure provision of the Federal Land Policy Management Act repealed the authority of the Secretary [of Interior] to establish Indian reservations under the Indian Reorganization Act.”

Although efforts to establish reservations in Alaska largely failed, there were consequences: almost everyone involved in the Alaska Statehood Movement came to realize that aboriginal claims actually existed and remained an unsettled issue. Over the next couple of years attempts would be made to settle these claims once and for all.

THE TRIBAL TERMINATION MOVEMENT OF THE EARLY 1950S

The first years of the Eisenhower Administration would mark the high water line of the “termination” movement, a period during which attempts were made in Congress, some successful, to end the special relationship between the U.S. Government and Native American tribes.

“Termination” is now largely recalled in the context of the disbanding of several tribes that occurred during the 1950s, but the political objective of ending the *government-to-government* relationship between tribes extended to Alaska in the form of efforts to abolish aboriginal claims.

In the years between the two world wars, Alaska moved into the center of the national consciousness as military leaders came to realize its strategic importance. By the time the statehood movement had truly begun, in 1946, the Iron Curtain had descended across Europe and the threat of Communism promised to become the overwhelming geopolitical issue facing the United States. This was at the dawn of the nuclear era, by which time the geo-strategic significance of Alaska was fully appreciated.⁸⁴

The termination movement, influenced by the strong sense of American exceptionalism that pervaded the country following World War II, was founded on the belief that Indians would do best by assimilating — a belief that in its most benign form recognized Native Americans as individuals with full rights of citizenship who would be far better off freed from the paternalistic grasp of often incompetent and sometimes corrupt federal bureaucrats. If Indians and Alaska Natives were fully assimilated, there would be no need for tribes.

At the far right of America’s political spectrum, termination was favored because, among other things, the very concept of tribalism seemed quasi-communistic and contrary to a financial system rooted in a capitalist free market economy.

To those who, for whatever reason, favored the termination of the federal relationship with tribes, recognizing the aboriginal claims of Alaska Natives seemed a step backward and, considering Alaska’s geo-strategic significance, potentially detrimental to the military security of the United States.

It was within this context that legislation to define and resolve aboriginal claims in Alaska began to receive serious attention.

The termination movement, never entirely absent from the inner sanctums of the federal government, crested in 1953 with the introduction of House Concurrent Resolution 108, which officially established tribal termination as the country’s Indian policy:

...it is the policy of Congress...to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship...”⁸⁵

The bill terminated the federal government's special relationship with all tribes in California, Florida, New York, and Texas, and specific tribes in Montana, Oregon, Wisconsin, Kansas, and Nebraska — in all, more than 100 tribes, or about 3% of all Native Americans.⁸⁶ The terminated tribes lost their legal status and some ceased to exist.

The momentum of the termination movement slowed when Democrats reclaimed control of Congress in January 1955. Eventually termination fell out of favor, but not before emptying many reservations, dissolving tribes, and scattering thousands of Native Americans into the lonely poverty of urban slums without the comfort of their extended families or any meaningful connection with their heritage.⁸⁷

POSTWAR POLITICAL REALITIES IN ALASKA

Statehood for the Territory of Alaska rose to the surface in the immediate aftermath of World War II, along with many other long-deferred national issues. The Territory's leading politicians, Gov. Ernest Gruening (1887-1974) and Alaska's non-voting delegate to Congress, E.L. "Bob" Bartlett, made statehood their top priority. Although there had been earlier attempts to bring the Territory of Alaska into the Union, it was this effort that gained momentum through the second half of the 1940s, finally succeeding when the Alaska Statehood Bill was signed by President Dwight D. Eisenhower in 1958.

In 1950, the population of Alaska had nearly doubled from the previous census, but the population of Alaska Natives had increased only slightly (less than 5%), and in that year, represented about one-quarter of the territory's population. By the time Alaska achieved statehood, the total population had again almost doubled, yet again the Native population increased in size only modestly, then representing about one-fifth of the total population, a ratio that has decreased only slightly in the decades since.⁸⁸

In the years 1945 to 1958, Alaska Native leaders observed with mixed feelings the advent of statehood, acutely aware that it would mean a major change for Alaska from federal to local control.

Up to that time, Alaska Natives had had an unhappy relationship with the federal government, which had assumed a "trust relationship"⁸⁹ similar to that for Native Americans in the Lower 48. All too often, Native Americans who found themselves dependent in any way on government services were subjected to rude and condescending supervision. Worse yet, especially for Alaska Natives who had no alternatives, the services provided fell far below the standards of similar services available to the non-Native population — nowhere was this discrimination more obvious than in the provision of health care. In the early 1950s, the exposure of the federal government's failure to address the tuberculosis epidemic in Alaska Native villages became a national scandal.⁹⁰

On the other hand, the federal government was the devil they knew. Who could predict that Alaska Natives would be better off with the government of a new state in the control of their non-Native neighbors?

It bears reminding that, for Alaska Natives, the Alaska during the statehood movement was very different from the Alaska of today. Although the basic tenets of citizenship had been acquired in the 1920s, civil rights had only been attained in 1945 with the "Anti-Discrimination Act" — the culmination of a long and vigorous lobbying effort by the Alaska Native Brotherhood and Sisterhood. The legislation could not overcome racism, a word by then in common use, but it did serve to begin the process of ending the worst aspects of racial discrimination. As Elizabeth Peratrovich replied to an Alaska legislator when the proposed law was debated in the Alaska Territorial Legislature, larceny, rape, and murder were illegal, but that did not stop those crimes. "No law will eliminate crimes, but at least you, as legislators, can assert to the world that you recognize the evil of the present situation and speak your intent to help us overcome discrimination."⁹¹

Through the 1950s and the first decade of statehood, very few Alaska Natives were to be found in top positions anywhere outside of federal employment. Racial prejudice remained a fact of life for Alaska Natives.

Although they represented a quarter of the population in the immediate postwar era, average Native representation in the Territorial Legislature during the time of the Alaska Statehood Movement was less than 10 percent. Of the 55 delegates to the Alaska Constitutional Convention in Fairbanks (winter of 1955-56), only one, Frank Peratrovich, was an Alaska Native.

Nonetheless, Alaska Natives were not ignored. Alaska's Delegate to Congress, Bob Bartlett, who held the only Territory-wide elected position, remained loyal to his Alaska Native constituents, from whom he could count on strong electoral support.⁹²

Describing Bartlett's first election in 1944 as Alaska's non-voting Delegate to Congress, Don Mitchell writes: "Bartlett's early views on the settlement of Alaska Native land claims reflected an empathy that transcended the prejudice of the society of which he now was a leader."⁹³

If there was a single issue around which all Alaskans, most enthusiastically Alaska Natives of Southeast Alaska, could rally, it was fish traps — not the river traps upon which Alaskans who lived along the interior river systems depended, but the large, industrial traps, hundreds of which lined Alaska's coasts trapping migratory salmon by the tens of millions. The goal of statehood was strongly linked to the abolition of fish traps by a majority of Alaskans.

The Native people of Southeast — Tlingit, Haida, and Tsimshian — largely depended on the fisheries for their livelihoods. The widespread perception was that fish traps, most of which were owned and controlled by corporations based outside of Alaska, were preventing Alaska Natives from making a reasonable living in fisheries.

In 1953, at the age of 12, Edward Thomas, now President of the Tlingit-Haida Central Council, began working on a seine boat out of Craig during the summers. "Not only were the fish traps consuming a lot of fish, but they were reducing the prices, an all around price reduction for troll-caught and seine-caught fish," he explains.⁹⁴

Throughout its own history, the Alaska Native Brotherhood, while meeting at the Grand Camp conventions, repeatedly passed resolutions requesting the abolition of fish traps. Many, perhaps most, Alaska Natives in Southeast considered the promised abolition of fish traps to be a good enough reason to support statehood.

STATEHOOD AT THE SACRIFICE OF ALASKA NATIVE CLAIMS

In the mid-twentieth century, ongoing efforts by Congress to settle Alaska Native claims intersected with an accelerating Alaska Statehood Movement.

In 1946, the Tlingit-Haida Central Council (i.e., the Alaska Native Brotherhood Executive Committee) contracted with James Curry, an attorney then working for the National Congress of American Indians (NCAI, established in 1944), to pursue the Tlingit and Haida lawsuit. Curry would not be successful in bringing the lawsuit to fruition, in part because of a feud that developed between him and William Paul Sr., but most of Curry's difficulties were due to his antagonistic relationships with key congressmen and Department of Interior bureaucrats. Curry's work on behalf of the ANB did, however, prove crucial in helping Alaska Natives deflect and defeat legislation adverse to Native claims.⁹⁵

The success of the ANB in convincing Congress to grant the Tlingit and Haida people jurisdiction to pursue their claims in 1935, and then, a year later, to extend the Indian Reorganization Act to Alaska, had consequences that played out over the next decade. The actions by Interior Secretary Ickes under Section 2 of the 1936 Indian Reorganization Act to create reservations in Alaska, the Hanna Hearings on the possessory claims of Alaska Natives, and the initial filing of *Tlingit and Haida Indians v. United States* in 1947 — all raised the awareness of political and business leaders that aboriginal title was an issue yet to be settled in Alaska. Until it was, uncertainties surrounding land ownership would cast a shadow on the nascent Southeast Alaska pulp industry and threaten the salmon canning industry's chokehold on commercial fisheries.

The solution favored by pro-timber interests was to have introduced in Congress a bill that would allow the Forest Service to sell timber “regardless of whether the land on which the trees were located was subject to aboriginal title.”⁹⁶ As Prof. Haycox explains:

After World War II the Alaska regional forest director pursued aggressively a plan to develop as many as five major pulp mills in the Tongass Forest. Forest Service bureaucrats discounted the notion of aboriginal title, arguing that the most land in the archipelago Indians might be entitled to was that which their dwellings occupied.⁹⁷

The Tongass Timber Act⁹⁸ was drafted to allow timber contracts to proceed. The Alaska Native Brotherhood, fearful that this legislation would compromise its claims, sent Frank Johnson, Andrew Hope, Fred Grant (a Haida leader), and Frank Peratrovich to D.C. to testify against the bill in 1947.

The opposition by these Alaska Natives to the legislation did not stop its enactment just before Congress went into summer recess in late July of 1947. But the presence of articulate Alaska Native advocates in Washington, D.C., lobbying for aboriginal title, helped move the issue onto the national stage. Under the authority of the new legislation, the U.S. Forest Service signed a fifty-year contract with the Ketchikan Pulp and Paper Company for 8.25 billion board feet of timber. The bill required, however, that the proceeds from timber sales be deposited in a special account “until the [Native] rights to the land and timber are finally determined.”⁹⁹

Earlier in the same year that the Tongass Timber Act became law, the first Alaska statehood bill to be taken seriously, H.R. 206, was introduced by Bob Bartlett. It failed to mention Alaska Native claims.

James Curry, in testifying before Congress on the statehood bill, spoke to the absence of any treatment of aboriginal title. He noted that most recent statehood bills for other states included a standard disclaimer clause by which the citizens of a new state would disclaim all rights to lands acquired by the U.S. government that may have been held by Native Americans. These provisions, he said, “are universal in the western statehood bills providing for the protection of Indian property rights.” Curry warned that without the provision, the Alaska Native Brotherhood, the National Congress of American Indians, and their allies would oppose the bill.¹⁰⁰

This led to a series of “extinguishment” bills that attempted to clear title to the lands of Alaska in order to open the way for statehood: H.R. 7002 (introduced in June 1948), H.R. 4388 (June 1951), and H.R. 1921 (January 1953).

Most people engaged in the debate over the extinguishment bills agreed that Alaska Natives should be granted legal title to land they used and occupied at that time. The key argument was over “abandonment.” Were Alaska Natives due compensation for and/or title to land they no longer used or occupied?

Alaska Natives and their allies looked upon “abandonment” as a transparent excuse to legalize the seizure of Native property. Federal agencies continued to ignore “use and occupancy” by Alaska Natives on widely dispersed lands where they tended gardens, established seasonal fish camps, and hunted and trapped. In few areas was the uncompensated taking of property rights more obvious than in Southeast Alaska, where the U.S. Forest Service ignored use by Natives of land on islands to which the agency granted exclusive-use permits to non-Native fox farmers.

A key provision of H.R. 7002 authorized the Secretary of the Interior to convey legal title to Alaska Natives for limited amounts of land occupied “for towns, villages, buildings, smoke houses, cultivated fields or gardens, hunting or fishing camps, burial grounds, missionary stations, meeting places, or other improvements.”¹⁰¹

The central argument that would be debated at great length was what to do about land that had, depending on one’s perspective, either been “seized” or “abandoned.” The ANB leadership and their attorneys and advisors held to the belief that taking of land by the government had “extinguished” aboriginal title, without cover of treaty or Congressional action, for which Alaska Natives deserved to be compensated. Since the legislation would recognize that by taking the land the federal government had extinguished aboriginal title, the ANB focused on how or if the government intended to provide compensation. By July 1947, the Tongass Timber Act had become law and few Alaska Natives, certainly none of the leadership, harbored hopes of reclaiming most of the region. But there existed the option of establishing reservations, and how the extinguishment legislation would affect that option remained a topic of deep concern to ANB leaders.

According to Bob Bartlett, the authors of the first extinguishment bill — H.R. 7002 — did

not believe aboriginal possessory rights existed in areas other than land currently occupied. Bartlett clearly felt aboriginal claims deserved to be more expansive. The bill allowed Alaska Natives to claim additional lands that the village residents might need to “maintain an adequate standard of living,” yet this seemingly realistic and forward thinking provision was rendered distasteful to Alaska Natives because any such additional land would be held in trust by the Forest Service, and less than generous since the U.S. would retain the subsurface estate.¹⁰²

Under the terms of the bill as written, each community of Natives, as well as individual Natives, would have to file suit in U.S. District Court to obtain compensation for lands.¹⁰³ This provision added another issue: How would the attorneys needed to fight these legal battles be compensated?

