

C A N A D A ' S N A T I O N A L N E W S P A P E R

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Cloud and sun. High near -1. Details, map, S13.

Natives win on land rights

Top court rules that oral history gives bands constitutional claim in absence of treaties

The Globe and Mail

Native people have a constitutional right to own their ancestral lands and to use them almost entirely as they wish, the Supreme Court of Canada ruled yesterday.

The decision applies to natives who have not signed away their lands in treaties and so is especially explosive in parts of Atlantic Canada and most of British Columbia.

By ruling that aboriginal title to land has never been extinguished, the Supreme Court casts a thick

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cloud of uncertainty over the future of British Columbia's logging and mining industries.

In a unanimous decision released yesterday, a six-member panel of the Supreme Court overturned a ruling of a B.C. court that dismissed claims from the Gitksan and Wet'suwet'en First Nations to ownership of a

58,000-square-kilometre swatch of land in northwest British Columbia.

The Supreme Court concluded that a new trial is necessary. The trial judge erred by not taking into account oral histories of the natives presented to the court to establish their occupation and use of the land, the court found.

"Had the trial judge assessed the oral histories correctly, his conclusions on these issues of fact might have been very different," stated Chief Justice Antonio

Lamer, who wrote the decision.

However, Chief Justice Lamer also stated that the court was not necessarily encouraging the natives to return to litigation to settle their dispute. Rather, he encouraged them to negotiate a settlement with the federal and provincial governments.

Ultimately it is through negotiated settlements, based on good faith and reinforced by the Court's ruling, that a reconciliation between native societies and the rest of Canada will be achieved, he

wrote. "Let us face it, we are all here to stay."

Both the federal and provincial governments expressed a willingness yesterday to negotiate a settlement.

Negotiation is the preferred option of the federal government, Indian Affairs Minister Jane Stewart said yesterday. She called the judgment a "positive affirmation" of Ottawa's approach to land-claims issues.

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Jeffrey Simpson / A20