

# Patient Nishga win big battle

—but 107-year 'war' isn't over yet

Journal Correspondent

NEW AIYANSH, B.C. — Patience seems to have finally paid off for one group of northern natives in the unrelenting battle between Ottawa, the provinces and Indians over the issue of land claims and aboriginal rights.

The Nishga Indians — who "since time immemorial" have occupied the rich and stunningly beautiful Nass River Valley of north-western B.C. — finally persuaded two levels of government to begin negotiating their claim to 5,750 square miles of their traditional homeland.

Indian Affairs Minister Judd Buchanan jetted into Terrace, B.C., and then skidded his way 60 miles over snow-packed logging roads to this tiny village some 500 miles north of Vancouver. He was joined by a former Liberal, now Social Credit provincial labor minister with responsibility for Indian affairs in B.C., Allen Williams.

The Nishga were waiting with ancient ceremonies and concrete demands and this time they weren't being put off as their ancestors had been for 107 years.

For it was in 1869 — two years before B.C. entered Confederation — that the Nishga, supported by their Anglican missionaries, first asked for formal recognition of their rights to the Nass Valley. They went to Victoria to press their demands; they were refused entry to the governor's office and were driven away.

"They called our elders little better than animals," chief councillor Bill McKay told the cabinet ministers.

But the Nishga pressed on. Their valley with its mighty river and flanked by soaring mountaintops and rich in salmon and other fish. The forests were filled with trees and animals. The tiny, oil-rich oolichan, a smelt-like fish that traditionally saved the coastal Indians from starvation each spring, was in Nishga territory. They felt their valley worth keeping. It was not for sale.

In 1913, they got together \$500 and hired a firm of London lawyers to take their case to the king. Neither he nor his Privy Council would listen.

In 1923 they outlined a plan for settlement

By  
Hugh McCullum

of their claims, asking for \$2.5 million and larger reserves (160 acres per person), hunting, fishing and trapping rights and educational and medical services. The federal government rejected their demands as unreasonable.

In 1971 they took the province to court and lost. They also lost the first appeal and Indians across Canada rejected their legal battles, fearing that the Nishga's pride and love of their land would set back other claims in B.C.

But in January, 1973, the Supreme Court of Canada ruled on the validity of the aboriginal rights of the Nishga people. It was a split decision, but it was enough to make the Liberal government change its mind on aboriginal rights and promise to begin negotiations.

Still nothing happened, and the Nishga grew increasingly frustrated. They forced the CNR to stop surveying the right-of-way for a rail extension north of Terrace and that project sits idle where it enters Nishga land. They closed their logging road, prime source of timber for B.C.'s enormous logging industry.

But through it all, those 2,200 proud people accepted no government funding, caused no violence and (though "frustration caused us to weep") continued their lonely course.

This week, after two years of buck-passing Ottawa said it could not negotiate without B.C.'s involvement since all the land is Crown land and B.C.'s NDP administration claimed Indians were strictly a federal matter — the Nishga patience and sense-of independence paid off:

Buchanan and Williams pledged to have a negotiating schedule under way by early February.

The Nishga presented a tough declaration of their intentions which both ministers hedged on, but Williams acknowledged that many difficulties lay ahead and asked for "the same patience that has characterized the Nishga for the last 100 years."



# *Ceremony and fruits of the valley*

The key issue will be extinguishment of ownership. Canadian law is fuzzy on aboriginal title, a concept of British justice that says only the Crown may extinguish the title of indigenous people in return for compensation and some guaranteed rights.

The Nishga, who are extremely cautious about revealing the details of their claim, indicate clearly in their declaration that extinguishment of title is not their goal. They want title formalized so they can share in the economic returns from their land, rich in timber, fish, minerals and hydro potential.

"We realize that our struggle for self-determination will be a difficult one, but we refuse to believe that it will be in vain, if governments and the Nishga people agree to their mutual responsibility for that growth and development. Nishga self-determination of resource development within the Nass Valley is the economic base that will allow for self-determination of the other aspects of modern 20th century society that makes up this Canada of ours."

The declaration, read in full to the ministers by Nishga tribal council vice-president Rod Robinson, laid their terms on the line:

"The Nishga people believe that both the government of Canada and the government of B.C. must be prepared to negotiate with the Nishgas on the basis that we, as Nishgas, are inseparable from our land, that it cannot be bought or sold in exchange for 'extinguishing title.'"

The same statements were made by the Dene people of the Northwest Territories and Buchanan accused them of separatism. He was more positive in dealing with the Nishga:

"You have always been a reasonable people. You have always been ready to negotiate rather than confront. You have always refused government funding for your land claim. You have always been ready to work within the Canadian legal system. You are an example to all the other Indian people in Canada and this is a heavy burden which you bear well."

But after the meeting he told reporters that extinguishment of title was still the only mandate he had been given by cabinet. And while refusing to use the recent James Bay settle-

ment as a model, he made it clear that something similar would be a component of all future land settlements which see native people surrendering their ownership of the land in exchange for some reserves, a cash payment and hunting and fishing rights.

The Nishga greeted their visitors with traditional ceremonial. Their lives have always centred around their valley, their river and their church. So it was right that for this historic occasion they should present their most sacred ceremonials. The talking stick, symbol of authority, was blessed and turned over to president James Gosnell, their outspoken chief. Swan's down, symbol of peace, was scattered over the guests and their leaders.

The elders, wearing blood-red scarlet and black button blankets sat between the younger executive of the tribal council who faced the government delegation. Bishop Douglas Hambridge of Prince Rupert, Anglican Bishop of Caledonia (himself an adopted Nishga) lead the religious ceremonies.

An enormous banquet of salmon, herring roe, moose, mussels, clams and halibut — the fruits of their valley — awaited. It was done with all the dignity of a proud and independent people and Gosnell was elated.

"Our elders must be sitting up in their graves with the excitement of this day. Never in our wildest moments did we expect our generation would be the one to see this day come. The future is tough but the biggest hurdle has been met. Now we start to negotiate."

The biggest reversal is the stand of the B.C. government.

"This government of B.C. will take its rightful place as a full and necessary participant in discussions too long deferred," Williams said. He also assured the Indians and the federal government that "a willingness to carry on, to make adjustments and allowances will determine our degree of success."

The Nishga, in return, Gosnell said, want to survive as a people, as a culture. Already they have their own school system and the land claim, they say, will make their independence to develop their own way a certainty.

"The Nishgas have not put a price on their claim," Gosnell said. "Our land and our culture are inseparable."