

The Tribal Status of the Auk Tribe

A Report of the

**Central Council of the Tlingit and Haida
Indian Tribes of Alaska**

July 31, 1989

by

Charles W. Smythe, Ph.D.

Introduction

The Auk tribe is one of the thirteen geographical subdivisions of the Tlingit Indians of Southeast Alaska. Each of these groups inhabited an identified region and shared residence in one or more communities within their territory.¹ The first written report of the Auk tribe was made in 1794, when members of Vancouver's expedition observed smoke from campfires in Auk Bay (McMahan 1987:5). In 1804, Baranof visited the Auks on his journey to retake and reestablish the Russian settlement at Sitka (after it had been destroyed by Tlingit warriors under Kotlian). Two years later in 1806, in defense of their territory and probably as a result of kinship and alliances with Angoon clans, the Auks participated in the planning of another attack on the Russian colony at Sitka. However, the plan was aborted (Krause 1956:37, 265). Substantial incursions into the territory of the Auk tribe did not occur until after the discovery of gold in October of 1880, which brought large numbers of miners and extensive development into the Juneau area.

The Auk tribe was formally recorded by the Russian priest, Veniaminov, writing about the Tlingit tribes in 1835. Subsequent field investigations consistently reported the presence of the Auk tribe: Douglas (1839), Petroff (1880), Krause (1880-81), Niblack (1885-87), and Swanton (1904) (see Goldschmidt and Haas 1946:7, 57-65). In the first federal census in Alaska, the Auk tribe was reported as one of the divisions of the Tlingit people (Petroff 1882:177). The Auk people, numbering 640, were living in three villages: two on the northern part of Admiralty Island (opposite Douglas Island) and one across the channel on Douglas Island.

Petroff apparently overlooked another village of the Auk tribe, named A'ntcgalstu ('abandoned town'), which was situated on the mainland north of Admiralty Island, in a cove just south of Point Louisa. This community, designated as "the old Auk village" by Swanton, was inhabited at the turn of this century, when the Auks were also residing in an Indian village in Juneau (named Tsa'ntik!i-hin) (Swanton 1908:397, 412). These two Auk villages are included on a map prepared at the turn of the century by Lieutenant G.T. Emmons, showing locations of "the principal Indian villages in southeast Alaska" (see Appendix). Two clans were represented in the Auk tribe, Tlenedi and Wooshkitan. The Tlenedi clan was the principal clan, and comprised two houses, Ya' xte hit (Big Dipper House, referring to the constellation) and Til! hit (Dog Salmon House). The Wooshkitan clan had one house, Hit len (Big House) (ibid.:403).

¹ The Tlingit subdivisions are the Tongass, Sanya, Henya, Sitka, Kuiu, Kake, Taku, Stikine, Auk, Killisnoo (Angoon), Huna, Chilkat, and Yakutat tribes. Two other groups may have existed as independent tribes in earlier times; presently, the Sumdum tribe is usually included with the Taku people, and the Lituya tribe is counted with the Yakutat group.

At the time of the transfer of the Alaskan territory to the United States in 1867, the Auk tribe still retained the exclusive use and occupancy of their territory (see the discussion of Tlingit and Haida land claims, below). Russian, American, and English ships travelled regularly through the Auk region on trading expeditions, but the Auk maintained their control of the region until the gold discoveries of the early 1880s in the Juneau area. The modern communities of Juneau and Douglas lie within the territory of the Auk tribe.

Federal Recognition of the Auk Tribe During the Period of Military Government in Alaska (1867-1884)²

After the transfer of the Russian American territory to the United States in 1867, the administration of its affairs was entrusted to the War Department (except for the control of trade and protection of revenue by the Department of the Treasury). Specific directions concerning the Natives of Alaska were part of this charge:

Attention was early given to the Indians inhabiting the newly acquired domain. The instructions to General Davis [Commander of the detachment stationed at Sitka] were that, until a civil government was established, he should "act as their general superintendent, protecting them from abuse, and regulating their trade and intercourse" with white inhabitants. He was to exercise the greatest vigilance and strictly enforce such regulations as he might deem necessary in regard to them.

(Alaska Boundary Tribunal 1904:86-7)

In carrying out their responsibilities, the military authorities interacted with the Alaskan Indians as they did with the Indians in the contiguous states, that is, in recognizing and dealing with the different geographical groups as tribes.

The Auk people were recognized as a distinct tribal group by the United States authorities at the time of the transfer of the Alaskan territory from the Russians to the Americans in 1867. The U.S. Army, concerned with the future administration of the indigenous populations residing in the territory, instigated investigations into the Indian inhabitants of Southeast Alaska prior to the transfer. The report of this investigation refers specifically to the Auk tribe and the extent of their territory:

² There was a short period, from 1877-79, during which there was no military presence in the Alaska territory. A civil government in the territory was established in 1884.

