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V77 26-3-65 ROW

VANCOUVER (CP)-MR. JUSTICE T. G. NORRIS, IN A MASSIVE JUDGMENT EMBRACING THE HISTORY AND LAW SURROUNDING INDIAN RIGHTS, HAS SUPPORTED THE DECISION OF OTHER B.C. APPEAL COURT JUDGES THAT B.C. INDIANS STILL HAVE THE ANCESTRAL RIGHT TO HUNT AND FISH FOR FOOD ON UNOCCUPIED LANDS OUT OF SEASON.

MR. JUSTICE NORRIS, WHO WROTE AN EXHAUSTIVE AND FAR-REACHING REPORT ON GREAT LAKES SHIPPING WHICH RESULTED IN APPOINTMENT OF THE FEDERAL MARITIME COMMISSION, DISCLOSED FRIDAY A 53-PAGE JUDGMENT IN THE INDIAN CASE.

THE CASE IN POINT REVOLVED AROUND CLIFFORD WHITE AND DAVID BOB OF THE NANAIMO INDIAN BAND WHO SHOT DEER OUT OF SEASON TO FEED THEIR FAMILIES. THEY WERE CHARGED UNDER THE B.C. GAME LAWS AND WERE CONVICTED BY NANAIMO MAGISTRATE BEEVOR-POTTS BUT HAD THE DECISION REVERSED IN COUNTY COURT.

THE PROVINCIAL GOVERNMENT TOOK THE ISSUE TO THE B.C. COURT OF APPEAL BECAUSE IT INVOLVED A CONSTITUTIONAL ISSUE. THE COURT OF APPEAL UNANIMOUSLY UPHELD THE INDIANS' RIGHTS.

FOUR JUDGES HANDED DOWN THEIR REASONS AT THE TIME BUT MR. JUSTICE NORRIS, WHILE CONCURRING IN THEIR FINDINGS, CHOSE TO DO SOME BEYOND-THE-CALL-OF-DUTY RESEARCH IN INDIAN RIGHTS.

THE CASE IS EXPECTED TO BE TAKEN TO THE SUPREME COURT OF CANADA BY THE PROVINCIAL GOVERNMENT AND MR. JUSTICE NORRIS' EXTENSIVE FINDINGS MAY WELL PLAY A PART THERE.

THE MAIN POINT OF MR. JUSTICE NORRIS' FINDINGS IS THAT A ROYAL PROCLAMATION OF 1763, GIVING INDIANS IN THE THEN-KNOWN PARTS OF THE WEST COAST OF NORTH AMERICA THEIR HUNTING AND FISHING RIGHTS, DID APPLY TO WEST COAST INDIANS AND THAT A SUBSEQUENT TREATY REINFORCING THESE RIGHTS COULD NOT BE TOUCHED BY B.C. LAW.

PROVINCIAL GOVERNMENT LAWYERS HAVE ARGUED THAT THE ROYAL PROCLAMATION COULD NOT APPLY TO VANCOUVER ISLAND INDIANS BECAUSE THESE INDIANS WERE NOT EVEN KNOWN TO THE BRITISH AT THE TIME.

9MC122APST



VICTORIA (CP)-A 19TH CENTURY TREATY BETWEEN SIR JAMES DOUGLAS FOR THE HUDSONS BAY COMPANY AND A SOOKE INDIAN TRIBE, GIVING THE NATIVES UNOBSTRUCTED HUNTING AND FISHING RIGHTS ON VANCOUVER ISLAND, WAS A "LARCENOUS ARRANGEMENT," A BRITISH COLUMBIA SUPREME COURT JUDGE RULED MONDAY.

MR. JUSTICE T. W. BROWN SAID THE DOCUMENT, NO DOUBT DRAFTED BY THE FUR TRADING COMPANY BECAUSE THE INDIAN CHIEFS PARTY TO IT COULDN'T WRITE, DID NOT EXEMPT THE INDIANS FROM LATER FEDERAL FISHING REGULATIONS.

HE DISMISSED AN APPEAL BY THREE SOOKE INDIANS AGAINST THEIR CONVICTION ON CHARGES OF FISHING OUT OF SEASON ON THE SOOKE RIVER, THEREBY UPHOLDING THE JUDGMENT OF VICTORIA MAGISTRATE E. H. MURPHY WHO FINED THE TRIO A DOLLAR EACH FOR BEING IN POSSESSION OF FISH AT A TIME WHEN FISHING ON THE SOOKE RIVER WAS PROHIBITED UNDER THE FEDERAL FISHERIES ACT.

CHARGED WERE JAMES COOPER, LEONARD GEORGE AND NORMAN GEORGE.

DEFENCE COUNSEL ROBERT BEAVAN ARGUED THE 1850 TREATY ENTERED INTO BY SIR JAMES, THEN CHIEF FACTOR FOR THE HBC ON VANCOUVER ISLAND, AND THE NATIVES GAVE THE COMPANY EXTENSIVE LANDS IN EXCHANGE FOR \$150 AND HUNTING AND FISHING OVER UNOCCUPIED LANDS "AS FORMERLY."

HE SAID THIS WAS LAWFUL EXCUSE FOR THE MEN HAVING FISH IN THEIR POSSESSION.

SIR JAMES LATER BECAME THE BRITISH COLUMBIA CROWN COLONY'S FIRST GOVERNOR.

ROBERT HUTCHISON, APPEARING FOR THE CROWN, SAID NO ONE IS EXEMPTED FROM PROVISIONS OF THE FEDERAL FISHERIES ACT.