The ANB’s attorney, James Curry, and his NCAI allies, joined by several “friends of Indians” organizations, aggressively opposed H.R. 7002 on the grounds that its principal aim, the extinguishment of aboriginal title, would be accomplished on unfair terms. Joining in opposition was the National Advisory Committee on Indian Affairs, an eleven-member group appointed by the Secretary of Interior.

When the issue reached the Office of President Harry Truman, who considered himself a friend to Native Americans, the opposition Curry and his allies had stirred up convinced Truman to speak against the extinguishment legislation. “I have been informed,” Truman wrote to his Secretary of Interior, Julius Krug, “that one of the problems holding back the development of Alaska has been the matter of unresolved Native claims. Legislation has been proposed which is not satisfactory and which should not be passed.”¹⁰⁴

In response to Truman’s objections, H.R. 7002 was revised, but Congress did not concur and the legislation was dropped early in 1950.

Up until 1950, all of Bob Bartlett’s efforts to procure serious consideration for a statehood bill had been stymied by Republicans who knew that Alaskans would elect Democrats to the U.S. Senate. At the beginning of the year, however, Speaker of the House Sam Rayburn, D-Texas, circumvented the rules that had conspired to mothball Alaska statehood bills. In March, the Alaska statehood bill (H.R. 331) passed the House. But again, as with the 1947 bill, a disclaimer clause maintaining Alaska Natives’ land rights was omitted, sparking James Curry to once again rally opposition. “In June the stink Curry generated accomplished its objective when the Committee on Interior and Insular Affairs released a second draft of its statehood bill into which the Native land rights disclaimer section had been reinserted.”¹⁰⁵

Senator Hugh Butler (R-Montana) tossed a poison pill into the mix when he amended the statehood bill to revoke existing reservations in Alaska and repeal the authority of the Secretary of Interior to create new ones. Butler was as much an opponent of statehood for Alaska (he believed Alaska would not have sufficient revenues to support a state government) as he was of aboriginal rights.

Native American rights supporters again rallied to the cause.

Former interior secretary (1933-1946) Harold Ickes, wrote to the Secretary of Interior Oscar

Chapman (1950-1953), that it was “a particular shock to me that this further effort is being made to deprive the Indians of Alaska who are entitled [to] their immemorial property rights.” He described the amendment as a “raid on the property” of Alaska Natives. On the same day, Ickes wrote a letter to Sen. Joe Mahoney (D-Wyoming), in which he explained why he felt it important to retain the option of establishing reservations in Alaska:

The theory of permitting the Indians of Alaska... with their consent... to set up reservations was evolved by the Bureau of Indian Affairs when I was Secretary of the Interior... We could think of no other way in which to stop whittling away, not only the Indians’ property, but their fishing and other rights... But what really shook me is your statement, “Alaska natives are citizens of the U.S. and ought to be treated as such.” They have never been regarded, except in individual instances, as better than second or third-class citizens. Prior to the Roosevelt administration, Indians were being given individual property rights [a reference to the Dawes Act of 1887], under the pretense of putting them on a footing with white citizens and making them equal and independent. This was just a subterfuge for robbing the Indians blind.¹⁰⁶

When the next ANB/ANS Grand Camp Convention convened in Craig in November 1950, the anti-reservation provision remained a hot topic. James Curry and Gov. Gruening, addressing the convention delegates on separate days, presented opposing views on reservations and aboriginal claims.¹⁰⁷

Curry began his remarks by recognizing his co-counsels, Bill Paul Jr. and Clarence Lindquist, and describing their assignment by the ANB (as the attorneys understood it), which was to obtain title through “reservation orders” to “certain land and waters [Southeast Natives] still own,” and to obtain “payment through the Court of Claims for lands and waters that have been taken from the Indians in the past.” By owned, Curry was referring to land set aside for reservations.

It was Curry’s opinion that the fight over the reservation question was entering its final phase. He warned his audience not to accept the recommendations of “Delegate Bartlett and Gov. Gruening to induce the Natives not to accept this property.”

On the topic of statehood, Curry strongly advised the ANB delegates to oppose “the present version of the Statehood Bill” (H.R. 331).

In his address two days later, Territorial Governor Ernest Gruening clearly failed to get an accurate read on his audience. The governor’s role in winning civil rights for Alaska Natives would command the respect of Alaska Natives throughout his political career, but in this speech, he demonstrated an insensitivity to Native aspirations. He disparaged reservations “as a step backward” that would create a class system, and dismissed Native efforts to reclaim land by implying that within a reservation their freedoms would be circumscribed; even though they might not own any land without reservations, they were “completely free.” Gruening advised his audience to “stop pursuing the reservation title myth and go after [compensation for] aboriginal claims to lands the title of which has already been lost.” When asked pointed questions from the audience, Gruening was unprepared. In an attempt to play on Native fears of becoming wards of the government, he used the Metlakatla Reservation as an example. A member of the audience corrected him by explaining that the Tsimshians of Metlakatla had adopted a quasi-independent form of tribal government under the terms of the Indian Reorganization Act.

Gruening simply did not believe Alaska Natives had special rights, aboriginal or otherwise: he believed they were citizens who enjoyed the same rights and privileges he himself enjoyed. It was this belief that had motivated Gruening's strong support for the Anti-Discrimination Act that he signed in 1945. While Gruening supported compensation for lost lands, he never supported efforts of Alaska Natives to reclaim title to any lands other than those that they actually occupied.

The 1950 Grand Camp passed a resolution, introduced by Frank Johnson of Kake, by which the ANB resolved to "make every effort to get [the statehood] bill amended to conform with other recent Statehood Enabling Acts [by including a disclaimer clause,] and to eliminate the clause forbidding confirmation of Native land and water rights [i.e., blocking the authority to create reservations]." If they could not get a neutral disclaimer clause in the statehood bill, Johnson recommended working to defeat the passage of that statehood bill.¹⁰⁸

A "Dear Senator_____" circular, written by James Curry on November 27, 1950, labeled the resolution "anti-statehood," and stated that the resolution had passed the ANB unanimously. In his letter, Curry explained that most Alaska Natives favored the statehood bill until "the 'joker'... was inserted, cheating them of their right to reserve for their own use any part of the lands that they inherited from their aboriginal ancestors." He went on to write:

Gruening... spoke for hours, urging the Indians to forget about keeping land for themselves, as authorized by law, and to back the Statehood Bill. But the Indians adopted a resolution insisting on their rights and opposing any bill like the one now before the Senate which limits or revokes the power to create such land reservations. In spite of Gruening's pleas, the vote on this resolution was unanimous.¹⁰⁹

The following year, Governor Gruening's anti-reservation stance received another strong rebuke from the ANB which, by unanimous resolution, opposed "any legislation which contains provisions limiting or abolishing the authority of federal officials to confirm Native land title as said Natives desire and are legally and equitably entitled to, whether by designation of reservations or in any other manner."¹¹⁰

Neither Gruening nor Bartlett missed the point: they would lose the support of the ANB for any Alaska statehood bill that would appear to compromise Alaska Native rights.

THE ISSUE THAT WOULD NOT GO AWAY

It would have been politically dangerous for Bartlett to leave the issue of aboriginal title unresolved. By the 1950s, unsettled Native claims had come to be seen as the primary obstacle to industrial and economic development in Alaska, and clearly stood as a major barricade across the road to statehood. In June 1951, responding to a request by the Alaska Territorial legislature, Bartlett introduced H.R. 4388, another extinguishment bill similar to H.R. 7002, except it included a provision that limited the time period for Natives to assert title to land to only two years.

Those who supported Alaska Native claims were predisposed to oppose this legislation, which became known variously as the “Possessory Claims Bill,” the “Bartlett Land Bill,” and the “Alaska Native Claims Bill.” They may have taken some comfort, however, in the opposition to it by advocates of the brand new Southeast Alaska timber industry. The assistant chief of the National Forest Service “complained that the bill recognized a ‘roving type’ of Native use and occupancy that might be asserted ‘to virtually’ all the national forest land in southeastern Alaska.”¹¹¹

Depending on the amendments offered, the extinguishment legislation would gain and lose Native support over the next few years. William Paul and his “clique” (as his opponents characterized the Paul faction) appeared to support H.R. 4388, while James Curry and the Peratrovich contingent in the ANB opposed it. Reading the intensely combative letters between both sides during this period, it seems as if they were at loggerheads on the issue, when in fact one side would reluctantly support the bill with amendments, while the other side would remain implacable in its opposition unless the legislation were amended.

At the November 1951 annual convention of the Alaska Native Brotherhood in Ketchikan, William Paul Sr. introduced a resolution demanding that H.R. 4388 be amended, arguing that “a failure on the part of Congress to adopt [the amendments] should entail the most vigorous opposition of this body and its friends.”

James Curry, in testimony before the U.S. Senate on February 11, 1952, described the nature of his work as an attorney for the Tlingit and Haida people: “We are not only trying to collect for them for the land taken, but also to defend the present right to the possession of that land that has not been taken.”¹¹²

As Curry went on to explain, he meant compensation for lands taken to create the Tongass National Forest; the land that “has not been taken” referred to those set aside by the Secretary of Interior as reservations for Alaska Natives. Explaining the circumstances his clients found themselves in, he said:

There isn’t any provision of the law to file suit to get possession of land, [but] the Wheeler-Howard Act [the IRA] provides the remedy under which the Secretary of the Interior may set aside land for these Indians. It is the same procedure, Senator, that was always used throughout the country from the very beginning. The only Indians that have ever gotten any land, if any of their land was left, were Indians who got reservations.... That is the way it has always been done. ... That is the only way of doing it.¹¹³

By late 1952, Curry was dead-set against any extinguishment legislation. In a hyperbolic circular to the ANB in late October 1952, he provided his clients a worst case (and entirely unlikely) scenario: “[The] Bartlett Bill, which would have confiscated all your property, even including your houses... has been blocked thru my efforts, coupled with those of the National Congress of American Indians, and in spite of the contrary efforts of William Paul Sr. ...”¹¹⁴

To which William Paul Sr. responded that the ANB Executive Committee “did not try to get this bill passed,” and explained that he had testified before the House Committee that the Executive Committee would support the bill only if it were amended.¹¹⁵

By this time, Curry was at the end of his rope, personally and professionally. In his book, *Then Fight For It*, Fred Paul recalls sharing dinner in Seattle with Curry, who was on his way to Alaska. Curry was so exhausted he fell asleep at the table.¹¹⁶

Despite the enmity between Curry and their father, Fred and Bill Paul appeared to have enjoyed a collegial working relationship with Curry. Fred Paul credits Curry for “heroic efforts on behalf of his clients,” during which “he sustained many personal attacks... Curry is another unsung hero in the long history of our struggle.”¹¹⁷

By the close of 1952, Curry was no longer practicing Indian law. He blamed the Department of Interior, which had undermined his law practice, for denying Indians the right to representation by any lawyer other than those who agreed to be controlled by the department.¹¹⁸

To Curry belongs the lion’s share of credit for mobilizing national opposition to Congressional efforts adverse to Alaska Native interests, through 1952. The National Congress of American Indians continued to support the Alaska Native Brotherhood, although without Curry as the organization’s attorney and Alaska liaison. The Tlingit and Haida lawsuit that had brought Curry into the ANB’s orbit had since been passed on to attorneys I.S. Weisbrodt and David Cobb, who litigated the case to a conclusion.¹¹⁹

The fight to amend the extinguishment legislation and protect Alaska Natives’ right to fair compensation continued. In a letter dated February 24, 1953, Bill Paul Jr. informed Grand Camp President Joe Williams that a new version of H.R. 4388 had been introduced as H.R. 1921, and that he generally supported it (so long as it was amended). Illustrating the ANB’s internecine battles of the time, Peter C. Nielson, Grand Secretary, responded to the letter with a blistering attack on the Pauls, father and son, charging them with “apparent indifference to protect the fast diminishing rights of Alaska Indians.”¹²⁰

A resolution passed by the NCAI convention in 1953 requested that Congress hold more hearings on the legislation, noting that Alaska Natives had previously testified, but that the bill had been significantly changed since then. “(Alaska) Natives have had no opportunity to express their views with respect to these additions, amendments, and the report of the Department of the Interior.”¹²¹

During this period, Elizabeth Peratrovich¹²² was serving as the ANB’s liaison to the National Congress of American Indians (NCAI), while John Hope, Andrew’s son, was serving as Grand Camp Secretary. It appears the Hopes maintained a relatively neutral position in the Paul-Peratrovich feud in spite of William Paul’s withering criticism of both Hopes, especially John Hope, to whom he addressed a stream of hectoring and condescending correspondence.

On November 30, 1953, Peratrovich wrote a letter to Helen Peterson, the NCAI executive director, requesting the organization's help. Illustrating the interfamily nature of the dispute between the Pauls and the Peratroviches,¹²³ Elizabeth took a gratuitous swipe at Bill Paul Jr. before getting to her point: "Some of the members [of the ANB] do not have complete faith in the A.N.B. attorney, Wm. Paul Jr. and whatever you people can suggest on [H.R.] 1921 will be greatly appreciated. There is of course the possibility that the Interior Department may make further recommendations as to amendments to H.R. 1921."¹²⁴

Both sides of the ANB — the Peratroviches and the Pauls — agreed that the two-year time limit for asserting claims was entirely impractical. In spite of all the acrimony that filled their back-and-forth correspondence, there seemed to be general agreement that, with amendment, H.R. 1921 could be made to work for the benefit of Alaska Natives.

In a circular to the Grand Camp Executive Committee, dated January 5, 1954, William Paul's son Bill, the ANB's attorney, referred to the motion passed by the 1953 Grand Camp convention opposing H.R. 1921, "unless six points are adopted." The purpose of his letter was to articulate those points as he understood them.