Even before the transfer was effected the general commanding the division of the Pacific dispatched from San Francisco an officer, Colonel R. Scott, to visit the Territory of Alaska for the purpose of ascertaining and reporting upon the Indian tribes inhabiting that region, and their relations to each other and to those within British territory. He was also to report the steps necessary to be taken by the army authorities to control them and maintain peace.

In his report, dated November 12, 1867, Colonel Scott gave the result of his observations and inquiries between Cape Spencer ... and Portland Canal, relative to the Indians on the mainland and the islands. He referred especially to the tribes living "along the shores of the various bays, rivers, and inlets ...". Attached to his report is a list of the Indian tribes on the islands "and on the mainland from Cape Spencer to Portland Channel," with their estimated population. ...

In this list are found the Auks "scattered along Douglas Channel, on Douglas Island, and on the mainland from Lynn Canal to Taco [Taku] Inlet."
(ibid.:87)

Scott reported there were about 700 Auks in the area.³ The Auks were also specifically identified as one of the coastal tribes of Alaska in an early special report to Congress on the condition of the inhabitants of Alaska who resided there prior to, and at the date of, the acquisition of the territory by the Americans (Borrows 1872).

Federal recognition of Indian tribes in Alaska was defined further on March 3, 1873, when Congress passed legislation extending the 1834 law governing trade and intercourse with Indian tribes to Alaska. Specifically, the new legislation extended sections 20 and 21 of the Act of June 30, 1834 (An Act to regulate trade and intercourse with Indian tribes and to preserve peace on the frontiers), prohibiting the trade and intercourse of alcohol with Indian tribes in Indian country. Following passage of this legislation, the Secretary of War requested an opinion of the United States Attorney General regarding the definition of "Indian Country" as applied to Alaska. The opinion stated Alaska was to be considered as "Indian Country." The concept of "Indian Country," within the meaning of the intercourse laws, included all districts occupied by Indian tribes "to which the Indian title has not been extinguished ..." (Williams 1873a). "My opinion, therefore, is that, as to this matter, Alaska is to be regarded as "Indian Country," and that no spirituous liquors or wines can be introduced into the Territory without an order by the War Department for that purpose" (Williams 1873b).

Official interchange between the Auk tribe and the military authorities expanded substantially after 1880, when the discovery of gold in the Juneau area brought a rush of miners and prospectors into the territory of the Auk tribe towards the end of that year. In 1881, the mining settlement was of sufficient size to warrant the establishment of a military

³ Scott's complete report is included in Volume II of the Proceedings of the Alaska Boundary Tribunal, pp. 347-53.

post to maintain law and order within the white community at Rockwell (as Juneau was first named), and to regulate interaction between whites and the Indians. In issuing this order, the commanding officer at Sitka referred specifically to "Indian country" and directed that the lieutenant in charge of the Rockwell detail carry out the responsibilities of the U.S. authorities with regard to the Indian inhabitants: "The Territory of Alaska having been declared Indian country by act of Congress, you will assist the agent of the Treasury Department stationed at Rockwell in preventing the introduction and sale of spirituous liquors at that place" (Glass 1881b).

Members of the Auk tribe and other Tlingit groups were attracted to the area; they outnumbered the whites three to one in early reports:

As reported in my previous dispatches, extensive ledges of gold-bearing quartz and productive placer-mines have been discovered on the mainland of Alaska, near Douglas Island. These ledges having now been opened for working, and their great value placed beyond question, a large influx of miners and prospectors has followed, and the number of white persons at the mines is daily increasing. The Indians belonging to the surrounding tribes have been attracted to the mines in large numbers. An extensive mining district has been formed in accordance with law, and a mining town called Rockwell established. This town now contains a population of about 150 whites and 450 Indians. These numbers will soon be largely increased, as with the disappearance of the snow on the ledges extensive work will be undertaken.
(Glass 1881c)

In addition to regulating interactions with the Indians at Rockwell, the detachment was to conduct a survey of the new community for the purposes of settling disputes over town lots and mining claims. It was also decided to remove the Auk tribe and other Indians camped on the beach in front of the village to a location outside of town, at the mouth of Gold Creek. The Indians' consent for the move was gained before the order was carried out (Glass 1882b). Apparently the miners paid the Indians to give up their land in the village:

The Indians camped in front of the town have, in obedience to your order, been directed to remove to the mouth of Gold Creek, and nearly all have done so. When all have moved I will pay the indemnity money raised by the white men as ground damages.
(Rockwell 1881a)

The move was completed by June 25, 1881; and two Indian villages were formed at opposite ends of town. The Auks situated themselves above the tidelands south of the mouth of Gold Creek (which was known as Flounder Creek in Tlingit), and members of the Taku tribe moved southward to shoreline beyond Miners' Cove, near the town wharf. A survey of the harbor

encircling the new wharf in Juneau, conducted by officers of the U.S.S. *Wachusett* in 1881, shows the two Indian villages (see Appendix). The Auk village does not appear on early plats of the townsite of Juneau because the area was some distance from the town center. This Auk village expanded in subsequent years as more Tlingit moved from outlying areas, and it remains as a section of modern Juneau.⁴

