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The Relationship between Indigenous Rights, Citizenship, and Land in Territorial Alaska: How the Past Opened the Door to the Future

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On 4 March 1944 the Alaskan newspaper the Nome Nugget published an editorial written by sixteen-year-old local Inupiat Alberta Schenck. In her letter she publically voiced how many Alaska Natives felt in their homelands amid the employment of racial prejudice against them. "To whom it may concern: this is a long story but will have to make it as brief as possible," she began, addressing the tensions "between natives, breeds, and whites." In the editorial forum of the Nome Nugget the young Schenck implemented a discussion concerning discrimination toward Indigenous people, as made apparent in her use of racist language in distinguishing herself and members of her fellow Indigenous community as "natives" and "breeds."[1]

An unexpected activist, Schenck worked as an usher at the Alaska Dream Theater in Nome where she took tickets and assisted patrons in locating their seats. At her job she was also responsible for maintaining the lines of segregation between seating for White patrons on the main floor and Native patrons in the balcony. The Jim Crow practice at the theater reflected policies that were being enacted throughout Alaska to keep Native people from participating equally in public life with their non-Native community members. Witnessing first hand the stress segregation placed on Native people drove Schenck to compose a letter arguing that all Alaskans deserved equal access.

Introduction

In the decades preceding Alaska's 1959 formalization as a state, Alberta Schenck was part of a movement of activists trying to end racial segregation and recognize Natives as equal citizens in the federal territory. Their collective efforts for equality worked in tandem with other activist-led initiatives that sought to clarify the ambiguity of Alaska Native Indigenous property rights within the scope of federal law. This essay addresses the balance between Indigenous claims to land holdings, as seen in a series of court cases leading up to Tee-Hit-Ton Indians v. United States, and the work to realize civil rights for Natives through the passage of the Alaska territory's legislative Anti-Discrimination Act of 1945.[2] This law permitting Natives equal access in Alaska examined adjacent to the results of the Supreme Court's *Tee-Hit-Ton* ruling in 1955 parcels Alaska Native efforts to defend their well-being and life ways from bias on multiple fronts. [3] The Anti-Discrimination Act assisted in affirming Alaska's regionally Indigenous people as national citizens, yet the *Tee-Hit-Ton* case shows an irremediable disconnection between Natives as citizens of the United States with the quandaries of Indigenous sovereign land tenure in the Alaska Territory.

The community activism that culminated in the passage of the Anti-Discrimination Act of 1945 grew in reaction to the development of Jim Crow practices as the nation formed communities in Alaska, most often within pre-established Native villages and towns. Even though newcomers arrived by the thousands, the Native population held a degree of influence in public politics because they composed approximately forty percent of the region's population amid the early and mid-twentieth century.[4] Native political power was also garnered through as a their active participation as labor in the territory's extractive economy. As Native activists involved with their communities demanded equal rights under the law with the support of many government officials, other Native-led agendas strategized with territorial politicians intending the federal government to observe Native land occupancy within the federal courts. This campaign to ascertain Native land rights grew because, without a treaty history with the United States, Natives participated as national citizens without federal agreements that unreservedly documented Indigenous sovereignty.[5]

Due to the absence of treaties between Native Alaskans and the United States, a movement brewed to distinguish Native ownership to regional lands. However, those efforts culminated unfavorably for Alaska Natives in the 1955 Supreme Court Case *Tee-Hit-Ton* Indians v. United States, where Native claimants sought compensation for property taken by the United States.[6] The *Tee-Hit-Ton* ruling declared that without Congressional approval of Native ownership, Alaskan Indigenous land claims rights had no place in federal courts.

In denying the claim, the Supreme Court's decision proved to embody a form of prejudice beyond the scope of protections afforded by the Anti-Discrimination Act. Native collective ownership or occupation of land was, in the view of the court, deemed unequal to land rights held by others in Alaska. This judgment decoupled Indigenous efforts against racism from the struggle for Indigenous land tenure during the national development of the Alaska in the twentieth century.[5]

The Civil Rights Act of 1945

The Alaska Native-led civil rights movement responded to the changes in the social atmosphere created by the influx of non-

Native people in the region. In 1898, Scandinavian prospectors discovered gold in Nome, Alaska. The following year, the population tripled to approximately 10,000 residents. By the 1940's, the boom of the gold rush had passed, but the town of Nome had fundamentally changed from the Inupiaq village of the pre-gold rush years to a small town that existed under a nationally sanctioned municipal government. Native participation within this post-gold rush economy was mediated through a stratified community regulated by non-Native business owners some who harbored unfavorable sentiments towards the Native community.

