

The History of the Upper Skeena Region, 1850 to 1927

Robert Galois

Preface

The Trial and the Judgment

On 8 March 1991 Chief Justice Alan McEachern handed down his "Reasons for Judgment" in the case of *Delgamuukw v. the Attorneys General of British Columbia and Canada*. This brought to a conclusion the first phase of a remarkable court case.¹ The Gitksan and Wet'suwet'en people, through their hereditary chiefs, had sought recognition of their ownership and jurisdiction over their traditional territories—some 58,000 square kilometres (22,000 square miles). The trial, which lasted 374 days between 1987 and 1990, was the most thorough-going examination of the questions concerning the persistence of Aboriginal title in British Columbia. The quantity of evidence introduced by both sides, but particularly by the plaintiffs, was equally unprecedented.

Needless to say, the Judgment was eagerly anticipated, the more so since recent Supreme Court rulings (Sparrow, Sioui) had extended recognition of Aboriginal rights.² All such hopes on the part of Native people were dashed on 8 March 1991. McEachern's Judgment aroused a considerable storm of opposition; a storm that extended beyond the Gitksan/Wet'suwet'en and their supporters into the academic community and the public at large. Newspaper articles, conferences and scholarly journals orchestrated a chorus of condemnation.³ The Gitksan and Wet'suwet'en Hereditary Chiefs responded by appealing to the British Columbia Court of Appeal.

Much of the public commentary on the McEachern Judgment was undertaken by people who had no involvement in the case itself. This was entirely appropriate. However, there was a cost involved in such external responses: they were framed largely in reaction to the Judgment, the intellectual terrain as defined by the Chief Justice. As a result there has been little significant discussion of the enormous body of evidence the Chief Justice declined to consider in his Judgment. Given the scale of the evidence, (e.g., 23,500 pages of transcript evidence at trial, 9,200 exhibits filed) this is no small matter.⁴ The following report, one of the exhibits filed in the case,

illustrates one minuscule portion of the complex mass of evidence introduced.

In his "Reasons for Judgement," the Chief Justice offered some comments on the reports dealing with the historical dimensions of the case. These include the following observation:

Lastly, I wish to mention the historians. Generally speaking, I accept just about everything they put before me because they were largely collectors of archival, historical documents. In most cases they provided much useful information with minimal editorial comment. Their marvellous collections largely spoke for themselves. [p. 52]

By these criteria, of course, all the debates about values, ideology, subjectivity and interpretation, extending over the past half-century, were misguided or irrelevant. History, according to Mr. McEachern, is simply a matter of collecting of documents, all of which speak unambiguously. The ensuing cacophony, it would appear, enabled the Chief Justice to reach such conclusions as:

The plaintiffs' ancestors had no written language, no horses or wheeled vehicles, slavery and starvation was [sic] not uncommon, wars with neighbouring peoples were common, and there is no doubt, to quote Hobbs [sic], that aboriginal life in the territory was, at best "nasty, brutish and short." [p. 13]

This resort to Hobbes's highly speculative and polemical "anthropology" nearly three and a half centuries later is quite extraordinary.⁵

Subsequent Developments

Since March 1991 there have been both political and legal developments of direct relevance to the issues at trial in Delgamuukw. At the political level the provincial government retreated from its categorical denial of the existence of Aboriginal rights and title (the doctrine of blanket extinguishment). One result of the change has been the establishment of a British Columbia Treaty Commission. This body is charged with facilitating negotiations between First Nations and the federal and provincial governments. The ultimate objective is to arrive at a set of treaties mutually agreeable to all the parties. At the time of writing it is far too early to determine how the process will unfold. Needless to say, the challenge is a formidable one.

The provincial government's acceptance that there are issues to be negotiated had implications for Delgamuukw when it reached the British Columbia Court of Appeal. A new legal team was hired and the province's *factum* was amended to reflect the defendant's new position. In keeping with the original trial the appeal hearings were extensive, consuming a total of

thirty-four court days, and involving a host of intervenors. Judgment was handed down a year later, in July 1993.⁶

The appeal court judgment is a complex document, not susceptible to brief summary. However, the majority opinion largely sustained the new position of the province: extinguishment had continued after 1871 by adverse dominion. On this, and much else, Mr. Justice Lambert offered a powerful dissenting opinion. Of particular interest here are some remarks he made, in criticizing the trial judge, pertaining to the issue of historical evidence:

There are some historical facts on which all historians agree. But there are many others on which historians disagree about the historical facts or about the interpretation of the events which brought about or followed from generally accepted historical facts. It is a strange situation indeed if a trial judge, in a case such as this, can make a finding on a question of historical fact on the basis of the evidence of one or two historians or anthropologists, particularly if he does not believe one or more of them, with the result that the historical facts would become frozen forever as the basis for any legal decision about entitlement to rights. Historians and anthropologists and other social scientists do not always agree with each other. Circumstances change and new raw material is discovered and interpreted. The tide of historical and anthropological scholarship could, in a few years, leave a trial judge's findings of fact stranded as forever wrong.⁷

After analyzing the appeal court judgment, the Gitksan and Wet'suwet'en Hereditary Chiefs sought, and obtained, leave to appeal to the Supreme Court of Canada.

The Report

The scope and purpose of my report is explained within the text and needs no elaboration. I should add, however, that I was surprised at the amount of relevant information I encountered. There was far more documentation about the struggles of Gitksan and Wet'suwet'en peoples than I had expected; far more about the consequences of the influx of settlers into Gitksan and Wet'suwet'en territories; far more about the persistence of Gitksan and Wet'suwet'en cultures. I hope the report makes this clear. It is reprinted here as submitted, with only very minor editorial changes for purposes of style and clarity. For reasons of space the supporting appendices have not been reproduced.⁸ Finally, my report elicited a response from the provincial defendant. Its "expert," David Williams, submitted a report

entitled "The Imposition and Acceptance of Law and Order within the Claim Area."⁹ He sought to document the Gitksan and Wet'suwet'en acquiescence in governmental activities in their territories.

Introduction

I was asked to undertake research of the documentary record concerning the history of the upper Skeena region and its inhabitants in the second half of the nineteenth century. The Gitksan and Wet'suwet'en peoples, their economy and society, were the major foci of this research, but they were to be examined in the context of their growing interaction with White society. As an extension of this research I was asked to develop an opinion on the nature of Gitksan and Wet'suwet'en "resistance" in their encounters with non-Indian society. The mandate in this instance was extended into the twentieth century to some appropriate end point. I have determined, after an examination of the historical record, that the 1927 amendment to the *Indian Act* prohibiting fund-raising for the purpose of pursuing title claims marks a logical break-point in the historical process. Therefore this opinion considers Gitksan and Wet'suwet'en protest actions during the period 1850 to 1927.

The specific questions which this opinion addresses are as follows:

I. Economy and Society on the Upper Skeena, 1850-1897.

1. What was the nature of the White economy and society in the upper Skeena region up to the end of the nineteenth century?
2. What were the processes by which the aforementioned White economy and society developed in the second half of the nineteenth century?
3. What features of Gitksan and Wet'suwet'en economy and society are described in the documentary record for this period?
4. What changes in Gitksan and Wet'suwet'en economy and society occurred during the second half of the nineteenth century?
5. What evidence is there of the continuity and persistence of the core elements of Gitksan and Wet'suwet'en economy and society during these years?

II. Gitksan and Wet'suwet'en Protest Actions, 1850-1927

6. What forms of protest action, if any, did the Gitksan and Wet'suwet'en employ?
7. How did the forms of protest change over time?
8. What issues generated Gitksan and Wet'suwet'en protest actions?

9. When and where did these issues arise?
10. Against whom were the Gitksan and Wet'suwet'en protest actions directed?
11. What were the objectives of these protest actions?
12. What were the results of these actions?

Before proceeding with this opinion it is necessary to specify the usage of two important terms: traditional and protest. Traditional within the context of this report takes on particular shades of meaning that are important to specify at the outset. It refers to those aspects of Gitksan and Wet'suwet'en cultures that existed at the time of direct contact; it does not refer, however, to some frozen point in time from which all subsequent change is measured. Gitksan-Wet'suwet'en history did not begin with the process of contact with White society. Traditional activities, therefore, may have changed through time—both before and after contact. For example, hunting is a traditional Gitksan and Wet'suwet'en activity that has persisted to the present day. It is traditional in spite of the fact that the techniques by which hunting takes place have changed. Similarly the feast system, although it has undergone changes of form, is a central component of Gitksan and Wet'suwet'en cultures. It would not be necessary to elaborate on the meaning of the term traditional if it did not refer to traits and activities that are the core of these cultures. Traditional elements are part of the process by which a culture defines itself through time. Neither the whole nor the parts are static.

An essential part of this opinion was to develop an appropriate conceptualization for the term "protest." The positions adopted with respect to this question have shaped both the structure of enquiry and the form in which the findings are presented. The basic feature of protest is the component of opposition to the actions of some other party; in the present context, Gitksan and Wet'suwet'en opposition to White actions is viewed as unacceptable. Such protests can be envisaged as taking a variety of different forms that, in turn, may be arranged in a continuum. At one pole are located episodes involving violent conflict—episodes that are dramatic and stand out in the historical record. The opposite pole reflects a determination to persist, usually in some form of traditional activity, in the face of hostile White actions. The example of the feast system will help clarify this last point.

Missionaries and Indian agents in the upper Skeena made a series of attempts to eliminate the Gitksan and Wet'suwet'en system of feasts. The necessity for such action is eloquent testimony to the limited success achieved. Moral, administrative and even legal pressures were unable to

eradicate the feast system. The Gitksan and Wet'suwet'en responded in a number of ways to the White pressures, but in the end the most effective tactic was simply to continue to operate the system. Such persistence, in the face of powerful White hostility, was an important dimension of protest.

Between the two poles of violent conflict and persistence are a multiplicity of other forms of protest actions. These include tactics such as oral complaints and claims directed at accessible political or administrative forums; the gamut of written statements, petitions, and complaints; a number of legal options; civil disobedience and illegal, but non-violent, actions.

To understand Indian protests it is necessary to move beyond a recognition of the diversity of forms to consider the structure of protest. This adds the dimension of process. Process, in this context, refers to two features: change over time, a developmental aspect; and protest as an interaction between two sides. The interaction between the Gitksan and Wet'suwet'en and White society, however, contained a fundamental asymmetry. As the intrusive element, it was White society that posed questions of the Indigenous peoples.

Although this opinion is directed at both the Gitksan and Wet'suwet'en cultures, the former appear more prominently. This is a reflection of the nature of the historical record pertaining to the issues. The documentary record of Gitksan actions and activities is far more extensive.

This opinion has been prepared on the basis of an examination of a variety of primary documents, both published and unpublished, including:

1. government of British Columbia: reports, journals, correspondence and maps
2. government of Canada: reports, journals, correspondence and maps
3. private sources: corporate and individual reports, journals, correspondence and maps
4. ethnographic collections: narratives, journals, correspondence and maps

Where appropriate, these primary sources have been supplemented by secondary works, both published and unpublished.

Economy and Society on the Upper Skeena: 1850-1897

The issues concerning the nature of the economy and society on the upper Skeena, Indian and White, can best be addressed by dividing the second half of the nineteenth century into two periods: 1850-1869 and 1870-1897. Developments in the White economy, the new element in the upper Skeena region, determined the selection of the Omineca gold rush, in 1870, as the most meaningful point of division.

New Approaches: 1850-1869

An examination of Hudson's Bay Company (HBC) records indicates that the White economy and society maintained only a marginal and indirect presence in the upper Skeena area from the 1820s through to the end of the 1850s. Some Gitksan and Wet'suwet'en had direct experience with HBC posts at Ft. Kilmaurs and Ft. Connolly. Others obtained access to European trade goods via Aboriginal trade links to the coast: to Ft. Simpson and, perhaps, Russian posts and maritime traders.¹⁰

The Fraser River gold rush of 1858 marked a dramatic shift in White perceptions of the northern Cordillera. From the Siberia of the fur trade, New Caledonia became a potential eldorado. Over the next decade a small number of miners and prospectors entered the upper Skeena region. Although their efforts met with little success, they did stimulate interest in the region.¹¹ By the end of the 1860s this interest had been manifested in a number of ways, including visits by missionaries; construction of an overland route from Quesnel to Kispiox in the form of the Collins Overland Telegraph (COT) line; and exploration by prospectors and employees of the COT and the HBC. The activities of the latter resulted in the establishment of a short-lived post (1866-1868) at the centre of Gitksan-Wet'suwet'en territory.¹²

A variety of journals, diaries, correspondence and maps, together with newspaper accounts, make it possible to reconstruct a picture of these activities. On the basis of these records I conclude that, with the exception of the HBC post, probably located at the junction of the Skeena and Bulkley rivers, the Whites who entered the region were transients, birds of passage. Furthermore, with the possible exception of the COT construction party, there were never more than a handful in the region at any one time.¹³

The same documents also permit the description of some basic features of Gitksan and Wet'suwet'en economy and society during these years. The most basic and fundamental point is that the Whites who entered the upper Skeena region encountered an operating and functional society. The size of the Gitksan and Wet'suwet'en population is not known, but Old World diseases—small pox, measles and influenza—took their toll in the 1860s. On the other hand, the principal features of the settlement pattern can be discerned.¹⁴ With the possible exception of Moricetown, all the principal villages were identified.