The naval officer in charge of the Rockwell station reported that "the chiefs of nearly all the neighboring tribes have visited the post, and a number of old feuds and quarrels and have been settled in my presence, or are in the process of settlement" (Rockwell 1881b). This practice shows the influence of the first commander of the naval outpost in Alaska, Captain L.A. Beardslee, who was significant in shaping the administration of Native affairs in Alaska by the U.S. Navy. In making it his duty "to restore harmonious relationships between the whites and the Indians of southeast Alaska," Beardslee found it was indispensable to institute procedures concerning the administration of justice which were based on tribal law (Beardslee 1882:43-45). During his tenure from June of 1879 to September, 1880, he developed policies recognizing tribal law which had far-reaching effects in promoting harmonious relationships between the military authorities and the Indian tribes of southeastern Alaska.

The policies were formulated on the basis of provisions in American law, as extended to Alaska, which recognized tribal laws concerning proper punishment and restitution for wrong-doing.⁵ Specifically, he determined that, "The laws of the United States recognized the local laws of tribes as competent to inflict punishment" and "That as such jurisdiction had been turned over to sundry tribes by treaty stipulations [in the contiguous states], I would be justified in making use of the precedent when such action should seem to me advisable" (Beardslee 1882:43).

In developing these practices, Beardslee familiarized himself with the Tlingit tribal laws. He discovered that tribal law was based on strict concepts of justice and restitution that were instituted in formal procedures:

⁴ The other village, settled by Taku Indians, is shown as an area of "Indian Houses" on a map of the Juneau townsite drawn by G.W. and C.W. Garside in about 1898 (Alaska Historical Library, Map Case Number 124). The Taku Indians later relocated to Douglas.

⁵ Beardslee wrote that this policy followed logically from provisions of the Revised Statutes bearing on Indian affairs in Alaska, specifically sections 2145 ("Except as to crimes, the punishment of which is expressly provided for in this title, the general laws of the United States as to the punishment of crimes committed in any place within the exclusive jurisdiction of the United States, excepting the District of Columbia, shall extend to the Indian country") and 2146 ("The preceding section shall not be considered to extend to (crimes committed by one Indian against the person or property of another Indian, or to) any Indian committing an offense in the Indian country who has been punished by the local law of the tribe ...") (ibid.). Thus, in the administration of justice and the recognition of Indian law, another element of the concept of "Indian country" was extended to Alaska by the military authorities.

The Indians have a code of laws based upon their ideas of strict justice. If one Indian inflicts a blow or any other injury upon another the matter can be, and frequently is, adjusted at a consultation in which both families are represented either by the inflicting of an equal injury or by the payment to the injured party of an equivalent. Even a life taken can be settled for in this way, payments being made, according to the amount assessed, in slaves, furs, or blankets. By the unwritten but thoroughly established provisions of this law a man who sells or gives to another liquor, from the effects of which death ensues, is responsible for the death, and must pay the assessed value. If an Indian dies while in the house of another, or if killed in any way while in the employ of another, the house-owner or employer is responsible. The Indians seldom fail to yield to this, the very foundation of their laws, and a refusal to make equitable reparation is always a cause for war.

Every person in every family is bound to assist any member of it who has received injury from any member of another family in obtaining compensation from the injurer, or, failing in that, from his family.

The most sacred duty is retaliation; the word in their language which expresses it is "to get even." Their code would necessarily involve them in endless feuds, were it not that all injuries have their prices, and can be paid for.

After due consultation at a *pow-wow* between the leaders of the two families, a certain price is fixed, which is paid either in slaves, furs, or blankets, according to its amount. I have been called upon several times to investigate and act as arbiter, and have permitted this atonement, which satisfied all parties, in preference to inflicting punishments, which would make all parties dissatisfied.
(Beardslee 1882:45, 50)

Beardslee often followed these principles of tribal law in administering the Indian communities (see Beardslee 1882).⁶ In the settlement of disputes between tribes, and between Indians and white miners and traders, the naval officer served as arbiter and arranged the penalty or

⁶ Beardslee remarked on the significance of the institution of tribal law and on the value of utilizing it:

The difficulties between the Indians and whites are greatly due to this custom, and I became fully satisfied very soon after my arrival at Sitka that the two principal causes of difficulties between the whites and the Indians originate with the former. The whites turn peaceable Indians into crazy devils by furnishing rum to them, and friendly Indians into enemies by assaults upon them, for which the Indians cannot obtain redress. Thus, even from the Indian stand-point, the one thing necessary to preserve peace in Southeastern Alaska is a government with strength enough to restrain and fully punish disorderly persons, either white or red, and thus furnish to each an equally needed protection (*ibid.*)

It is interesting to recognize that Beardslee attributed the strained relationships between whites and Indians to the disregard for the basic principles of justice on the part of the whites, which prevented the Indians from obtaining redress for wrong-doing.

payment that was satisfactory to both sides of a dispute. Beardslee's account shows that in some cases he exacted a punishment, while in others he accepted "the only law existing in the country which could meet the exigency, viz, Indian law" (ibid.:75). The records establish that, during the administration of the Alaska Territory by the U.S. Navy, the authority of Tlingit tribal law was recognized.