Alberta Schenck's editorial in *The Nome Nugget* attested to the tensions felt by Indigenous people in conforming to those unequal and imposed practices. "What has hurt us constantly is that we are not able to go to a public theater and sit where we wish," she wrote, "but yet we pay the same price as everyone else and our money is gladly received." She emphasized how the theater allowed all Alaskans entry and also accepted their money, but refused to afford equal treatment to Alaska Natives.

This varigated form of citizenship left Indigenous people to participate in "public doings," she asserted, "only when money is concerned for the benefit of the so-called society people of our city." That is, Native people were able to contribute towards civic life when non-Natives could profit from such activity. Yet, even when those monetary earnings could be made, Native involvement was partitioned off and set away from the activities of "the so-called society people."[7]

This racial state of affairs compelled the young woman to direct action, in partnership with a non-Native Army Sergeant, at the theater on her day off. One night before the screening of a film, they occupied the "Whites only" section of seating in order to protest the theater's policies. When they were asked to relocate to the Native section in the balcony, both Schenck and the Sergeant refused to vacate their seats. The theater manager, her employer, alerted a police officer that placed Schenck under arrest. Upon being taken into custody, she was remanded to a night in the town jail and released without bail the next morning. Afterward, as outlined in her *Nome Nugget* letter, Schenck contested what she saw as the unequal and also inhumane treatment of Natives by the non-Indigenous members of the Nome community.

Her activism was spurred by her belief that she was entitled to the rights promised her as a citizen of the United States. Drawing upon her understanding national history she wrote, "It has been known through the centuries that all American citizens have the rights to go and say what they please."[8] In 1915, Alaska Native men and women could gain citizenship by proving they were without tribal ways and associations, a condition that had to be attested to by five White men.[9] However, in 1924, upon passage of the Indian Citizenship Act, the United States proclaimed all Indigenous people governed by the nation to be citizens without having to adhere to such strict and racist requirements.[10] She argued such citizenship guaranteed equal treatment under the law. However, much to her disappointment, the owner of the theater continued the policy of segregation and chose to ignore Native equality.[11]

Schenck's editorial revealed a relationship between the unequal treatment of Alaska Native people with forms of segregation that occurred throughout the United States. For *de jure* and *de facto* practices of racial oppression inflicted upon people of color in the United States proved a strategic method for maintaining and legitimizing piebald arrangements of citizenship in public life

throughout the early and mid-twentieth century.[12] While newcomers to Alaska, might have assumed they could readily transport their privileges to Alaska, they faced challenges to such beliefs by Indigenous people, such as Alberta Schenck, who felt their citizenship allowed them equal access and fair treatment.

Schenck's encounter helped to raise the consciousness of the Inupiaq in Nome by inspiring others to request equal rights. For the night following her incarceration a group of Inupiaq citizens occupied the entire "Whites only" section of the theater in support of Schenck.[13] The local Indigenous community publically confirmed Schenck's effort to challenge what they viewed as unequal treatment. As a result, her work exemplified the growing effort of Indigenous Alaskans to contest racism and demand the full benefits of American citizenship.

Three years prior to Schenck's public appeal to end discrimination, Tlingit activists Elizabeth and Roy Peratrovich also commenced formal political procedures in order to end Jim Crow practices in Alaska. On December 30, 1941, a thousand miles from Nome in the southeast region of Alaska, Roy Peratrovich wrote Territorial Governor Ernest Gruening to call attention to a sign placed on the door of the Douglas Inn that read, "No Natives Allowed." Peratrovich pleaded with the Governor to take action against an establishment that denied entrance to Native people.[14] Peratrovich and his wife Elizabeth were already active and prominent Alaska Native political figures; thus the governor was inclined to listen to their concerns.