The ANB's proposed amendments, the younger Paul summarized, would:

- 1) Insert the phrase "Community of Natives" alongside that of "Indian Tribes," reflecting the IRA definition of Alaskan tribal entities.
- 2) Extend the statute of limitations by which claims could be made, from two to five years.
- 3) Clarify attorney fees to avoid the possibility that Native property could be seized to pay legal debts.
- 4) Retain the authority of the Secretary of Interior to establish reservations [Bill Paul argues that retention of this authority would kill the bill, and that the better tactic might be to concede the point but have the amendment affirm retention of existing Alaska reservations].
- 5) Require that possessory claims be judged on the basis of "fair and honorable dealings" [Paul argues this might be too vague, but agrees with the proposed amending language asserting that "trespass does not cause the loss of any rights," thereby reaffirming the ANB's position regarding the abandonment issue].
- 6) Eliminate a "double standard" of determining land claims [apparently an attempt to resolve an often impossible burden of proof for Native claims to land taken by private interests, such as fox farms, canneries, homesteads, and mines].¹²⁵

In the first week of January 1954, Bill's father, William Paul Sr., wrote to J.C. Peacock, the Washington D.C. attorney who had filed the lawsuit on behalf of the Tee-Hit-Ton Clan, informing him that he and Andrew Hope would be in Washington, D.C. "for an indefinite stay to see if we cannot save [H.R. 1921]." In the letter, Paul expresses his ambivalence about the legislation: "We consider it wicked and unconscionable for a great and big government like ours to legislate a matter that should not be done except by a court," and then he gets to the point, addressing the abandonment issue head on: "Our Indians were praised because they

were ‘peaceful’ but now the very absence of bloodshed is used as proof that we (our ancestors) either didn’t claim the land or else abandoned it to the johnny-come-latelys.”¹²⁶

Preempting the need for William Paul and Andrew Hope to travel for the purposes of “saving” H.R. 1921 by getting it properly amended, Helen Peterson¹²⁷ of the NCAI wrote Mrs. Peratrovich and ANB Grand Secretary John Hope on January 22, 1954, after receiving a copy of William Paul’s letter to Peacock. She informed Peratrovich and Hope that the legislation was postponed because of revisions made to H.R. 1921 by the Department of Interior. It appears that neither she, nor any other advocate for Alaska Natives, had been advised of Interior’s proposed revisions.

Peterson reported to John Hope and Elizabeth Peratrovich the substance of the testimony NCAI representatives had made on behalf of the ANB to postpone congressional action on the bill. One legislator “tried to say that after all, you folks [the ANB] had had seven months in which to study the proposed revisions. At that point Congressman Aspinall of Colorado called his attention to the fact that you could not possibly have studied the January 11 proposed revisions [introduced only 11 days earlier].”

Peterson informed Mrs. Peratrovich that a colleague from the American Association on Indian Affairs “indicated he was going to advise Mr. Paul that, as far as he was concerned, [William Paul Sr. and Andrew Percy Hope] were not the spokesmen for the ANB on the bill.” Helen Peterson, demonstrating her appreciation for who was in charge, wrote that she would not allow her colleagues to dictate to the ANB: “as far as the NCAI is concerned, we get our instructions from our authorized field representative, Mrs. Elizabeth Peratrovich, and the secretary of the ANB, Mr. John Hope [Andrew’s son]...”¹²⁸

As it turned out, the revisions proposed by the Department of Interior were so injurious — blocking any kind of compensation to Alaska Natives for extinguishment of occupancy title — that, had they been so informed, even William Paul and Frank Peratrovich would have found common cause.

To resolve the question of representation of the ANB in Washington, D.C., John Hope sought direction from Grand Camp President Patrick Paul (no relation to William Paul). The president responded on February 6, 1954, with a maddeningly indirect letter. Instead of answering Hope’s query directly, President Paul deferred to a letter he attached from ANB Executive committeeman, Alfred Widmark, who had advised him (President Paul) against sending William Paul Sr. to Washington. Widmark’s reasoning was the ANB should not be underwriting what amounted to a private interest lawsuit (*Tee-Hit-Ton*).¹²⁹

Although William Paul was being shunted aside, it was his aggressive pursuit of the *Tee-Hit-Ton* lawsuit that may have saved aboriginal title from being rendered irrelevant. Unbeknownst to ANB leaders in the early months of 1954, the revisions recommended by the Department of Interior, in league with the Department of Justice, would have had H.R. 1921 “deny Alaska Natives compensation for the extinguishment of aboriginal title.”¹³⁰ The work on the bill stopped on the advice of government attorneys because the decision on *Tee-Hit-Ton* was immediately pending, which might have rendered moot the need to enact the legislation.

Considering the Supreme Court's impending review of aboriginal title, the Department of Interior's legislative counsel advised Congress to take no further action on H.R. 1921. "[With] Bob Bartlett's wholehearted agreement, the subcommittee members voted to stop work on H.R. 1921."¹³¹ Had the revised version of H.R. 1921 been enacted, "Alaska Natives would have been left with no money and little land other than the few acres located inside the [boundaries] of their villages."¹³²

The decision on *Tee-Hit-Ton*, issued by the Court of Claims in April 1954, found that neither the Treaty of Cession nor any subsequent act of Congress or federal statute had "recognized" Alaska aboriginal title. The court also found that since "unrecognized title was not 'private property' [that] the Takings Clause of the Fifth Amendment required the United States to pay compensation to extinguish, the Tee-Hit-Tons were not entitled to payment for their loss."¹³³

James Peacock, representing the clan, appealed *Tee-Hit-Ton* to the U.S. Supreme Court, which agreed on June 7, 1954, to review the case.

In the meantime, another attempt was in the works to deny aboriginal claims: Senator Butler, R-Montana, who did not believe aboriginal possessory rights existed in Alaska, or indeed anywhere, pushed forward amendments to the Alaska statehood bill that included a "disclaimer clause" in name only. The clause Butler proposed would have achieved the intent of the revisions to H.R. 1921 made by Interior and Justice limiting Native claims to land "in the possession and actually in the use or occupation of [Alaska Natives]... or any community of such Natives." The statehood bill was now worded to allow the State of Alaska to select any "vacant, unappropriated and unreserved" land other than the few acres of "real property that is owned by or, for a period of at least three years immediately prior to the enactment of this act, has been in the possession and actually in the use or occupation of [Alaska Natives]." In other words, Natives would get the property within the boundaries of their villages, but little more.

This statehood legislation died when the House of Representatives failed to pass the "Hawaii-Alaska Statehood bill." So did Senator Butler, who passed away in his sleep in July of 1954 at the age of 76.¹³⁴

Thus ended the most serious of the extinguishment threats to aboriginal title in Alaska. Although the Supreme Court upheld the lower court's *Tee-Hit-Ton* ruling, issuing its decision in February 1955, it conceded that aboriginal title existed — that such title remained as yet "unextinguished." The decision was a severe personal loss for William Paul, the Tee-Hit-Ton Clan, and the lawyers representing them, in that under the ruling no money could be recovered for lost land and land resources. But the silver lining for Alaska Natives was the Court's conclusion that aboriginal title in fact existed and, other than for specified lands, such title had not been extinguished by Congress.

While the *Tee-Hit-Ton* decision clarified occupancy title, it did not remove the legal "cloud" that unresolved aboriginal title cast over vast tracts of Alaska.

The statehood bill was resurrected in January 1955 as S. 49. With Democrats back in control of Congress, Bob Bartlett succeeded in restoring the disclaimer clause that became Section 4 of the Alaska Statehood Act.¹³⁵ Under this clause, future citizens of Alaska disavowed "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 (hereinafter called Natives).”¹³⁶

With a disclaimer clause neutral on the topic of aboriginal rights, the issue was left to be resolved at a future date.

The Alaska Constitutional Convention, which took place in Fairbanks between November 6, 1955 and February 6, 1956, brought together 55 elected delegates from throughout Alaska, among them Frank Peratrovich, the only Alaska Native who participated in drafting Alaska’s constitution. In April of 1956, in a special referendum, Alaskans ratified the constitution by a two-thirds vote of approval.

Two years later the U.S. House of Representatives passed the Alaska Statehood Act by a vote of 208 to 166, and the Senate, by 64 to 20. President Eisenhower signed the bill into law on July 7, 1958.

Within a few years, oil lease activities and land selections by the State of Alaska began to alarm Native leaders. The subsequent Native protests created “a huge conundrum, for doubts about title inhibited potential investors from taking any action toward development until they could be assured there would be no title questions.”¹³⁷

In January 1966, a 22-year-old Inupiat, Charlie Edwardson of Barrow, wrote to William Paul Sr.¹³⁸ In his letter, Edwardson informed Paul that he and other Inupiats were in the process of organizing the North Slope Native Association. They were organizing, he wrote, because their ancestral lands were “being exploited for oil and other minerals by the state and federal governments and also by private agencies... We want your advice and counsel in the matter and will want you to act as attorney for the group...”¹³⁹

Two weeks later, Paul wrote to the federal Bureau of Land Management and to Alaska Governor Bill Egan on behalf of his client, the North Slope Native Association, asserting aboriginal title to “the expanse of Alaska north of the Brooks Range, some sixty million acres of federal land.”¹⁴⁰

Paul’s letter set in motion a series of events that led to Secretary of Interior Stewart Udall’s indefinite suspension, in December 1966, of oil leases on the North Slope — the first step in what was to become a much broader “land freeze” that would not be lifted until the issue of aboriginal title in Alaska was settled.¹⁴¹ In the face of intense pressure from the State of Alaska, Udall stood his ground, writing in a letter to Edgar Paul Boyko, then Governor Wally Hickel’s attorney general, on August 10, 1967: “This is a highly complex legal, political and moral problem. I trust the state is not intent upon depriving the Alaska Natives of the lands they use and occupy and need for their livelihood.”¹⁴²

With the land freeze, in part a consequence of Paul’s letter, the State of Alaska was checked, and forced to find a way out of the position. By virtue of his longevity and persistence, William Paul Sr., who had helped initiate the Alaska Native claims movement in 1929, played a key role in the final resolution of those claims.

CONCLUSION

The Alaska Native Brotherhood, as represented by William Paul Sr., collaborated with Alaska's non-voting delegates to Congress to win approval of the Jurisdictional Act of 1935 and the extension of the Indian Reorganization Act to Alaska in 1936. The resulting lawsuits, *Tee-Hit-Ton v. United States* and *Tlingit and Haida Indians v. United States*, and the extension of the IRA to Alaska, were the swords that defined the issue of aboriginal title and elevated it to the national stage during the years of the Alaska Statehood Movement.

The rise of conservatism in the postwar period created a political climate hostile to Native American issues. From 1944 through the mid-1950s, ANB leaders were forced to deploy every means at their disposal to *shield* aboriginal claims against efforts that would have eliminated those claims or rendered them meaningless. In this effort the ANB also succeeded.

The Alaska Native Brotherhood was not alone, but it was indispensable. Without it, Alaska's congressional delegates would have had no credible organization with which to collaborate on issues of importance to Alaska Natives; and without the ANB all those who represented Alaska Natives interests before Congress would have been without credentials. It was the ANB that fielded — and provided funding for — the lobbyists and attorneys who participated in defining Alaska aboriginal title. And it was the ANB that maintained the crucial alliance with the National Congress of American Indians.

The Alaska Native Brotherhood and its allies deflected and delayed all attempts to legislate solutions to the question of aboriginal rights in Alaska through the mid-1950s, politically the least favorable period for Native Americans in the modern history of the United States, successfully protecting aboriginal claims until they could be considered in a more favorable political climate.

There is irony in how things turned out: the leaders representing the Inupiat, Yupik, Athabascan, and Aleut groups who founded the Alaska Federation of Natives (AFN) in 1966 to pursue Alaska Native claims, threatened to exclude the Tlingit and Haida people because they had “won” their lawsuit in 1959. But, in January of 1968, the paltry nature of the victory became all too apparent when the Court of Claims awarded the Central Council of Tlingit and Haida Tribes of Alaska a mere \$7.5 million judgment award for the taking of nearly 20 million acres, the ostensible value of the land more than 60 years earlier. As a result, sentiments within the AFN changed, just enough so that the organization agreed, by the narrowest of margins, to include the Native people of Southeast Alaska in the statewide effort to settle Alaska Native claims.¹⁴³

It soon became apparent the AFN had made a wise decision. Using the interest earnings of the settlement fund, the Central Council established offices, hired staff, and began working in concert with the AFN. In early 1971, the Central Council loaned the AFN \$100,000 to support the final lobbying effort in Congress.¹⁴⁴

With the State of Alaska frozen out of land selections and with the discovery of a massive oil field at Prudhoe Bay, the cloud hanging over the title to Alaska lands had to be removed. These circumstances conspired with new attitudes toward civil rights and equal justice to result in the largest resolution of aboriginal claims in the history of the United States — the

Alaska Native Claims Settlement Act, which was signed into law on December 18, 1971.

It had taken the United States courts almost 100 years to recognize that the 1867 Treaty of Cession with the Russians had left unresolved aboriginal title in Alaska — that the people who used and occupied the land surrounding the isolated Russian outposts were the original owners of Alaska. The 44 million acres and nearly one billion dollar settlement of Alaska Native claims in 1971 finally extinguished aboriginal title in Alaska. Other matters such as subsistence rights, tribal sovereignty, and the special government-to-government relationship with the United States remain unsettled or unextinguished.

ANCSA has served to vindicate early ANB leaders who believed so strongly in American ideals, among the most important that which is chiseled above the entrance to the U.S. Supreme Court: *Equal Justice Under Law*. The men and women who started the Alaska Native Brotherhood and the Alaska Native Sisterhood were under no illusion that an ideal such as equal justice could be easily achieved, not at a time when Jim Crow laws ruled the land, south and north. Educated Alaska Natives in the early twentieth century were well aware of the government's history of injustice and broken promises to Native Americans, and of the crude discrimination of a society that did not recognize Indians as citizens.

Few characteristics are more prominent among the Northwest Coast cultures than a belief that honor demands debts be paid, and that in such matters time is immaterial. Although the men and women who led the ANB and ANS set aside traditions and mastered English to achieve their goals, their cultural inheritance drove them to persist through more than four decades, from 1929 to 1971, to see that the debt owed to their people was honored.

