



Snuneymuxw

First Nation

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Snuneymuxw First Nation celebrates the life of Thomas Berger and his ground-breaking work in the Supreme Court of Canada R v. White and Bob case that changed Canadian Law

SNUNEYMUXW TERRITORY/NANAIMO B.C. – For 111 years following the signing of the Snuneymuxw Treaty of 1854 on December 23, 1854 between the Snuneymuxw People and the Crown, Canada denied the existence of the treaty. Thomas Berger became legal counsel for Clifford White and David Bob when they were charged with hunting out of season in July 1963 allegedly violating the Game Act [R.S.B.C. 1960, c. 160]. Mr. Berger and the Snuneymuxw People argued that the treaty exists and the Snuneymuxw People have the treaty right to hunt as formerly.

Mr. Berger took the case all the way to the Supreme Court of Canada and in November 1965 the highest court rendered its decision in favour of the Snuneymuxw People affirming the treaty and that it excludes the application of the provincial law. The charges against Mr. White and Mr. Bob were dropped. Chief Mike Wyse shares that “Thomas played a defining role in the history of our Nation. He took the time to sit with our people and learn about our treaty, culture and way of life. This helped him to enforce the spirit and intent of our forefathers and Elders with passion and conviction. He not only changed how Snuneymuxw First Nation is viewed through the eyes of Canadian law, but also changed the way the judiciary branch of Canada would treat aboriginal and treaty rights and title in the years and decades that followed. His ground-breaking legal career and legacy will always be in our hearts and carried forward through future generations with immense gratitude. On behalf of our Snuneymuxw People, I offer our deepest condolences to the Berger family.”

The Snuneymuxw Treaty of 1854 is a solemn promise to forever and always preserve and protect Snuneymuxw villages, enclosed fields, and the right to hunt and carry on fisheries as formerly. By virtue of section 35 of the Constitution Act, 1982, Snuneymuxw jurisdiction and authority is cloaked with constitutional protection. Since the signing of the treaty 167 years ago, several constructive arrangements and agreements have been entered into with government for treaty implementation. In August 2019, Snuneymuxw First Nation and Canada signed a letter of understanding, and in September 2020 Snuneymuxw First Nation and British Columbia entered the Reconciliation Implementation Framework Agreement and Land Transfer Agreement. They provide for immediate reconciliation of outstanding issues, recognition and implementation of Snuneymuxw section 35 rights, and affirms the role for Snuneymuxw laws, jurisdiction and authority.

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