Born in 1911 in the Tlingit village of Klawock, Elizabeth Peratrovich was educated at the Western College of Education in the state of Washington, whereupon she returned to Alaska to work in various clerical and administrative positions. Her husband Roy was also from Klawock, where he served four terms as Mayor before they chose to move to the town of Juneau in order to become more involved with *The Alaskan Native Brotherhood* and *Sisterhood* organizations.

The couple's commitment to Alaska Native citizenship was also a goal of the *Alaska Native Brotherhood and Sisterhood*. Both religious organizations proved an effective political force in Alaska. Roy was elected to the *Brotherhood's* leadership position in 1940. The following year, Elizabeth won election as vice-president of the *Sisterhood*. [15] The *Brotherhood and Sisterhood* fought discrimination issues at the local level previous to Roy and Elizabeth accepting leadership roles in the organizations. For example, William Paul, Sr., a *Brotherhood* member, lawyer, and political activist filed suit with the Ketchikan school district in territorial court to desegregate the schools and won that case in 1929. At the same time, members of the *Brotherhood* and the *Sisterhood* actively picketed businesses in their effort to convince shop owners to remove signs barring Native entry.

Roy and Elizabeth brought their campaign for equality to the territorial level, requiring Governor Ernest Gruening's assistance to advance the cause. Roy Peratrovich wrote a letter to the Governor was directing the politician's attention to a sign at the Douglas Inn and their sign that said No Natives in that read, "No Natives Allowed." In response Governor Gruening characterized such discrimination offensive, promising to speak with the owner to the Douglas Inn to motivate the proprietor to remove the sign.[16] In the end of his letter to Roy, Gruening expressed regret to the lack of a law banishing such practices in Alaska, unlike other places in the United States. [17]

At the same time, Peratrovich also mailed copies of anti-discrimination laws passed by numerous states throughout the Union to Anthony J. Dimond who was a territorial delegate to the Alaskan Territorial House of Representatives.[18] Dimond, who was an ally for Alaska Native rights, urged an appropriations committee to help end the inequity against Alaska Natives with regard to the territorial funding of village schools.[19] Peratrovich also asked Dimond help stop the barring of Native women from attending United Service Organization (USO) activities.

The USO disallowed Service members married to Alaska Native women to bring their wives or family members to military functions.[20] In response to this, Delegate Dimond scheduled a meeting with the Secretary of the Interior Harold L. Ickes to inquire why Alaska Native women were barred from such USO functions.[21]Likewise, Governor Gruening also urged Lieutenant General Simon B. Bruckner to stop forbidding Native women from USO functions.

In 1943 the Roy and Elizabeth introduced and lobbied for the first *Anti-Discrimination Bill* before the Alaska Territorial Legislature, but this legislation was defeated during a vote on the floor by eight members.[22] A year later, in 1944, another version of the Bill failed to gain enough votes to pass through the Legislature.

On February 6, 1945 the couple brought another draft of the bill into the legislature with favorable results even though many on the Alaska Territorial Senate opposed the bill's passage.

A headline in the *Daily Alaska Empire* newspaper exclaiming, "Super Race Theory Hit In Hearing: Native Sisterhood President Hits At Rights Bill Opposition."[23] The Senate voted, 11-5, for a resolution that afforded, "...equal accommodations, facilities, and privileges to all citizens in places of public accommodations within the jurisdiction of the Territory of Alaska; to provide penalties for violation." Governor Gruening signed the bill into public law, confirming the rights of Native citizens to participate in Alaskan Territorial life.[24]

Promoting the bill in a now famous speech, Elizabeth Peratrovich noted the deplorable social conditions for Alaska Natives before the Alaskan Territorial Senate. One lawmaker asked if the law would end discrimination against her fellow Alaska Natives. She replied first with the rhetorical question, "Have you eliminated larceny or murder by passing a law against it?"

Then, answering her own question, she continued, "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."[25]

Through her testimony and the efforts of a united body of activists and lawmakers, the *Anti-Discrimination Act* declared that Native citizens had the same freedom as all Alaska citizens to attend public functions and that ended public segregation. This confirmation came to enhance the quality of life for all Alaskans even though unsettled issues over Indigenous land tenure proved to intersect with Native citizenship in complex ways. The movement culminating the Anti-Discrimination Act can also be seen as part of the struggle against Native dispossession in that the movement sought to free Natives within their occupied homelands. Indigenous claims came to encompass a spectrum of concerns, overlapping with the concentrated labor against racial subjugation, in aspiration to distinguish and reaffirm Indigenous sovereignty in Alaska.