The confidence and persistence of a host of Alaska Natives, many more than the people mentioned in this paper, made the American ideal of equal justice a reality. It is to all those who attended the meetings, contributed their dues, raised funds, and engaged in the debates of the ANB/ANS Grand Camps that all Alaskans owe a debt of gratitude for shaping the State of Alaska as we know it today.

Notes

THE SWORD AND THE SHIELD

1. The Alaska Native Brotherhood and the Alaska Native Sisterhood are distinct organizations, but act in concert during their annual joint Grand Camp meetings. Because our research discovered little evidence of the Sisterhood's direct involvement in the political or legal issues surrounding aboriginal claims, we refer throughout to the ANB.

There is some uncertainty as to when, exactly, the Alaska Native Sisterhood was organized — 1915 is a consensus date for the start of the predecessor organizations that coalesced as the “Alaska Native Sisterhood” at the 1926 Grand Camp Convention in Klukwan.

The Alaska Native Sisterhood was recognized as a formal auxiliary of the Alaska Native Brotherhood in 1927, at which time its members became full voting participants in the grand camp conventions.

Dr. Walter Soboleff has described the relationship between the ANB and ANS during this period as hand-in-glove. “We [the ANB and ANS] always had meetings together and we listened to each other... Of course [when] the women said anything, it went. No opposition. Traditionally, the women were the treasurers.” (Metcalf, Kim *In Sisterhood* pp.13-14.)

2. The Alaska Statehood Act became law on July 7, 1958, although Alaska did not enter the Union until January 3, 1959.
3. *Alaska: An American Colony*, (2002), p. 237.
4. Alaska's Congressional delegation — Ted Stevens (R) and Mike Gravel (D) in the Senate, and Alaska's sole member of the House, Don Young (R) — were implacable in their opposition to ANILCA, which they viewed as an effort by national environmental organizations to “lock up” Alaska's resources. Demonstrating the non-partisan nature of their opposition, Senator Mike Gravel, a Democrat, succeeded in temporarily derailing ANILCA in 1978, although he had insufficient strength to kill it.

In 1980, everyone associated with the legislation knew that with Ronald Reagan's election as President, Alaska's delegation,

now all Republican with the election of Frank Murkowski to the Senate, could kill or severely restrict ANILCA. Consequently, President Carter signed the bill, flaws and all, into law on December 2, 1980, after he had lost re-election but before Reagan had taken office.

During the Reagan and the first Bush administrations, Alaska's Senators Ted Stevens and Frank Murkowski, along with Congressman Don Young, could have almost certainly stopped any similar legislation. With each passing administration, Alaska's pro-development delegation only got stronger until Stevens' defeat in 2008.

5. The U.S. Constitution (Article I, Section 8) delegates to Congress responsibility for making laws with respect to Native Americans. On some matters concerning tribes, Congress has at times deferred to tribal consent, but there was no legal requirement nor political pressure to put the proposed Alaska Native claims settlement to an Alaska Native referendum (a criticism common among recent generations of Alaska Natives). Considering the absence of federally recognized tribes in Alaska at that time and the lack of any means to verify who among the citizens of Alaska were actually Alaska Natives, such a vote would have been a practical impossibility. Ostensibly, the Alaska Federation of Natives could have rejected the ANCSA settlement they had a hand in negotiating, but in reality it was a fait accompli, especially considering the amount of land and money being exchanged for title extinguishment.

6. The Alaska Natives who became shareholders of the 13th Regional Corporation were living outside of Alaska at the time of enrollment. The corporation, headquartered in Seattle, WA, received no land, does not receive distributions as do other regional corporations from the profit redistribution requirement of ANCSA known as “Section 7(i),” and has suffered serious business setbacks, including a period of bankruptcy.

An often overlooked aspect of ANCSA is that it transferred 44 million acres of federal land in Alaska to state-chartered corporations. So, in

addition to the approximately 104 million acres the State of Alaska was entitled to receive, under the terms of the Alaska Statehood Act, another 44 million acres of Native-owned property came under State jurisdiction for most purposes courtesy of ANCSA.

Lands conveyed to Alaska Native corporations under the terms of ANCSA are subject to the same state and municipal laws as any privately owned land in Alaska — including zoning, building codes, criminal matters, fish and wildlife, and so on. Congressional amendments subsequent to ANCSA (the so-called “1991 amendments”) now protect undeveloped ANCSA land from local or state taxation, but if an ANCSA corporation develops “ANCSA entitlement land” (i.e., land conveyed under the terms of ANCSA), then the land becomes subject to existing tax laws.

7. *Tee-Hit-Ton Indians v. United States*, 120 F.Supp. 202, 128 Ct. Cl. 82 (legal citation for the decision in the Court of Claims in 1954); 348 U.S. 272, 75 S.Ct. 313, 99 L.Ed. 314, reh. denied, 348 U.S. 965, 75 S.Ct. 521, 99 L.Ed. 753 (1955) (legal citation for the decision of the U.S. Supreme Court, issued Feb. 7, 1955).

For web link see: <http://supreme.justia.com/us/348/272/case.html>.

Tlingit and Haida Indians of Alaska v. United States, 177 F. Supp. 452, 147 Ct. Cl. 315 (legal citation for the decision of the Court of Claims issued Oct. 7, 1959, which held that the Tlingit and Haida people “as a tribe, had established aboriginal Indian title ...by their exclusive use and occupancy of that territory from time immemorial”; and 389 F. 2d 778 (legal citation for the Court of Claims decision, on Jan 19, 1968, setting the amount of the recovery award for lands taken.

For web link see: <http://openjurist.org/389/f2d/778>.

8. In *Alaska Natives and American Laws* (2002), Case and Voluck make a strong argument supporting the validity of aboriginal title in Alaska. However, even after *Tlingit Haida v. United States* (see footnote 7), aboriginal title remained a hotly argued question and the issue unsettled until the Alaska Native Claims Settlement Act extinguished land claims in exchange for money and specific tracts of lands. As Case and Voluck conclude, other Native claims, particularly rights to fish and game animals, remain unsettled to this day.

See: Case and Voluck, Chapter 2, “Aboriginal Title,” pp. 35-63.

9. Wallace M. Olson, Professor of Anthropology (Emeritus), University of Alaska Southeast, who has studied the early European exploration of Alaska extensively, has published several books on the subject. In reviewing a draft of this paper, he elaborated in an email response on the European practice of taking “possession” of land: “The common assumption by Europeans in the 18th century [was based on] ‘terra nullius.’ The Latin term literally means, ‘the land of no one.’ The concept was that these ‘undiscovered lands’ could be claimed by European powers, unless another European power had previously claimed them by some ‘act of possession.’ That is, that indigenous people were incapable of being ‘owners’ of their lands since they were... somehow inferior.”

Olson noted that the Europeans maintained this philosophy despite encounters with many Native societies of North and South America that had “developed huge empires and produced monumental works, had evolved writing systems and had a knowledge of astronomy and mathematics.”

10. The Treaty of Cession, Article III: “The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.”

Article III was written such that it appeared to consider some Natives, who had been treated as “civilized” by the Russians, to share in the “rights, advantages, and immunities” of the white people. Determining who was civilized and who was not would occupy civil authorities in Alaska for decades to come.

11. Case and Voluck, pp. 44-49.
12. 1924, Congress passed the “Indian Citizenship Act” (also known as the Snyder Act). Although the 14th Amendment, passed just after the

Civil War, granted citizenship to all persons born in the United States, it only applied to those “subject to the jurisdiction” of the United States. Indians, who were considered members of sovereign tribes, were not subject to U.S. jurisdiction and therefore not eligible for citizenship. By 1924, many Native Americans had become citizens through other means, but for Alaska Natives, the 1924 Act resolved all questions of citizenship, and henceforth they were able to vote. But that was half the battle: it was not until the Anti-discrimination Act of 1945 that the civil rights of Alaska Natives received full protection under the laws of Alaska.

13. “[Indian title] is not a property right but amounts to a right of occupancy, which the sovereign grants and protects against intrusion by third parties...” *Tee-Hit-Ton* 348 U.S. 272, 279 (1955).

14. The Court of Claims held, on October 7, 1959, that the Tlingit and Haida people “as a tribe, had established aboriginal Indian title... by their exclusive use and occupancy of that territory from time immemorial.” (See fn. 7)

The “nearly 20 million” acres, for which the Court of Claims determined its award, is based on the size of the Tongass National Forest, approximately 17.5 million acres, and Glacier Bay National Monument, which was less than 2 million acres at the time of taking (Glacier Bay National Park is now 3.2 million acres in size).

The Court of Claims decision setting the amount of the recovery award came nine years later, on January 19, 1968.

According to Robert Price, the U.S. Court of Claims appointed a commissioner to determine a compensable amount, who recommended \$15,909,368. “This amount was reduced in about half when the Court of Claims rejected any compensation for the fishery property claim,” writes Price. “Of course, this was the main economic loss suffered by the Tlingit and Haida, and was the main reason for requesting Congress to pass a jurisdictional act.”

The award decision ignored any values relating to fisheries, gold mining, or logging on the lands that had been taken from the Tlingit and Haida people by the federal government.

The tortured nature of the ruling is captured by the dissenting judge, Nichols, who wrote: “No

doubt... as the court says, no one owns or can own any exclusive fishing rights in navigable water, other than, perhaps, relating to shellfish. [But] I would have supposed that one who owned as plaintiffs here did, all the vast lands bordering on so many sounds, bays, and coves, teeming with fish, would have enjoyed such enormous advantages over others in exploiting the fisheries thereon that willing buyers would have paid enhanced prices for the land, even if they could obtain therewith no ownership in the fish. A person owning a building on Fifth Avenue might claim it was worth more because of its favorable location without thereby asserting any proprietorship in the vehicular and pedestrian traffic daily passing by his door.”

See Price, Robert E., *The Great Father in Alaska: The Case of the Tlingit and Haida Salmon Fishery* (1990), p. 100.

15. Outside the scope of this report is the Alaska Native claims movement of the early 1960s. A close reading of that period reveals that the idea of significant land conveyances to Alaska Natives was highly unpopular in Congress. See Mitchell, *Take My Land, Take My Life*, p. 112.
16. The organization was officially renamed the “Central Council of Tlingit and Haida Indian Tribes of Alaska” (hereinafter the “Central Council”) in legislation passed by Congress in 1965 that authorized the Central Council to receive the award settlement of the lawsuit.
17. The legal and political status of Indian tribes was established by the U.S. Supreme Court decisions in *Johnson v. M’Intosh*, 1823; *Cherokee Nation v. Georgia*, 1831; and *Worcester v. Georgia*, 1832. These are known as the “Marshall Trilogy” in reference to Chief Justice John Marshall, who served from 1801 until his death in 1835 at the age of 79.
18. Mitchell, *Sold American: The Story of Alaska Natives and Their Lands, 1867-1959*, p. 262.
19. Personal communication with Prof. Stephen Langdon, April 22, 2010.
20. In his as yet unpublished manuscript, “The History of the Alaska Native Brotherhood,” the late John Hope wrote: “...one of the more important actions taken by the delegates to [the 1939 Grand Camp] convention... was the adoption of Resolution 37, which designated the Executive Committee of the ANB as the

'Central Council of the Thlinget and Haida Land Suit,' as it was called. A note worthy of mention is that Peter Simpson, who was neither Tlingit nor Haida, was a member of that Executive Committee [that passed the resolution]. Indeed he was the 'Father' of the Native Claims movement and it was natural that he be a part of the organization." Hope Family Records.

Peter Simpson is remembered for his fervent belief that Alaska Natives were deserving of full and equal citizenship. In the introduction to a 1911 editorial that Simpson wrote for "The Thlingit," a newspaper produced at Sheldon Jackson School, he instructed the editor, George Beck, also the school's associate superintendent, to "print it just the way I write it." Simpson wrote the editorial, he explained, in hopes of "discouraging the old Indian life and encouraging new, noble, Christlife [sic] to our people." He closed the brief introduction with these words: "This movement is just commencing and will go on until we win." As he made clear in the editorial that followed, titled "As an Alaskan Sees It," full and equal citizenship was the goal. While the editorial included a few grammatical quirks, it is an otherwise articulate and forceful renunciation of Alaska Native traditions as impediments to the attainment of civil liberties.

Such opinions were without question influenced by the assimilationist doctrines promoted by the Presbyterian Church, but to put the responsibility for such opinions on others ignores the self-motivation that characterized the early ANB leaders. These were men living stable lives, providing for their families, contributing to their communities, and taking firm stands in the face of substantial opposition — and often hate-fueled derision — on the social and political issues of the day.

Within a year of writing the editorial, Simpson and eleven other men organized the Alaska Native Brotherhood, inspired by a self-proclaimed goal of advancing Alaska Natives so they might take their place "among the cultivated races of the world..." [Preamble to the ANB Constitution.]

21. Metcalfe, Vern: Interview with John Hope for "ANB History," produced and first aired by KTOO-FM Juneau in 1986.
22. The author spoke with Sitka photographer Martin Strand two months before Strand's

death on August 14, 2008. Strand was born in 1935 and grew up in the "Cottages," the neighborhood adjacent to the Sheldon Jackson School campus, built by and for SJS graduates. He remembered the story of how the ANB got its start in Sitka. He said that when the Presbyterians' general disapproval of dancing became a prohibition of Tlingits dancing at church functions, a determined Peter Simpson led a march through town to the Indian Village ("The Ranche") and supervised the construction of a new hall, which became ANB Camp #1. John Hope tells a similar version of the same story in his unpublished manuscript of ANB history.

23. Metcalfe, Vern: Interview with Judson Brown, for "ANB History," produced and first aired by KTOO-FM Juneau in 1986.
24. Paul, Fred, *Then Fight for It: The Largest Peaceful Redistribution of Wealth in the History of Mankind* (2003), pp. 27-33. Tillie Paul Tamaree had three sons. Samuel, did not return to Alaska, although he remained in contact with his family. Tillie married William Tamaree sometime before 1904.
25. Paul, page 81.
26. Mitchell, *Sold American*, pp. 259-261.
27. William Paul's story, as recounted in Fred Paul's *Then Fight For It* (p. 82), is disputed by Donald Craig Mitchell, who credits Judge James Wickersham for the idea of the Tlingit and Haida people suing the government (see *Sold American*, p. 262). He criticizes William Paul Sr. for claiming the idea was his. Mitchell is on firm ground in pointing out that suing the government was Wickersham's, not Paul's, idea. But this is arguing the wrong premise.