One such case involved the Indians at Rockwell, who were required to make a payment of a fine of fifty blankets as compensation for a stabbing. The person responsible, who committed the assault under the influence of alcohol, was a relative of one of the chiefs. The naval authorities presumably became involved in the situation in interest of preserving peace in the Indian community. The perpetrator was sentenced to one month's confinement and a fine of fifty blankets by the naval officer in charge of the Rockwell post. The chiefs of the Indian community paid the fine to the naval officer, of which 10 blankets were given to the injured woman and the remainder was returned to the chiefs by the authorities "to be used for the poor of the tribe" (Lull 1881b).

Beardslee and other naval officers also adopted the practice of calling councils of clan leaders to settle outstanding disputes and arrange formal agreements ("treaties") between Tlingit tribes. Several such agreements were made with the Auk tribe. One case brought by the Auk tribe involved members of the Stikine tribe, who were requested by the authorities to travel to Rockwell to discuss a settlement:

On the 20th instant Kaw-Eck, an Auk chief, came to the post and reported that a nephew of his had been killed two years previously by a nephew of a Stichine (sic.) chief. He said that the proper equivalent of this would be the life of one of the Stichine Indians, but as he knew that you did not wish the Indians to revenge their injuries, but bring them up for proper settlement, he brought this case asking for justice.

I sent for the Stichine chief, and an investigation into the affair was made. The Stichine chief acknowledged the justice of the Auk chief, and said that he would endeavor to prevail upon the members of his family to settle the matter. I directed him to return to his tribe and bring the necessary persons here and settle the matter in my presence. He has gone for them, but he has not yet returned.

(Rockwell 1881b)

Other longstanding feuds between the Auk and Hoonah tribes and between the Auk and Kootznuwoo tribes were settled amicably by arbitration in 1881 (Glass 1881a; Lull 1881a). In the case of the Kootznuwoo, the Angoon people travelled to Rockwell for the purpose of arranging the agreement.

Recognition of tribal authority was further supported by the practice of hiring leading members of the Indian tribes, including chiefs, as policemen in the Indian communities, which Beardslee also instituted. Shortly after assuming his Alaskan command at Sitka, he reported,

"I determined to teach the Indians to control themselves, and to obey primarily their own laws, and to this end appointed as policemen five of the most trustworthy and influential, to whom the duties of preserving order in the ranch [Indian village] and of arresting all disorderly or drunken Indians who came into the white settlement, were assigned" (Beardslee 1882:46). The institution of Native policemen, developed as an aspect of a program to promote and preserve order in the Native community at Sitka, was replicated in other communities. After miners settled in the Auk territory at Rockwell, a chief of the Auk tribe was appointed to police his tribe:

Rockwell, Alaska Territory
May 2nd, 1881

This paper is given to the Head Chief of the Auke Indians, "Klow-kek" to show that he is entitled to respect from all the Indians in the Auke-kwon Country.

He is directed by me to keep order among the people of his tribe, to keep them from making hoo-che-noo and to see that they keep at peace with the white men.

As Klow-kek is representing me he must be obeyed by all Indians in his village. Anyone who will not obey his proper orders will be punished.

Henry Glass
Commander, U.S.N.⁷

In 1881, Klow-kek was head of the Yah-teh-hit and lived in it at its present location before the coming of the whites. The name of this house, located in the Auk village near Point Louisa, was recorded by Swanton in 1904: it is translated as the "Big Dipper House," named after the celestial constellation (see page one, above). This chief is probably the same man involved in the settlement of the dispute between the Auk and Stikine tribes described above.

Native policemen were outfitted with a cap, badge, etc., and put in charge of tribal segments of the Native communities. The practice of appointing Native policemen was continued after the civil government was established in the territory. In 1891, an official certificate to "Appoint and Commission" a man named Ish-ka-tohk as "policeman at Auke village and Juneau" was issued by the governor of the District of Alaska, Lyman E. Knapp, on behalf of A.R. Peckinpaugh, U.S. Secretary of State. Upon assuming his office, the Auk man signed an oath of allegiance to the United States and the District of Alaska.

Another policy instituted by the naval command was the prohibition of slavery, which was a social institution of the Tlingit tribes. Traditionally, persons captured in war or acquired in payment for a claim became the property of the clan and, like other items of clan property,

⁷ Original in possession of Mrs. Lilly Hollis K. John of Sitka, Alaska, descendant of Klow-kek.

were held by the chief on behalf of the clan. Wealthy clans acquired many slaves, sometimes holding them for generations. "Finding that a system existed among the Alaska tribes of making slaves of prisoners of war, or of hostages held for the payment of claims for injuries, I have determined to suppress it, if possible, and have made a beginning at Sitka" (Glass 1881:28). He reported freeing 17 persons of various ages which had been purchased or inherited as slaves. In the previous month, Glass addressed a letter to the Auk tribe requesting that all slaves be freed and threatening severe punishments if such actions were not carried out:

U.S.S. *Jamestown*
Sitka, Alaska
April 23rd, 1881

The Head Chief of the Aukes

I have been made very sorry by hearing that some of your people own other Indians as slaves.