Figure 1. Governor Gruening (seated) signs the anti-discrimination act of 1945. Witnessing are (l.to r.) O. D. Cochran, Elizabeth Peratrovich, Edward Anderson, Norman Walker, and Roy Peratrovich. Amy Lou Blood, Ordway's. Alaska State Library, Alaska Territorial Governors Photographs. ASL-P274-1-2. Retrieved from: http://vilda.alaska.edu/cdm/search/field/contri/searchterm/Amy%20Lou%20Blood%20%5BBarney%5D/mode/exact

Indigenous Occupancy and Land Ownership

Indigenous claims to land proprietorship traveled an unstable path in territorial courts as the Alaska Native drive for equal rights gained momentum. Claims to sovereignty complicated tacit notions of Native citizenship in Alaska for Natives and non-Natives alike. For instance questions arose like, if Native people were citizens how could they hold Native title to property? This ambiguity over aboriginal land ownership instigated from an early lack of clarity for Indigenous rights following the nation's 1867 purchase of Alaska from Russia.

The uncertainty over Alaska Native land ownership came from the 1867 United States government purchase of Alaska from Russia. The Russian colonial process in Alaska asserted sole and complete authority regarding the sale and or transfer of ownership rights to the United States. As a result, when Russia sold Alaska to the United States, aboriginal title for Natives was disregarded in federal

law.

Upon purchase, the United States continued to neglect any aspect of Indigenous sovereign ownership of land. After failing to clarify Indigenous sovereignty with Russia the government entered in no direct negotiations with Native communities. Upon the transfer of title from Russia, the United States deemed the Alaska region a military district under provisions of U.S. law. Moreover, Article Three of the 1867 Treaty of Cession between the United States and Russia articulated the proposed treatment of Native people, which eliminated any treaty process with regard to Alaska Native people. That part of land acquisition was a proposition the United States agreeing to adhere to with the purchase of the Alaska.[26]

The article asserted that 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." Federal courts came to interpret the term "uncivilized" as a method to differentiate between tribes that lived independent from Russian colonial rule with those who lived in closer proximity to Russians. At that time, 1867, the phrase did not actually refer to Alaska Native "level" of "assimilation," but only to the degree of historical interactions between particular Alaska Native groups and Russian colonial authorities. The Army's tenure of Alaska ended when the government transferred the responsibility to the United States Department of the Treasury, which is where it remained for two years, until 1884 when moved to the care of United States Navy. Throughout those various transfers of obligation little formal or legal thought was given to Native sovereign property rights.

When the United States government made Alaska part of the national territory, Congress passed the Organic Act of 1884 that established federal services and governance structures to the region of Alaska. The Act promoted the construction of a formal economy in the Alaska with courts of law, schools, and other formal government services. The Organic Act also detailed how the United States government would deal with Alaska Native people. The Act specified, "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." At the same time, the Act deemed how and where Alaska Native people would be educated and thus, various boarding schools were established across Alaska. The act also asserted that, "the terms under which such persons may acquire title to such lands is reserved for legislation by Congress…"[27] This clause left the issue of Native rights to land ownership under the umbrella of the United States Federal Government.

In 1901 a fishing rights dispute between two non-Indigenous interests came to district court in *Sutter v. Heckman*. The judgment in the case relied upon the wording of the Organic Act to preserve the rights of a fisherman who gained access to a beachhead in southeast Alaska through an agreement with a local Native community. In doing so, the district court affirmed a certain degree of Native ownership, though it lacked clarification and did not decree whether their ownership of certain land constituted a more collective aboriginal form of title or an individual private proprietorship.[28]

In 1905 *United States v. Berrigan*, concerning the Native sale of land to a non-Native, disagreed with *Sutter v. Heckman*. The Berrigan ruling argued that by reason of the Doctrine of Discovery any lands held by Native title could only be transferred to a government that claimed territoriality of the region, the United States. Between Sutter v.