As Mitchell himself points out, jurisdictional acts on behalf of Native Americans were fairly common: "on eight occasions during the twelve years Wickersham served as delegate, Congress enacted legislation that authorized an Indian tribe to sue the United States in the Court of Claims to obtain a money judgment for the value of land taken from its members..." In other words, the idea of suing the government was hardly more remarkable than advising a client to pursue a class action lawsuit.

The only question here of historical significance is who was responsible for starting the process that led to the Alaska Native Claims Settlement Act of 1971?

That the land had been taken without payment was a commonplace grievance among Tlingits, first voiced by traditional leaders when Russia ceded Alaska to the United States in 1867.

The ANB members of the 1920s knew they held the note for an unpaid debt owed to the Alaska Native people by the U.S. government, but at the time they were struggling to obtain the full rights of citizenship, and apparently many feared that suing the United States would risk the attainment of those rights.

According to Paul's story, as Mitchell relates it, in 1926 Paul tried to convince the ANB Grand Camp to sue the government, but the delegates were incredulous, viewing Paul's idea as "a fantasy." Based on the interactions between Paul and Wickersham recorded in Wickersham's dairies, the two met in 1921. It seems entirely plausible that several years before the 1929 convention, Paul, fired-up by the idea of filing a suit against the United States, began discussing it with ANB leaders.

In 1929, William Paul was President of the ANB Grand Camp. Without Paul inviting Wickersham, then orchestrating the presentation to the ANB/ANS Grand Camp, and without Simpson's behind-the-scenes support, the judge's proposal would most likely have been politely received and quietly ignored.

Although Paul was at the height of his influence with the ANB, even with the support of Peter Simpson it is doubtful that he could have talked the Grand Camp delegates into as bold an action as suing the government without the cover provided by someone of Wickersham's stature: a respected jurist and politician, known to be supportive of Alaska Native interests.

But in 1929 Wickersham was 72 years old, and while he had a well established reputation for being a friend of Alaska Natives, there is no indication in his dairies that he had extensive relationships with individual Southeast Alaska Natives other than William Paul.

There can be little doubt that William Paul's role was crucial, first in convincing the ANB to follow Wickersham's advice and sue the government, then keeping them on board through the lobbying effort that led to the passage of the Jurisdictional Act of 1935.

There is also no reason to doubt Simpson's

role, as Mitchell does largely by omission. During these years, no one had greater influence within the ANB than Peter Simpson. Had he opposed suing the government, it is difficult to imagine the organization taking such action. His direct role is obscure, but according to John Hope's description, Simpson typically worked behind the scenes, urging younger men to take the lead.

The description of the exchange with Paul when Simpson "whispered" in his ear, and Paul's assertion that suing the government had been his plan for several years prior to 1929, is characterized by Mitchell as Paul's "self-promoting prevarication" in *Sold American*. In an exchange of emails with the author, Mitchell accused this paper of promoting the Paul "myth," but if it is a myth it is one that does not do violence to the truth.

To be fair, it would appear Wickersham, Paul, and Simpson all deserve their share of credit, but Paul was pivotal. One certainty is that in 1929 the Alaska Native Brotherhood and the Alaska Native Sisterhood, meeting in Grand Camp convention at Haines, started the Alaska Native claims movement.

28. Metcalfe, Vern: Interview with John Hope, produced and first aired by KTOO-FM Juneau in 1986.
29. Mitchell, *Sold American*, p. 231.
30. Metcalfe, Vern: Interview with Judson Brown, produced and first aired by KTOO-FM Juneau in 1986. See Endnote: Wickersham's Proposal to the Tanana Chiefs.
31. James Wickersham's dairies can now be down-loaded from the Alaska State Library's website and then searched for key words. No entry indicated extended contact with Athabascan Indian chiefs of the Tanana region other than those of July 6 & 7, 1915:

"I spent the day [July 6] with 12 chiefs and headman of the Indians - from Salchaket to Ft. Gibbon... talking and advising them about Indian Hd. [?] & Reservations. They seem most opposed to reservations - Mr. Madara Episcopal minister is urging opposition to Reservations - Our whole days 'talk' is to be sent to Sec. of Interior Lane, in Washington & we will also write him about their wishes."

The July 7 entry reported "Another long meeting with Indians today." An attached press clipping reported on the previous day's meeting:

- "The subject under discussion was the establishment of reservations for the Indians and how they could best protect themselves from the usual encroachment of the whites. The chiefs were a unit against reservations."
32. Hope, Andrew "Andy" III, editor, *Raven's Bones Journal*, "On the Organization of the Tlingit and Haida Central Council: An Interview with Judson Brown" (1982). Andy Hope Collection.
 33. While Wickersham was a sincere friend of Alaska Natives, self-interest was also involved in his encouragement to seek recompense for lost lands. In 1929, Dan Sutherland chose not to run again, and Wickersham, who had decided to run for the position of Alaska's delegate to Congress, which he held previous to Sutherland, was seeking Alaska Native votes. He and Paul also discussed an arrangement by which they would collaborate on the suit, and would split a 15% commission. (See Haycox, Stephen: "Then Fight For It: William Lewis Paul and Alaska Native Land Claims," a paper for the "Let Right Be Done" conference, University of Victoria, November 2003.)
 34. Mitchell, *Sold American*, p. 265.
 35. Price, p. 99
 36. In explaining the rift that was to develop between Andrew P. Hope (another important leader at the time) and William Paul, John Hope said that it began when his father registered as a Democrat. His remembrance, offered during a KTOO-FM interview with Vern Metcalfe in 1987, also explains in part the support Alaska Natives received from Republicans like Wickersham and Sutherland: "In the early 1920s almost all of the Natives in Southeast were Republicans, almost all of them. And it was very common for Natives to be Republican and William Paul was Republican. Somewhere about the mid-1930s, my dad broke away from that party and went over to the Democratic side... Because my father was held in such high regard it wasn't too long that most of the Natives in the Southeast were Democrats. Very few were left in the Republican party."
 37. Price, p. 92.
 38. Ibid., p. 103.
 39. Jurisdictional Act of June 19, 1935, 49 Stat. 388, ch. 295, subsequently amended by the Act of June 5, 1942, 56 Stat. 323 and Act of June 4, 1945, 59 Stat. 231. See also Metcalfe, Peter, "An Historical & Organizational Profile: The Central Council of the Tlingit & Haida Indian Tribes of Alaska" (1981), p. 6.
 40. Price, p. 100.
 41. Between Paul and Delegate Dimond, a successful effort was mounted to extend the IRA to Alaska in 1936. As Dimond remarked in a report to Congress, the Alaska Native Brotherhood "...at their own expense sent their secretary, Mr. William L. Paul, an attorney at law and a member of the Tlingit Tribe, to Washington to appear before the committee in support of the bill and the proposed amendments..."
- The legislation passed, and within a few years, Southeast Alaska Native communities were taking advantage of the revolving loan fund provided by the IRA (Price, p. 105).
- Of the \$10 million appropriated to the IRA fund, \$4 million in loans were advanced to fund the purchase of canneries and boats in the Southeast Alaska villages of Kake, Angoon, Hydaburg, and Klawock. Decades later, one government report questioned why "forty percent of the funds appropriated by Congress for the financing of Indians is confined to four communities with a total estimated resident population of 1,445 persons when there are approximately 500,000 Indians in the United States" (Price, p. 133).
42. Mitchell, *Sold American*, p. 308.
 43. Ibid., p. 295.
 44. Robert Price, a now retired attorney who served as a federal solicitor during the early years of ANCSA and later as corporate attorney for a regional Native corporation, points out that, in adapting the IRA for Alaska, "Paul and Dimond took language from the credit union legislation and added 'common bond of residency,' which allowed Native villages to organize as tribes and receive loans from the revolving loan fund established by the IRA." See also Metcalfe, Peter. *Gumboot Determination*, p. 224.
 45. Haycox, Stephen: "The 1935 Tlingit Haida Jurisdictional Act and the Alaska Native Claims Settlement Act of 1971: Promise and Denouement," (hereinafter "Promise and Denouement"), p. 3. The paper is a memo/essay addressed to Joaquin Estus, September 3, 1986, found in the Andy Hope Collection.

46. Mitchell, *Sold American*, p. 283. It should be noted here that Don Mitchell hotly disputed the somewhat neutral tone taken in this paper regarding William Paul's disbarment. Mitchell finds Paul guilty, no equivocation about it. The author admits that Mitchell's research on the matter presents compelling evidence, but since there was no hearing on the disbarment, questions remain, most importantly why Paul chose not to dispute the charge, or at the very least attempt to salvage his license. Were he a white lawyer it seems likely, under the circumstances, that with effort the result may have been censure rather than disbarment. Paul could well have believed, with good reason, that the deck was stacked against him.
47. A circular to ANB/ANS camps, dated February 28, 1950, by "(Mrs.) Margaret V. Thomas" of Klukwan, provides insight into why William Paul retained the support of so many ANB members, and says something about the man himself:

"As many times he was defeated," wrote Mrs. Thomas, "he never give up. As for the Klukwan Camp, we have always voted a hundred percent for him... Every time Paul writes circular letters, harsh and good ones, Klukwan receives one too and our people mumbles among themselves if it was a harsh letter and say 'What did Klukwan do to Paul now? He should leave us alone.' We get hurt just like anybody else, but in the meantime the elderly members always step in and talk to the younger group that if it wasn't for Paul, Sr., this organization would not be where it is now. He has fought a good fight for our people. We might as well admit it." (Paul Family Records)
48. The delegates elected to the Central Council included George Davis representing Angoon; Arthur Johnson, Craig; Mrs. Annie Weaver, Douglas; John Mark, Haines; Gideon Duncan, Hydaurg; Jake Cropley, Juneau; Elizabeth Baines, Ketchikan; Frank Peratrovich, Klawock; Robert Perkins, Klukwan; Frank Booth, Petersburg; Henry Denny Jr., Saxman; Frank Price, Sitka; Louis Paul, Wrangell; and Jack Ellis representing Yakutat. David Morgan of Hoonah was elected chairman. Citations found in *Raven's Bones Journal*, "Documents: An Acceptance to Represent the Tlingit and Haida People." (1982?)
49. While the original documents reprinted by Andy Hope in *Raven's Bones Journal* records the meeting date as November 16, 1935, Judson Brown, in a corresponding interview by Mr. Hope in the same journal, recalled the date as 1936.
50. Haycox, "Promise and Denouement," p. 16.
51. Felix S. Cohen worked in the Solicitor's Office of the Department of the Interior from 1933–1947. He was a principal drafter of the Indian Reorganization Act and authored the seminal *Handbook of Federal Indian Law* (1941).
52. In the cultures of the Pacific Northwest, ownership was embodied in clans and clan houses.

In this context, property included land, hunting, harvest, and fishing rights, as well as ceremonial objects and intellectual property such as clan histories and songs.

For an explanation of the moiety-clan social structure, see: *Haa Kusteeyi: Our Culture, Tlingit Life Stories*, edited by Nora Marks Dauenhauer and Richard Dauenhauer, (1994), pages 3-15.
53. U.S. Constitution, 5th Amendment: due process; 14th Amendment: equal protection.
54. For legal citation of *Tee-Hit-Ton*, see fn. 7. See also *Cases Cited* p. 52, and <http://supreme.justia.com/us/348/272/case.html>
55. "Then Fight For It: William Lewis Paul and Alaska Native Land Claims," Prof. Stephen Haycox University of Alaska Anchorage: A paper for the "Let Right Be Done" conference, University of Victoria, November 2003.
56. For legal citation of *Tlingit and Haida Indians v. United States*, see fn. 7 and *Cases Cited*, p. 52. See also: <http://openjurist.org/389/f2d/778/>
57. Haycox, Stephen W., *Alaska: An American Colony*. University of Washington Press, 2002; "Promise and Denouement," September 1986; "Then Fight For It: William Lewis Paul and Alaska Native Land Claims," a paper for the "Let Right Be Done" conference, University of Victoria, November 2003.
58. Haycox, "Promise and Denouement," p. 69.
59. Ibid., p. 82.
60. Haycox, *Alaska: An American Colony*, p. 254.
61. Dauenhauer, Nora & Richard, *Haa Kusteeyi (Our Culture): Tlingit Life Stories*, p. 266.
62. Haycox, "Promises and Denouement," p. 83.

63. "Verstovian" (Sheldon Jackson School newspaper), Vol. 6, No. 2 (1919).
64. An anecdote recounted to the author by former Admiralty Island Monument manager K.J. Metcalf (no relation) has the ring of truth:

In the late 1970s, an elderly Tlingit man from Angoon was traveling to Washington, D.C., to testify before Congress during the Alaska Lands debate. In Seattle, the group went to a hotel to secure overnight accommodations. The desk clerk asked the elder if he had a reservation. "Reservation?" the old man replied indignantly. "I'm not a reservation Indian! I'm a free Indian!"

