

Points for Argument: Whether Court of Appeal gave adequate cons. to.

- ownership concepts of Nishga
- historical evidence
- whether Nishga concepts recognizable by English law
- " Crown ^{at least by presumption} acknowledged Nishga title
- a statute, treaty, other agreement was etc → to be considered
- Royal Procl. applied then or at a later date
- " " was prospective
- Colony could pass legal ext. title
- " did extinguish it

Claim: for declaration --- not compensation --- doesn't impinge
from legislation (which can extinguish incidents of land title but
not title itself).

A.T. is founded on common occup.

- " has been legally recognized by Eng courts although they
have not defined its exact nature & incidents
- " is a burden on the legal estate, is a usufructuary
interest, tribal or communal, unalienable exc. by Crown.

AT is a concept embedded in English law. Treaties were made
in BC, before & after Confeder. No non-treaty Indians are entitled
to assert that their AT has never been exting.

Royal Procl. applied, or came to apply
Colonial legal. should be read in light of