

Feb 6 '74  
6

## Settlement of the Land Question

Slide of  
Kids & Scenes

Lectures today and tomorrow, not Friday  
Guest tomorrow

I have spoken a lot about the background

- Mingo & early history
- Reserves set up (reserves w/o treaties)
- Cf James Bay situation (it is all across Canada)

Situation now: - as settlement approached

- aboriginal title not extinguished → extinguishment
- " rights diminished → compensation
- Indians with poor, chaotic lands → more land

Today - how the problem might be solved for the future

- by what legal methods - How?
- by what terms - How much?

I can see the problems just taking shape - problems?

A. How? what method, instrument, procedure?

- Treaty
- Indian Claims Commission
- Legislation

1) Treaty?

Historic method, from Royal Proclamation

- Treaty 8 extended into B.C.

- Advantages:

- uniform provisions, not band by band
- negotiated, then bands brought on and given same terms

- Treaty No 12? 13? - - - ?

2) Indian Claims Commission (introduced during 1960's)

1961

1963 Farman

1965 Nicholson

1967 Laing held back

1969 White Paper → Indian Claims Commission

Dr Lloyd Barber

rejected by Indians

May still be needed

3) Negotiation followed by legislative enactment

(Choctaw, 1973 method)

- forced by Nishga case

- a) Ready
- already negotiating with Yukon & NWT natives
  - trying to push negotiations on Quebec (w Province)
  - ready for BC.

OK -  
w/ ready

: Means of April '73

b) Indians ready

- Union was formed for the purpose
- Has research section - Neika
- NBBC accepts Union role, BCANSI too
- Advice: do it now, with weak government

NOT  
NISHGA

c) Problem: who with?

A couple of  
problems

- Union for whole Province?
- Nishga, Kitwancool for part?

d) Problem - what for?

- Extinguishment of native title Value of extinguished  
native title?  
(what if Kitwancool don't want to?)  
- (Nishga case says it still alive)
- Compensation for lost rights?

B How much? What will the settlement look like?  
What terms?

a) Alaska settlement 1971 a model of sorts  
- legislative

Generous - "billion dollar settlement"  
- 40 million acres of lands  
- Share of royalties  
- Development cooperation  
- Not just settle land claims,  
but provide economic foundation  
for native advancement

b) Union Claim Dec 1971

Claim based on native title

[Blue book]

- Compensation, not declaration  
for lost rights
- Value - fair market value at time of taking
- Claims Commission
- Indian Development Corporation

Seems out of step (see San Jan 30)

FOR LAND

Nov  
1971

## Natives awarded settlement

WASHINGTON (AP) — The Senate today passed a bill to give Alaska natives \$1 billion and 40 million acres to settle aboriginal land claims.

The action cleared the way for an attempt to resolve differences between the Senate bill and a measure passed by the House.

The Senate bill, passed without major opposition and with minor amendments, would give 55,000 Eskimos, Aleuts and Indians \$500 million in federal funds and \$500 million in royalties from mineral production on Alaska public lands.

It also would give the natives a choice, by referendum, of either accepting title to 40 million acres of land, or ownership of 30 million acres and the right to use an additional 20 million acres.

The royalties and the money, to be appropriated over a 12-year period, would be handled by a Native Investment Corporation.

The House has passed a bill calling for \$45 million in mineral royalties which otherwise would go to the state, and 40 million acres.

## Example of Settlement in Alaska

Note: studies in NRC  
and Maron brief of  
Alaska Settlement

Dec. 18, 1971 Nixon signed a bill to extinguish  
aboriginal title on this basis:

- Money - <sup>462.5</sup>500 million (25 for 20 yrs) fed funds
- 500 million - royalties on land and  
minerals - 2% / yr up to 500 million
- Land - 40 million acres  
part to villages, endow (not reservation)  
part - blocks to which mineral rights  
etc will yield income

Alaska Native Development Corpor.  
share to Alaska Indians

In 20 yrs, a regular commercial corporation.

Of course there was

### Pressure for Settlement:

1. Land Freeze when Alaska became state,  
land was to be apportioned  
103 million ac to be chosen by state  
subject to native claims - so freeze  
state pushing - wants lands + revenues

2. Pipeline Freeze - some of injunctions  
are based on settlement of aborig. claims.  
Settlement removes that block.

Chosen

Method: not Claims Commission, not long court battles  
legislative settlement - ~~at~~ quick, sophist. (package deal)  
- a "judgment figure", not the dollar value of Alaska

### Philosophy:

Opportunity not only to settle Indian title  
but also to provide a foundation for economic  
advancement of the native people.

1963 - <sup>liberal.</sup> Government shows willingness to settle, by Indian Claims Commission

1961 Joint Comm of House & Senate on Ind Affairs etc:  
an Indian Claims Commission should be established to hear the BC and Oka land questions and other matters, and that the cost of counsel to Indians ... be borne by Federal Treasury.

1963 C-130 Indian Claims Act Mr Favreau

5 man Indian Claims commission

Claims to be made only by bands (legal Indians)

5 classes of claims: lands taken without proper agreement or compensation

: improper handling of funds, etc  
violation of treaties, etc.

bound by bands

Kite flying -

Reaction: Howard NDP: should include an international jurist  
a native Indian.  
an anthropologist

C 67 private bill. later withdrawn

costs by govt

more classes of claims, claims by individuals or organizations

1965 C-123 Indian Claims Act Mr Nicholson

5 man commission (1 a legal Indian)

claims to be made by bands

5 classes of claims: 1. lands taken without proper agreement or compensation

(Nicholson said this applies to BC Land Question)

Govt will pay legal costs  
Died when election called

But having held back, pending negotiation with BC Indians



c Yukon & NWT seem to want more like Alaska

- Rights
- Lands, Royalties, etc
- Compensation

d.) For B.C.?

Land? - more land

(Christen memo says 25 million acres  
but only if Province gives it)

Indian rights - Indian rights - restitution or compensation  
Compensation - Compensation  
(economic development)

Problems:

- how much? - valuation
- who is to share? New statute? eligibility
- local agreements? local claims

General settlement  
+ Claims Commission for local grievances