Heckman and United States v. Berrigan comprehensive Native ownership in Alaska was to remain uncertain for decades to come. Even after the *Alaska Native Allotment Act of 1906*, comprehensive Native ownership in Alaska would remain uncertain for decades to come. The *Alaska Native Allotment Act* allowed Alaska Native people to obtain no more than 160 acres of land, that land had to be unappropriated or not claimed by anyone else and it also had to be mineral free.

In 1912 the United States created the District of Alaska. Along with this restructuring came a new series of legal cases in the federal courts connected to Native title of land. For example, in 1914, the *United States v. Cadzow* supported both the wording of the Organic Act, recognizing the right of Native land possession as well as the United States legal obligation to protect Indigenous property interests. Specifically, the *United States v. Cadzow* concerned a group of traders in Fort Yukon who claimed to have brought a small dwelling with land from a Native person and wanted to be entitled to more land so they could build a trading post. The court ruled that the traders had not acquired a legal title and could not expand the title to include further acreage.

In the *Lumber Mills v. Alaska-Juneau Gold Mining Company*, the court, in 1961, opposed the *Cadzow*. *Lumber Mills* involved a private company claiming they possessed legal use a certain section of beach-lands after purchasing them purchasing the rights from an occupying Native individual. The litigation focused on resolving the dispute between two non-Native interests regarding the use and ownership of land, Alaska Natives were not directly involved in case. The judge accepted that the previous Native proprietor of the beach-lands held individual ownership of that specific acreage.

In 1947, William Lackey Paul, also known as William Paul Jr., and his bother Fredrick Paul, both Tlingit, argued in *Miller v. United States*. Whereupon, the Ninth Circuit Court legally recognized Alaska Native land title when they ruled that the United States government could not take their land without due compensation. However, the opposing side claimed the *Organic Act* itself altogether extinguished Native title. The Court sought to limit Alaska Native rights to any land claim, as they viewed the rights of the United States Government as superseding all Indigenous claims.

Eight years later inn 1955 the *Tee-Hit-Ton Indians v. United States* faced the Supreme Court with both parties aspiring to settle the issue of Native property rights in the Alaska Territory.[29] *Tee-Hit-Ton* involved the *Téel' híttaan* clan of the Tlingit Raven moiety, who resided along the Southeast Alaska panhandle. The claim to compensation involved their relationship with the United Forest Service. The Forest Service authorized the sale of miles of timber without due regard to the Tlingit people who inhabited that particular area as their homelands. As counsel, Tlingit William Paul, Jr., employed aspects of acknowledged Indigenous property rights in the *Alaska Reorganization Act of 1936* for the basis of the *Tee-Hit-Ton* case against the federal government.

Historian Stephen Haycox has recommended that to understand *Tee-Hit-Ton* one must consider the multi-decade efforts of William Lackey Paul's father, William Lewis Paul, or William Paul, Sr., to settle land claims with the United States. Focusing on Paul's possible motivations, he notes, can help to clarify the intent of the case's petitioners. William Lewis Paul was a lawyer and the first Alaska Native elected to the territorial legislature.[30] According to historian Stephen Haycox, William Paul, believed "the path to Indian

equity lay" in ending the "special status and privilege for Indians." In other words, Paul believed at time that Native should hold rights to title of land, fee simple.[31] His position on the matter at times created a strained relationship with the Bureau of Indian Affairs when led by John Collier, the architect of the Indian Reorganization Act.[32] In disregard to the sentiments of the Bureau of Indian Affairs, Paul, Sr. believed the village was the primary social and cultural unit of Native Alaska. His thoughts concerning the place of wardship for Alaska Natives at times conflicted with the agenda of the Bureau of Indian Affairs.[33]

Yet, working with the BIA Paul came to support the creation of the limited use reservations in the mid-1930s with the Alaska Reorganization Act and in time he found ways to merge both individual and collective Indigenous claims in the court of law. These tactics developed when the federal government initiated policies seeking to redeem the horrific treatment it facilitated on tribes in the late nineteenth and early twentieth centuries, most notably with the Dawes Act of 1887. [34]