(Personal communication, 2007.)
65. Minutes (almost verbatim) of the April 9, 1941, meeting of the Tlingit-Haida Claims Committee.
66. Kan, Sergei: *Memory Eternal*, p. 214
67. Mitchell, *Sold American*, p. 287
68. Correspondence in Paul family files: letter dated 3/6/1946.
69. Mitchell, *Sold American*, Chapter Six "Reservations," pp. 287-351.
70. Paul, Fred; p. 107.
71. Richard Hana was a former Chief Justice of the New Mexico Supreme Court, and considered an Indian law expert. Price, Robert: *The Great Father*, p. 113.
72. Haycox, "Promise and Denouement," p. 26
73. Hanna Hearings, Vol. III, 461-463.
74. Haycox, "Promise and Denouement," p. 26.
75. Ibid., p. 26.
76. Ibid., pp. 36-37.
77. Price, 128.
78. Thomas, Edward K., research paper — "Alaska Statehood: A Southeast Alaska Native Perspective" (April 2010)
79. Price, p. 131-132.
80. Ketchikan Daily News, 1950 clipping in the Soboleff Collection, Sealaska Heritage Institute.
81. Ibid.
82. Price, p. 133
83. Ibid.
84. Between the world wars, pioneering American military aviators, General Billy Mitchell foremost among them, recognized the geographical significance of Alaska, the only American possession centrally located on air routes to Asia, Europe, the continental United States, and the Pacific Rim. In 1949, the Soviet Union developed the atomic bomb, ending the four-year nuclear hegemony of the United States. Missile delivery systems had yet to be developed and for the next decade, intercontinental bombers represented the means by which the two superpowers threatened each other with nuclear Armageddon. By virtue of geography, Alaska became the front line in the nuclear standoff.
85. House Concurrent Resolution 108 (1953). Paul Family Records.
86. See: www.aaanativearts.com/terminated_tribes.htm
87. Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*, 2005, W.W. Norton & Co.; Chapter 3, Termination, p. 57.
88. Rogers, George W., "Alaska Native Population Trends and Vital Statistics: 1950-1985" Institute of Social, Economic, and Government Research. University of Alaska Fairbanks, November 1971. (Statistics presented post-1970 are projections based on trends.)
89. See glossary: Trust Relationship
90. Metcalfe, Peter: *Gumboot Determination: The Story of the Southeast Alaska Health Consortium* (2005), p. 41. In 1950, 46% of all Alaska Native deaths were caused by infectious disease compared to a rate of only 3% for Alaska's non-Native population. See also: Fortune, Robert, *Must We All Die* (2005), pp.132-136. And also see: <http://www.hss.state.ak.us/dph/targets/PDFs/history2000.pdf>
91. Dauenhauers, *Haa Kusteeyí*, p. 538. Elizabeth was married to Roy, brother of Frank Peratrovich.
92. Mitchell, *Sold American*, p. 388.
93. Ibid., p. 378.
94. Interview by Professor Steve Langdon with Edward Thomas, 7/21/09.
95. See Mitchell, *Sold American*, "James Curry and Alaska Statehood," pp. 353-427.

Original correspondence found in the Paul

- Family Records attests to the intense animosity between William Paul Sr. and James Curry. By the early 1950s, both were accusing each other of lying, unethical behavior, and ignorance of basic legal concepts. The elder Paul had a web of correspondents who provided him with copies of private letters, usually carbons, from Curry to individual ANB members.
96. Mitchell, *Sold American*, p. 365.
 97. "Then Fight For It: William Lewis Paul and Alaska Native Land Claims," Prof. Stephen Haycox University of Alaska Anchorage, a paper for the "Let Right Be Done Conference," University of Victoria, November 2003.
 98. Originally House Joint Resolution 118 and Senate Joint Resolution 205.
 99. Mitchell, *Sold American*, p. 385.
 100. Ibid., p. 409.
 101. Ibid., p. 395.
 102. Ibid., p. 394.
 103. Ibid., p. 393.
 104. Ibid., p. 398.
 105. Ibid., p. 413.
 106. Harold Ickes to Interior Sec. Oscar Chapman 7/4/50; Harold Ickes to Sen. Joseph Mahoney 7/4/50.
 107. The remarks of James Curry and Gov. Ernest Gruening are found in the Minutes of the 38th Annual Convention at Craig, Alaska, November 13-18, 1950. The minutes are near verbatim transcriptions of the remarks made, questions asked, and the responses. Walter Soboleff Collection, Sealaska Heritage Institute, Juneau, Alaska.
 108. ANB Grand Camp convention records, Sealaska Heritage Institute.
 109. Soboleff Collection, Sealaska Heritage Institute.
 110. Ibid.
 111. Mitchell, *Sold American*, p. 399.
 112. Unpublished U.S. Senate Hearings, CIS Index to 18-84 Congress, 1833-1964, Vol. 6, p. 617.
 113. Unpublished U.S. Senate Hearings, CIS Index to 18-84 Congress, 1833-1964, Vol. 6, p. 619.
 114. James Curry, circular to ANB Annual Convention, Oct. 28, 1952. Paul Family Records.
 115. William Paul Sr. "To the Alaska Native Brotherhood & Sisterhood," 11/03/1952. Paul Family Records.
 116. Paul, *Then Fight For It*, p. 127.
 117. Ibid., p. 127.
 118. Mitchell, *Sold American*, p. 424.
 119. Ibid., p. 434.
 120. Circular to all ANB and ANS members from Grand Secretary Peter Nielsen, April 4, 1953. Paul Family Records.
 121. "Urging Alaska Natives be Heard on H.R. 1921, Possessory Claims Bill," 1953 NCAI Convention. Paul Family Records.
 122. The couple, Roy (1908-1989) and Elizabeth (1911-1958), made it their lifetime mission to win, then protect and extend civil rights for all Alaska Natives. An impressive archive of correspondence, news clippings, and other material that documents their relentless efforts on behalf of all Alaska Natives can be found under the family name at the University of Alaska Anchorage library.

In 1988, the Alaska Legislature established February 16, the anniversary of the signing of Alaska's Anti-Discrimination Act, as "Elizabeth Peratrovich Day."

Those who know the complete story realize that many more people than Elizabeth Peratrovich alone deserve recognition. But Mrs. Peratrovich — elegant and articulate — serves, as have other historical figures, as an admirable icon for one of those major steps forward people have taken throughout time to advance human rights.
 123. The poisonous nature of the Paul-Peratrovich feud is illustrated by William Paul's description of an encounter at a Grand Camp Convention in 1957: "Frank Peratrovich nodded to me and I thought he smiled. I guess I was mistaken because at recess I went over to him and offered to shake hands with him as I have always done before and he said (as he sat) 'No, I don't think I care to shake hands with you. You went just a little too far in this campaign, and so I think we might just as well be enemies.' To this I replied, 'Have we ever been friends?' and he answered, 'I thought so.' I then said, 'You are a damn liar.

- You have never been a friend to me.' He rose to his feet and said, 'Don't you call me a liar or I'll slap your face and the other side too.' I replied, 'I have said it now, go ahead and slap. Go ahead. Slap both sides.' And I stuck my chin out. He then said 'you are too old,' and I countered, 'I can take it.' The scene ended there." Correspondence to Frank Booth (Grand Camp Executive Committee member) 2/6/1957. Paul Family Records.
124. Paul Family Records: Elizabeth Peratrovich (Juneau, AK) to Helen L. Peterson (Denver, CO), 11/30/1953 correspondence.
 125. Bill Paul Jr. to ANB Grand Camp Executive Committee, 1/05/1954. Paul Family Records.
 126. Paul to "Mr. Peacock," 1/19/1954. Paul Family Records.
 127. Helen Peterson (8/2/1915 - 7/10/2000) was an Oglala Dakota (Sioux) born on the Pine Ridge reservation. In 1953-1961, she served as the executive director of the National Congress of American Indians in Washington, D.C. Peterson helped rally opposition to the termination legislation introduced in Congress aimed at ending Native American sovereignty. She organized tribal leaders to fight the policy and helped conduct voting drives to elect Democrats sympathetic to the tribes' cause. Widely recognized for her efforts, in 1973 she was awarded an honorary doctorate of humane letters from the University of Colorado.
 128. Peterson to Elizabeth Peratrovich and John Hope, 1/23/1954 correspondence.

Peterson apparently had a personal relationship with Elizabeth Peratrovich (she offered to put up Elizabeth's husband, Roy, at her home if he had to travel to D.C., and post scripted a "Mother says hello!"). Paul Family Records.
 129. Patrick Paul to John Hope, 2/6/1954 correspondence. Paul Family Records.
 130. Mitchell, *Sold American*, p. 404.
 131. Ibid., p. 407. As can be ascertained by reading Mitchell's discussion of the legislative history of H.R. 1921, Delegate Bartlett was trying to work out an effective remedy to a situation that was retarding economic development in Alaska and at the same time provide Alaska Natives a means to gain title to the land they occupied, without denying them the right to future compensation for ceded lands. Under the Republican administration and Republican controlled Congress, the legislation morphed into a no-compensation extinguishment bill, putting Bartlett in an extremely uncomfortable position.
 132. Ibid., p. 404.
 133. Ibid., p. 404-406.
 134. Ibid., p. 423-424.
 135. For the day 64 floor debate relevant to the disclaimer clause (Section 4) See: Alaska Constitutional Convention Minutes at: <http://www.law.state.ak.us/scripts/dtSearch/cc_search.html>.
 136. Alaska Statehood Act, Section 4. See: <http://www.lbblawyers.com/state4.htm>.
 137. Haycox, Stephen: "Alaska Should Celebrate 'Bartlett Day'" Anchorage Daily News column, April 30, 2010.
 138. While a student at Mt. Edgecumbe in Sitka, Charlie "Etok" Edwardson took a pilgrimage to Wrangell to meet the famous William Paul, who instructed the young Inupiat in the history of Alaska Native claims.

Gallagher, Hugh: *Etok: A Story of Eskimo Power*, p. 120.
 139. Ibid., pp. 120-121.
 140. Ibid., p. 123.
 141. Mitchell, *Take My Land, Take My Life*, pp. 129-131.
 142. Ibid., p. 148.
 143. AFN chairman Emil Notti cast the tie breaking vote. Metcalfe, Peter. *Earning a Place in History: Shee Atiká, the Alaska Native Claims Corporation*, p. 76. (The note on that page refers to a personal communication with Emil Notti, 1999.)
 144. Presentation by John Borbridge and Emil Notti at the Alaska State Library in Juneau on December 3, 2009.

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For web link see: <http://supreme.justia.com/us/348/272/case.html>.

Tlingit and Haida Indians of Alaska v. United States, 177 F. Supp. 452, 147 Ct. Cl. 315 (legal citation for the decision of the Court of Claims issued Oct. 7, 1959, which held that the Tlingit and Haida people "as a tribe, had established aboriginal Indian title ...by their exclusive use and occupancy of that territory from time immemorial"; and 389 F. 2d 778 (legal citation for the Court of Claims decision, on Jan 19, 1968, setting the amount of the recovery award for lands taken).

For web link see: <http://openjurist.org/389/f2d/778>.

Although not cited in this paper, *Organized Village of Kake v. Egan*, 369 U.S. 60, 82 S.Ct. 562, 7 L.Ed.2d 573 (1962), did influence our perspective of Section 4 (the Disclaimer Clause) of the Alaska Statehood Act. In *Kake v. Egan*, the State of Alaska asserted its control of fisheries as superior to the pre-existing claims of Alaska Natives. The Supreme Court's ruling sidestepped the precedents established by the "Marshall Trilogy" (see note 17), which established Congress as the authority on matters concerning Native Americans. Robert Price believes this decision rendered Section 4 irrelevant, at least insofar as Native fisheries claims were concerned.

Chronology

EVENTS RELEVANT TO THE DEVELOPMENT OF ALASKA NATIVE LAW

For Tlingit Readers Inc.

Alaska Statehood Experience Grant

Alaska Humanities Forum/Rasmuson

BY KATHY KOLKHORST RUDDY

11,000 to 6,000 before present (b.p.) - Humans inhabit southeastern, Aleutian, Interior and northwest Arctic Alaska. Sealevels formerly lowered by maximum glaciation rise with the melting of the glaciers.

6,000 b.p. - Most recent migration from Siberia across the Bering Land Bridge, as evidenced by microblades and cores found at campsites along migration routes. (Earlier migrations believed to have taken place up to 20,000 or more years ago.)

5,000 to 3,000 b.p. - Humans inhabit the Bering Sea coast. The development of new technology is shown by polished stone and bone tools.

3,000 b.p. - Specialized subsistence camps marked by fish weirs and large deposits of shell refuse.

1725 - Peter the Great sends Vitus Bering to explore the North Pacific

1728 - Vitus Bering sails through Bering Strait

1733 - Berings's second expedition, with naturalist Georg Wilhelm Steller aboard

1741 - Bering and accompanying vessel captained by Alexei Chirikof, leave Petropavlovsk Harbor (Avacha Bay) in Kamchatka Peninsula; Bering lands on Kayak Island near Yakutat; Chirikov approaches land near Surge Bay on Outer Yakobi, loses two boatloads of men, returns to Avacha Bay. Bering dies on Commodorski Island; his men return to Avacha Bay the following year.

1743 - Russian begin concentrated hunting of sea otter.

1772 - A permanent Russian settlement is established at Unalaska.

1776 - Captain James Cook expedition to search for "Northwest Passage."

1787 - The Northwest Ordinance states: "The utmost good faith shall always be observed toward the Indians: their land and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them."

1789 - United States Constitution grants Congress the authority to regulate commerce with the Indian tribes.

1790 - Aleksandr Baranov becomes director of the Russian settlement in Alaska.

1791 - George Vancouver leaves England to explore the North Pacific; Alejandro Malaspina explores Northwest coast for Spain.

1792 - Catherine II of Russia grants monopoly of fur in Alaska to Grigorii Shelikov.

1796 - U.S. fur traders in Southeast Alaska trade arms to Tlingit and Haida, supporting Tlingit and Haida opposition to Russian settlement and expansion.

1799 - Czar Paul claims Alaska as a Russian possession. Baranov named first Russian Governor of Alaska.

— Alexander Baranov sails to Sitka and establishes Russian post known today as Old Sitka; trade charter grants exclusive trading rights to the Russian American Company.

1802 - Baranov moves his headquarters to Sitka. Tlingits destroy Russian fort at Old Sitka.

1804 - Russians return to Sitka, and with support from Lisianski, on his circumnavigation, attack Kiksadi fort on Indian River. Kiksadi Tlingits evacuate.

1805 - Lisianski sails to Canton with first Russian cargo of furs sent directly to China.

1806 - Russian Navy announces it will assume authority in Alaska.