This is a great crime and the government of the United States will not allow anyone hereafter to own a slave or to sell anyone as a slave.

If any of your people have slaves now they must set them free at once. If they will not do so, or if they treat badly any person who has been a slave they will be punished severely.

Henry Glass
Commander Commanding

As with the other actions dealing with the Aukes, this communication was carried out in recognition of the tribal status of the Auk group.

Federal Investigation of Aboriginal Title to the Auk Territory

In a report to the Commissioner of Indian Affairs submitted on October 3, 1946, federal investigators identified and described the areas owned by the constituent clans of the Tlingit tribes since before the time of first contact with white men. Entitled *Possessory Rights of the Natives of Southeastern Alaska*, the study presented "a detailed analysis of the early and present territory used and occupied by the Natives of Southeastern Alaska (except the Natives of the villages of Kake (partially treated), Hydaburg, and Klawock)." In their summary, the investigators reported that:

The Tlingit and Haida Indians have continuously used and occupied the lands and waters of Southeastern Alaska since before the first exploration in the area. They used all the bays, inlets, islands,

and streams from a little south of the mouth of the Copper River to the southern tip of Alaska.
(Goldschmidt and Haas 1946:iii)

The complex system of Tlingit property ownership and title was also acknowledged in the report:

The natives had a well-defined system of property ownership which was not unlike our own, except that the land was generally held in the name of a clan or house group, with joint usage by such an extended family. Title to land was obtained by inheritance or as legal settlement for damages; it was never bought or sold. It was recorded in the minds of all interested parties by elaborate ceremonials and the distribution of goods among the people (potlatches), which were necessary before land ownership could be recognized. Deeds were sometimes further recorded in the carvings of the famous totem poles.
(ibid.)

The tribal territory owned and used by the Auk Tribe was presented in the report. Areas used and occupied prior to 1884 (the year marking the beginning of severe disruptions and displacement of Tlingit and Haida communities) were identified, as well as areas in use during the 1940s (see map of the Juneau-Douglas Territory Showing Aboriginal Use and Ownership and Present Day Uses in Appendix). The Auk territory was divided between two clans. On the mainland, the Auk territory included all of Berners Bay and extended south to approximately the location of Thane (Sheep Creek) on Gastineau Channel. It included the northern and western portion of Douglas Island; and on Admiralty Island it extended into Oliver Inlet and along Seymour Canal, as well as Hawk Inlet and all of Mansfield Peninsula. The west coast of Lynn Canal from St. James Bay south to Point Howard is sometimes included in the territory.

Federal interest in the possessory rights of Alaska Natives developed after the Indian Reorganization Act of 1934 was amended to apply to Alaska in 1936 (49 Stat. 1250). Within months of the passage of the amendments, a special representative of the Commissioner of Indian Affairs visited the Indian communities in southeast Alaska and submitted a report on the Indian Tribes of Southeast Alaska (Price 1989:239).⁸ The author of the report, Oscar L. Lipps, recommended the establishment of reservations in Southeast Alaska. Within the Department of Interior, the establishment of reservations in Alaska was viewed as a means to protect Native fishing rights, which were threatened by the commercial fishing interests active

⁸ The Senate Committee on Indian Affairs also held hearings in Alaska to assess the condition of Alaska Natives in July of 1936 (ibid.)

in the southeastern region.⁹ An opinion of the U.S. Solicitor's Office in 1937 stated that the IRA of 1934, as amended in 1936, gave to the Secretary of Interior "the authority to reserve submerged lands within 3,000 feet of the shore so long as those submerged lands were adjacent to lands actually occupied by Alaska Natives" (ibid.:241). A subsequent opinion in 1942 held that Alaska Natives had aboriginal fishing rights that were violated by the operation of fish traps by non-Natives in their waters (ibid.:244). Thus, in these years, aboriginal title to both land and water areas was recognized by the Office of Indian Affairs. The reservation proposals prompted extensive and prolonged opposition by the commercial salmon industry which ultimately led to the abandonment of the reservation idea, and recognition of Native claims to the waters of Southeast Alaska, by the Office of Indian Affairs. There was also resistance to the reservation proposals by the Forest Service, and a mixed response in the Native community.