Fishing (salmon), hunting and trapping (various species) and gathering (berries) were the foundation of the economy. These resources provided the elements for subsistence as well as items for trade.¹⁵ Access to the resources, it would appear, was not unconditional among the Gitksan and Wet'suwet'en. Ritual and ceremonial behaviour indicated that shamans had a role to play in harvesting salmon.¹⁶

Trade, and consequently trade routes, were important facets of Gitksan/Wet'suwet'en economies. The operation of the fur trade is the most obvious example, but trade was not limited to Indian/White exchanges. The trade in oolichan grease, in particular, was both well established and important: in 1870 the "grease trails" to the oolichan grounds of the lower Nass were already of some antiquity. Moreover, these trails were accompanied by a number of ancillary facilities, such as large sheds, that were a product of the trade. Equally significant, the oolichan trade was governed by a set of rules or procedures that covered exceptional as well as normal circumstances.¹⁷ "Tribes" were jealous of their trading privileges and permission was required in order to pass through another's territory. Such a pattern of "rules and regulations" governing trading activities was not restricted to the oolichan trade. The Gispakloats (Coast Tsimshian) enjoyed a monopoly of trade along the Skeena, from the coast to Gitksan-Wet'suwet'en territory, until "purchased" by the HBC in the mid-1860s. Moreover, some of the important land routes had been improved by the construction of bridges: tolls could be charged for use of these bridges.¹⁸

There are also indications that White visitors were expected to conform to established practices governing trading journeys. The difficulties encountered by a COT party at Kitselas is a case in point. Likewise, the proffering of small gifts at Kitsegukla by Downie, an early prospector, can be interpreted as a request and payment for permission to proceed through that territory.¹⁹

On the whole, the encounters between Whites and the Gitksan/Wet'suwet'en people during these years appear to have been friendly, to the surprise of at least some of the Whites. The modification of the "rules of trade" along the Skeena route to the coast, as a result of the entry of numbers of Whites, may have contributed towards this reception. For the Gitksan, the breaking of the Gispakloats' monopoly along this route was an economic benefit. It also served to enhance the strategic location of the Gitksan astride both coast/interior routes: via the Nass as well as the Skeena.²⁰

A Hinterland in the Making: 1870-1897

The Omineca gold rush of 1870 heralded a series of changes in the upper Skeena region. There were, however, very real limitations to the White presence in the area; even in 1897 it remained remote from established centres of White population in the province. The significance of the upper Skeena region, from a White perspective, continued to lie in the realm of its potential.²¹

One important development after 1870 was the establishment of a small, permanent White population on the upper Skeena. Concentrated at Hazelton,

it amounted to fewer than a hundred in the mid-1890s. In addition, there was a seasonal passage of miners and other Whites through the region: in most years more Whites travelled through the area than resided there.²²

The White economy focused on exploiting the resource base of the upper Skeena and adjacent regions, and in overcoming the supply problem involved in those activities. Lorne Creek was the site of the most important mining development within Gitksan and Wet'suwet'en territory. During the four years for which official figures are available, the total gold production amounted to only a little over \$50,000. Mining in the adjacent areas of Cassiar and Omineca was more productive: it stimulated traffic through the upper Skeena region.²³

The fur trade was the other staple of the White economy. In the years after 1870 Indian trappers had a wider choice of potential fur buyers than ever before. No data are available on the total number of pelts produced in the region but the HBC alone purchased about \$6,000.00 worth of furs at Hazelton in 1897.²⁴

As a result of its position on supply routes and as a trans-shipment point, Hazelton emerged as the centre of White settlement. After establishing a store there in 1880, the HBC reorganized its supply lines to New Caledonia to take advantage of the Skeena route. The new arrangements were confirmed in 1891 when the HBC introduced steam navigation up the Skeena River to Hazelton. But this innovation failed to alter the seasonal character of the White economy.²⁵ Elsewhere in the region a number of trails were improved and/or constructed, and the rhythm of the pack train regulated the pace of movement.²⁶

One product of the changes that occurred between 1870 and 1897 was the accumulation of geographical knowledge by Whites. A series of surveyors collected a body of information that is reflected in the cartography of these years. At the end of the period, as indicated by Poudrier's map (1892), the basic geography had been documented. The work had been conducted under the auspices of both the provincial and the federal governments.²⁷

Two institutions specifically concerned with Indian/White relations were established in the upper Skeena area during this period: the Department of Indian Affairs (DIA) and Christian missions. The formation of the Babine Agency in 1889, after a period of considerable Indian discontent and White uncertainty, had an important impact. Thereafter the channels of the federal bureaucracy would attempt to guide and contain Indian protests. At the same time, the process of allotting reserves, commencing with the visit of the Indian Reserve Commissioner in 1891, provided a new focus for Indian protests.²⁸ To some extent the missionaries offered an alternative set of links between White and Indian societies. One consequence was the

application of a narrow version of Victorian morality to Indian cultures—expressed most clearly in the vehement opposition to the feast system.²⁹

A final result of the larger and more diverse White presence in the upper Skeena area was the emergence of divisions within the White population. The influx of missionaries was a clear example: denominational differences caused sharp disagreements. And, while the missionaries were united in opposing the feast, their views on this issue ran counter to commercial interests. Although the fundamental commonalities of culture remained, the Whites no longer spoke with a single voice.³⁰

For the Indian population of the upper Skeena region, the years following 1870 were marked by a more complex pattern of intrusive processes. The incidence of White penetration was uneven in time and space; it clearly became more diverse, encompassing miners, prospectors, merchants, missionaries, surveyors, packers and even an occasional "big game" hunter. Hence the Gitksan and Wet'suwet'en people were challenged to respond to a variety of new situations and circumstances. A considerable decline in population was the most fundamental impact that the Gitksan and Wet'suwet'en had to confront in the last quarter of the nineteenth century. The Gitksan population declined by at least a third, and perhaps as much as one half during this period. For the Wet'suwet'en the picture is less certain; probably the loss was of the same order of magnitude. The incidence of Old World diseases was primarily responsible for these losses.³¹

In spite of the decline in population there was a considerable degree of continuity in the settlement pattern. The principal villages of the Gitksan and Wet'suwet'en continued to exist, although in some cases there was a change in site. Three new villages, primarily the product of missionary influence, were established: at New Kitsegukla, Meanskinisht and Glen Vowell.³² There were some noticeable shifts in the distribution of the population and the relative importance of different villages. These changes were brought about largely by internal or inter-village migration. Gitanmax appears to have been the main beneficiary of such movements. Kispiox, on the other hand, lost people to Glen Vowell and Gitanmax, while receiving migrants from further up the Skeena, from Kisgegas and Kuldo. Meanskinisht, the other missionary village, located below Kitwanga, attracted people from Kitwancool and Kitwanga.³³

Economic motives played a significant role in the pattern of internal migration. Hazelton, as the focal point of the White economy of the region and centre for new employment opportunities, was an attractive location. There are indications, however, that such movements took place through the medium of "intermarriage." In other words, the pattern of migration may be seen as a response that was mediated through the framework of traditional

culture.³⁴

The Wet'suwet'en villages continued to exist, although the site of Hagwilgate changed. In addition, a Catholic mission settlement was established about three miles north of Kyahwilgate (see Map 1). It failed to replace the old village; instead both settlements became known as Moricetown. There may have been some movement of people from Kyahwilgate to the Hagwilgate during the late 1880s as a result of missionary activity. If so, this flow was reversed in the next decade and, by the mid-1890s, both settlements were of comparable size.³⁵

The Gitksan and Wet'suwet'en people continued to make effective use of their traditional resource base during this period. Salmon remained the crucial food source. It was supplemented by country (or bush) meats, including caribou and mountain goat, and a variety of berries. A considerable range of fur-bearing animals (notably marten and beaver, but also including bear, muskrat, mink, fisher, lynx, otter and fox) were taken for commercial purposes; some were also used for food.³⁶ However, the growing availability of White technology (guns) and "employment" opportunities brought changes in the manner in which traditional resources were obtained. A few non-Indian foodstuffs, such as flour, rice, sugar and coffee, had entered the diet by the end of the nineteenth century.³⁷

Although the technical means of obtaining resources improved, access to those resources continued to be governed by traditional constraints. The system of resource ownership regulated access to fishing sites, hunting territories and berry grounds. A statement by the "Chiefs and principal men" of Kitwanga, made following the initial rush of miners to Lorne Creek, addresses this topic and is worth quoting in full:³⁸

KITWANGA, October 10th, 1884

We, the Chiefs and principal men of the Kitwangach village, in meeting assembled, beg respectfully to address you on a subject which we feel is one of deep importance to our own welfare and that of our children. First, we would thank you for sending a reply to our former words. Mr. Tomlinson, at your request, has just read this reply to us. While your letter seems to support us in our claims, still in some points it seems too indefinite for us to act upon, and so we wish to lay our case in a more definite manner before you. From time immemorial the limits of the district in which our hunting grounds are have been well defined. This district extends from a rocky point called 'Andemane' [Andimaul], some two and a half or three miles above our village on the Skeena River to a creek called "She-quin-khaat" [Xsugwin Goat?], which empties into the Skeena about two miles below Lorne Creek. We claim the ground on both sides of the river, as well as the river within these limits;

and as all our hunting, fruit gathering and fishing operations are carried on in this district, we can truly say we are occupying it.

The district is *not* held unitedly by all the members of the tribe but is portioned out among the several families, and no family has a right to trespass on another's grounds: so that if any one family is hindered from hunting on their own ground, there is nowhere else for them to go—they lose all the benefits they derived from their hunting. As they cannot follow the animals across the bounds into their neighbour's grounds. We would liken this district to an animal, and our village, which is situated in it, to its heart. Lorne Creek, which is almost at one end of it may be likened to one of the animals [sic] feet. We feel that the white men by occupying this creek are, as it were, cutting off a foot. We know that an animal may live without one foot, or even both feet; but we also know that every such loss renders him more helpless, and we have no wish to remain inactive until we are almost or quite helpless. We have carefully abstained from molesting the white men during the past summer. We felt that though we were being wronged and robbed, as we had not given you the time nor opportunity to help us, it would not be right for us to take the matter into our own hands. Now we bring the matter before you, and respectfully call upon you to prevent the inroads of any white men upon the land within the fore-named district. In making this claim, we would appeal to your sense of justice and right. We would remind you that it is the duty of the Government to uphold the just claims of all peaceable and law-abiding persons such as we have proved ourselves to be. We hold these lands by the best of all titles. We have received them as the gift of the God of Heaven to our forefathers, and we believe that we cannot be deprived of them by anything short of direct injustice. In conclusion, we would ask you, would it be right for our Chiefs to give licenses to members of the tribe to go to the district of Victoria to measure out, occupy and build upon lands in that district now held by white men as grazing or pasture land? Would the white men now in possession permit it, even if we told them that as we were going to make a more profitable use of the land they had no right to interfere?

Would the Government permit it? Would they not at once interfere and drive us out? If it would not be right for us so to act, how can it be right for the white man to act so to us? This is what we would bring before you. Respectfully, yet firmly urging our cause, we await your reply. Please tell us directly whether or not you are prepared to preserve the district we claim from the inroads of the whites, and will keep all white men off it.

We have arranged to hold another meeting before the opening spring, before which time we hope to have your answer; if not, we will then be obliged to take such measures as we consider to be necessary for maintaining our lawful inheritance intact.³⁹

This statement invites comment: it defines the territory of the people of Kitwanga (similar, but less precise descriptions were given to the Indian Reserve Commissioner in 1891 and 1893); it describes a system of ownership of territory and control of access to resources; it manifests clear signs of discontent among the Kitwanga Chiefs concerning the "inroads" of Whites into that territory; and it indicates the importance of this issue to the Chiefs.

The principal innovation in the economies of the Gitksan and the Wet'suwet'en during the late nineteenth century was the expansion of non-traditional activities. Some new uses for known resources (e.g., forests) were developed, but more significant was the elaboration of various forms of "employment": transportation (river and overland), mining, miscellaneous services, and commercial fishing and canning. These opportunities were an expression of the growing White penetration of the upper Skeena and adjacent regions.⁴⁰

Where appropriate, the Gitksan, in particular, adopted new activities and new technology, but they did not simply abandon traditional practices. A glimpse of the vitality of some facets of the traditional economy was provided by Liggenthala, a Kitwanga Chief, in August 1888. "This is a busy time for us," he noted; "we are taking advantage of God's kindness by making use of the food he has given us, our men catching and drying salmon, our women and children picking and drying berries."⁴¹

Legislative enactments notwithstanding, at the end of the nineteenth century there were very few limitations on the access of the Gitksan and Wet'suwet'en to the resources of the upper Skeena, other than those contained within their own cultural system. A few parcels of land had been alienated, the mining laws applied, primarily at Lorne Creek, and some very preliminary steps had been taken towards regulating the inland fishery. But in all essentials the access of the Gitksan and Wet'suwet'en to their traditional resources was untrammelled. At Lorne Creek, where mining conflicted with traditional use of the area, problems soon arose between miners and the Kitwanga Indians.⁴²

The challenge facing the Gitksan and Wet'suwet'en in the last quarter of the nineteenth century was to develop an effective strategy for articulating established activities with new opportunities. One problem was abundantly clear: the concentration of non-traditional activities in the period from April to September. This concentration of economic activities, many of which required an absence from Gitksan-Wet'suwet'en territory, necessitated a

number of adaptations. Moreover, since non-traditional activities favoured adult males, fewer were available to harvest traditional resources during the employment period. Some adjustment in the division of labour was required. A report on cannery employment indicates one way in which this conflict was resolved: old people and children remained at the villages to catch and dry salmon, gather berries and tend gardens. However, cannery employment did not preclude all participation in the inland fishery. As long as the cannery season was completed by the beginning of August the Gitksan could return home in time for the late salmon runs.⁴³

Travel to the coast for cannery work also began to replace the annual visit to the Nass oolichan fishery by the mid-1890s. The Gitksan, it would appear, were able to obtain oolichan grease during their visit to the coast for cannery work. Hence the impetus to make the traditional March and April excursion to the Nass was diminished.⁴⁴

Most of the opportunities for participation in non-traditional activities were geographically concentrated. To a considerable extent the corridors of White activity in the upper Skeena governed the distribution of "employment" opportunities. Cannery work, for example, was restricted primarily to inhabitants of the Gitksan villages, other than Kisgegas and Kuldo; packing, on the other hand, was concentrated at Gitanmax, Kispiox, Hagwilgate and Moricetown.

Conclusion

1. What was the nature of the White economy and society in the upper Skeena region up to the end of the nineteenth century?

The White economy of the upper Skeena region before 1900 was based on the extraction and transportation of resources. Since access to the region from southern centres was slow and expensive, attention was concentrated on commodities of high value and low bulk: notably furs and gold. No reliable and consistent data are available to measure the scope of these activities but the returns from Lorne Creek and the returns of the HBC are indicative of their limitations. With a resident population of less than one hundred in the mid-1890s, Whites depended on Indian participation for the success of most economic activities.

2. What were the processes by which the White economy and society developed in the second half of the nineteenth century?

The availability of resources, both within the region and in adjacent areas, brought Whites to the upper Skeena. Furs were the initial, and an enduring, attraction. Discoveries of placer gold provided important new stimuli: gold rushes to Omineca and Cassiar affected the upper Skeena. The only gold discovery of note within Gitksan and Wet'suwet'en territory

occurred at Lorne Creek. The area yielded significantly less gold, over a shorter period, than did the rushes to adjacent regions. Improvements in transportation and the growth of geographical knowledge accompanied these mining developments.

3. What features of Gitksan and Wet'suwet'en economy and society are described in the documentary record for this period?

Fish, game and berries were the basic components of Gitksan and Wet'suwet'en economies. An annual round, encompassing visits to the different resource sites, provided items for subsistence and trade. Oolichan grease, imported from the lower Nass, was a major trade item: "grease trails" linked the upper Skeena region with the lower Nass valley. Access to resource sites was controlled through a system of territorial ownership.

4. What changes in Gitksan and Wet'suwet'en economy and society occurred during the second half of the nineteenth century?

The principal change in the economies of the Gitksan and Wet'suwet'en was the emergence of a non-traditional sector. The entry of Whites into the upper Skeena region provided the Gitksan and Wet'suwet'en with a variety of new economic opportunities. Many—guiding, packing, canoeing—involved the use of traditional skills; some such as mining, were new. However, employment at the coastal salmon canneries (embracing a mixture of new and traditional skills) was the major innovation of the period.

5. What evidence is there of the continuity and persistence of the core elements of Gitksan and Wet'suwet'en economy and society during these years?

Gitksan and Wet'suwet'en economies at the end of the nineteenth century were not the same as they had been in 1850. Non-traditional activities brought new opportunities and new wealth. They also posed challenges, requiring adjustments in the division of labour and the annual round. Nonetheless, hunting, fishing and collecting remained major activities (see Figure 1). Even in 1900 there were very few limitations on Gitksan and Wet'suwet'en access to the resources of the upper Skeena—apart from those restrictions contained within their own cultural systems.

Gitksan and Wet'suwet'en societies experienced the impact of old world diseases and old world religion during this period. The former produced a significant population decline and contributed, with economic processes, to some adjustments in the settlement pattern. Missionaries, together with the DIA, sought to transform Gitksan and Wet'suwet'en cultures. Only limited successes were achieved in this endeavour. Modifications in the form of the feast occurred but, notwithstanding

missionary opposition and legal prohibition, the essential elements of the institution persisted.

