

# B.C. court quashes land claim ruling

By Greg Joyce

Canadian Press

VANCOUVER — Native groups won a partial victory Friday when British Columbia's highest court ruled the Gitksan and Wet'suwet'en First Nations have some rights to a vast parcel of land in the northern part of the province.

The B.C. Court of Appeal overturned portions of a 1991 ruling by the B.C. Supreme Court, which said aboriginal title to the area was lawfully extinguished during colonial times before B.C. entered Confederation in 1871.

"All of the aboriginal rights

were not extinguished before 1871," Justice Henry Hutcheon told about 70 lawyers and dozens of other native and non-native spectators who packed the courtroom.

Hutcheon made his oral summation before two thick volumes of the written judgment were publicly released.

The land in question covers 57,000 square kilometres — an area about the size of Nova Scotia — and includes the salmon-rich rivers, minerals and forestry in the Bulkley, Skeena and Babine river systems.

The Gitksan-Wet'suwet'en

were seeking ownership of public property plus forestry, fishing, mining and water rights. The area includes the towns of Smithers, Burns Lake, Houston, Telkwa and Hazelton, but not the communities themselves.

Legal experts were predicting that, regardless of the outcome of Friday's ruling, the case would wind up in the Supreme Court of Canada.

Chief Justice Allan McEachern of the B.C. Supreme Court first ruled on the Gitksan-Wet'suwet'en land claim — considered one of the

largest in Canada — in March 1991.

The case began in 1987 and involved more than 300 days of court hearings.

McEachern ruled, among other things, that aboriginal rights before 1871 "were lawfully extinguished" by Crown ordinances of the then-colony of British Columbia.

The decision on the Gitksan-Wet'suwet'en claim was one of eight rulings on native rights delivered simultaneously Friday by the appeal court.

The five-member appeal court panel ruled against natives in the five fishing cases, but ruled for them in two hunting disputes.

In the fishing cases, native were looking for the appeal court to provide direction as to whether aboriginal fishing rights included the right to fish for economic or livelihood purposes.

The two hunting cases involve principles addressed in a 1990 Supreme Court of Canada ruling involving Ronald Sparrow, a Musqueam Indian fisherman, who uses an oversized net.