However, federal actions concerned with the recognition of aboriginal use and occupancy of land and water continued in the mid-1940s. Investigations of areas owned and occupied under Indian title were carried out in southeast Alaska. In 1944, hearings on aboriginal claims to waters related to the protection of fishing rights were held in Hydaburg, Klawock, and Kake (United States Department of the Interior 1944).¹⁰ In 1946, an investigative team visited the remaining communities in southeast Alaska and collected information about the possessory rights of the Native inhabitants; the analysis was presented in a report in 1946 as described above.¹¹ Furthermore, comparable research was planned for the remaining Native communities in the state:

It is intended that similar studies of interior communities and of Eskimo and Aleut villages will be made during the next few years and that soon after the completion of these studies hearings will be set by the Secretary, under the Rules of Practice. In this way it is planned that

⁹ During these years, the extensive use of fish traps by the salmon industry in waters traditionally used and occupied by the Tlingit and Haida Indians was seriously disrupting the social and economic stability of Native communities.

¹⁰ The conclusions of the hearing officer upheld the existence of aboriginal fishing rights, but declared that the Natives of the three villages had abandoned their aboriginal fishing rights by acquiescing in the use of tidal waters by non-Native commercial fishermen. The report also made recommendations to the Secretary of Interior, to conduct investigations into the extent of the loss of aboriginal rights and to create reservations as compensation for their losses in the event that Congress decided not to compensate the Indians for their lost rights (Price 1989:260). Subsequently, the Secretary of the Interior recognized aboriginal rights to only land, not water, areas.

¹¹ Hearings were also held in the interior villages of Tetlin, Northway and Tanacross but these results were not included in the published report.

the Federal Government, after a long delay, will determine the possessory rights of all of the natives of Alaska.
(Goldschmidt and Haas 1946:ii)

The Goldschmidt and Haas report, and the planning of subsequent studies, were carried out in preparation for proposed public hearings on the possessory claims to lands and waters used and occupied by the Natives of Alaska. Rules for the practice of these hearings were published in the Federal Register on June 21, 1946, by Oscar L. Chapman, Acting Secretary of the Interior, under Alaska Fisheries General Regulations. However, no hearings were held, and no further investigations of Alaska Native use and ownership were initiated by the Office of Indian Affairs.

Participation of the Auk Tribe in the Settlement of Tlingit and Haida Tribal Land Claims

The Auk tribe was a principal participant in all of the actions leading up to the successful settlement of aboriginal land claims in southeast Alaska (Tlingit and Haida Indians of Alaska v. United States, Ct. Cls. 1959). This lawsuit, brought on behalf of the Tlingit and Haida Tribes of Alaska, involved claims against the United States for the loss of title and possession of "tribal and community property" in lands and other holdings in southeast Alaska since the transfer of Alaska to the United States in 1867. On October 7, 1959, the Court of Claims issued a decision in favor of the Tlingit and Haida Tribes of Alaska: the court found that, at the time of transfer of the Russian American territory to the United States, the Tlingit and Haida people held Indian title to the lands and waters of southeastern Alaska and that "the United States both failed and refused to protect the interests of these Indians in their lands and other property in southeastern Alaska ... and that the United States is liable under such act to compensate the Indians for the losses so sustained" (Tlingit and Haida Indians of Alaska v. United States, Ct. Cls. 1959, Opinion p. 24).

In conclusion, we hold that the plaintiffs have established their use and occupancy, *i.e.*, Indian title, of the lands and waters in southeastern Alaska shown on the map, marked plaintiff's exhibit 168 and reproduced as a part of this opinion; that they were using and occupying that land according to their native manner of use and occupancy in 1867 when the United States acquired Alaska from Russia; that following the purchase of Alaska in 1867 these Indians continued to exclusively use and occupy the same areas of land and water as previously, and that such use and occupancy was not interfered with by the United States or its citizens until 1884; that beginning in 1884 and continuing thereafter, these Indians lost most of their land in

southeastern Alaska through the Government's failure and refusal to protect the rights of the Indians in such lands and waters, through the administration of its laws and through provisions of the laws themselves; that a large area of land and water in southeastern Alaska were actually taken without the consent of the Indians, through Presidential proclamations issued pursuant to law, and through reservation of part of the land for Canadian Indians under the Act of March 3, 1891. The plaintiffs are entitled to recover for all usable and accessible land which they used and occupied, ...
(ibid.:26)

In the decision, the Auk Tribe is identified as one of the Tlingit and Haida Tribes residing in Alaska in 1867 (ibid.: Finding of Fact No. 25, p. 47). Their principal village, and a map showing the location of the village and the territory owned and occupied exclusively by the tribe in 1867, is also specified (compiled from the maps of Lieutenant G.T. Emmons first published in 1904).

During the period of the most intensive intrusion and displacement of Tlingit and Haida tribal groups by mining, fishing, and timber interests, which commenced after 1884, tribal leaders increasingly expressed protests and objections to governmental authorities, including the President (see ibid.: Finding of Fact Nos. 96-102, pp. 109-19). Councils of chiefs gathered to state their protests and claims on behalf of large groups of Tlingit and Haida people. The Auk tribe was often represented in these complaints. For example, in 1898, a delegation of eight chiefs addressed the Territorial Governor on behalf of the loss of salmon waters, fur-trapping areas, fishing streams, hunting areas, and other lands. These chiefs represented clans from the Stikine, Taku, Hoonah, and Juneau (Auk) tribes.