The modifications in the economy and society of the Gitksan and Wet'suwet'en were the product of a process of flexible adaptation to changing circumstances and new opportunities. Although not the same as they had been in 1850, Gitksan and Wet'suwet'en societies remained distinctive and viable entities at the end of the century.

Gitksan and Wet'suwet'en Protest Actions, 1850-1927

After examining the documentary record I have concluded that Gitksan and Wet'suwet'en protest actions fall into two basic time periods: 1850-1888 and 1889-1927. The establishment of the Babine Indian Agency in 1889 marked a break-point in the history of Gitksan-Wet'suwet'en protests. The years before 1889, reflecting developments in the White economy, fall into two sub-periods: 1850-1869 and 1870-1888. The period 1889-1927 is

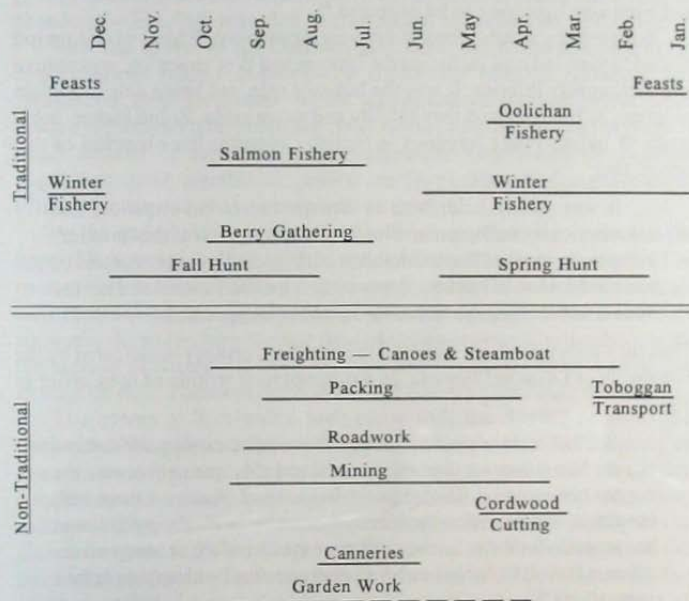


Figure 1 Gitksan/Wet'suwet'en Annual Round: Traditional & Non-Traditional Elements, c. 1895.

more complex, requiring four subdivisions: 1889-1897, 1898-1908, 1908-1915 and 1916-1927. Developments in the White economy and society were important in shaping these sub-divisions. Indian actions were primarily, but not exclusively, responses to White innovations.

The 1850-1888 Period

Conflicts between Indians and Whites in the upper Skeena region predated 1850. By that time two HBC employees at Ft. Kilmaurs had been murdered by Indians: the first, Duncan Livingstone, by a Wet'suwet'en; the second, William Morwick, by a Babine. Both incidents included dimensions of intra-Indian conflict in which the HBC became embroiled; in the latter case the dispute extended to the Gitksan.⁴⁵ After 1858 the number and types of Whites entering the upper Skeena increased, but few of the visitors had much, if any, experience of the area. Nor did they remain long enough to obtain much knowledge of the people living there. Given the cultural gap between the Indigenous people and the White transients, misunderstandings and even conflicts were to be expected.⁴⁶

Bolstered by assumptions of inherent superiority, Whites of this period tended to view Indians, including the Gitksan and Wet'suwet'en, as primitive and inescapably inferior. It was the Indian's role, not being able to initiate progress, to recognize its inevitability and move aside. Robin Fisher, in his study of Indian/White relations in British Columbia has observed of this period that:

It was widely held, both in Britain and North America, that colonization by definition involved the extermination of the "inferior" indigenous peoples. The inevitability of the Indian's doom was said by some to be a law of nature ... many settlers looked forward to a not too distant future when the Indians would have disappeared.⁴⁷

That such views persisted well into the twentieth century is indicated by the comments of Diamond Jenness, an anthropologist writing of the Carrier in 1932:

But the Carrier do not understand the complex civilization that has broken like a cataract over their heads, and they can neither ride the current nor escape it. The white settlers around them treat them with contempt, and begrudge them even the narrow lands the government has set aside for them. So they will share the fate of all, or nearly all the tribes in British Columbia and disappear unnoticed within three or four generations.⁴⁸

To emphasize his point on this issue Jenness added a footnote, presumably drawn from his field experience in Wet'suwet'en territory in the winter of

1924-5. "On the Skeena and Bulkley rivers", he reported, "as in some other parts of British Columbia, a white man will not walk beside an Indian, but marches in front of him, unless, of course, the two men are hunting together."⁴⁹

In counterpoint to such assumptions stood some basic features of the situation in the upper Skeena region. Prior to 1870 Whites were substantially outnumbered, distant from help if needed and, in many ways, dependent on the Indian population. Even in 1900 most parts of that equation remained intact. For their part, the Gitksan and Wet'suwet'en appear both to have welcomed the arrival of small numbers of Whites and to have endeavoured to control the terms of their entry. The difficulties encountered by the COT construction parties at Kispiox and Hagwilgate point towards such conclusions. At both locations, the COT officials chose to negotiate for the right to use a river-crossing. A resort to force, on the White side, was considered, but, as Elwyn noted, "if the natives . . . become hostile to the [COT] company it would be necessary either to exterminate the former or abandon the line." He regarded neither option as "a pleasant alternative."⁵⁰

With the advent of the Omineca gold rush, the White presence in the upper Skeena region underwent a significant change. Hazelton was established as a permanent White settlement—a trans-shipment point linking the Skeena river route and trails to the upper Skeena and beyond. A small number of merchants and missionaries constituted the resident population; these, together with miners, survey parties and a few government officials, made use of the transportation system.

As the scale and frequency of Indian/White interaction increased in the upper Skeena region after 1870, a series of tensions were generated. The most visible moments in this process were four dramatic confrontations, all well documented. An examination of these incidents provides a means of entry into the wider, less obvious field of Indian protest. The incidents were the burning of Kitsegukla in 1872, the Cassiar trail incidents of 1874, the murder of A.C. Youmans in 1884 and the Skeena "uprising" of 1888.

The events at Kitsegukla took place with the Skeena route to the Omineca mining district already well established. In June 1872 a party of miners, camping near Kitsegukla, neglected to extinguish their fire completely. As a result the village—houses, totem poles and canoes—was destroyed. The response of the people of Kitsegukla to this calamity was to close the Skeena to further freight traffic. News of this blockade reached the provincial government in Victoria from a number of different sources, one of which included a statement from the Kitsegukla chiefs. On the basis of this information, advice provided by William Duncan (a missionary at Metlakatla), and the previous experience of Indian conflicts on the north-

west coast, the lieutenant governor decided to invite the Kitsegukla chiefs to a meeting to settle their grievances. The meeting was to be held at Metlakatla, Duncan's mission station near the mouth of the Skeena.⁵¹

The encounter between White and Gitksan representatives took place between 10 and 12 August 1872 and contained three distinct components. First, there was a meeting on board HMS *Scout*; second, a settlement between the two sides; and, third an "entertainment." The first two components are of particular interest. The meeting on board *Scout* was a formal occasion. In attendance were Lieutenant Governor Trutch and the attorney general, representing the provincial authorities, five Kitsegukla chiefs and a number of other villagers, and the ship's officers, in full dress uniform. Both sides made formal statements about the events at Kitsegukla and their implications. The resulting settlement contained three elements: a payment to the Kitsegukla chiefs, which they viewed as compensation for their losses; an "agreement" that the Kitsegukla people would "behave themselves and bring future disputes to the notice of the government; and, finally, copies of the written agreement were handed to the chiefs. The entertainment component contained elements of both hospitality and spectacle.⁵²

The tripartite structure of events at Metlakatla was compatible with Gitksan procedures for resolving conflicts.⁵³ Given the precedent of the Tsimshian-Nishga settlement of 1869—which involved the exchange of compensation, a feast and signed "papers"—and the important role of Duncan as interpreter and advisor to Trutch, it is unlikely that this correspondence was accidental. By this time Duncan had nearly fifteen years experience of living among the Coast Tsimshian. This included some prior dealings with visiting Gitksan.⁵⁴

Just as important as these formal similarities is the fact that the Kitsegukla chiefs upheld their end of the agreement. In 1888, during the pursuit of Kamalmuk (see below), the document containing the "agreement" was referred to and its terms seem to have influenced the subsequent course of events.⁵⁵

The Cassiar trail incidents of 1874 grew out of the use of Gitksan territory, north of the Skeena, for an overland supply route to the newly discovered Cassiar mining district. A series of pack trains, when proceeding beyond Hazelton, became the object of an escalating sequence of hostile actions taken by the Gitksan residents. These included attempts to deny access, threats, thefts and at least one physical confrontation. The pattern of hostility was extended to include the two remaining merchants at Hazelton, who were threatened with expulsion. After news of these events reached Victoria a provincial constable was despatched to the scene of the

"crimes." Although meetings were held with some of the chiefs and people at Gitanmax, Hagwilgate and Kispiox, little was accomplished. Shortly thereafter, though, two returning members of a pack train reached Port Essington with Tsicktsap, a Kispiox Indian, "under arrest." After appearing before William Duncan, J.P., he was imprisoned for one month.⁵⁶

These events took place in the context of declining opportunities for Indian packers, which may have been responsible for some of the evident tensions. It is likely, too, that Whites became embroiled unwillingly in intra-Indian conflicts. More significant is the strong probability that the pack trains and the White packers infringed on Gitksan customary law. They did this first, by not securing permission and/or offering payment to secure passage through territory or cross rivers; second, by injuring an Indian, whether by accident or design, and failing to offer compensation; and third, by the capture and removal of an Indian from the district of Tsicktsap, which had the appearance of an hostage-taking.⁵⁷ The significance of the second of these transgressions was to receive dramatic confirmation in the next violent conflict, the murder of A.C. Youmans in 1884.

The murder of A.C. Youmans took place at a time of deteriorating relations between Indians and Whites throughout the Skeena district. The ecclesiastical and legal disputes centred on Metlakatla were important, as were the initial steps to establish Indian reserves on the coast.⁵⁸ In the upper Skeena district, however, the key development was the first significant mining activity to take place within Gitksan territory, at Lorne Creek, in 1884.⁵⁹

Uniting all of these developments was a growing Indian concern over access to land and resources. This was made clear at a meeting of the chiefs of the Gitksan tribes. One chief summed up the sentiments of all the chiefs when he stated, according to Reverend Tomlinson, that the "exclusive right we claim to hunt, fish, and gather fruit in any particular place is a hereditary right enjoyed by us before the white man came among us. It is a right most vigorously upheld by all our tribes, without exception." If the government was unwilling to guarantee such rights, the chief claimed, his people would neither accept reserves nor allow an Indian agent to reside among them. The discovery of gold at Lorne Creek gave a new urgency to these problems as miners and Indians came into direct competition.⁶⁰

A.C. Youmans, a merchant at Hazelton of some ten years standing, became both a victim of this deteriorating situation and the cause of further deterioration. Late in May 1884, he left the mouth of the Skeena bound for his home base with a supply of merchandise in a freight canoe. In passing through Kitselas Canyon, however, one of his Indian canoemen, Billy Owen, was drowned accidentally. Youmans, after some difficulties,

eventually reached Hazelton. There his failure to accept responsibility for the drowning and to offer compensation had fatal consequences. He was stabbed to death by Haatq, the father of the drowned canoe man. The nature of Gitksan laws in such cases was later explained, by the head chief at Gitanmax, in a letter to the provincial secretary:

Geddum-cal-doe, Head Chief, to the Provincial Secretary

Kit-au-max (Forks of Skeena)

September 7th, 1884.

SIR,—We, the Chiefs and people of Kit-au-max, the place where the late A.C. Youmans was murdered, desire to lay before you, and your colleagues in office, our feelings in regard to that unfortunate affair. We are anxious that this matter shall be so settled that the utmost good feeling shall exist between the whites and the Indians, which, unhappily does not now obtain.

We wish to lay before you our law in regard to accidents and death that occur in company with others. It is expected that survivors shall immediately, or as soon as possible, make known to the friends of the injured or deceased, what has taken place. If this is not done, it is taken as evidence that there has been foul play.

In the case of the death of Billy Owen, Mr. A.C. Youmans arrived at this place, and remained in the midst of Billy's friends of the deceased, though we asked Mr. Youmans if those with him were all well. His answer was: "yes; except one had sore feet". At the expiration of two days and three nights a canoe came up, and the news was conveyed to the friends of the drowned man, and they thought there had been foul play on Mr. Youmans part, as he had not made the matter known.

The general custom among the Indians is that if anyone calls another to hunt with him, to go canoeing, etc., and death occurs, the survivor always makes a present corresponding with his ability, to show his sympathy and good will to the friends of the deceased, and to show that there was no ill-feeling in the matter.

Mr. Youmans failed also in this. He gave no present, thus showing no sympathy or good will. We did not know that the father of Billy Owen was going to kill Youmans. When the officers of the Government came to arrest the murderer, we gave no opposition to their work. We believed that Billy's father would be justly dealt with, and that all the circumstances of the case would be taken into consideration. While we do not justify the murder, we believe that it was the strange way in which Mr. Youmans acted that exasperated the man to do the deed. For

this reason we ask that clemency be shown the murderer, particular as he was a quiet, inoffensive man.

We hope, sir, you will take all things into consideration, and that peace be firmly established between the whites and the Indians I am, Sir, in behalf of the other Chiefs, and the people,

Signed GEDDUM-CAL-DOE
Head Chief
His X
Mark

D. Jennings⁶¹

This statement makes two points abundantly clear: first, the nature of Gitksan law concerning personal responsibility and compensation, together with penalties for non-compliance; second, the assumption that Youmans should have acted in accordance with these Gitksan laws.

The immediate consequences of Youmans' death were twofold. On the one hand, additional Gitksan grievances came into the open. On the other hand, a small official force, two policemen and a magistrate, was despatched to the area. The latter succeeded in arresting Haatq on a charge of murder. After a preliminary hearing at Hazelton, Haatq was committed for trial and promptly taken to Victoria under escort.⁶²

As happened in 1874, the removal of one of their number only served to generate further hostility among the Gitksan. The Gitksan threatened the few remaining White residents of Hazelton and threatened to close navigation on the Skeena. The residents became sufficiently alarmed to abandon the settlement, preferring to cast their lot with the miners at Lorne Creek. The miners had also been the target of a number of threats and protests, as a group of them made clear in a letter to the provincial secretary. Further details of the situation at Lorne Creek were revealed at a royal commission conducted late in 1884.⁶³

Shortly after these hearings were completed, the next scene in the drama of Haatq and Youmans unfolded in a Victoria courtroom. Haatq was found guilty of murder and sentenced to be hanged on 25 February 1885. The sentence was later commuted to a term of imprisonment, but Haatq never returned to the upper Skeena. He died in the New Westminster Gaol in 1887.⁶⁴ The Gitksan response to this eventuality became part of the context for the Skeena "uprising" of 1888.

The Skeena "war" or "uprising," as the conflict of 1888 is known, was a significant moment in the history of the upper Skeena. It marked the culmination of one phase in the dialectic of Indian protest and White response. The events of 1888 arose from an increasingly complex pattern of

Indian/White interaction. Some of the elements of this pattern, and the tensions they generated on both sides, were evident at the time of Youmans' murder. Other threads were added to the tangled skein in the intervening years. Nonetheless, the immediate trigger that brought these issues into the open was an intra-Indian conflict.