MR. JUSTICE BROWN RULED THE TREATY DID NOT PROTECT THE INDIANS FROM FEDERAL FISHING REGULATIONS.

"THE DOCUMENT EMBODYING THIS LARCENOUS ARRANGEMENT MUST HAVE BEEN DRAWN UP BY OR ON BEHALF OF THE HUDSON'S BAY COMPANY, THE SIGNING CHIEFS BEING UNABLE TO WRITE," THE JUDGE ADDED.

CA215PM.



OTT NOTE

FAIRBANKS, ALASKA (CP)-ALASKAN INDIANS, INVOKING AN ACT PASSED BY CONGRESS IN 1884, ARE CLAIMING TITLE TO 9,000 SQUARE MILES OF LAND IN THE YUKON TERRITORY, A SPOKESMAN SAID TODAY.

THE CLAIM IS PART OF A REQUEST FOR TITLE TO 38,000 SQUARE MILES OF LAND IN THE UPPER YUKON AND PORCUPINE RIVER COUNTRY OF ALASKA AND THE YUKON, ERNEST BLACK, MANAGER OF THE U.S. LAND MANAGEMENT BUREAU AT FAIRBANKS, SAID IN AN INTERVIEW MONDAY.

THE CLAIM, FILED EARLY IN JUNE BY THE VILLAGE OF CHALKYITSKI, 50 MILES EAST OF FORT YUKON, LASKA, INCLUDES 29,000 SQUARE MILES OF ALASKA, MR. BLACK SAID.

THE ACTION "LIKELY" EVOLVED FROM OIL EXPLORATION ON THE ARCTIC SLOPE, 300 MILES NORTH OF FAIRBANKS, HE SAID.

"IF OIL COMPANIES SHOULD EVER START PUMPING OIL THERE, THE INDIANS WOULD LIKE TO GET IN ON THE ROYALTIES.

"CONGRESS HAS BEEN ADVISED BUT IT IS IMPOSSIBLE TO ANTICIPATE WHAT ITS REACTION WILL BE," HE SAID.

LEONARD MARCHAND, SPECIAL ASSISTANT TO CANADIAN NORTHERN AFFAIRS MINISTER ARTHUR LAING, SAID TODAY THAT OTTAWA IS AWARE OF THE CLAIM.

HE SAID HE COULD GIVE NO FURTHER INFORMATION UNTIL MR. LAING RETURNS FROM QUEBEC TONIGHT.

THE CLAIM BY THE CHALKYITSIK INDIANS IS BASED ON THE ABORIGINAL ACT PASSED BY CONGRESS IN 1884. THE ACT STATES THAT LAND WHICH NATIVES THEN USED, OCCUPIED, OR LAID CLAIM TO, SHOULD REMAIN FOR THEIR USE.

THE ACT ADDS THAT AT SOME FUTURE DATE CONGRESS WOULD PROVIDE A WAY FOR ESKIMOS TO RECEIVE PAPER TITLES TO THEIR LANDS.

MR. BLACK SAID THE INDIANS WILL HAVE TO PROVE THEY NEED THE LAND IF THEY WANT TO UPHOLD THEIR CLAIM. HE SAID THE CLAIM IS NOT THE FIRST. INDIANS ARE CLAIMING "HUGE AREAS" OF LAND.



8-18-67

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VANCOUVER (CP)-A BRITISH COLUMBIA INDIAN LEADER TODAY WARNED THAT CIVIL RIGHTS MARCHES AND DEMONSTRATIONS BY CANADA'S INDIANS ARE IN THE OFFING.

"WE CAN ONLY BE PUSHED SO FAR," SAID CHIEF ALBERT DOUGLAS, 51, OF THE CHILLIWACK ROSEDALE BAND.

HE WAS COMMENTING ON A RED POWER PROGRAM ADVOCATED FOR CANADA'S INDIANS BY DR. HOWARD ADAMS OF THE UNIVERSITY OF SASKATCHEWAN.

DR. ADAMS SAID WEDNESDAY HIS RED POWER PROGRAM, AIMED AT MASSING INDIANS FOR A PEACEFUL BATTLE WITH THE WHITE ESTABLISHMENT, IS THE ONLY WAY FOR CANADA'S INDIANS AND METIS TO GAIN THEIR SOCIAL AND ECONOMIC ENDS.

MR. DOUGLAS SAID HE AGREED WITH DR. ADAMS' PROGRAM, BUT ONLY IF ALL ELSE FAILS.

"WHEN THAT TIME COMES WE WILL PROBABLY HOLD CIVIL RIGHTS MARCHES AND DEMONSTRATIONS," HE SAID.

BUT, MR. DOUGLAS SAID, THE ROSEDALE BAND IS HOPING TO PUT ITS GRIEVANCES, PARTICULARLY OVER FISHING RIGHTS, DIRECTLY TO THE FEDERAL GOVERNMENT.

"WE ARE GOING TO ELECT A SEVEN-MAN COMMITTEE TO SEE IF THEY CAN SETTLE OUT FISHING DISPUTE WITH THE GOVERNMENT," THE CHIEF SAID.

MR. DOUGLAS SAID A THREE-WEEK BAN IMPOSED ON SOCKEYE SALMON FISHING BY THE FEDERAL GOVERNMENT EARLIER THIS YEAR IS A VIOLATION OF THE BANDS HEREDITARY FISHING RIGHTS.

"WE FEEL WE'VE BEEN DEPRIVED BUT WE'LL WAIT UNTIL AFTER WE'VE MET WITH GOVERNMENT OFFICIALS BEFORE DISCUSSING DEMONSTRATIONS," HE SAID.