Smithers, B.C.
December 8th, 1988.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

ROBERT JACKSON, Resumed:

THE REGISTRAR: Witness, I remind you, you're still under oath.
A Yes.
THE COURT: Mr. Rush.
MR. RUSH: Thank you.

RE-EXAMINATION BY MR. RUSH CONTINUED:

Q Yesterday, Mr. Jackson, I was asking you about Gwiikw, and I'm going to show you map 15 of the map atlas, and I'd ask you to disregard everything else on this map, and I just ask you to look at this picture in the upper right-hand corner, and can you make out what's in that picture?
A M'hm.
Q What is that?
A Gwiikw.
Q I was asking you when you were a young boy about the trapping you did with your grandparents. And when you were young were your grandparents trapping at Djil Djila?
A Yes.
Q Okay. And by what right were they there trapping in the area of Djil Djila?
A Perhaps the right of the house.
Q Is that the House of Miluulak?
A House of Miluulak.
Q And do you recall what the area was where they were trapping when you were with them?
A Meaning?
Q Did they go to the same place every year, or every season they would go to different places on --
A They go to different places and special time of the year.
Q Okay. And can you tell us what -- what part of the year did they trap in what areas?
A In springtime they go after beavers so they move to different areas, and when they harvest the martens they different areas again, and hunting groundhogs, which is what you show me, they go to a different area again, and as well as the goat.
Q Okay. And did they also trap and hunt at the Miluulak

territory?
A Yes.
Q In Wii Tax?
A Yes.
Q Okay. And do you remember -- can you just recall, I'm still asking you back when you were a young boy, what areas were you hunting and trapping in with them?
A Wii Tax.
Q That's the whole area?
A Whole area.
Q Is there parts of it that you can recall where you were?
A We used to live around or where the Xsaga Gyo'ot flows into the river there for mainly to harvest the food. And we go up to Wii Tax. That's where our line sits out for our trap.
Q Okay. You said where you lived. Was there a place where you had a camp?
A I had a cabin there.

MR. MACKENZIE: Excuse me, my lord, I didn't get the spelling of the name where the something flows into the river.

MR. RUSH: I heard it as Shelagyote.

THE COURT: That's what it sounded like, yes.

MR. RUSH: Go ahead, Mrs. Howard.

THE INTERPRETER: It's --

THE COURT: I'm sorry.

THE INTERPRETER: X-S-A-G-A space G-Y-O-'-O-T.

THE COURT: Thank you.

MR. RUSH:

Q Is that the name of a river?
A Yes.
Q Now, Mr. Jackson, what age were you when you moved to Prince Rupert? Do you recall how old you were?
A I was probably around 19, I guess.
Q Were you married at the time?
A No.
Q Okay. And up to the time that you were 19 were you trapping and hunting with your parents and grandparents?
A Up until about 17, I think.
Q Okay. And then you moved down to Prince Rupert?
A M'hm.
Q About age 19?
A Yes.
Q Okay. Now, while you were living in Prince Rupert, and I think you said you did some fishing there?
A Yes.

Q You fished commercially and you also were logging?
A M'hm.
Q After the age of 19, and when you came back to live in Hazelton permanently, were you also hunting and trapping?
A Yes.
Q Okay. And where were you hunting and trapping in those years?
A In the various areas like -- like Sam Green Creek. The one between there and Shedin and Wii Tax territory.
Q Okay. And when you were at Sam Green Creek what game was it that you hunted or trapped for at that place?
A We trapped mostly marten and fishers around Sam Green Creek, and when we hunt we hunt groundhogs and mountain goat.

THE COURT: I'm sorry?
MR. RUSH: Mountain goat.
THE COURT: Mountain goat?

A Mountain goat.

MR. RUSH:

Q Did you hunt any moose in that area?
A Yes, we hunt moose.
Q Now, you told Mr. Mackenzie that other members of Miluulak's house trapped in the Haiwas territory at Djil Djila?
A Yes.
Q I just wonder if you could tell us who those other members were, to your recollection?
A Alec Green is one, and his companies or whatever, whoever is with him. Moses Green and Joseph Green also trapped and hunt in that area.
Q Okay. Now, you were asked by Mr. Mackenzie if you knew whether or not Lloyd Morrison had a registered trapline in the Wii Tax area, and I wanted to ask you if you had ever seen Lloyd Morrison trapping in the Wii Tax territory?
A Never.
Q Mr. Mackenzie also asked you about -- about the Gunanoots trapping, and he asked you if the Gunanoots trapped on the north side of the Bear Lake Trail. And my question to you is do you have any knowledge about any member of the Gunanoot family trapping inside Miluulak's territory at Wii Tax?
A No.
Q Do you know where they trapped; if you know?
A No, I don't know exactly where they trap, but they

trap on their own territory which is north from Wii Tax.

Q Now, you were also asked by Mr. Mackenzie about William Charlie, and you said that his father was Bear Lake Charlie, and if I understand what you've said you indicated that William Charlie trapped in the area of Driftwood?

A Yes.

Q Okay. To your knowledge did Bear Lake Charlie trap in that area?

A Yes.

Q Now, you also said -- you were talking about, I believe, it was the meeting at Mosque Valley?

A M'hm.

Q And you told Mr. Mackenzie about some of the discussions which occurred there that you had, and at one point when you were giving your evidence to Mr. Mackenzie you said that the Sekani told an Adaawk for their basis to the territory?

A Yes.

Q And do you know who owned the Adaawk that they told?

A Miluulak.

THE COURT: I'm sorry.

MR. RUSH: Miluulak.

A Miluulak.

THE COURT: That's not the Miluulak that we were talking about, that is Alice Jefferys?