This conflict originated in the operation of a central feature of the Gitksan cultural system: the inheritance of a "name" and status. In a feast at Kitwancool, Kamalmuk had claimed the chief's name of Hanamuk for his son, over the opposition of Neatsqua, a shaman from Kitsegukla. At this stage a measles epidemic intersected with the Indian dispute. One of the victims of the epidemic was Kamalmuk's son, but responsibility for his death was attributed, by his parents, to the hostile powers of the shaman, Neatsqua. As a result, and in accordance with customary law, Neatsqua was shot by Kamalmuk in February 1888.⁶⁵

News of the dispute reached the provincial government from a variety of sources over the next two months. The response, after some unanticipated delays, was the dispatch, in early May, of a party of five "special" constables and the Indian agent for the Northwest Coast to ascend the Skeena River. Their primary objective was to apprehend and arrest Kamalmuk.⁶⁶

Under the circumstances this was no simple task. However, using Indian intermediaries, a message was sent to Kamalmuk and, by the middle of June, word was received of his presence at Kitwanga. Promptly, three of the "specials" were dispatched to carry out the arrest. In the course of this undertaking, Kamalmuk was shot and killed by Constable Green.⁶⁷ This caused a good deal of anger at Kitwanga and other Gitksan villages. As a result, the two senior "specials" visited Kitwanga in an endeavour to defuse the situation. In addition to examining the corpse they promised that Constable Green would be held "responsible" and, perhaps, that some form of compensation might be forthcoming. These efforts proved inadequate. Amidst a welter of threats and rumour, steps were taken by the White residents to fortify the HBC store at Hazelton. At the same time a request for reinforcements was carried to Victoria.⁶⁸

The result of this request was the Skeena River Expedition, which embarked from Esquimalt aboard HMS *Caroline* in the middle of July. Consisting of the local militia and a party of provincial police, the expedition made camp at Port Essington, near the mouth of the Skeena. From this base the party of provincial police, under Superintendent Roycraft, travelled upstream to Hazelton, arriving 1 August. There they joined Captain Fitzstubs, the gold commissioner and a stipendiary magistrate who, acting independently, had arrived a few days earlier.⁶⁹

Between them, Roycraft and Fitzstubbbs took a number of measures to promote respect for law and order among the Gitksan and Wet'suwet'en. The high point of this process was a meeting held at Hazelton and attended by chiefs from five of the Gitksan and Wet'suwet'en villages. The White officials explained the reason for their presence and made some general demands concerning the future behaviour of the Indians. For their part, the chiefs responded to these statements and gave voice to a number of grievances. The following day, with Constable Green committed for trial, Roycraft and his party began the return journey. On arriving at Victoria he informed the government of his satisfaction at the "most salutary effect" of the Expedition on the Indians.⁷⁰

Meanwhile, Captain Fitzstubbbs and two of the special constables remained at Hazelton. They provided an official "presence" in the area until a more permanent solution to the problem of Indian "hostility" could be found. In 1889 this "solution" took on an administrative form: the federal government established the Babine Indian Agency with its office at Hazelton.⁷¹

To appreciate the significance of the events of 1888 it is necessary to view them in their wider historical context. An essential part of that context was a growing tide of Indian resentment over the incursions of White society. This affected not only the Gitksan and Wet'suwet'en but also their close neighbours, the Tsimshian and the Nishga. Indeed, it would not be an exaggeration to state that the Gitksan and Wet'suwet'en were part of a regional wave of Indian discontent.⁷²

A complex and bitter dispute, involving Indians and Whites, encompassing secular and ecclesiastical dimensions, had centred on the mission station at Metlakatla. Furthermore, many of the issues at the heart of this dispute had been transferred directly into Gitksan territory, at Kitwanga, by some of Duncan's adherents. On the coast the ecclesiastical contest had culminated in 1887, with the departure of Duncan and many of his Tsimshian followers to Alaska. While this aspect of the dispute at Metlakatla was moving towards a climax, steps were taken to establish two key aspects of the DIA administrative system on the North West coast: a resident Indian agent and a series of reserves. These measures provoked open hostility.⁷³ The first agent for the Northwest Coast Agency occupied his post for only a short time, in 1884; his replacement, in 1887, also faced very clear opposition. In the same time period surveyors, working on delimiting reserves, had been expelled on two separate occasions.⁷⁴ This antipathy for surveyors was shared by the Gitksan and Wet'suwet'en.⁷⁵

Related to these issues was a growing concern among the Indians about control over access to land and resources: the mining at Lorne Creek brought this issue clearly before the Gitksan. With the aid of sympathetic

missionaries, steps were taken towards the clarification of Indian Title. Two royal commissions, in 1884 and 1887, did not resolve the question. In this context the growth of the commercial salmon fishery, with its attendant regulations, only added to the tension.⁷⁶

In the upper Skeena region two further issues contributed to this picture of regional discontent: first, the death of Haatq in the New Westminster Gaol; second, frictions arising from the operations of the HBC. The day-to-day activities of the post at Hazelton caused difficulties but, more significant, were the steps taken by the HBC to reorganize its transportation system through the region. The net effect of these measures was to reduce the extent of Indian involvement, a development that evoked both opposition and threats. In such an environment the measles epidemic of 1887-1888 was interpreted by the Indians as another example of hostile White actions.⁷⁷

The picture that emerges, in the period immediately preceding the summer of 1888, is one of widespread Indian discontent. The discontent extended well beyond the confines of the upper Skeena region and was the result of a number of interrelated causes. Central to this context was a growing Indian awareness of the implications of the expanding White presence. This realization occurred somewhat earlier in northern coastal regions, but it was well developed on the upper Skeena by the late 1880s. For Whites, the demonstration of discontent on such a regional level was cause for alarm. In such circumstances, the resort to force, by provincial authorities, was an expected response.⁷⁸

Conclusions

1. There is ample evidence of Gitksan and Wet'suwet'en protest activity in the period between Downie's trip through the upper Skeena region in 1859 and the "uprising" of 1888. Most Gitksan and Wet'suwet'en protests took the form of direct actions, peaceful and otherwise, concerned with particular issues as they arose. Such responses, as with the Cassiar Trail incidents of 1874 and the murder of Youmans, included the use of traditional Gitksan laws, resolution procedures and sanctions.
2. The principal change in the form of Gitksan protests concerned the use of White intermediaries. On a number of occasions, at Kitsegukla in 1872 for example, the Gitksan used third parties to give their protests written form. Such documents were shaped by Whites, but their substance reflects Gitksan values and institutions.
3. In part the disputes that arose between Whites and Indians in the upper Skeena region were a product of the mutual lack of understanding. Sometimes Whites became embroiled in intra-Indian conflicts. This may well have happened at Kispiox in 1874; it certainly happened in 1888. Some conflicts,

though, reflected White transgressions against Gitksan norms or laws. In the 1880s, primarily as a result of gold mining on Lorne Creek, the question of competition for access to land and resources was brought to the fore.

4. There was a temporal and spatial pattern to the various episodes examined in this opinion. These Indian/White encounters reflected the emergence of pressure points in the process of White entry into the region. The incidents of 1866 (Telegraph Trail), 1872 (Omineca Route), 1874 (Cassiar Trail) and 1884 (Lorne Creek) were all linked to new developments in the White economy of the upper Skeena. Map 1 shows these shifting foci of Indian/White confrontations.

5. The principal objective of the Gitksan appears to have been redress for specific grievances.

6. Protests were directed, initially, at those Whites who, if not directly responsible, were on the spot. Some grievances were directed towards the provincial government and provincial officials.

7. In a number of cases the Gitksan achieved their objectives; in the more dramatic incidents—1874, 1884 and 1888—police action ensued. Such episodes made the Gitksan and the Wet'suwet'en aware of the coercive powers of White society. The ultimate consequence of these Gitksan protests was the establishment, in 1889, of the Babine Indian Agency. This involved the appointment of an Indian agent, resident at Hazelton, to regulate Indian/White relations in the region.

The 1889-1927 Period

The establishment of the Babine Agency signified the effective incorporation of the upper Skeena region into the structure of the Department of Indian Affairs. Henceforth the department, with an Indian agent resident at Hazelton, became an integral factor in the pattern of Indian/White interaction in the region. The Indian agent, and his supporting administrative structure, represented, in part, a mechanism for channelling and containing Indian grievances and protests. Initially, these new arrangements achieved some success. In time, however, as the pressure of White settlement mounted, Indian protests overflowed these narrow, bureaucratic channels.

The Indians of the upper Skeena expressed their grievances over a range of issues during this period, but the question of access to land and resources remained a central concern. Yet most Indian protests were responses to prior White actions; hence, the timing of Indian protests, and to some extent the agenda, lay beyond Indian control. The form of Indian responses was another matter. Between 1889 and 1927 the Gitksan and Wet'suwet'en participated in a considerable array of protest actions, legal and illegal. With the passage of time they displayed a growing sophistication about the

techniques of protest. Through their responses to local problems the Gitksan, in particular, were drawn into the realm of regional and pan-regional Indian organizations. In short, they participated in the wider, co-ordinated quest for the recognition of Aboriginal title in British Columbia.⁷⁹

These opinions can be made more precise by reference to distinct periods of Indian protest between 1889 and 1927. The periods I have identified are 1889 to 1897, 1898 to 1907, 1908 to 1915, and 1916 to 1927. They govern the structure of the remainder of this opinion.

The 1889-1897 Period

The appointment of R.E. Loring as the resident Indian Agent at Hazelton complemented the implementation, in the upper Skeena area, of two other aspects of federal policy towards Indians in British Columbia. These were the attempt, via legislative enactment, to prohibit the feast system, and the establishment of reserves. Both issues became a focus of protest activity in the 1890s and beyond.⁸⁰

White opposition to the feast system, primarily instigated by missionaries and other church groups, achieved its immediate objective in 1884 when the *Indian Act* was amended. Participation by Indians in feast activities was made an offense capable of punishment by imprisonment. For practical and legal reasons, enforcement proved more difficult than enactment. One early attempt at enforcement was made at Kitwanga in 1888; it was notably unsuccessful.⁸¹ After this experience, and with the memory of the Skeena "uprising" still fresh, Loring preferred to proceed cautiously with respect to the prohibition of the feast system. He feared that to "enforce the law would cause trouble and expense." In the 1890s he mixed cautionary advice with reassuring comments about the reform of feast activities.⁸²

The missionaries of the region adopted a less circumspect approach. All denominations were opposed to the feast system, but the Catholics, it would appear, were somewhat more effective in their opposition. This was in line with a perception that Catholic missionaries provided more support for the establishment of law, order and discipline among Indians. On two separate occasions, in 1893 and 1901, the Wet'suwet'en were encouraged to destroy their "ceremonial paraphernalia." These purifications by fire, coinciding with visits by the bishop, made impressive spectacles.⁸³

Notwithstanding the loss of ceremonial regalia and artefacts that these burnings involved, it is clear that the feast system persisted among the Wet'suwet'en. Among the Gitksan, who do not appear to have undergone any comparable purges, the evidence for persistence is even clearer.

The process of establishing Indian reserves in Gitksan and Wet'suwet'en territories was initiated by A.W. Vowell in 1890. His exploratory trip

served as a prelude to the formal process of allotment begun by P. O'Reilly, the Indian reserve commissioner, and A.H. Green, his surveyor, the following summer. Arriving at Hazelton at the end of August 1891, O'Reilly and Green visited and allotted reserves at Gitanmax, Hagwilgate, Moricetown, Babine Lake, Kispiox, Kitsegukla and Kitwanga. At Kispiox and Kitwanga there was clear opposition to O'Reilly's activities; elsewhere, his reception was polite. In a second visit to the region in 1893, O'Reilly again encountered opposition at Kitwanga.

Three factors seem to have contributed to the apparent lack of opposition to this process elsewhere. First, O'Reilly's stay at most villages was brief. Second, many of the people, including important chiefs, were absent from the villages during O'Reilly's visits. Third, O'Reilly offered assurances that the Indians would not be confined to the reserves. At New Kitsegukla, for example, he informed those present that:

It is not necessary that the berrying or hunting grounds shall be reserved. It would be an impossibility to define them as you go over hundreds of miles. You will not be confined to the reserves, but can hunt, fish or gather berries where you will as heretofore.⁸⁴

The process of establishing reserves continued intermittently through the period covered by this opinion. Indian protests were a frequent accompaniment to the various stages in the process. These protests are discussed below.

Two rather different types of protest also took place during this period. The first concerned the destruction of a fishing site at Kitsegukla during "improvements" to navigation on the Skeena in 1893. As a result of protests and threats the local Indians were compensated with a fishing net.⁸⁵ A second incident occurred at Kispiox in 1891. It demonstrated that the Gitksan, even after the arrival of a resident Indian agent, were prepared to take direct action on their own account. In this case the provocation arose from the visit to the upper Skeena by A.L. Poudrier, engaged on an exploratory survey for the provincial government. The reaction, at Kispiox, was a traditional one: Poudrier and his party were prevented from ascending the river and compelled to return.⁸⁶ An attempt by some Wet'suwet'en to carry out a similar action near Moricetown the following year was less successful.⁸⁷

In these years the DIA was relatively successful in mediating disputes between Indians and Whites in the upper Skeena. After the turbulence of the 1880s came a period of relative quiet in the 1890s. Nonetheless, the events at Kispiox, and to a lesser extent at Kitwanga, were a reminder of Indian concern over unresolved issues.

The 1898-1907 Period

As the nineteenth century drew to a close, the White economy of British Columbia underwent a series of developments that, in turn, initiated a transformation in the pattern of Indian/White interaction on the upper Skeena. A brief chronicle of these economic changes is necessary in order to establish the context of Indian reactions.