— (?)Russian Navy announces it will block all foreign ships from Alaskan waters.

1819 - Congress passes first appropriation for American Indians-- \$10,000 to “civilize” them.

1821 - Russian Trading Charter is renewed, extending Russian jurisdiction to the 51st parallel. During this period, the Hudson’s Bay Company, chartered by Britain, contracted with the Russians to lease the mainland south of Cape Spencer for 10 years at an annual payment of 2,000 land otter skins. The British established a fort in Taku Harbor (approx. 1830 to 1840) and were a presence in Alaska for the next 30 years.

1823 - December 2-- President James Monroe, seeking to exclude European intervention in the New World, issues the Monroe Doctrine.

1824 - Russia and USA sign a treaty accepting 54 degrees, 4 minutes latitude as the southern boundary of Russian America.

1830 - Congress passes the Indian Removal Act, directing all Indians to move west of the Mississippi.

1831 - United States Supreme Court rules in Cherokee Nation v. Georgia that Indian tribes are domestic dependent national and not foreign nations.

1832 - United States Supreme Court rules in Worcester v. Georgia that a federal Indian treaty overrides inconsistent state legislation. Also that Indians have sovereign immunity from state laws on their own reservations.

1840 - Russian Orthodox Diocese formed; Bishop Innokenty Veniaminov given permission to use Native languages in liturgy.

1841 - Edward de Stoeckl assigned to the secretariat of the Russian delegation to the U.S.

1835 - United States and England obtain trading privileges in Russian Alaska.

1859 - De Stoeckl returns to U.S. from St. Petersburg with authority to negotiate the sale of Alaska.

1861 - Gold discovered on Sitkine River near Telegraph Creek.

1865 - Last shot of Civil War fired in Alaskan waters, as Confederate raider burned and sank Yankee whaling vessels.

1865-67 - Surveyors' map route for overland telegraph line through Alaska to Siberia.

1867 - Treaty of Cession of Alaska between Russia and the United States. Secretary of State William H. Seward arranges for payment of \$7.2 million to Russia. The treaty transferred to the United States whatever Russia purported to "own" of Russian-America. <http://explorenorth.com/library/yafeatures/bl-Alaska1867.htm>

1869 - Chief Johnson takes Tlingit delegation to Washington D.C. to challenge transfer of land rights from Russia to America.

1868 to 1877 - Alaska territory under rule of U.S. Army, Brevet Major General Jeff C. Davis.

1868 - First appropriation from Congress for education in the Territory. The funds were never put into use as no agency was found to administer them.

1869 - The Sitka Times, first newspaper in Alaska is published.

1871 - Congress enacts a law that ends the negotiation of treaties between the United States and Indian tribes.

1872 - Mining Act of 1872;

— gold discovered near Sitka and in British Columbia (Cassiar).

1874 - First School in Alaska established by the Russians at Three Saints Bay-Kodiak Island.

1876 - Gold discovered south of Juneau at Windham Bay.

1877 - U. S. Army Troops withdrawn from Alaska; territory turned over to U.S. Navy.

1878 - Salmon-canning industry started, at Klawock and Sitka;

— school opens at Sitka, to become Sheldon Jackson College.

1880 - News of gold discovery near Juneau.

1882 - In the Tlingit Indian village of Angoon on Kootznahoo Inlet, a shaman working for a whaling company was accidentally killed in the explosion of a whaling gun. A white hostage was taken and indemnity of 200 blankets demanded. Capt. Merriman of the Revenue Cutter Corwin steamed in from Sitka, shelled the town and demanded a counter-indemnity of 400 blankets, then bombed and burned the village of Angoon;

- first commercial herring fishing begins at Kilisnoo near Angoon;
- first two central salmon canneries built.

1884 - Congress enacts the first Organic Act for Alaska, creating a “District of Alaska” and setting up a code of laws. The act extends the mining laws to Alaska, and makes Alaska a civil and judicial district, providing the territory with marshals, clerks and judges. It provides: “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 such persons may acquire title to such lands is reserved for future legislation by Congress.”

- Funds for education in Alaska appropriated to be distributed among the existing mission schools.

1885 - Dr. Sheldon Jackson, founder of the Presbyterian Sheldon Jackson College in Sitka, was appointed as general agent for education in Alaska;

- Alfred P Swineford begins four-year term as second District Governor of Alaska.

1887 September 21-- Annual Report of the Commissioner of Indian Affairs sets policy of English-only in all schools, and announces plans to enforce;

- the General Allotment or Dawes Severalty Act makes the allotment of land to individual Indians and the breaking up of tribal landholdings in the coterminous states the official policy of the United States. (Bob Price) The stated goal was to divide reservations and encourage Indians to assimilate. The allotments were 160 acres;

- Bureau of Fisheries assertion of federal right to regulate salmon fisheries;

- Father William Duncan and Tsimshina followers found Metlakatla on Annette Island.

1888 - Boundary survey started by Dr. W. H. Dall of the U.S. and Dr. George Dawson of Canada.

1890 - In the last battle between federal forces and Indians, approximately 300 Lakota Sioux are killed at Wounded Knee (Dakota);

- Dr. Sheldon Jackson explores Arctic Coast, brings reindeer husbandry to Alaska

1891 - Congress establishes the Annette Islands Reserve for the Metlatkatla Indian Community.

1896 - outlawing of in-stream traditional harvest techniques and harvest within 500 yards of stream mouth.

1897 - Tlingit and Haida clan leaders protest destruction of salmon resources to federal fisheries agent Jefferson Moser;

- Klondike gold rush brings national attention to Alaska’s natural resources, and brings an influx of prospectors.

1898 - Richardson Trail blazed from Valdez to Canadian border.

1899 - Local communities authorized to set up school boards.

1900 - Stampede of gold-seekers to Nome. Railroad from Skagway to White Horse completed;

— James Wickersham became District Court Judge, served for seven years.

1902 - President Theodore Roosevelt establishes Tongass National Forest. No mention of indigenous land rights.

1904 - “Canoe Rocks” speech at “final” potlatch (so designated by Territorial Gov. John G. Brady) in Sitka;

— submarine cables laid from Seattle to Sitka, and from Sitka to Valdez.

1905 - The Nelson Act provided for establishment of schools for white children outside of the incorporated towns;

— telegraph links Fairbanks and Valdez.

1906 Congress enacts Alaska Native Allotment Act, authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska;

— Alaska Syndicate established by J.P. Morgan and Simon Guggenheim;

— an Act for the Preservation of American Antiquities was passed by the U. S. Congress on June 8, 1906. (34 STAT.L.225) It provides penalties for the removal, defacement, etc. of antiquities on ground controlled by the Federal Government such as the National Parks, Monuments and Forests of Alaska. Fines of \$500 and/or 6 months imprisonment are provided. (AFTC)

1909 - Wickersham begins service as Alaska’s delegate in Congress (extending to 1921). Helped push through the Second Organic Act (1912).

1911 - The Alaska School Service developed a tentative course of study for the schools of Alaska.

1912 - Alaska Native Brotherhood founded. Natives were not citizens. Unequal treatment existed in segregated schools. Voting was denied to Native people. The right to land ownership, licenses, mine claims etc denied to Native people;

— Congress enacts the Second Organic Act for Alaska, conferring official territorial status, extending the federal laws and constitution to Alaska, and providing for a system of government (an elected Territorial Legislature with limited powers and a delegate without vote to Congress).

1913 - First Territorial Legislature convenes in Elks Hall in Juneau;

— Alaska Territorial Legislature grants non-indigenous women territorial voting rights.

1915 - Territorial Legislature allows Natives to acquire citizenship if they sever tribal relations, adopt habits of civilization, pass exam by town teachers, secure endorsements of five white residents, and satisfy the district judge. (Worl, p. 10)

— Feb. 14 Arizona admitted to Union (last state before Alaska);

— Congress appropriated funds that allowed the Bureau of Education to build a 25-bed hospital for Alaska Natives at Juneau;

— Alaska Native Sisterhood holds first convention in Sitka.

1916 - James Wickersham introduced first Statehood bill in U.S. Congress;

— Alaskans vote in favor of prohibition of alcohol by two to one margin.

1917 - Treadwell Mine complex in Juneau caves in.

1920 - Jones Act passes, requires all merchandise going to or from Alaska to be transported by vessels with American-made bottoms.

1922 - Chief Shakes of Wrangell (Charlie Jones) arrested and charged with a felony for voting “at time and place where not entitled to vote.” (Worl pg 10) Mrs. Tillie Paul Tamree, mother of William Paul, arrested for aiding and abetting.

1923 - In referendum in Southeast, Panhandle voters (Natives not permitted to vote) overwhelmingly supported seceding to create the Territory of South Alaska. Proposal rejected by U.S. Congress;

— President Warren E. Harding comes to Alaska to drive the last spike in the Alaska Railroad.

1924 - Congress extends citizenship to all Indians in the United States. The Indian Citizenship Act extends citizenship to Native Americans, including Alaska Natives, without terminating tribal rights and property;

— White Act passed, giving preference to Washington-owned fish traps;

— Alaska Native William Paul Sr. elected to Territorial House of Representatives;

— Alaska Voters’ Literacy Act of 1925.

1926 - Village Townsite Act-establishment of restricted deed Indian-title lots in villages.

1927 - Thirteen-year-old Benny Benson wins a contest to design the Alaska flag. His entry reads: “The blue field is for the Alaska sky and the forget-me-knot. The North Star is for the future state of Alaska, the most northerly in the union. The Dipper is for the Great Bear-symbolizing strength.”

1928 - Court case resolves right of Native children to attend public schools.

1929 - ANB Grand Camp convention in Haines formalized bill that became known as the Jurisdictional Act of June 15, 1935 (right to bring suit for claims against the U.S. in the Court of Claims);

— ANB initiated boycotts against businesses that discriminated;

— Tlingit Haida Central Council established to permit suit in Court of Claims.

1930 - Federal Bureau of Education field administrative headquarters moved from Seattle, Wash. to Juneau, Alaska.

1931 - Control of education among the Natives of Alaska was transferred to the Office of Indian Affairs, which became known as the Alaska Indian Service;

— Wickersham serves again as Alaska's delegate in Congress (1931-33).

1932 Wrangell Institute Boarding School opened - Alaska Indian Service School;

“ radio telephone communications established in Juneau, Ketchikan, and Nome.

1933 - Tony Dimond begins service as Alaska's Delegate in Congress (until 1945).

1934 - Indian Reorganization Act officially reverses the trends to break up tribal governments and landholdings by providing for tribal self-government and an Indian credit program, reversing the 1887 Dawes Act.

1935 - Congress enacts a jurisdictional statute which permits the Tlingit and Haida Indians to file suit in the Court of Claims for loss of land in southeastern Alaska.

— 900 miners at Alaska-Juneau GoldMine go on a strike that lasts 40 days and ends in violence.

1936 - Congress enacts amendments to the Indian Reorganization Act extending all of its major provision to Alaska;

— fourteen persons were killed in a slide down the slopes of Mt. Roberts near the Juneau Cold Storage on Sunday, November 22, 1936 at 7:30 p.m. Up until the slide occurred, the month of November had seen 20.31 inches of rain. Between 10 p.m. Saturday and 10 p.m. Sunday, the day of the slide, 3.89 inches had fallen.

1938 - Monument erected on the Douglas Highway in Juneau by the Civilian Conservation Corps June 1st, in honor of Chief Anatlahash , a Taku Tlingit Chief of the Raven moiety who moved to Douglas Island when mining commenced there in the 1880's and died there on October 8, 1918. The monument was a yellow cedar shaft in a concrete base.

1939 - President Franklin Delano Roosevelt appoints Ernest Gruening Territorial Governor of Alaska (serves until 1953).

1942 - Japanese bomb Dutch Harbor (June 3rd) and invade Kiska and Attu Islands of the Aleutians. Alaska Natives served with distinction, disproportionately to their numbers in the general population;

— Dec. 1, Alaska Military Highway completed.

1943 - November. Wickersham in a national radio address argued that the territory's service to the nation in time of war demonstrated readiness for Statehood. Statehood bill introduced and ignored.

1944 --E.L. "Bob" Bartlett elected as Alaska's Territorial Delegate to Congress (serves until 1959);

— Roy Peratrovich and ANB offer to settle aboriginal lands through cash payment for lost lands;

— Sept. Richard Hanna holds hearings in Hydaburg;

— Alaska-Juneau Gold Mine shuts down.

1945 - Alaska Territorial Legislature passes Anti-Discrimination Act. Signed by Governor Gruening. Elizabeth Peratrovich, a leading proponent of the Act, is later honored by the State of Alaska in “Elizabeth Peratrovich Day” every February;

— Alaska Indian Service changed to Alaska Native Service.

— Judge Hanna identifies unextinguished aboriginal rights of Kake, Hydaburg and Klawock claimants.

1946 - Congress enacts the Indian Claims Commission Act, which allows Indian groups to sue in the Court of Claims for claims against the United States arising before 1946;

— January, President Truman first president to recommend Alaska Statehood, as soon as the residents of the territory demonstrated that support;

— Territorial citizens vote to apply for Statehood: October territory-wide referendum on statehood passes 9,630 to 6,822;

— Bartlett introduces Statehood Bill in Congress; it fails;

— Boarding school for Native high school students opens at Mt. Edgecumbe.

1947 Tlingit and Haida “Land Claims” law suit filed by James Curry in the U.S. Court of Claims. (First decision 1959; amount to be compensated decided 1968);

— Congressional Joint Resolution authorizes the Secretary of Agriculture to sell timber in the Tongass National Forest notwithstanding any claims of possessory right by Alaska Natives;

— Mt. Edgecumbe, a former military installation is opened as a boarding school for Alaska Natives, operated by the Bureau of Indian Affairs.

1948 - Curry brokers the land claims case to “Lefty” Weissbrodt and David Cobb

— April. Bartlett introduces Statehood Bill. (Rules Sen. Hugh Butler of Nebraska is strong opponent);

— Hydaburg reservation formed. Kake and Klawock turn down offer;

— state-wide vote against fish traps 19,712 to 2,624.

