



Kitselas Treaty

Community Engagement Series

Self-Government

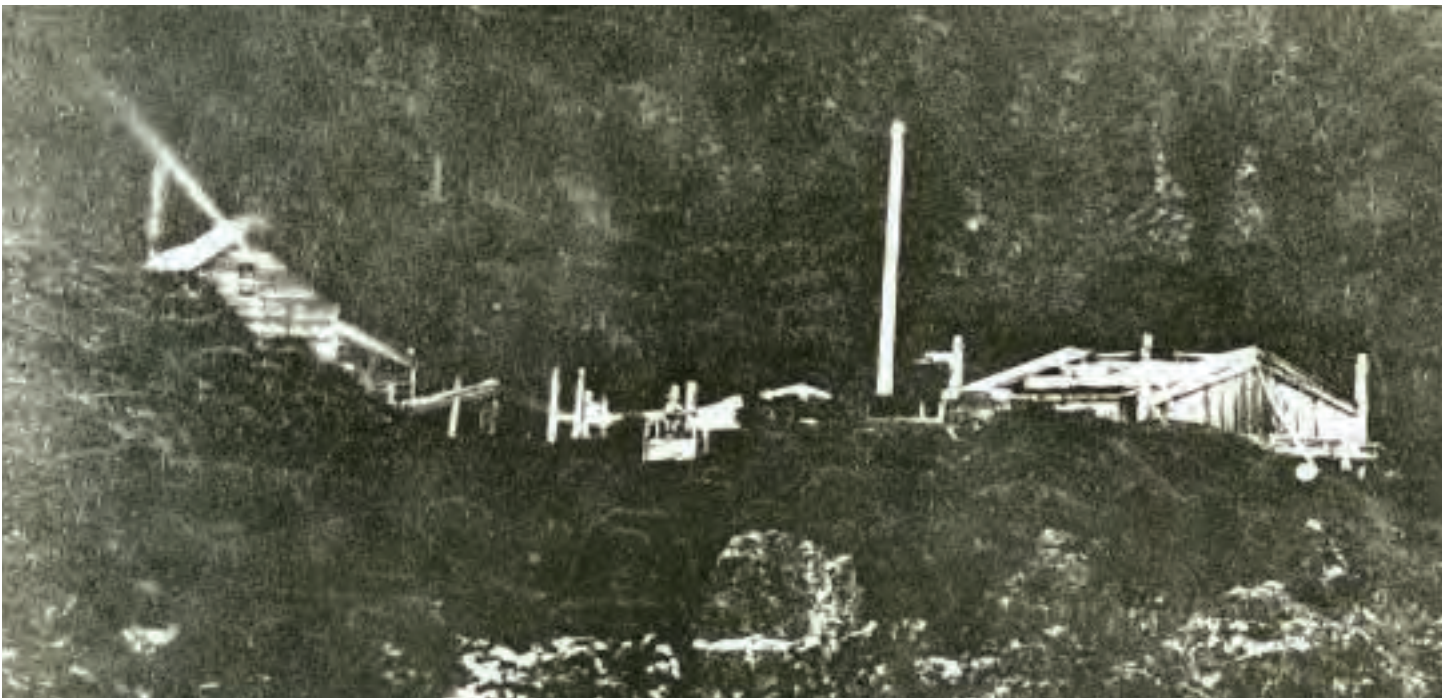


What is Self-Government?

Merriam-Webster's Dictionary describes self-government as "government under the control and direction of the inhabitants of a political unit rather than by an outside authority". To apply this definition to our real life example-through self-government the Kitselas (the political unit) will govern themselves rather than submit to the will of Indian and Northern Affairs (the outside authority). Another broader definition of self-government is "control of one's own affairs" which is exactly what Kitselas could have if the people so chose. The Government of Canada generally agrees that the inherent right to self-government is an existing Aboriginal right under section 35 of the Constitution Act, 1982. This means the Kitselas do not need permission to pursue and implement various forms of self-government, rather they merely need to decide how far they will go.

Why do we want Self-Government?

The Kitselas, among other Native groups, were self-governing long before European contact. The *Indian Act* was passed in 1876 without the consultation or consent of the Native people, it was simply imposed. The long standing political and economic systems that had sustained our people were outlawed and Native people became prisoners of the reserve system and an institution that continues to oppress them. The *Indian Act* was developed to control almost every aspect of Native life and continues to dictate the way Native people are governed on-reserve. This booklet will explain why self-government is critical to making the changes needed to build a strong Nation.





Challenging the Status Quo

The *Indian Act* has been a part of our lives for so long it is simply unchallenged as we carry on with our day to day lives. Individuals do not realize it is in fact the *Indian Act* that is the source of their frustration with the elected Council in their communities. This is because under the *Indian Act* the Band Council has no real power to affect change. The Council is at the whim of the Minister of Indian and Northern Affairs who has veto power over every proposal the Council makes. The relationship between the Minister and the Band Council, to use a metaphor, is like that of a parent and child. The parent, who feels they know what is best for their child, decides how much money they will give to the child and as an extra precaution may decide how their child is to spend it. This relationship, in technical terms, is also known as the Fiduciary Relationship, which is the financial responsibility the Federal Government has to the Aboriginal people of Canada. Established through section 91(24) of the *Constitution Act, 1867* the Crown assumed responsibility for “Indians and Lands Reserved for Indians”. While this was suppose to protect Native people it actually made them “wards of the state”- a term that has been adopted by critics to illustrate the condescending nature of our relationship to the Crown. The fiduciary duty is a source



of dependency that keeps us chained to the *Indian Act*. We are at the mercy of the federal government because they hold the purse strings.