The Klondike gold rush both symbolized and contributed to an economic boom that swept British Columbia in the late 1890s and the first decade of the twentieth century. In the upper Skeena region the impact of the Klondike gold rush was quite direct: the quest for, and adoption of, a land route to the Yukon. This crystallized in the construction of the Dominion Telegraph line, closely following the alignment of the former COT. The search for a railway route took longer to produce any concrete results.⁸⁸

The growth of agricultural settlement in the upper Skeena area was partly stimulated by these developments. The initial attraction for settlers was the Bulkley valley, with the Kispiox valley as a secondary objective; a few settlers also entered the Lakes district. Land speculation was an integral part of the settlement process, particularly as the prospect of railway construction became more imminent. Associated with these developments was a renewed interest in the mineral resources of the area. Prospecting was more important than production, and it took Whites into areas outside the usual transportation corridors.⁸⁹

By 1903 the results of competition between the Wet'suwet'en and White settlers in the Bulkley Valley began to surface. While noting that the choicest parts of the valley had been "taken up" by White settlers, Loring discounted a report that there was anything untoward in the Wet'suwet'en response to this situation. He noted that the Wet'suwet'en had given up the land, on his orders, "without raising a question." Before the end of 1904, however, it became clear that Loring had been overly sanguine. He had occasion to make a trip to the Round Lake and Moricetown areas, partly in connection with a few of the Wet'suwet'en "giving annoyance to some settlers."⁹⁰

The situation deteriorated further during the ensuing winter. In February 1905 the death of a Wet'suwet'en boy, deemed to be the responsibility of two White employees of the Dominion Telegraph Company, threatened to become a repetition of the A.C. Youmans incident of 1884. On this occasion, however, such an outcome was avoided, partly as a result of the actions of the Indian agent and provincial police. Although successful in the short term, such official interventions did nothing to address the underlying issues.⁹¹ The situation was made worse by the outbreak of violence in two adjacent areas in 1906: in the vicinity of Hazelton, the murder of two White

men and the subsequent hunt for Simon Gunanoot and Peter Himadam; and, at Babine Lake, over the forcible removal of fishing weirs.⁹²

In the Bulkley Valley, as Loring regretted his "painful duty" in driving the Wet'suwet'en from their land, it is surprising that there was no comparable outbreak. The Wet'suwet'en did protest to settlers about their actions, but nothing, it would appear, of a more forceful nature occurred. Two reasons can be put forward to account for the moderation of Wet'suwet'en responses. The first concerned the actions of the Indian agent who, by his own testimony, "settled innumerable ... cases by compromise" during this period and the ensuing years of railway construction. Loring also suggested that, in many cases, in the Skeena, Kitwancool, Kispiox and Bulkley valleys, his efforts went unreported. The second reason is that the Wet'suwet'en appear to have preferred persistence to confrontation. In other words, they appear to have endeavoured to continue their activities "as before," the arrival of settlers notwithstanding. In some areas, as revealed by later cases, a combination of the Wet'suwet'en annual round and the extent of speculative, absentee ownership acted to delay Indian/White encounters for a number of years. Surveyors, according to Loring and the local missionary, contributed to this situation by ignoring Indian "habitations" in their reports.⁹³

The Gitksan of the Kispiox valley faced similar problems but the pace and scale of White settlement were more modest. In 1904 there were only twenty-two settlers in the valley; nonetheless competition over land and resources was already underway. At this stage the people of Kispiox proceeded through the DIA channels. This approach seems to have yielded little satisfaction and, together with religious disputes, contributed to the alienation of the Indians from the Indian agent.⁹⁴

The process of allotting reserves continued during this period. It generated one significant protest action: at Kitwancool in 1898. On learning, during the previous year, of the impending visit of the Indian Reserve Commissioner (IRC) to the upper Skeena, the chiefs of Kitwancool voiced their opposition. They wrote to say that "we do not want you to come here." Vowell, the new IRC, ignored this request, arriving at Kitwancool in 1898. At a formal meeting at the village it was apparent that the killing of Kamalmuk, a decade earlier, remained a cause of great resentment. Rather than obtaining information on land needed for reserves, Vowell received demands for compensation and a tombstone for Kamalmuk.⁹⁵

Another aspect of the competition for land and resources, requiring separate treatment, was the growth of hunting and trapping as a source of Indian/White conflict. This was not a new issue (witness the experience of Turner-Turner in the 1880s) but it came to prominence in the early twentieth

century. As population in the province increased and the area of White settlement expanded, the provincial government took steps to regulate hunting and trapping. The first major governmental initiative, in response to conditions in the southern portion of the province, was an amendment to the *Game Act* in 1905. This provided for the appointment of a provincial game warden and a prohibition on beaver hunting for the next six years.⁹⁶

Indian protests followed and the prohibition was modified: the northern portion of the province was granted a two-year exemption.⁹⁷ The Gitksan-Wet'suwet'en do not appear to have played any role in this initial protest, but in 1907, with the exemption coming to an end, they were active in lobbying for an extension. These protests were successful. A further exemption was granted, but no long-term solution was achieved. In the main, Gitksan and Wet'suwet'en protests about restrictions on, and deterioration of, hunting appear to have been conducted through government channels of one kind or another.

The situation concerning the feast changed little during this period. Missionary opposition continued, most dramatically in a second conflagration of ceremonial regalia at Hagwilgate. Loring, too, maintained the stance he had developed in the 1890s: he reported on the reform of the feast system and, on occasion, reported its imminent or actual demise. It is clear that the feast was undergoing a number of formal changes, but contemporary and subsequent reports indicate that Loring, on the latter points, was guilty of wishful thinking.⁹⁸

This was a period of transition. White settlers entered the area, not in quest of furs and minerals, but in search of agricultural land. A new and more intense form of competition between Whites and Indians, for access to the land and resources, resulted from this influx. The Bulkley Valley was the prime area of attraction for Whites, with the Kispiox Valley and the Lakes district as secondary objectives. Indian protests remained largely *ad hoc*, with the Indians responding to specific issues as they arose. Most protests were carried through the official channels of the DIA. Towards the end of the period, however, there were signs of discontent with the Indian agent and the mechanisms for resolving disputes that he represented.

The 1908-1915 Period

The pace of development in the White economy of the upper Skeena increased in the years following 1907. The principal impetus for this acceleration was the construction of the Grand Trunk Pacific Railway (GTPR) between 1908 and 1914. By creating new local markets and promising economic access to outside markets, construction stimulated the growth of resource-based industries, including agriculture, hard-rock

mining and lumbering. Sandwiched between the collapse of the global economic boom in 1913 and the outbreak of the First World War in 1914, the completion of construction marked an end to optimism rather than the beginning of its realization.⁹⁹

The boom years, which the construction of the GTPR spanned, were very important ones for the Gitksan and Wet'suwet'en. Unresolved problems were exacerbated by the new developments in the White economy. Moreover, this acceleration took place as the Gitksan, in particular, were losing patience with the local Indian agent. As the situation deteriorated on the upper Skeena, Indian protest activities in other parts of the province took on a new coherence. In addition to pursuing local issues in various ways, the Gitksan joined in the wider struggle of Indian peoples in British Columbia to seek recognition of Aboriginal title.

An important step in their long quest for recognition of Aboriginal title was taken by the British Columbia Indians in 1906. Chief Capilano and two other chiefs formed a deputation to visit Edward VII in London.¹⁰⁰ After being informed by the Imperial government that they would have to lay their complaints before the Canadian government in Ottawa, the Indians organized to pursue this objective. The Gitksan contributed to the membership and the financing of a delegation of twenty-five chiefs who visited Ottawa in June 1908 and presented a number of petitions to Prime Minister Laurier.¹⁰¹

While the Gitksan awaited the results of this initiative, relations between Indians and Whites deteriorated in the upper Skeena area. A number of Wet'suwet'en were arrested and fined for threatening some White settlers near Moricetown; the missionary at Glen Vowell was warned of a potential "rising" and that he and his family would be safer elsewhere; a Kispiox Indian was arrested for threatening to shoot a White man, but escaped from jail while awaiting trial; and, at Kitwanga, the Indians refused to allow Loring to subdivide their reserve, pending the results of the delegation to Ottawa. As a result of these activities there was considerable nervousness among the White population at Hazelton.¹⁰²

Amidst rumours of secret meetings among the Indians, and of plans to destroy Hazelton, the Whites prepared for the worst. A series of rifle pits and trenches were dug and other defensive tactics discussed. At the same time a series of telegrams sped back and forth between local officials and their superiors, in both Ottawa and Victoria. The outcome of this activity was a promise, on the part of the DIA, that an enquiry would be made the following year into the grievances of the Indians of the Babine Agency. For the moment this tactic proved effective: tension was dissipated and conflict avoided.¹⁰³ In 1909, however, the escalating sequence of action and reaction was repeated: a series of incidents culminated in a dawn raid on Kispiox by a party of police.

The new round of conflicts on the upper Skeena took place in the context of the preparation and submission of the Cowichan Petition of March 1909. The most significant feature of this new petition, addressed to Imperial authorities, was that it invoked the Royal Proclamation of 1763 as the legal basis for Indian claims. As later events made clear, the Gitksan were aware of this important step.¹⁰⁴

At this time the Kitwanga valley, and especially the village of Kitwancool, emerged as another centre of Indian resistance to the entry of White settlers. In June 1909 two "land prospectors" were denied access to the Kitwanga valley. Three Indians were arrested and fined for their actions. A series of subsequent meetings revealed that the Indians were using the Royal Proclamation of 1763 as one basis for their claims.¹⁰⁵

These events in the Kitwanga Valley elevated White nervousness to levels approaching those of the previous fall. The provincial constable stationed at Hazelton expected further trouble and the Indian agent wanted a force of the Royal North-West Mounted Police (RNWMP) sent to the area. Even the DIA school inspector noted the tension, pointing out that the "land trouble" was "more acute . . . than in any other part of B.C." Such was the environment that the Stewart-Vowell Commission, the fulfilment of the 1908 "promise," entered in July 1909.¹⁰⁶

Stewart and Vowell held two separate meetings, both at Hazelton: first, with the Gitksan tribes, and then with the Wet'suwet'en. The Wet'suwet'en presented a list of grievances, including clashes with Whites over hunting and fishing grounds, and a list of twenty-nine specific territorial claims. The minutes of this meeting state, in part:

James Yami says: The Bulkley river is our river and we get our living therefrom. On the lakes are located some of our houses. They are small and crude of pattern, but we cannot do without them. In those houses we have many articles such of hunting, trapping and fishing implements. A white man comes along and sets fire to the houses, and on remonstrance we are told by the settler, "You get away from here, I bought this land and if I catch you here again I will have you jailed."

We are glad that you chiefs have come to listen to our grievances. We have always tried to be law-abiding. If we want to cut a little firewood we are stopped. If we were educated people we would make more complaints. We always give way to the law-less white rather than offend him.

Francis Lake John says: We have the greatest respect for authority and hope that our words be taken to Ottawa. We now will

speak of our hunting grounds. The clashes we have with the whites are many.

[1] Regarding a piece of land on Canyon creek, formerly owned by the late Canton [Canyon] creek Tom (now his family).

[2] David Francis (headchief) has an undisputed right to a piece of land on Tyhee lake.

[3] Round lake Tommy, though formerly he had a right to the whole of that lake, at present he be satisfied with a small piece of land whereon stands his house.

[4] Lame Michel had a place at Lyetate (cross-roads). Now, it is taken from him and is staked by a white man. In other ways he has lost about \$216.00 in buildings with his brother Nazelle.

[5] Now we come to speak of former Tyhee's place Lachqua, near McInnis' (crossing, south fork of Bulkley).

[6] Now Patrick's place on Beaver dam lake.

[7] Peter's place on Sananees lake; the cabin here burned by some whites.

[8] Isaac's place on Bulkley lake. One day Isaac went away leaving his family at home. A white man (Billy Clark) set the place afire in the bush, whilst Isaac's family was in the cabin near by. Billy Clark is employed on the telegraph line about 100 miles south of here.

[9] Now we come to Pooh's [Boo's] place on Burns lake a small piece of land should be reserved for him here aside those of Charles' and Tibbets' (the latter two provisionally secured by Agent).

[10] Next to consider is Belnay's place on Old woman's lake.

[11] Now Maxim's place on Maxime lake should also be secured.

[12] Andrew's place on Chlee-yes, west of Mt (Tatchgaiegell) on Francis lake, should like wise be reserved.

[13] Little Isaac's place, Taichgagas, on Francis Lake likewise.

[14] Yami Moyee's ground on Little lake near Francis lake.

[15] August's on Trout lake near Francis lake.

[16] William Leo's on Tsingat lake.

[17] Nachblach's on Owen lake.

[18] Seymour's place at Tamslees

[19] Matthew Sam's at Denoochgot (6 miles this side of Aldermere).

[20] Maxime Antoine's at Tsaslachque.

[21] Baptiste's, back of Tyhee lake now known as McClure Lake).

[22] Joseph Cohach's, now included in old man Thompson's ranch.

[23] Young Nahone's, James—Taighlah—head of Ootsa lake with 2 houses standing thereon.

[24] Mooseskin Johnny's, on Bob Creek (its mouth).

[25] Paul Wegas on the Susqua.

[26] Mrs. Leo & her daughter Nellie Sisinchah (a swamp) near Jack Seely's ranch (cattle & horses = 10).

[27] Yesane & Jonas, head of the Telkwa (hay meadow & beaver ground).

[28] Old Dennis' three sons', Dennis lake, head of Copper river.

[29] David McKenzie, on 20 Mile Creek, 5 miles above the bridge.

Belnay says: Each of the aforementioned hunting and grazing grounds we desire to have one (1) mile square.

David Francis (headchief) says: If we are granted these requests there will be peace for four thousand years to come. I am sure when you go away, you will leave peace behind. We also ask the Government to give us two (2) mowing machines for the use of the Moricetown Indians.¹⁰⁷

The Gitksan approach to the commission was rather different. They presented a claim to Aboriginal title based on the Royal Proclamation of 1763 and pointed to the persistence of Gitksan culture, especially the laws and customs that governed the administration and ownership of territory. Furthermore, they believed that they had been "promised land concessions" and expected Stewart and Vowell to conclude a settlement of outstanding issues on the spot. When informed that this was not possible, the Gitksan expressed both anger and hostility.¹⁰⁸

Discontent with the Stewart-Vowell Commission was not restricted to the Gitksan. Only a few days after the meetings, the White residents of Hazelton petitioned the provincial government to send a force of the RNWMP, as the commission had failed to abate Indian dissatisfaction.¹⁰⁹ The provincial government did not accede to the request, but it did increase the presence of the provincial police in the area. A new police district was created for the upper Skeena, under the charge of a chief constable resident at Hazelton.¹¹⁰

As these steps were being taken, another case of apparent intimidation was reported at Kitwanga. A survey party claimed that it had received threatening letters and had been shot at. In court, however, it proved impossible to substantiate the charges and a verdict of not guilty was returned.¹¹¹ Not long afterwards, a letter from the people of Kitwanga and Kitwancool displayed their rejection of the Indian agent and his role.¹¹² By this stage, though, the focus of action had shifted from the Kitwanga valley to Kispiox.

At Kispiox, notices "forbidding whites from crossing the river," an early indication of dissatisfaction, had appeared in June. The "failure" of

the Stewart-Vowell Commission only added to the general sense of discontent, but the construction of a new road through the valley, beginning on 31 August, was a critical development. The Indian response was delayed for two months, until after the closure of steamer navigation on the Skeena.¹¹³ Then, early in November, the Kispiox Indians moved to halt construction. The foreman of the road gang responded by throwing two of the Kispiox people into the river. News of this encounter brought about a visit from the new chief constable and a warning to the Indians about the consequences of further interference. Shortly afterwards the foreman was both threatened by the Indians and relieved of his tools and supplies.¹¹⁴

The result of this action was the police raid on the village of Kispiox early in the morning of 6 November. Seven Kispiox Indians, all in bed at the time, were arrested; later, Stephen Morgan, of Kitwanga, the "worst agitator on the Skeena," was charged with inciting the events at Kispiox. The verdicts and sentences, handed down on 13 November, were as follows:

George Robinson: 2 months hard labour for assault; 3 months hard labour for intimidation, to start at the expiration of the previous sentence.

Richard Morrison: \$20.00 fine or 1 month for assault; \$50.00 or 1 month for intimidation to commence at the expiration of the previous sentence.

Phillip Williams: \$25.00 or 1 month for intimidation.

Billy Williams 2 months hard labour for assault ; 3 months hard labour for intimidation, to commence at the expiration of the previous sentence.

Johnny Morrison: discharged.

Charles Wesley: 3 months hard labour for intimidation.

Robert Morrison: \$20.00 or 1 month for assault; \$50.00 or 1 month for intimidation, to commence at the expiration of the previous sentence.