In the nineteenth century the Dawes Act divided reservation lands into individually held parcels as to diminish Indigenous collective unity and open non-allotted parcels to U.S. settlers. In recompense to the damage created by the act, the Indian Reorganization Act was set in motion as to allow Native communities a formal way to reorganize as tribal governments and reassert Native sovereignty. At this time, twenty-one years previous to *Tee-Hit-Ton*, the 1936 Alaska Reorganization Act, as an extension of the 1934 Indian Reorganization Act, promised to set aside four limited-use reservations for some Yupik, Inupiat, Athabasca, and Alutiiq communities, but largely left the broader Native Alaska population without such tracts of lands. However, the United States still kept quite a vast portion of Tlingit homelands into an expanded Tongass National Forest, which spread out over seventeen million acres. [35]

The Secretary of the Interior, at the time, also returned traditional fishing sites to their Native stewards. In addition to these developments through the IRA, Haida and Tlingit groups along the Alaska panhandle secured rights to land without signing onto relocations or reservations. In doing so, these communities possessed limited Indigenous rights to specific segments of their traditional lands that the United States turned into the Tongass National Forest. These acknowledged rights would be employed for the basis of *Tee-Hit-Ton* against the federal government.

Proclamations by President Roosevelt in 1902 and 1908 converted much of Tlingit territory under direct federal government control as publicly held land known as the Tongass National Forest. From there, the government leased timber rights to private companies so they could harvest the forest at a profit. At the same time, federal officials spent the early part of the century evicting Native inhabitants from the area. Park rangers destroyed fish camps, cabins, and any other sign of Native presence. [36]

In 1929, the Tlingit Haida Central Council worked together in pursuing a Fifth Amendment "taking" case against the government for asserting such authority of their homelands. The council, an Indigenous collective, sued the government for creating both the Tongass National Forest and Glacier Nation Park on their homeland without recognizing their ownership rights. By the late 1930s, they used the established IRA governments as a basis for sovereign claims. While holding critical assessments of the place of Native rights in the United States, Paul then encouraged Natives to file separate individual claims, aside from the council's movement, and to bring them together within

a class-action suit, represented as village units. Using his own Téel' híttaan clan as petitioner the case aligned with the broader conversation of Miller v. United States in 1947, viewing Native peoples as individual citizen landowners with a united claim.

This allowed the legal council for the *Téel' híttaan,* James C. Peacock and Paul's son William Paul Jr., to argue that the clan possessed a right of occupancy, that included timber rights, for which the government should pay just compensation to them under a provision of the United States Constitution.[37] Employing the Fifth Amendment of the United States Constitution as grounds that the rights of the Tlingit people had been violated by the federal government. The petitioners first filed with the federal Court of Claims, which discharged the lawsuit, yet found the clan as a recognizable entity in 1954.[38]

Yet when the Supreme Court heard the case the majority opinion, delivered by Justice Stanly Reed, held that the clan was to receive no compensation for their loss. The opinion decreed that the acquisition of property by the federal government in the Alaska territory was legal and did not interfere with the Tlingit clan, because the *Téel' híttaan*, under United States law, did not have the recognized right of occupancy, and or aboriginal title. Justice Reed ruled that the United States had only given the Tlingit permission to occupy their own tribal lands and that any entitlement regarding land was terminated because the Tlingit were part of the finalized United States conquest of North America. Since the Court chose not to recognize their sovereign ownership of the land they had no right to claim any compensation for the loss.

Justice Reed described why the clan deserved no payment for their claims because there had been no "recognition by Congress of any legal rights in petitioner to the land in question."[39] In the Court failing to perceive a just claim on the part of the *Téel' híttaan* clan, it denied the doctrine's agreement to observe "the rights of those already in possession" of said area. In refusing to recognize the claim the court chose a limited reading of the Doctrine of Discovery in order to nullify the ability of Alaska Native people to articulate occupancy rights.[40] That court decision would prove fundamental to the developing relationship the United States with Alaska Natives. [41]

After the *Tee-Hit-Ton* defeat, the Tlingit-Haida Council pressed for a settlement with the United States in 1959 that came through in 1968, and would provide the foundation for the passage of the *Alaska Native Claims Settlement Act of 1971 (ANCSA)*.[42] After *Tee-Hit-Ton*, in March of 1968, the Atlantic Richfield Company found oil on Alaska's North Slope, at Prudhoe Bay in what would eventually become the largest oil field in in North America, and that oil discovery was to provide the impetus for Alaska Native people and their land claims.