1949 - Territorial Legislature creates Statehood Commission.

— Eleanor Roosevelt, James Cagney and Pearl S. Buck are among 100 prominent Americans who stand in support of Alaska Statehood;

— another Alaska Statehood bill is introduced in Congress.

1950 - Statehood bill passes U.S. House 186-146, but is killed in Senate. (Korean war 1950 to 1952);

— ANB/ANS Grand Camp Convention in Craig. Gruening and Curry attend. Unanimous resolution adopted that the ANB 1) “favors the immediate designation of land reservations under the Indian Re-organization Act for all those Native communities that desire the same;” 2) “favors such legislation as may be necessary to authorize the negotiated sale of Alaska Native lands to the United States by the communities desiring thus to dispose of their property...” and 3) opposes any legislation which limits the authority of federal officials to confirm Native land title “as said Natives desire.” (Source: Oct. 13, 1951 ANB resolution on H.R. 4388, reviewing history of 1950 convention action.)

-- Johnson O'Malley Act provides for the transfer of schools in Alaska to the administrative control of the Territory.

1951 March - Territorial Legislature complains to Congress that Statehood progress is hampered by uncertainty of Indian or aboriginal title controversy. (Mitchell Sold America p. 398-349 paperback) House Joint Memorial No. 11, 20th Alaska Territorial Legislature;

— June 11th –Bartlett introduces HR 4388 in 82nd Congress, 1st Session, after repudiation of HR 7002 (Mitchell SA p. 398 says for Natives 4388 was worse than 7002 since it required an assertion of land claims within two years. William Paul to Felix Cohen: “What good to Natives who cannot read or write?” Id. 399.)(paperback, p. 350);

— August 27 – Bartlett asks Subcommittee on Indian Affairs of House Committee of the Interior to hold hearings on 4388. (SA fn. #179 p. 350);

— November 5 to 10 - Field hearings on 4388. (Mitchell writes that hearings demonstrated that Bartlett’s constituency was fractured along racial lines);

— November ANB/ANS Grand Camp Convention in Ketchikan. William Paul elected to first term as ANB Grand Secretary since 1938. (SA paperback, p. 352).

1952 - Feb 11th, 13th and 18th Senate Interior Committee hearings in Washington D.C. Testimony by Ernest Gruening, and James Curry. Gruening testified that at the ANB Convention in Craig the previous year, he had recommended against reservations, and also reported that Curry had told the convention that “This land is all yours” and that “The white man is a trespasser here.” Gruening also says Curry had recommended a reservation policy at the Craig convention;

— February 27 , Senate on one vote margin (45-44) kills statehood bill for another year. Southern Democrats had threatened a filibuster to delay consideration;

— May-H.R. 4388 dies.

— June - Alaskans became subject to new rules under Immigration and Naturalization Act, requiring Alaskans to go through Customs and Immigration when traveling to the lower 48;

— Walter Hickel travels to Washington D.C. to meet with Congressional leaders about terms for Alaska Statehood;

— Federal court overturns Hydaburg reservation;

— November –Dwight Eisenhower elected President, and Republicans swept in by Eisenhower victory regain both Houses of Congress;

— November ANB/ANS Grand Camp Convention in Hoonah.

1953 Congress enacts Public Law 280, which extends state legal jurisdiction in certain states over Indian country;

— Congress passes House Concurrent Resolution 108, which calls for termination of special services of the Bureau of Indian Affairs to specified tribes and in particular states “at the earliest possible time.”

— November 9-14, ANB/ANS Grand Camp Convention in Sitka. Featured speaker: Elizabeth Peratrovich, liaison to the National Congress of American Indians.

— Sen. Hugh Butler, chair of the Senate Committee on Interior and Insular Affairs, visits Alaska. Butler had deprecated the “little men” of Alaska, and his visit prompted demonstrations of the “Little Men of Alaska” in support of statehood.

1954 - In State of the Union address, Eisenhower refers to Statehood for Hawaii (then a Republican state) but not Alaska (then a Democratic state);

— March Frustrated by Eisenhower refusal to support statehood for Alaska, a Senate coalition led by Democrats, ties the fate of Alaska and Hawaii Statehood together as one package. The parliamentary move is backed by some Southern Democrats, concerned about the addition of new votes in the civil rights for blacks movement, in the hope of defeating both measures;

— April--Court of Claims issues decision in Tee Hit-Ton Indians v. Unites States. Court reasons that neither the 1867 Treaty of Purchase/Cession, the 1884 Organic Act, nor any other federal statute had ‘recognized’ Alaska Native aboriginal title, and that therefore the Tee-Hit-Tons were not entitled to recompense for the taking of land. Significantly, the court also recognized that aboriginal possessory rights existed and had not been extinguished.<<http://supreme.justia.com/us/348/272/case.html>>.

— First plywood operations begin at Juneau; first big Alaskan pulp mill opens at Ketchikan;

— November ANB/ANS Grand Camp Convention in Angoon.

1955 February - United States Supreme Court rules (revises ruling?) in Tee-Hit-Ton Indians c. United States that the United States has no legal obligation under the Fifth Amendment to compensate the Indian tribes for taking lands to which there is aboriginal title. However, the court also implicitly recognized that aboriginal title existed, had not been extinguished, a concept that proved important to future litigation and legislation. (SA paperback p. 358);

— May U.S. House sends Hawaii-Alaska Statehood bill back to committee, blocking its passage for yet another year;

— November ANB/ANS Grand Camp Convention in Petersburg;

— Alaskans elect delegates to constitutional convention;

— November 8th--Alaska’s Constitutional Convention begins at the University of Alaska

Fairbanks. Fifth-five delegates, including only one Native person, Frank Peratrovich, of Klawock, meet for more than two months. Gruening gives speech “Let Us End American Colonialism.”

1956 February 5th - Alaska Constitutional Convention adopts constitution for eventual State of Alaska. It includes a disclaimer of property interest in Alaska Native Lands. Disclaimer <<http://www.legis.state.ak.us/basis/folioproxy.asp?>>;

— April - Alaskans vote in a statewide referendum to approve the Constitution and eliminate fish traps. Statewide vote is affirmative;

— Under the “Alaska-Tennessee Plan” (in which representatives are elected to serve in the eventual State), two senators (Ernest Gruening and William Egan) and one representative (Ralph Rivers) are elected;

— November Eisenhower swept back into Presidency by “landslide”;

— November ANB/ANS Grand Camp Convention in Hoonah.

1957 - November ANB/ANS Grand Camp Convention in Kake.

1958 - Congress extends Public Law 280 to Alaska;

— Speaker of the House Sam Rayburn, previously an opponent of Alaska Statehood, changes his mind. President Eisenhower fully endorses Alaska Statehood for the first time. A new Statehood bill passes the U.S. House May 28th, and the Senate (64-20) June 30th. The bill includes a disclaimer of property interest in Alaska Native lands. Eisenhower signs the bill July 7th;

— November ANB/ANS Grand Camp Convention in Sitka.

1959 - Alaska becomes a State as President Eisenhower signs the official declaration on January 3, 1959;

— fish traps abolished;

— Sitka pulp mill opens;

— United States Court of Claims in *Tlingit and Haida Indians of Alaska v. United States* holds that Tlingit and Haida tribes occupied much of southeastern Alaska under aboriginal title at time of Treaty of Cession.

1960 - The Alaska Census showed a total population of Alaska, the largest state geographically, but with the smallest population: 226,167. This was slightly above the wartime high of 225,986 in 1943, which included armed forces then stationed throughout the Territory. The 1950 census gave 128,643 as the civilian population compared with 193,475 in 1960. The 1960 census breaks down is as follows: Total Population: 226,167 Civilian Population: 193,475; Caucasian: 141,854; Eskimo-Aleut: 28,637; Indian: 14,444; Negro: 6,771; Japanese: 818; Filipino: 814; Chinese: 137 (AFTC).

1962 - United States Supreme Court holds that State of Alaska may regulate fish traps of the Native villages of Kake and Angoon, but not those of the Metlakatla Indian Community

within the Annette Islands Reserve;

— The Tundra Times established, the first state wide newspaper devoted to representing the views and issues of Alaska Natives.

1964 - Good Friday Earthquake.

1966 - Eskimo land claims filed on North Slope. Interior Secretary Morris Udall imposes a “land freeze” to protect Native use and occupancy of Alaska lands.

— Alaska Federation of Natives formed in Anchorage, Alaska.

1967 - Informal land freeze of State of Alaska land selections under the Statehood Act begun by Secretary of Interior.

— Fairbanks flood.

1968 - Court of Claims awards \$7.5 millions as compensation for extinguishing of aboriginal title of Tlingit and Haida Indians. *The Tlingit and Haida Indians of Alaska v. United States* 389 F. 2d 778 (Ct. Claims 1968) Jan 19, 1968; <<http://openjurist.org/389/f2d/778>>

— Governor Wally Hickel establishes task force that recommends 40 million acres of land of Natives;— 1969 Formal land freeze initiated by Secretary of Interior by withdrawing all public lands in Alaska from appropriation under the public land laws, including State selections;

— Ninth Circuit Court of Appeals holds in *State of Alaska v. Udall* that Secretary of Interior must first determine extent of Alaska Native possessory rights before approving state selections;

— North Slope Oil leases earn Alaska \$900 million.

1971 - Congress enacts the Alaska Native Claims Settlement Act.

1972 - The Marine Mammal Protection Act becomes law with the important provision that Alaska Native would be able to continue traditional use of marine mammals.

1973 - Salmon fisheries statewide limited entry program becomes law.

1974 - Alaska adopts limited entry for fisheries.

1975 - Congress enacts the Indian Self-Determination and Education Assistance Act. It requires that the federal government contract with tribes for services that benefit their citizens;

— State begins limited entry program for fishing permits.

1976 - The so-called “Molly Hootch” (*Tobeluk vs. Lind*) case is settled with the commitment by the state to provide local schools for Alaska Native communities as it had in predominantly white communities in the state.

1977 - Trans Alaska Pipeline completed from Valdez to Prudhoe Bay.

1978 - State passes law designation “subsistence” as priority use of state fish and game resources.

1980 - Congress enacts the Alaska National Interest Lands Conservation Act. It provides for various national parks and wildlife refuges in Alaska (80 million acres), and for subsistence rights on federal lands by rural Alaska residents, most of whom are Alaska Natives.

1982 - First Permanent Funds dividends distributed.

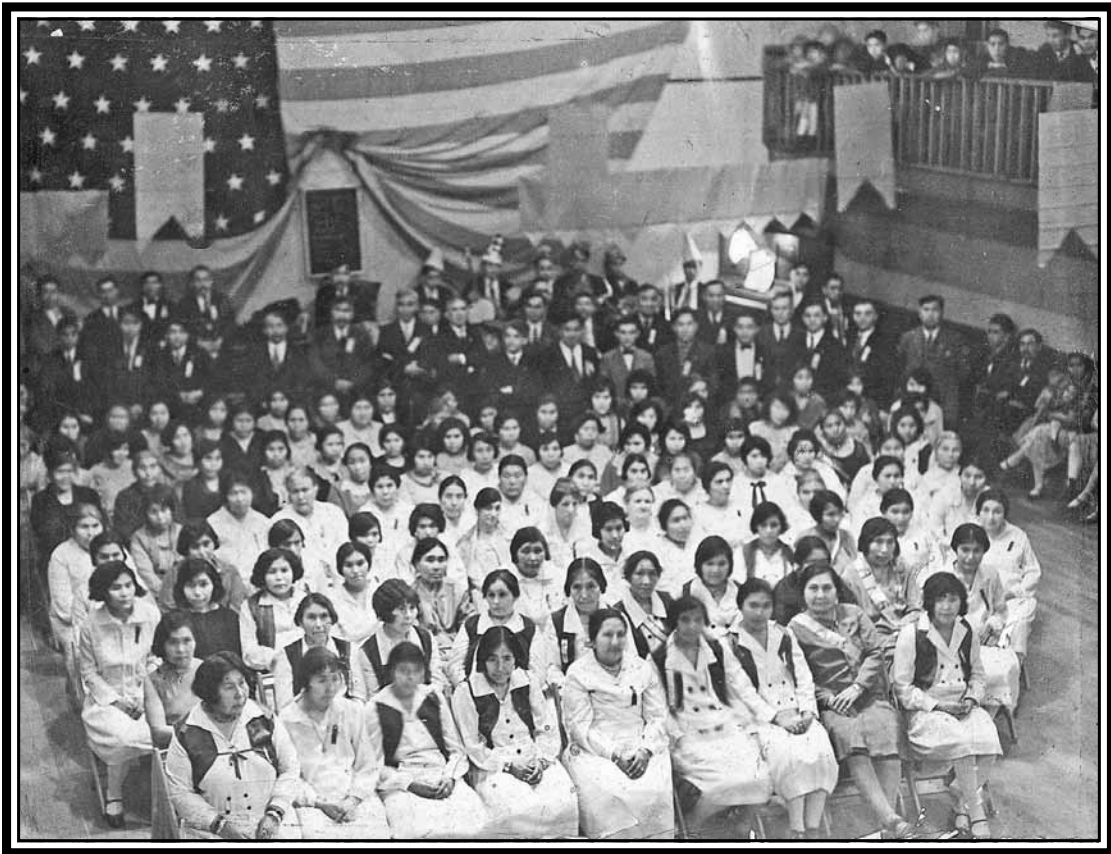
1991 - Amendments to ANCSA take effect.

1995 - Federal limited entry program for halibut and sablefish quotas;

— the U.S. Ninth Circuit Court of Appeals, in adjudicating Katie John vs. United States, ruled that ANILCA’s subsistence priority extends to freshwater bodies within and alongside federal public lands. The decision pushed the federal government into management of subsistence fisheries in Alaska.

This Chronology was developed by Kathy Kolkhorst Ruddy under the Alaska Statehood Experience grant to Tlingit Readers Inc. For comments or corrections please email:

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The Alaska Native Sisterhood in Grand Camp Convention, Haines 1929.