Stephen Morgan: 90 days for inciting.¹¹⁵

The police action at Kispiox served to calm the nerves of the White population of the upper Skeena, especially the Indian agent. Loring offered his superiors both optimistic comments on the current mood of the Indians and dubious explanations for their former behaviour.¹¹⁶ For the Gitksan, on the other hand, the lessons of the raid appear to have been tactical rather than strategic. The fundamental issue of control over the land and resources persisted: less certain was the best method of pursuing that objective. Thus, A.H. Green of the B.C. Land Survey, was greeted at Kitwanga in 1910 by what he termed "passive obstruction."¹¹⁷

Green's presence on the upper Skeena in 1910 was to carry out survey work at Kitwancool and Andimaul. At both locations he encountered opposition to his proposed activities and threats should he proceed. Significantly, it was Green's opinion that all the tribes on the Skeena and Nass had agreed not to accept reserves "until a decision has been arrived at as to their claim to the whole country." To this end a number of Tsimshian and Nishga chiefs had met Prime Minister Laurier at Prince Rupert in August 1910.¹¹⁸

The available documents do not indicate that any Gitksan representatives were present at this meeting. Instead, a written address and petition, signed by chiefs from five Gitksan villages, was forwarded to Laurier.¹¹⁹ This document is an important statement of the grievances and claims of the Gitksan chiefs:

The Humble Petition
and
Address of Indians of the Upper Skeena
to the Honourable Sir Wilfred Laurier

Honourable Sir,

We rejoice that you have been privileged to visit this part of the Dominion.

We are glad to welcome you as the chief minister of the Dominion House of Parliament, for as loyal subjects of His Most Gracious Majesty King George V, we are ever ready to pay our respects to those who may be glad to guide the affairs of the country.

We do not feel ourselves worthy to speak in the presence of one so high, but being conscious of the Fatherhood of God over all natives and people, and as a people we are trying to obey His Divine commandments, we feel that we can humbly approach you with this written address and petition.

We, as representing the Indian people of the SKEENA RIVER district, sent to you about two years ago, respecting some reform in the Indian Act. We find that Mr. Vowell and Mr. Stewart of the Indian Department, Victoria had not received the petition and could not grant us any reform.

The petition dealt with the question of the land of our fathers, which we feel has been taken away from us by the white-men, and it also requested that hunting rights and fishing rights might be more extensively granted to us. Certain tracts of land which while not being on a "reserve" have for generations been used by our fathers as hunting grounds, & for getting lumber, have now been taken away from us on the pretence that the tracts were not part of the reserve.

We humbly request that the taking away of such land be stopped, and that the rights so long ago enjoyed by our fathers be granted to us.

We also further humbly petition that the land of our fathers may return to us, and that more rights of liberty and freedom, be conceded to us. Also, whereas, two of our people were brought before a magistrate at Hazelton for cutting lumber, (not on a reserve), and whereas the decision of the magistrate against our people was agreed to by the Indian Agent, we humbly request that we may have the right to cut lumber for our own use.

We humbly trust that you will favourably consider our requests.

We pray that your visit will bind our hearts more strongly to our Most Gracious Sovereign Lord King George V, and to the Parliament over which over which you are the chief minister.

We pray that the blessing of Almighty God may rest upon you, and that you may be spared for many years to serve your God, your sovereign, and the people of this great dominion. Assuring you of our unfailing loyalty,

We remain
Your humble Subjects

Edward Liginitha Gitwangak	X	his mark
Shimadeeks Kitwancool	X	his mark
James Gordon Kizegeucla	X	his mark
Edward Clark Hazelton	X	his mark
Walter Kale Kispiox	X	his mark ¹²⁰

The visit of A.H. Green to the upper Skeena in 1910 overlapped with the presence of another DIA representative: Reverend John McDougall. McDougall's objective was to collect information on Indian grievances and the general situation in the area. He held a series of meetings with the Gitksan and Wet'suwet'en and produced a brief written report and a set of recommendations. The latter largely reflected his assessment of the situation from the Indians' viewpoint. He urged the federal and provincial governments to secure the "extinguishment of the Indian title to the lands in British Columbia."¹²¹

In the fall of 1910 there were further reports of Indians obstructing White settlers in the Kitwanga valley. This resulted in the arrest of three Kitwancool Indians. Shortly thereafter "notices" from the chiefs of Kitwanga and Kitwancool began to appear, pinned to trees along trails in the Hazelton district. The notices laid claim to Aboriginal title and invoked the Royal Proclamation:

We the chiefs of Kitwinkoll and Kitwangak have I [one] thing to say, We do not wish any whiteman to take our land away.

This land belongs to our forefathers and King George 3 tell this land belong to Indian.

We never fight for this land. No pay us any money.

We don't want government at Victoria to steal this land from us.

We go to this land for berries and hunt wild animals.

Take away land and we got no place to live on.¹²²

The report of these "notices" came shortly after a meeting in Victoria between Premier McBride and ninety-six Indian chiefs and delegates from tribes throughout the province. From the Indian perspective this meeting proved to be unsatisfactory. Their memorial of claims was turned down "curtly and peremptorily," leaving a "bitter feeling." The Gitksan took part in one of the responses to this rejection. Charles Martin, of Gitanmax, was selected as "the man . . . to speak for the Skeena River Indians" on a projected trip to England about "the land." Owing to the coronation of George V, Martin proceeded no further than Prince Rupert.¹²³

The summer of 1911 saw a return visit to the upper Skeena by surveyor A.H. Green. On this occasion his attention was directed towards the fisheries and hunting stations of the Kispiox Indians. Green examined individual sites and had two meetings with representatives of the village. At both meetings, in addition to some specific complaints, he received demands that would "virtually give them the whole country."¹²⁴ When back in Victoria, Green filed a request that the individual fishing sites, which he had mapped, be protected from further encroachment. By this stage, however, an impasse had been reached between the federal and provincial governments, with the latter refusing to agree to the establishment of any further Indian reserves.¹²⁵

This particular impasse was removed by the McKenna-McBride Agreement signed in September 1912. It provided for the establishment of a joint royal commission on Indian affairs in British Columbia to resolve all outstanding issues. At the insistence of Premier McBride, however, it contained no reference to the question of Aboriginal title. The Indians were not parties to this agreement.¹²⁶ By coincidence, on the very day that the agreement was signed, representatives from eight Gitksan villages were in

Prince Rupert to meet the governor-general. It was largely a ceremonial occasion, but, for some of the Gitksan, it was viewed as a part of their ongoing efforts to obtain justice.¹²⁷

In the period between the McKenna-McBride Agreement of 1912 and the arrival of the commissioners on the upper Skeena in 1915, local issues continued to cause discontent. Complaints were lodged against the Indian agent, indicating the continuing animosity of at least a portion of the Indian population. The Wet'suwet'en, too, continued to complain. In their case the problem remained the disposition of land in the Bulkley Valley.¹²⁸ Kitwancool, however, was the site of the most forceful protests of this period.

In 1913 a survey crew was halted in its work, relieved of its instruments and ordered to leave the Kitwanga Valley. These actions were accompanied by a display of firearms. Although the survey instruments were returned the next day, the police had been summoned and, in due course, three of the ringleaders were arrested. They were charged under the *Official Survey Act* and given suspended sentences.¹²⁹

The establishment of the McKenna-McBride royal commission brought forth some prompt and co-ordinated responses from the Indian peoples of British Columbia. The principal vehicle for such action was the Indian Rights Association (IRA), which entered a vigorous objection to the restricted terms of reference of the royal commission. Their fears proved well-grounded. Under Indian questioning, the commissioners stated that they had no authority to deal with the question of Indian title.¹³⁰ For their part, the IRA recommended a format for Indian appearances before the commissioners. Each tribe, it was resolved, should select two or three spokespersons whose duty it would be "to wait upon said Commission, when it visits their particular locality, and request that the fundamental question of title first be settled before the question of re-arrangement of reserves be touched."¹³¹

The early relationship of the Gitksan to the IRA is uncertain, but a formal involvement had been established by the end of 1913.¹³² It is improbable, therefore, that the Gitksan were unaware of the IRA resolution concerning responses to the royal commission. How far, if at all, such information influenced Gitksan behaviour is unknown, but two comments can be made. First, the Gitksan acted within the spirit of the IRA resolution. Second, and more significantly, Gitksan actions before the McKenna-McBride commissioners conformed with the pattern of their protest activity extending back over the previous seven years. In most cases, the Gitksan spokesperson declined to provide the commissioners with any detailed information. A few specific complaints were registered and all raised, in one form or another, the question of Indian title.¹³³

The Wet'suwet'en response, especially at Moricetown, differed from that of the Gitksan. "Aided" by their priest, the Wet'suwet'en witnesses supplied detailed information, especially about their grievances arising from land alienation and the loss of particular sites. A claim for some kind of natural justice was put forward by the priest, but no attempt was made to establish a legal foundation for any claims. The Wet'suwet'en response, however, was conditioned by the short notice (only two days) they had received of the presence of the commissioners.¹³⁴

The Gitksan also supported another response to the royal commission: the quest for a judicial decision on the title question. Steps along this route had been taken prior to the establishment of the royal commission, but the restricted terms of reference of the commission provided a further impetus. The Nishga, in August 1912, had decided to seek a judicial determination of their title and, by 1913, had developed the Nishga Petition. Their objective was to obtain a decision by the privy council in London.¹³⁵

A.E. O'Meara, legal counsel for the Nishga, visited the upper Skeena in August 1913 to seek Gitksan support. The following year, at meetings held at Port Essington, the Gitksan passed a resolution that:

[W]e agree that the reserves of the Tribe be deemed to be security for repayment of all moneys which may be advanced whether by the Government of Canada, or by or through the 'Friends of the Indians of British Columbia' in connection with the Nishga Petition to His Majesty's Privy Council.¹³⁶

Exchanges between Gitksan and Nishga representatives were held in Hazelton on at least two occasions in 1915: early in the year, when Nishga delegates returned from a series of meetings in Ottawa; and in December, when O'Meara paid another visit to the upper Skeena. Little is known about the substance of these meetings, but on the latter occasion the Gitksan appear to have been dissatisfied with the lack of progress.¹³⁷

Three issues, although partly subsumed under the catalogue of protests on the land question, require separate treatment. Each contributed to the atmosphere of discontent on the upper Skeena; and each generated its particular set of grievances. Two of the issues—the prohibition of the feast, and the hunting and trapping regulations were familiar; the third—the construction of the GTPR—was new.

The construction of the GTPR through the upper Skeena region raised two specific issues for the Indian people: the acquisition, by the company, of land for the right-of-way; and damage done to Indian property during the construction process. These issues were handled by negotiation between the GTPR and the DIA, largely replicating procedures already developed for

the lower Skeena area. Given this framework, it is often difficult to determine the role of Indian protest, if any, in the process. Nonetheless the Gitksan were not simply spectators.¹³⁸

The purchase of land by the GTPR was restricted to reserve lands. In all, portions of eight reserves were purchased. Claims to compensation for damages covered four areas: damage to cemeteries, loss of improvements, loss of fishing sites, and use of resources. In the case of cemeteries, a formula had been previously established covering both damages and the costs of re-interment. Payments for loss of improvements were also fairly straightforward, if not entirely standardized.¹³⁹ One interesting exception occurred at Andimaul: following the destruction of some fish houses, the claim included the value of the fish forgone. This aspect of the claim, it would appear, was not sustained. On another occasion it was proposed that a recreation hall for workers be given to an Indian whose fishery was affected by construction of a bridge near Kitsegukla. He was to receive the hall after the completion of construction. It was also at Kitsegukla that the Indians, going directly to the contractors, sought payment for gravel that had been obtained from the river.¹⁴⁰

The Gitksan approached the Indian agent both to express their grievances against the GTPR and to press for a settlement of their claims.¹⁴¹ Occasionally they acted outside of these normal channels. The best example of such action took place at Kitwanga in 1915, when a number of survey posts were removed. Although the matter was smoothed over, the arrival of the GTPR surveyors had served to bring a number of grievances to the surface.¹⁴²

The influx of White settlers, prospectors and construction workers, and the growth of the "White" economy had a deleterious effect on Indian hunting and trapping activities. Protests on this issue were incorporated, in part under the rubric of the land question. Thus the various "commissioners" and White officials visiting the region received complaints about hunting and trapping. The case of Wet'suwet'en protests to Stewart and Vowell has been cited above; the issue was also raised before McDougall (1910), Green (1911) and the McKenna-McBride commissioners (1915).¹⁴³

The prohibition on beaver trapping prompted distinct actions. On this issue the Gitksan and Wet'suwet'en, like other Indian peoples, directed their protests to the Indian agent and official channels. As a result "Northern" Indians were granted two exemptions that extended until 1911. In 1912, however, a third campaign proved unsuccessful and the prohibition was implemented.¹⁴⁴

On at least one occasion a group of Gitksan took direct action to protect their hunting rights. In 1914 Cornelius Von E. Mitchell, an American big-game hunter, was denied access to hunting grounds to the north of Kisgegas.

His experience, in 1914, was strikingly similar to that of his predecessor, J. Turner-Turner, nearly thirty years earlier. A rumour also circulated that some Wet'suwet'en had dealt even more forcibly with a White settler who had trespassed on their hunting grounds in the Francois Lake area.¹⁴⁵

There was a surge in the overt practice of the feast towards the end of this period. A missionary source, reflecting on the situation in 1920, observed that:

Our missionary work [on the upper Skeena] is completely ruined through nothing but the Potlatch. At first it began in a small way by having small feasts of the dead and conducted in a half Christian manner. The Missionary did his utmost to check or stop this practice knowing to what it would lead, but being single-handed could not make much headway. Year after year the evil increased until today they potlatch as if they were heathen. The Indian Agent seems powerless to stop this. . . . Had the Potlatch [law?] been enforced from the first when these so-called Christian feasts began, we should not be facing this problem today.¹⁴⁶

G.H. Raley, a Methodist missionary, indicated that this process had commenced before the First World War. He suggested a link between the persistence of the feast and much of the "lawlessness and opposition to Governmental authority" in the upper Skeena region, and criticized the inaction of the Indian agent.¹⁴⁷ In fact, Loring had continued to operate much the same as in previous years: he offered occasional reassuring references to the feast and its modification. In 1911, for example, he noted that the Gitksan, although not the Wet'suwet'en, spent

. . . a considerable time in attending feasts in memory of those that departed by death during the year. Happily on these occasions every semblance of the whilom [formerly] objectionable features of the potlatch are eliminated entirely. Thereat, for instance, the tables are properly set, the serving is well done and the conduct attendant the occasions is surprisingly in order, and in fact pleasing of general effect.¹⁴⁸

Loring must have considered this description singularly appropriate since, with minor alterations, he repeated it on two subsequent occasions.¹⁴⁹

The period between 1908 and 1915, with the influx of White settlers, the construction of the GTPR and the rapid growth of the White economy, was of considerable importance to the Gitksan and the Wet'suwet'en. The consequences of White settlement were manifested with greater force and clarity than ever before. The Gitksan and Wet'suwet'en were not slow to respond. An impressive range of techniques was employed to give expression

to grievances.