The Court's holding in Tee-Hit-Ton Indians v. United States disturbed Alaska Native relationships to land as the nation transformed Alaska from a federal territory into a state by reducing the state of Native land ownership to be analogous to others in Alaska.[37] This produced a sense of anxiety throughout Alaska concerning many aspects of Indigenous life that could face further threats to Indigenous sovereignty. In doing so, the ruling also strengthened Native concerns that would endure as a territory wide movement to confront Native rights as statehood provisions unfolded in Alaska.

For by the time of the ruling the Alaska Territory was already engulfed in an array of extractive industries and stood as a strategic national military encampment, soon locating the Aleutians as a weapons testing site.[38] If

Tee-Hit-Ton had secured Native claims, the corporate development of natural resource industries would have faced major complications. Also, politicians nationwide had major apprehension towards Alaska statehood in the 1940s and the ruling *Tee-Hit-Ton* came to help ease their apprehensions. If Natives owned the land, how would the incurred high cost of statehood declaration be paid by the state?

Throughout this history the balance between Indigenous rights and national citizenship formed a political practice whereby Native individuals and communities engaged in the affairs of Alaska as citizens. Activists, as citizens, fought for the Anti-Discrimination Act, adapting to the new forms of governance brought on by the United States. As seen with *Tee-Hit-Ton*, Native communities also contended with state and national governments in the assertion of Indigenous claims, which these colonial-legal regimes actively undermined in their very formation and operation. Citizenship made Natives compulsory participants in the shaping of Alaskan culture yet their Indigeneity, their sovereign connection to the land, was left unprotected by the Anti-Discrimination Act.

Notes

[1] Alberta Schenck, *Nome Nugget*, March 4, 1944.

[2] AK ST § 18.80.200.

[3] 348 U.S. 272 (1955).

[4] George W. Rogers, "Alaska Native Population Trends and Vital Statistics, 1950-1985."Institute of Social, Economic and Government Research. (University of Alaska Fairbanks, Alaska,1971).

[5] 348 U.S. 272 (1955).

[6] Ibid.

[7] Alberta Schenck, 1944.

[8] Alberta Schenck, 1944.

[9] ASL-KFA-1225.A3-1915.

[10] ASL-KFA-1225.A3-1915.

[11] Terrence M. Cole, "Jim Crow in Alaska: The Passage of the Equal Rights Act of 1945"

[12] The consequences and forms of discrimination against Alaska Natives in Alaska were varied. For example, in 1942, the United States war with Japan was actually fought in the Aleutians. For a brief time, the Japanese occupied the islands of Attu and Kiska. The United States military decreed for the safety of the population to raze nine villages and to transfer the people who were of Aleut heritage, to unplanned residency camps located in Southeast Alaska. Often the dwellings they were housed in were less than satisfactory. Amid this process, Aleut families were separated from one another, some permanently. At the same time, non-Native villagers, often the parents of Native children, were taken to various locations throughout the United States, unlikely to return.

[13] Maria Shaa Tlaa Williams, "A Brief History of Native Solidary." In The Alaska Native Reader: History, Culture, Politics, Ed. Maria Shaa Tlaa Williams (Durham: Duke, 2009), 205-206.

[14] Maria *Shaa Tláa* Williams, "A Brief History of Native Solidary." In *The Alaska Native Reader: History, Culture, Politics*, Ed. Maria *Shaa Tláa* Williams (Durham: Duke, 2009), 205- 206.

[15] Roy Peratrovich, "Keynote address" presented at the Alaska Native Brotherhood and Sisterhood 65th Annual Convention Hydaburg, Alaska, February 16, 1977. Available at http://www.alaskool.org/projects/native_gov/recollections/peratrovich/RPeratrovich_keynote.htm.

[16] Governor Ernest Gruening, "To Roy Peratrovich." January 2, 1942. Asl ms 129 folder 2 page 11. Alaska State Archives.

[17] Governor Ernest Gruening, "To Roy Peratrovich." January 2, 1942. Asl ms 129 folder 2 page 11. Alaska State Archives.