Thomas Isaac states, “the *Indian Act* severely restricts the ability of Indians to manage their own affairs and to determine their destiny. The act is paternalistic, and it seeks to assimilate Aboriginal peoples. It remains the single largest impediment to Aboriginal self-government and Aboriginal social and economic development within Canada today”¹. In addition, the *Indian Oil and Gas Act* and the *British Columbia Indian Reserves Mineral Resources Act* prevents Indian Bands from claiming ownership of natural resources on their land. It is clear that every effort has been made to ensure Native people are not equal participants in the Canadian economy and political arena; self-government can change this.

On Our Way...

The Kitselas have already realized a form of self-government through the signing of the *Kitselas Reserve Lands Management Act* which gives the Band law making authority as it pertains to land. The Act also creates the ability to create management and administrative bodies or agencies and enforce First Nations Laws. As part of the mandate of this Act the Committee to Council was formed providing for another layer of self-government.

¹ Thomas Isaac. *Aboriginal Law: Cases, Materials and Commentary*. (Purich Publishing: Saskatoon, 1999), 507.

The Committee to Council is responsible to monitor and prioritize community issues on an on-going basis and may give direction to respond or develop policies for recommendation to Chief and Council if required. As the Committee to Council gains footing in the community it will be a source of accountability for the Chief and Council and will help the Council to identify community needs.

Limitations:

Under the *Kitselas Reserve Lands Management Act* reserve land is still subject to expropriation by the federal or provincial government should the government decide the land will suit a “public interest”. Because Kitselas lands are still Crown lands the Kitselas do not have a legal claim to the lands. It is also important to remember that while control over land management is a step toward self-government it is only one piece of a whole, there is much more the Kitselas can aspire to!

Where do we go from here?

Self-government is a very real alternative to the *Indian Act* governance structure of the Band Council. Obtaining self-government is dependant on the will of the people. The *Indian Act* was imposed, self-government must be a CHOICE. Talk about it amongst your family and friends and start to imagine a better future for the next generation. We can be free of the *Indian Act*, we only need to decide as a community to move in a new direction.



Definitions

inherent - means it is “built-in” or “in born” e.g. Native people have an inherent right to self-government because they were self-governing before colonization.

colonization - the formal assumption of control by a foreign invader over a new territory by military or civil representatives of the dominant power.

Ward of the State - a ward is someone placed under the protection of a legal guardian. In Canada, to this day status Indians remain wards of the state as a result of *Indian Act* legislation.

status quo - leaving things the way they are with no change.

paternalistic - a system under which an authority undertakes to supply needs or regulate conduct of those under its control in matters affecting them as individuals as well as in their relations to authority and to each other

condescending - showing a superior attitude toward others; showing that you believe you are more intelligent than others.

expropriation - the action of the state taking or modifying the property rights of an individual.

Indian Oil and Gas Act - This act establishes that Native people do not have a right to oil and gas found on their reserves. An excerpt reads: “all oil and gas obtained from Indian lands after April 22, 1977 is subject to the payment to Her Majesty in right of Canada, in trust for the Indian bands concerned, of the royalties prescribed from time to time by the regulations.”

British Columbia Indian Reserves Mineral Resources Act - This Act establishes that any minerals or precious metals found on Reserve lands belong to the Crown, an excerpt reads: “it has been agreed between the Governments of the Dominion of Canada and the Province of British Columbia, that as a matter of policy and convenience and for the development of such minerals and without thereby affecting the constitutional or legal rights of either of the said Governments, the Province of British Columbia should have charge of the development of all minerals and mineral claims both precious and base, in, upon, or under the said Indian Reserves”. BC and Canada have decided that Native people have no right to minerals or precious metals found on their reserves - “as a matter of convenience”.

Texts used to compile this booklet: Isaac, Thomas. “Aboriginal Law: Cases, Materials and Commentary.” Purich Publishing: Saskatoon, 1999 and Hylton, John H. Editor. “Aboriginal Self-Government in Canada: Current Trends and Issues”. 2nd Edition. Purich Publishing Ltd.: Saskatoon, 1999.

Photo: Village of Gitlaxzwak by Charles Horetsky, 1879



“Laws they had; but these were few; laws framed by Wise Men who watched the face of nature; who pondered long on the workings of Gyamk, the sun god who lived in the Sky City of Lahah; laws that were made as they watched cause and effect work out their ends in the lives of men.

Some happenings came to the people. The result was good and fortunate. “This is right” said the Wise Men. “This will be embodied in a new law so that good fortune may still be assured to our People.” And when misfortune came these Wise Men delved deeply to find its cause.

At last, satisfied they had learned that which they had sought for, they said, “The action that lies at the root of this difficulty is wrong. Our people must be protected in the future that the same error may not be committed again. We make a new law forbidding that action.”

So grew the Code. So were the children instructed in the ways of Right and Wrong. So generation followed generation, each one more vigorous, more prosperous”

Excerpt from the book “Men of M’deek and Wars of M’deek” by Will Robinson as told by Walter Wright. This text is a transcribed oral history of the Gitselasu. The above quotation is shared here as a testament to the fact that the Gitselasu had a means of formulating and changing laws. The Gitselasu have since time-immemorial been a self-governing nation. *Top Picture circa 1912, Walter Wright sits at right front.*