The Wet'suwet'en, whose territory attracted most settlement, brought their grievances to the Indian agent, their missionary and visiting officials. According to their testimony before Stewart and Vowell, they sought to avoid confrontations with White settlers, preferring to persist, with necessary adjustments, in their traditional activities. The Gitksan, on the other hand, moved well beyond the standard channels of the DIA, with even "extraordinary" channels proving inadequate. Force and the threat of force were used on many occasions, the confrontations at Kispiox in 1909 being the most dramatic example. The feast system, despite missionary opposition and legal prohibition, gained new momentum.

Many different issues provoked discontent among the Gitksan and Wet'suwet'en, but access to land and resources remained a unifying theme; it represented a line of continuity with protests from earlier periods. This fundamental concern received expression in a number of petitions, statements and notices, but nowhere more forcibly than at the hearings of the McKenna-McBride royal commission.

The problems confronting the Gitksan and the Wet'suwet'en were not unique. To one degree or another Indian peoples throughout British Columbia faced the same dilemma. Co-ordinated action—the emergence of regional and pan-regional Indian organizations—was a logical response. The Gitksan participated in this process, initially through the 1908 delegation and later through the IRA and the Nishga Petition. Through these efforts the legal foundation for the claim to Aboriginal title was specified: the Royal Proclamation of 1763. This knowledge was used in local protests on the upper Skeena.

The 1916-1927 Period

The White economy of the upper Skeena, in the period after the completion of the GTPR, experienced rather mixed fortunes. From the First World War until the early 1920s there was a good deal of uncertainty and instability; thereafter, until the end of the decade, development was more consistent. All in all, these years can be described as marking the consolidation of White settlement.

The White population of the Skeena-Bulkley census subdivision increased by a little under 30 percent in the decade after 1921. Settlement was encouraged by the Land Settlement Board, with the Bulkley Valley as a featured area. Smithers, the product of the GTPR, had emerged by 1920 as the principal settlement in the area. In 1931 its population was about 1,000.¹⁵⁰

Agriculture made some progress during this period, but local markets

were limited and the expense of reaching outside markets remained a problem. The completion of the railway and war-time demand contributed to a rapid growth in hard-rock mining. The quantity and value of production reached a peak in 1916. A marked and uneven decline until the mid-1920's was followed by a recovery that failed to exceed the levels of 1916. In addition to lode mining, a small amount of coal was produced in the Telkwa valley, beginning in 1918. Forest resources continued to attract attention. A series of sawmills were established on the Skeena, primarily around Terrace but extending into Gitksan territory. In the agricultural areas, from Smithers southwards, the occasional sawmill was supplemented by a multitude of small pole and tie operations. With the GTPR as a market such operations dove-tailed conveniently with homesteading.¹⁵¹

Against this background of consolidating White settlement, the Gitksan and Wet'suwet'en continued their protests on two fronts. On the home front, specific local issues, such as land and hunting disputes, generated specific responses. On a provincial scale attention was directed towards seeking a just resolution for Indian claims. The latter involved rejection of the findings, even in revised form, of the McKenna-McBride royal commission and opposition to their implementation. A second approach, with ultimately the same objective, was to seek a judicial ruling on the question of Aboriginal title. The principal organizational vehicles in these endeavours were the Allied Tribes of British Columbia and the Nishga Petition. At different times, the Gitksan provided support for both approaches.¹⁵²

The Gitksan were represented at the meetings of May 1916 that established the Allied Tribes. A key feature of these meetings, held in Vancouver shortly before the McKenna-McBride commission completed its work, was the recognition of the need to co-ordinate the positions of existing Indian organizations—the IRA; the Interior Tribes; and the Nishgas—"with some other Northern Tribes." A key issue on the agenda was to seek a unified response to "PC 751." This order-in-council, with its restrictive pre-conditions for any judicial test, was decisively rejected.¹⁵³

Information on the relationship of the Gitksan to the Allied Tribes in subsequent years is limited and ambiguous. In 1917 the Gitksan participated in a protest, promoted by the Allied Tribes, against the inclusion of Indians under the terms of the *Military Service Act*. The following year the Kispiox band endorsed a memorial concerning the "land question" that was issued by the Allied Tribes.¹⁵⁴ Yet there was no direct Gitksan participation at the initial annual general meeting in 1919, nor at the important meeting, in January 1922, which expanded the scope of the organization and changed its structure. Moreover, the elders of Kitwancool on two separate occasions, specifically rejected any dependence on the actions of the Allied Tribes.¹⁵⁵

Nonetheless, the Gitksan did co-operate with an important initiative undertaken by the executive of the Allied Tribes in the summer of 1922. Following discussions with the minister of the interior, the executive of the Allied Tribes agreed to provide information to facilitate a revision, then in progress, of the report of the royal commission. As part of this process, executive members Peter Kelly (Haida) and Ambrose Reid (Coast Tsimshian) accepted responsibility for collecting data on additional claims by Indians in the Babine Agency. In a series of meetings, held in August 1922, Gitksan representatives responded by making both specific complaints and large territorial claims. The most detailed presentation came from Kitsegukla representatives, Stephen Morgan and Moses Jones:

1. One-half section of three hundred and twenty (320) acres of land for each man and woman twenty-one years of age and over.
2. Timber Reserves for the use of the Indians in sufficient quantities to ensure supply for generations to come.
3. The right to fish in Skeena River and tributaries for own consumption without license or permit.
4. Hunting grounds be set apart to be used exclusively by families who are recognized owners of same from time immemorial.
5. Exclusive rights to waters of streams and creeks which flow through Indian reserves for private and commercial purposes.
6. Compensation for tribal lands alienated.
7. The return of lands on each side of the track going through Reserves. The railway Company (G.T.P.) has taken too much land.¹⁵⁶

Kelly and Reid disagreed with, and attempted to modify, the Gitksan demands, but without success. In their report to W.E. Ditchburn, the DIA's chief inspector of Indian agencies for British Columbia, they concluded that the Gitksan claims "should not be lightly regarded as they are in earnest and may cause a great deal of trouble if not properly covered for. All the people from the upper Skeena seem to be the same."¹⁵⁷

Finally, the Allied Tribes did intervene in the case of William Green, a Gitksan Indian sentenced to imprisonment after a trapping dispute in 1925. It is not known if this intervention, discussed in more detail below, was at Gitksan request.¹⁵⁸

The Gitksan supported a number of regional organizations during this period. It seems likely that these organizations served, in part, to mediate relations between the Gitksan and the Allied Tribes. The first such organization, the Special Joint Committee, was formed with a number of Coast Tsimshian bands late in 1917. Its objectives included co-operation on "all matters affecting the general rights and privileges of the Indians, and

all matters not purely of a local nature. . . ." Little more is known of this committee. Subsequently some of the Gitksan appear to have joined the Coast Tsimshian in another regional organization of the early 1920s, the United Tribes of Northern British Columbia. Finally, Stephen Morgan, identifying himself as the "President" of an unnamed organization, sent letters to the governor-general and the prime minister in 1925.¹⁵⁹

The most significant regional undertaking in which the Gitksan participated, however, was the co-ordinated support for the Nishga Petition. This support had been expressed by the Gitksan as early as 1913, but it was restated in the 1920s after the establishment of the Allied Tribes. The clearest instance occurred in 1924 when Prime Minister King visited Prince Rupert. A delegation of Nishga and Gitksan representatives met the prime minister to discuss land matters. The Gitksan supported the Nishga position and, apparently, delivered two written statements on their own account.¹⁶⁰ The first of these, signed by Walter Gale and thirteen other chiefs from Kispiox and Glen Vowell, and endorsed by chiefs from Kitwanga, Kitsegukla and Gitanmax, is important and merits extensive quotation. Entitled "Re: Indian Land Question," in it the chiefs began with a reminder that,

[O]ur forefathers were the occupants and possessors of the land of this country in the days before the coming of the white people, and in view of the fact that for that reason we are now the proper inheritors of this land; and furthermore in view of the fact that in 1908 the Indian people petitioned the Dominion Government for a settlement of our Land Question, We the Chiefs of the Kispiox Band of Indians now resident on the Kispiox and Glen Vowell Reserves, comprising in all a population of four hundred people, being dissatisfied with the present arrangement of the Indian Land Question as it concerns our people respectfully ask,

First: That the present Indian Reserve System be abolished.

Secondly: That in place of the present reserve system the peoples of the Kispiox Band now living in Kispiox and Glen Vowell villages be granted *A Clear Title* to a strip of land watered by the Kispiox and Skeena rivers; said strip of land to extend from the Kispiox sawmill, midway between Hazelton and Kispiox village to the Brown Bear Lake approximately eighty miles north; said lake bordering on the headwaters of the Kispiox river and draining into the Nass river. And, furthermore, we desire that this strip of land shall embrace the territory fifteen miles to the east and fifteen miles to the west of the Kispiox river, thus including the mountain ranges on both sides of the Kispiox Valley.

In short it is desired that a strip of land eighty miles long and thirty miles wide as defined above be granted with full title to the same to the Kispiox peoples of the Kispiox and Glen Vowell villages in place of the present Reserve System.

We remain ...¹⁶¹

The second statement, from Kitwancool, was less precise but its orientation was similar.

There are indications that the Gitksan and the Nishga continued to exchange information, and perhaps support, on the "land question" in the years following 1924.¹⁶²

The position of the Wet'suwet'en with respect to the current of organized Indian protests between 1916 and 1927 is uncertain. On the basis of the documents examined, they appear to have had little or no formal involvement. One report, dating from the summer of 1925, suggests that they were not entirely innocent.¹⁶³

Hunting and trapping issues brought the Gitksan into action both on the home front and in co-operation with other Indian peoples. With the rise of fur prices at the end of the First World War, trapping assumed an even larger economic significance. Thus, in 1919, the inspector of Indian agencies in B.C. informed the DIA that the beaver prohibition had become one of the "main causes of discontent among most bands." Shortly thereafter the "northern Indians," including the Gitksan and Wet'suwet'en, hired a lawyer to approach the government on the issue. His submission included reference to a clear link between beaver conservation and the Indian system of owning hunting territories.¹⁶⁴ Two Kitwanga chiefs followed up this initiative with a letter to the superintendent general of Indian Affairs protesting the game laws of British Columbia. In 1923 the provincial government initiated a change in its system of game management: it passed the legislation enabling the introduction of registered trap-lines.

Once again there is evidence of direct action on hunting and trapping issues. Between 1920 and 1925 there were a small number of convictions for hunting and trapping offences; likely these were only the tip of an iceberg.¹⁶⁵ One case, however, stands out: that of William Green, a Gitanmax Indian. The case concerned Green and H.B. Thoen, a White trapper, and the latter's use of Green's traditional hunting territory. Following a confrontation at the trapper's cabin, Green was charged with the theft of three furs. With the aid of legal counsel and a defence based on "old Indian customs" he was acquitted. However, Green was promptly arrested a second time. At the ensuing trial he was found guilty and sentenced to thirty day's hard labour at Oakalla. At this point the Allied

Tribes took up the case with a formal appeal to the deputy superintendent general of Indian Affairs.¹⁶⁶

In the decade following the completion of the McKenna-McBride report, the Gitksan participated in a variety of protests. Their willingness to become involved in regional and even pan-regional organizations offered them considerable flexibility of response. There remained, though, a unifying thread running through all such undertakings—the quest for a just settlement to their claims. Participation in these broader organizations, moreover, was grounded in the specific circumstances of the upper Skeena region: local circumstances continued to generate issues requiring local protest actions. There were two principal centres of protest activity during these years, the Kitwanga Valley and the Bulkley Valley.

The incidents in the Kitwanga Valley revolved around access to land and resources. For the Kitwancool Indians it was a question of their Aboriginal title and, until a settlement was reached, the denial of access to the valley. For the Whites it involved an assertion of the rights of access and the need to establish reserves to complete the work of the McKenna-McBride commission.

The first dispute took place in 1917 when a group of would-be settlers, after reaching the village of Kitwancool, were obliged to retreat. Two fire rangers suffered a similar fate the following summer. In 1919 essentially the same scenario was replayed twice more. The first visitor to the Kitwanga valley in 1919 was a provincial government surveyor. He was ordered out of the valley some time around the end of August. Shortly afterwards a prospective White settler, in search of a "location," was prevented from proceeding beyond the village of Kitwancool. After being informed of this incident the police held a meeting with some Kitwancool representatives but little was achieved. The Indian agent, on being approached, claimed he could do nothing, but gave the impression that such incidents at Kitwancool were both normal and insignificant.¹⁶⁷

Other White residents were not so complacent and news of the events reached a wider audience, in Ottawa and Victoria. After a ministerial exchange of views, W.E. Ditchburn, inspector of Indian agencies in British Columbia, was instructed to investigate the situation at Kitwancool. His report recommended further study, including a visit by federal and provincial representatives to resolve matters.¹⁶⁸ This task fell upon the shoulders of W.E. Collison, for the federal government, and Major Clarke, for the province. They were warned of the attitude of the Kitwancool Indians and instructed as to appropriate responses. Shortly before their arrival at Kitwancool, the determination of the Indians was reaffirmed when another settler was forced to abandon an attempt to penetrate the Kitwanga valley.¹⁶⁹

On reaching Kitwancool, in May 1920, Collison and Clarke were invited to a formal meeting, at which they were duly informed of the claims of the Kitwancool Indians. In reply, the federal and provincial representatives attempted to convince the Indians of the futility of their attitude. The attempt was unsuccessful. For their part, the Kitwancool Indians were unaware that the purpose of the visit included a quest for information on suitable locations for reserves. This news was not well received, but Collison and Clarke persisted. Their subsequent report contained specific recommendations about reserves as well as the observation that they were convinced of the need for a "conclusive decision" on the question of Aboriginal title before a satisfactory settlement could be expected.¹⁷⁰

The census enumeration of 1921, conducted by the new Indian agent, Edward Hyde, offered the Kitwancool Indians another opportunity to express their discontent. Hyde, like many before him, was turned back. This rebuff brought about a visit by another official party, consisting of two RCMP officers, along with Collison and Hyde. Their experience, in December 1921, was remarkably similar to that of Collison and Clarke in May 1920.¹⁷¹

Between the winter of 1922-23 and the summer of 1924, two parties of timber cruisers and one tourist party were denied access to, or discouraged from entering, the Kitwancool Valley. The last of these encounters received widespread publicity through a detailed account published in a Vancouver newspaper.¹⁷² Meanwhile, the federal and provincial governments had proceeded with their solution to the Kitwancool "problem": the allocation of reserves. Formal notice of this step was handed to the Indians in September 1924, along with a warning that they could not prevent Whites entering the valley. Only a few of the Kitwancool elders were present on this occasion, but the reserves were rejected and, in due course, the blue-prints were returned to the DIA.¹⁷³

Over the period of these confrontations the elders of Kitwancool, under the leadership of Albert Williams, asserted their claims in other ways. Between 1920 and 1925 a series of letters, statements and petitions were directed to a variety of politicians and officials. These documents received no substantive answers, although a quantity of official correspondence was generated.¹⁷⁴

The final act in the sequence of incidents in the Kitwancool Valley was delayed until 1927, when a survey party was despatched to locate the allotted reserves. Conflict soon followed. Early in September the survey party was raided and its equipment destroyed. In all, five Kitwancool Indians were arrested as a result of this confrontation. One was given a suspended sentence; the others received jail terms of various lengths, to be

served in Oakalla prison. This action took place after the final settlement of 1927.¹⁷⁵

In Wet'suwet'en territory, many of the grievances concerning the loss of specific parcels of land, used for hunting and fishing camps, remained outstanding. A number of these cases were the foci of attention in the decade following World War I. Matthew Sam, August Pete, Johnny David, Belnay, Arthur Charlie, Round Lake Tommy and Jack Joseph were all given executive permission to pre-empt alternative plots of land. In the case of Jean Baptiste the DIA purchased the land on which he was "squatting." The Wet'suwet'en had pursued these grievances in a number of ways since the McKenna-McBride hearings. They had complained to the Indian agent, usually orally but at least once by letter; they had complained to their missionary; on occasion they had issued threats to White officials and refused to be evicted. Mostly, however, they had persisted in hunting and fishing—"squatting," if necessary, on alternative camp sites.¹⁷⁶

Jean Baptiste is a case in point. Twice he had been "forced off" land near Telkwa before moving to Lot 882. He brought his grievances before Stewart and Vowell (#21) and McKenna-McBride (application #59) without success. When faced with legal eviction from lot 882 in 1920, he refused to move. The confrontation was only settled when the DIA purchased the land in question.¹⁷⁷

The prohibition of the feast continued to arouse opposition among the Gitksan and Wet'suwet'en during this period. Indeed, by 1920 the disregard for the prohibition had become so open that reports of feasts, with amounts expended, appeared in the local newspaper. Another report indicated that the GTPR was providing additional transportation to accommodate the demands of Indians going to a potlatch at Burns Lake. Missionary accounts confirmed this situation, as did C.M. Barbeau, an anthropologist who visited the area in 1920.¹⁷⁸ He recorded that:

Carrier Indians of various villages were seen congregating at Moricetown for their yearly summer potlatch of more than a week; the same people were closely observed from July 15 to 24, when they were giving four other potlatches at Hagwilgate, . . . (The Mounted Police uttered their usual threats of interference, but, as they had received no immediate instructions in the matter, they always took their departure at the proper moment).¹⁷⁹

The next year, however, with a new Indian agent at Hazelton, the prohibition was enforced more rigorously. In the following years one Wet'suwet'en and five Gitksan were arrested for infringements.¹⁸⁰ Despite such measures the feast system continued: in April 1931 the local newspaper

in New Hazelton carried the headline, "Potlatches Must Stop Says the Indian Agent."