[18] Roy Peratrovich, "To Anthony J. Dimond." January 23, 1942 Als. Ms. 129 Folder 2 page 32. Alaska State Archives.

[19] Anthony J. Dimond, "To Roy Peratrovich." March 14, 1952. Als, ms. 129. folder. 1 page 12. Alaska State Archives.

[20] Roy Peratrovich, "To Anthony J. Dimond." April 28, 1943. ASL ms 129 folder 2 page 11. Alaska State Archives.

[21] Roy Peratrovich, "To General Simon B. Buckner." May 20, 1943. ASL. ms 129 folder 2 page 43. Alaska State Archives.

[22] Roy Peratrovich, "To Sid Charles." March 12, 1943. ASL ms 129 folder 2 page 32. Alaska State Archives.

[23] *The Daily Alaska Empire*. February 6, Page 8 1945.

[24] The state government promised equality even though the federal government's internment of Unangan villagers in five proximal World War II "relocation" camps continued for months after the bill's proclamation. Just beneath public transcript that confirmed Alaska Native citizenship was the opposing circumstances they faced as citizens and service members while hundreds were being innocently held in confinement to the disregard of their civil rights and the protective codes of treatment put forth by Geneva Convention.

[25] *The Daily Alaska Empire*, 1945.

[26] "The Russian exchange copy of the Treaty of Cession," March 30, 1867, General Records of the United States Government; Record Group 11; National Archives.

[27] The Organic Act of May 17th, 1884, sec. 8, 23 Stat. 24.

[28] Miller v. United States, 159 F.2d 997 (9th Cir. 1947). Cited from Case, 79.

[29] (348 U.S. 272, 75 S. Ct. 313, 99 L. Ed. 314).

[30] Stephen Haycox, "*Tee-Hit-Ton* and Alaska Native Rights." *Constitutionalism and Native Americans, 1903-1968*, volume 2 of John R. Wunder (ed), *Native Americans and the Law: Contemporary and Historical Perspectives on American Indian Rights, Freedoms, and Sovereignty*. (New York: Garland Publishing: 1996), 333-352. 337-338.

[31] Haycox, (337).

[32] Letter to the Bureau of Indian Affairs from William Lewis Paul. February 25, 1939. William Lewis Paul Papers. Acc.1885-001 Box 2 folder 2. University of Washington Libraries Special Collections.

[33] Amendment of May 1, 1936 to the Indian Reorganizaiton Act of 1934, 48 Stat. 984, 25 USCA 461 et seq. (1936). The Indian Reorganization Act sought to correct some of the harmful results of the Allotment act.

[34] "General Allotment Act (or Dawes Act)," Act of Feb. 8, 1887 (24 Stat. 388, ch. 119, 25 USCA 331).

[35] Act of June 18, 1934, 48 Stat. 984, 25 USCA 461 et seq.

[36] Thomas Michael Swensen, "Green Imperialism in the Tongass National Forest." Alaska Native Studies Blog. http://alaskanativestudies.blogspot.com/2013/09/green-imperialism-in-tongass-national.html

[37] James Peacock "To Harry Bremmer, Sr." June 7, 1954. Acc. # 4246-001. Box 7. William Lackey Paul Papers. University of Washington Special Collections.

[38] Tee-Hit-Ton Indians v. United States, 348 U.S. 272 , 75 S.Ct. 313.

[39] (Reed Opinion, 348 U.S. 272, 75 S. Ct. 313, 99 L. Ed. 314).

[40] For the ideology of the Doctrine of Discovery, imperative to understanding indigenous legal dealings with the nation, manufactured a practice between European sovereigns in their initial confrontations with Native people over land acquisition through acknowledging an indigenous authority to sell their occupational rights solely to the conquering nation declaring territoriality over the particular geographic area. Supreme Court Justice John Marshall, in 1832, discussed the practice in Worcester v. Georgia opinion, laying the groundwork for the greater body of federal Indian law.

[41] At the same time, the Supreme Court ruling also hinted that the United States Congress could later chose to recognize the aboriginal title of the Tlingit people.

[42] Tlingit and Haida Indians of Alaska v. United States, 177 F.Supp. 452, 147 Ct.Cl. 315

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