A chief from Juneau stated that when the Treadwell Gold Mining Company on Douglas Island "want the ground they simply move us from one place to another. Now our people had several creeks around here where they used to prepare food for the winter. Now all the creeks are claimed by the company." Another Juneau chief stated that when whites first came to Alaska "we were glad to see them. We knew they would give us work to do." He stated, however, that although the whites employed them for a short time, "then all at once we find out that great many white people rushed here and took our work * * *", and that subsequently the whites even took their fishing and hunting grounds.

(ibid.: Finding of Fact No. 99, pp. 113-14)

In 1912, Tlingit, Haida, and Tsimshian Indians in southeast Alaska formed an organization named the Alaska Native Brotherhood (ANB) with the twin goals of furthering the rights of Indians and advancing cultural change and acculturation in the region. Within a few years, a parallel organization, the Alaska Native Sisterhood (ANS), was also established. Recognition of citizenship rights, abolition of the dual school system, elimination of the use

of fish traps, and pursuing legislative changes as a political bloc, were among the early policies of the ANB/ANS (Drucker 1958:40-44). The hallmark of the ANB was the founding of local camps which served as the constituent units of the organization. The Juneau and Douglas Indian communities were the first camps formed after Sitka established Camp No. 1. Members of the Auk tribe are represented in the Juneau camp.

It was the ANB which reached a decision to go forward with claims against the federal government for loss of use and occupancy of Indian lands in southeast Alaska. In 1929, during their annual meeting in Haines, the ANB voted to pursue the passage of a special jurisdictional act permitting the group to bring such a lawsuit in the U.S. Court of Claims. The effort succeeded on June 19, 1935 (49 Stat. 388). This act authorized the Tlingit and Haida Tribes of Alaska to bring claims "for lands or other tribal or community property rights" taken without compensation and the failure of the federal government to protect the tribes' interests in such property. The act specified that tribes and tribal communities would be represented in the lawsuit, and in consequence a new organization was formed by the Tlingit and Haida Indians.¹² The Auk tribe, together with other Tlingit and Haida tribes in the state, were authorized to carry on with their claims.

The first official convention of the Tlingit and Haida Claims Committee was held in Wrangell, Alaska, on April 9-11, 1941, for the purpose of selecting attorneys for the land claims case. Indians from the communities of Juneau and Douglas, which included members of the Auk tribe, participated in the meeting. This meeting was the first federally recognized gathering of representatives of all Tlingit and Haida tribes (Smythe 1989:7). In addition, descendants of the traditional tribes, who were recognized chiefs or leaders of Tlingit and Haida clans, were permitted to intervene as parties plaintiff in the Tlingit and Haida land claims lawsuit (Tlingit and Haida Indians of Alaska v. United States, Ct. Cls. 1959, Finding of Fact No. 2, p. 31). This group included members of the Auk tribe (and also representatives of the other regional Tlingit and Haida tribes: Killisnoo, Kuiu, Henya, Taku, Huna, Yakutat, Lituya, Sitka, Kake, Stikine, Chilkat, Sanya, Tongass, and Kaigani tribes).

As described above, the court found in favor of the Tlingit and Haida Tribes of Alaska. Subsequently, Congress amended the 1935 jurisdictional act to clarify the structure and role of the Central Council of the Tlingit and Haida Tribes of Alaska as the mechanism for the distribution of benefits resulting from the decision. The amendment specified procedures for reconstituting the Central Council as the "representative tribal governing body" for all the Tlingit and Haida Tribes of Alaska. The Auk tribe of Juneau was a participant in this restructuring, and has remained a member of the Central Council to the present. In the

¹² The Department of Interior did not recognize the ANB as a representative tribal government, since membership was not exclusive to Native individuals.

intervening years, the role and function of the Central Council has expanded substantially, and it provides numerous services and benefits to its tribal members as the federally recognized tribal government for the Tlingit and Haida Tribes of Alaska (see Smythe 1989).

Appendix

Map 1: Map of Southeastern Alaska Showing Locations of the Principal Indian Villages. Prepared by Lieut. G.T. Emmons, U.S.N., for the Alaska Boundary Tribunal. March 28, 1903.

Map 2: Map of Soundings in Juneau Harbor, Showing the Original Location of the Auk Indian Village Next to the Town Wharf. Papers of the U.S.S. *Wachusett*. 1881.

Map 3: Map of the Juneau (Auk Tribe) and Douglas (Taku Tribe) Territory Showing Aboriginal Use and Ownership and Present Day Uses. Chart 6 from Goldschmidt and Haas (1946).

References

Alaska Boundary Tribunal

1904. Proceedings of the Alaska Boundary Tribunal, Vol 1. 58th Congress, 2nd Session, Document No. 162. Washington: Government Printing Office.

Beardslee, Captain L. A.