Gitksan and Wet'suwet'en protest activity, except in the Kitwancool valley, became less intense after 1915. As White settlement and resource use in the upper Skeena consolidated, the Indigenous peoples found themselves outnumbered in their own territories, facing an increasingly complex world less and less of their own making. Administration of White rules and regulations, with improvements in communications, became more effective and more coercive. Convictions for contravening the "potlatch" prohibition and the game laws were recorded.

The Gitksan and Wet'suwet'en protested both on the home front and through regional and pan-regional organizations. On the home front the principal centres of activity were the Bulkley and Kitwancool valleys. In the Bulkley Valley area the Wet'suwet'en persisted in grappling with the loss of land for hunting and fishing camps. In the Kitwancool Valley the protest actions were both more aggressive and more dramatic and closely resembled the type of actions that had taken place before World War I. The people of Kitwancool attempted to deny access to Whites and prevent the establishment reserves. This opposition, framed in the context of Aboriginal title, persisted beyond the final report of the Special Joint Committee and the amendment to the *Indian Act* of 1927.

The Gitksan were involved in a series of regional and pan-regional organizations: both in opposition to the recommendations of the McKenna-McBride commission and, through the Nishga Petition, in seeking a judicial decision on the question of Aboriginal title. On the basis of the documents available, the Gitksan involvement in these organizations was intermittent. Nonetheless it did provide occasions for two important statements of Gitksan claims and objectives: to Kelly and Reid in 1922; and to Prime Minister Mackenzie King in 1924. On the basis of these documents it is clear that, although voiced less frequently, the nature of Gitksan claims had changed little.

Conclusion

1. *What forms of protest action, if any, did the Gitksan and Wet'suwet'en employ?*

The Gitksan and Wet'suwet'en participated in an impressive array of protest actions in the three quarters of a century covered by this opinion. Almost as impressive were the variety of forms in which these protests were expressed. Much of the protest activity involved face to face meetings and confrontations. Grievances, complaints and threats were issued to offending White visitors and residents. Officials and politicians—local, provincial

and federal—were addressed on matters of concern, in person where practicable and in writing where necessary. Letters, petitions and maps were all used to convey their message.

Many of the protests were carried out within the legal and political parameters accepted by White society, but not all. Illegal actions, as defined by the White system, were by no means uncommon. Physical violence, though, was relatively unusual: only one White and two Indians are known to have died as a direct result of protest actions. Physical intimidation was more frequent. Less dramatic, but no less significant for that, was the persistence in activities—notably the feast—deemed illegal by Whites.

2. How did the forms of protest change over time?

In the period covered by this opinion the Gitksan and Wet'suwet'en broadened their repertoire of protest actions. The adoption of new techniques, however, did not mean the abandonment of older ones; rather, more options were available. In the early years Gitksan and Wet'suwet'en protests involved direct responses to immediate grievances. Given the limited knowledge of White society, such actions usually reflected norms or laws of Gitksan and Wet'suwet'en cultures. Denial of access was one such response. It was used at Kitsegukla in 1872, and at Kispiox in 1891; it was still being used at Kitwancool in the 1920s.

The establishment of the Babine Indian Agency and the appointment of a resident Indian agent in 1889 produced a significant shift in the pattern of Indian protests. Direct actions still occurred but the agent represented a conduit into the bureaucratic channels of the DIA. Missionaries and other sympathetic Whites also assisted in obtaining access to this system for Indian complaints and grievances.

In the twentieth century, as the White population of the upper Skeena increased and Indian protests mounted, the "normal" channels of the Indian agent and the DIA proved inadequate. The DIA responded by providing new forums for expressing grievances. The Gitksan and Wet'suwet'en used these opportunities and added some of their own making. They resorted to direct action; they lobbied politicians and officials, both in person and by means of letters and petitions; they refused to co-operate with visiting officials; and they became aware of, and participated in, the activities of regional and pan-regional Indian organizations.

The improved accessibility of the upper Skeena area, especially after the completion of the GTPR, marked a change in the balance of power in the region. Reduced to a numerical minority in their own territories, the Gitksan and Wet'suwet'en became subject, more readily, to the coercive forces of White society. This shift added to the attractiveness of more defensive

responses. Persistence in traditional activities, where possible, was a logical alternative under such circumstances.

3. *What issues generated Gitksan and Wet'suwet'en protest actions?*

The issues which generated protests were as diverse as the forms through which they were expressed. Yet, underlying this diversity was a fundamental unity. The thread that linked together most Indian/White disputes was the question of access to land and resources. This concern did not mean that the Gitksan and Wet'suwet'en were opposed to the entry of Whites into their territory; quite the opposite, if White testimony is to be believed. However, the Gitksan and Wet'suwet'en were concerned with the "terms of entry." They endeavoured, with some success, to make visiting and resident Whites conform to aspects of Gitksan and Wet'suwet'en laws. A.C. Youmans, with fatal consequences, chose to ignore this expectation.

The discovery of gold on Lorne Creek posed with a new clarity the question of competition between Whites and Indians for land and resources. The issue lay behind much of the discontent which swirled through the entire Skeena-Nass region in the 1880s. Even the prohibition of the feast, on the surface a separate issue, was related to the land question through the role of the feast in the transmission of names, and hence, territory.

As White settlement expanded after 1900, the contest over land and resources intensified: it was expressed in a number of ways. These included opposition to alienation of land, opposition to restrictions on access to fishing sites, opposition to government regulations pertaining to hunting; opposition to the reserve system and issues arising from the construction of the Grand Trunk Pacific Railway. It achieved its most generalized expression in the quest for recognition of Aboriginal title.

4. *When and where did these issues arise?*

In large measure Indian protests reflected White priorities and assessments of the land and resources of the upper Skeena. As the intrusive element in the region, it was White society that set the agenda. The Gitksan and Wet'suwet'en were obliged to respond to these externally driven challenges. The crucial development was the growth, early in the twentieth century, of White settler society in the upper Skeena. The Gitksan and Wet'suwet'en, formerly an integral part of the economy of the region, were pushed to the sidelines and reduced to a minority in their own territories. As a result, in the decade preceding the First World War, there was an intensification in Indian protest activity.

If there was a temporal pattern to Gitksan and Wet'suwet'en protest actions there was also a geographical one. Indian-White tensions developed along the corridors of White entry to the upper Skeena region. The incidents

along the Telegraph Trail (1866), the Omineca Route (1872), the Cassiar Trail (1874) and at Lorne Creek (1884) were all linked to new developments in the White economy of the area. Map 1 shows these shifting foci of Indian/White confrontations.

In the twentieth century the realm of White activity expanded but areas of potential agricultural land became the primary focus of attention. Hence the Bulkley, Kispiox and Kitwanga valleys became important centres of Indian protest activity.

5. *Against whom were the Gitksan and Wet'suwet'en protest actions directed?*

Initially, Gitksan and Wet'suwet'en protests were directed against those segments of White society that impinged on their world. Merchants, miners, missionaries and other visiting Whites were early targets. Individual White residents and visitors continued to be the object of specific protests well into the twentieth century. The experiences of Von Mitchell (1914) and H.B. Thoen (1925) are cases in point. With the burning of Kitsegukla in 1872, however, the Gitksan and Wet'suwet'en, on the advice of local Whites, began to direct protests towards governments and government officials. Provincial authorities bore the brunt of such actions in the 1870s and 1880s; after the establishment of the Babine Agency in 1889, the federal government became the principal target. For a time most Indian protests were directed through the resident Indian Agent into the normal bureaucratic channels of the DIA.

After the turn of the century, as Indian discontent mounted, a number of new and unusual channels were made available: the Stewart-Vowell commission, 1909; the McDougall inquiry, 1910; and the McKenna-McBride royal commission, 1913-1916. Other channels were created by the Indians themselves: deputations met with the governor-general and the prime minister. The Gitksan also supported the Nishga in their approach, through the Nishga Petition, to Imperial authorities.

6. *What were the objectives of these protest actions?*

The objectives of Gitksan and Wet'suwet'en protest actions may be classified in terms of two categories, specific and general. Specific protests took on an array of different forms but they shared the objective of seeking redress for some particular grievance. Usually these grievances were a product of the violation, by Whites, of some aspect of Gitksan and Wet'suwet'en laws and customs. Most early protests can be fitted into this category but perhaps the best examples are the Wet'suwet'en submission to Stewart and Vowell and the hearings before the McKenna-McBride royal commission at Moricetown.

The Gitksan did not ignore specific objectives but, especially in the twentieth century, they adopted the more generalized approach. This involved both interaction and co-operation with other Indian peoples in the province. In the important petition to Laurier in 1910, five Gitksan chiefs requested that "the taking away of such land be stopped, and the rights so long ago enjoyed by our fathers be granted to us." At approximately the same time "notices" issued from Kitwanga and Kitwancool made the point less elegantly but no less effectively:

This land belongs to our forefathers and King George 3 tell this land belong to Indian. We never fight for this land. No pay us any money. We don't want government at Victoria to steal this land from us.¹⁸¹

This is a discourse based upon the Royal Proclamation of 1763. The proclamation is cited as a basis for claims to ownership of territory ("King George 3 tell this land belong to Indian"). Moreover, the people of Kitwanga and Kitwancool had never been conquered by force of arms ("We never fight for this land"); nor had they surrendered the land by treaty or purchase ("No pay us any money").

7. *What were the results of these actions?*

The results of Gitksan and Wet'suwet'en protests can also be examined in terms of the specific and general. The fate of specific protests varied but some successes were enjoyed: at Kitsegukla in 1872 the "closure" of the Skeena to canoe traffic helped produce an acceptable conclusion; opposition to the prohibitions on beaver trapping delayed implementation until 1912; and a number of claims for specific parcels of land and fishing sites were accepted. The persistence of the feast system was particularly significant.

At first sight the general protests achieved no such tangible results. White authorities claimed that the report of the Special Joint Committee represented a final settlement. For Indian peoples in British Columbia the report, together with the amendment to the *Indian Act* in the same year, prohibiting the raising of funds to pursue title, represented a significant closure of options. Of course, given the balance of coercion, the Gitksan and the Wet'suwet'en, like other Indian peoples in British Columbia, were in no position to impose a solution of their own making. Nonetheless, organizations such as the Indian Rights Association and the Allied Tribes represented considerable achievements and operated in the face of considerable adversity. Not the least of the accomplishments of this broader activity was the recognition of the Royal Proclamation as a legal basis for claims of Aboriginal title.

What the Gitksan and the Wet'suwet'en did achieve, over the period of this opinion, was an impressive legacy of protest activity: in short, a culture of protest and persistence. On this point the words of Peter Kelly and Ambrose Reid provide an appropriate and prophetic commentary. "We are under a growing impression," they stated following a series of meetings with the Gitksan in 1922,

... that the needs or rather the claims of these people should not be lightly regarded as they are in earnest and may cause a great deal of trouble if not properly cared for. All the people from the Upper Skeena seem to be the same.¹⁸²

Notes

- 1 Supreme Court of British Columbia, *Delgamuukw et al. v. Her Majesty the Queen in right of the Province of British Columbia and the Attorney General of Canada*, Reasons for Judgment, Smithers Registry, 0843.
- 2 Edited versions of the judgements in these cases, together with introductory commentaries, are found in P. Kulchyski, *Unjust Relations: Aboriginal Rights in Canadian Courts* (Toronto: Oxford University Press, 1994).
- 3 See, for example: "A Landmark Ruling Shocks Anthropologists," *Vancouver Sun*, 13 July 1991; *BC Studies* 95 (1992); F. Cassidy (ed.), *Aboriginal Title in British Columbia: Delgamuukw v. The Queen* (Lantzville: Oolichan Books, 1992). For "insider" responses, see Don Monet and Skanu'u (Ardythe Wilson), *Colonialism on Trial: Indigenous Land Rights and the Gitksan and Wet'suwet'en Sovereignty Case* (Gabriola Island: New Society Publishers, 1992). See also A. J. Ray, "The Historical Geographer and the Gitksan-Wet'suwet'en Comprehensive Claim: The Role of the Expert Witness," in *Indigenous Land Rights in Commonwealth Countries: Dispossession, Negotiation and Community Action*, edited by G. Gant et al. (Christchurch, NZ: Department of Geography, University of Canterbury, 1993).
- 4 The "Reasons for Judgment" (p. 1) gives a full enumeration of the types and quantities of evidence submitted. See also the comments by Michael Jackson in Don Monet and Skanu'u (Ardythe Wilson), 1992, pp. x-xi.
- 5 The quote from Hobbes is taken from chapter 13 of *Leviathan*, p. 65 of the Everyman edition (1965), introduced by A. L. Lindsay.
- 6 Court of Appeal for British Columbia, *Delgamuukw et al. v. Her Majesty the Queen in Right of the Province of British Columbia and the Attorney General of Canada*, Reasons for Judgment, Vancouver Registry, CA 013770.
- 7 *Ibid.*, p. 205
- 8 The report was exhibit #1034. There are 13 appendices that provide data on topics such as Gitksan/Wet'suwet'en demography, occupations and the development of resource industries in their territories. A copy of a map, drawn by the Wet'suwet'en in 1910, showing specific territorial claims has not been reproduced. The footnotes have been modified to conform more closely with academic usage. However, as copies of all documents cited were available in Court, specific page numbers were not included.

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