1882. Reports of Captain L.A. Beardslee, U.S. Navy, Relative to Affairs in Alaska, and the Operations of the U.S.S. *Jamestown* Under his Command, While in the Waters of that Territory, Part II: Operations in Connection with Indians. 47th Congress, 1st Session, Senate Ex. Doc. No. 71.

Borrows, William

1872. Letter to General F.A. Walker, Commissioner of Indian Affairs, March 4, 1872. Included in Letter from the Secretary of the Interior Relative to The condition of the inhabitants of Alaska who resided there prior to the date of our acquisition of that Territory. 42nd Congress, 2nd Session, House of Representatives Ex. Doc. No. 197.

Drucker, Phillip

1958. The Native Brotherhoods: Modern Intertribal Organizations on the Northwest Coast. Smithsonian Institution, Bureau of American Ethnology Bulletin 168. Washington, D.C.: U.S. Government Printing Office.

Glass, Henry

- 1881a. Letter to Honorable R.W. Thompson, Secretary of the Navy, from Commander, Commanding U.S.S. *Jamestown*, Sitka, Alaska, January 20, 1881. In Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (pp. 3-4).
- 1881b. Letter to Lieutenant Commander C.H. Rockwell from Commander, Commanding U.S.S. *Jamestown*, Sitka, Alaska, May 7, 1881. In Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (p. 35).
- 1881c. Letter to Honorable R.W. Thompson, Secretary of the Navy, from Commander, Commanding U.S.S. *Jamestown*, Sitka, Alaska, May 7, 1881. In Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (pp. 27-28).

Goldschmidt, Walter R., and Theodore H. Haas

- 1946 Possessory Rights of the Natives of Southeast Alaska. A Report to the Commissioner of Indian Affairs. (Mimeographed.) Chicago: Office of Indian Affairs.

Krause, Aurel

- 1956 [1885]. The Tlingit Indians. American Ethnological Society. Seattle: University of Washington Press.

Lull, Edward R.

- 1881a. Letter to Honorable W.H. Hunt, Secretary of the Navy, from Commander, Commanding U.S.S. *Wachusett*, Sitka, Alaska, September 8, 1881. In Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (p. 48).

Lull, Edward R. (cont.)

- 1881b. Letter to Honorable W.H. Hunt, Secretary of the Navy, from Commander, Commanding U.S.S. *Wachusett*, Sitka, Alaska, October 18, 1881. *In* Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (p. 49).

MaMahan, J. David

1987. Cultural Resources Survey Along the Glacier Highway in the Auke Village Vicinity (Project B.30012). Office of History and Archeology Report Number 7. Anchorage: Alaska Department of Natural Resources, Division of Parks and Outdoor Resources.

Petroff, Ivan

1882. Report on the Population, Industries, and Resources of Alaska. Tenth Census of the United States, Vol. VIII. Washington, D.C.: Bureau of the Census.

Price, Robert E.

1989. The Great Father in Alaska: The Case of the Tlingit and Haida Salmon Fishery. Unpublished Manuscript.

Rockwell, C.H.

- 1881a. Letter to Commander Henry Glass, Commanding U.S.S. *Jamestown*, Sitka, Alaska, May 29, 1881. *In* Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (pp. 31-2).

- 1881b. Letter to Commander Henry Glass, Commanding U.S.S. *Jamestown*, Sitka, Alaska, June 25, 1881. *In* Report of the United States Naval Officers Cruising in Alaska Waters, House of Representatives, 47th Congress, 1st Session, Ex. Doc. No. 81 (pp. 40-1).

Smythe, Charles W.

1989. Tlingit and Haida Tribal Status. A Report of the Central Council of the Tlingit and Haida Tribes of Alaska. Juneau: Central Council.

Swanton, John R.

1908. Social Condition, Beliefs, and Linguistic Relationship of the Tlingit Indians. Twenty-Sixth Annual Report of the Bureau of American Ethnology, 1904-1905. Washington: Government Printing Office.

United States Court of Claims

1959. Tlingit and Haida Indians of Alaska v. United States, Opinion and Findings of Fact.

United States Department of the Interior

1944. Hearings on Claims of Natives of the Towns of Hydaburg, Klawock, and Kake, Alaska, Pursuant to the Provisions of Section 201.21b of the Regulations for Protection of the Commercial Fisheries of Alaska.

Williams, George H.

- 1873a. Letter to W.W. Belknap, Secretary of War, from the United States Attorney General, August 12, 1873. General Orders No. 40, War Department, Adjutant General's Office, Washington, May 16, 1974. *In* Alaska Military Affairs, General Orders 1869-1905, pp. 1-8. Washington, D.C.: War Department.

Williams, George H. (cont.)

1873b. Letter to W.W. Belknap, Secretary of War, from the United States Attorney General, November 13, 1873. General Orders No. 40, War Department, Adjutant General's Office, Washington, May 16, 1974. *In Alaska Military Affairs, General Orders 1869-1905*, pp. 1-8. Washington, D.C.: War Department.