A There's only one Miluulak.

THE COURT: Yes.

A Only one.

THE COURT: Well, was she at this meeting? I'm sorry. Have I got this --

MR. RUSH: No, no.

THE COURT: Who is Miluulak now?

MR. RUSH: Alice Jeffery.

THE COURT: Yes. And I thought he said -- that's your question, the person who told the Adaawk was Miluulak?

MR. RUSH: No. They told an Adaawk of the House of Miluulak is how I understood his answer. I can ask that question.

THE COURT: Yes. Thank you.

MR. RUSH:

Q Just about when you answered that the Adaawk was Miluulak, was it Miluulak who told the Adaawk at the Mosque Valley meeting?

A No, it was the Sekani people.

Q And whose Adaawk were they telling at that meeting?

A The Adaawk belongs to Miluulak, but they told the

Adaawk. I believe it was William George that told the Adaawk.
Q And was that Miluulak's Adaawk?
A That's Miluulak's Adaawk.
Q Okay. Now, you also said at that meeting that they, and I took you to mean the Sekani, claimed to move the boundary from Xsan Togasxw to Gallix Noo'ohl Loobit?
A Right.
Q And after you heard what they said was that a rightful claim?
A No, that wasn't their territory.

THE COURT: Just a moment, please.

MS. KOENIGSBERG: I wonder if this is really proper re-examination. I think it's appropriate to re-examine in this area, but I don't know that's really a proper question as the evidence was that this was a dispute, and that this was something that the Sekani were claiming, and the evidence is also that the dispute was not resolved. I don't know how it advances us to have this witness say it's not a rightful claim.

THE COURT: Mr. Mackenzie.

MR. MACKENZIE: I support Ms. Koenigsberg's comments, my lord.

THE COURT: Mr. Rush.

MR. RUSH: Well, the witness was present. He heard their side. It was a dispute. And after having heard it what does he say about it. And Mr. Mackenzie examined extensively on the subject about the nature of the dispute, and in my submission I'm entitled to ask him: Well, after you heard all of this claim what did you think of it, because I think it's important for you to know. I mean, I take issue with my friends, and this is a long standing objection that I've raised about trying to cross-examine through a witness what the claim is of some other nation or peoples in respect of lands which are claimed in this lawsuit. And it seems to me, however, that once raised that I'm entitled to ask the witness: Well, is there any merit to this claim in your view. You've stated what you think their claim to be, and that's really what he was being asked. What is in your mind what you perceive their claim to be. He says as best as he can. And now I say I'm entitled to ask him what did you think of it.

THE COURT: The question calls for judgmental pronouncment, does it not?

MR. RUSH: But based on the one who's most informed to give it.

THE COURT: Well, perhaps we're splitting ideas too finely, but

seem to me that the defendants having raised the question that you're entitled to have the witness give any factual evidence that's within his knowledge, but that he ought not to pronounce on the merits of claims or disputes, that I should jealously reserve that jurisdiction to myself. But I think he can certainly say what -- what -- give whatever facts he has which are obviously in support of his view which we already know. At least, I think we know what he has said -- he says his boundary is. And I think he can give facts, and I think he can state positions that were stated at the meeting. The plaintiffs having said what was said you can ask what else was said. I don't think you can ask the witness to pronounce or to give judgment.

MR. RUSH: All right. I'll reframe the question.

THE COURT: Yes.

MR. RUSH:

Q Mr. Jackson, after having heard what the Sekani said about the area from Xsan Togasxw to Gallix Noo'ohl Loobit did you express to them, or was anyone else in your presence did they express to them who owned that territory?

A I did.

Q And what did you say?

A I explained to them that -- that once belonged to, or did belong to Lax Seel, which is frog clan. And William Charlie is Lax Gibuu, so there is no way Lax Gibuu can look after frog territory. And he understands that, but nevertheless they still say that's their boundary, which is Sekani didn't come from -- from William Charlie. When I stated this frog territory to William Charlie he never answered me or comment about it. The only thing I ask him was -- was one question. I ask him whose territory that was and his answer was that it was Lax Seel's territory.

Q And what did you understand that to mean when he said that, when he said it was Lax Seel?

A Well, I know he knows what's -- who's the rightful owner on that territory. And it's clear to my mind he knows -- he's got the knowledge that rightfully belong to Miluulak.

Q All right. Thank you. I want to ask you about another area that you were examined upon by Mr. Mackenzie, and that is with regard to Atna Pass. Now, you -- have you been to Atna Pass in the last year?

A Yes.

Q How frequently do you go there?
A Every year.
Q And where is it that you go when you go to Atna Pass? What area do you go to? Is there a particular spot at the pass?
A Well, we trap north towards on the west side of Gunanoot Lake, which is Wii Tax territory.
Q Yes.
A And we hunt up above the north side of the mountain from Atna Pass all to the west.
Q Okay.
THE COURT: Sorry. Which mountain?
A Atna Pass. Dak An Makhl.
MR. RUSH: Okay.
THE COURT: All right. I need a spelling for that.
A Also the south side. Sorry.
MR. RUSH:
Q You're saying you hunted on the south side?
A Yes.
THE COURT: And the north side, or is the north side a mistake?
A North, south, east and west.
THE COURT: All right. And the name of the mountain?
A Dak An Makhl.
THE INTERPRETER: It's number four on page four. It's D-A-K --
THE COURT: Just a moment. Oh, all right. Thank you.
MR. RUSH: Okay.
Q Is there a structure at the Atna Pass where you go, some kind of building?
A I have a cabin there, yes.
Q Okay. And what -- how do you use the cabin?
A I use it quite frequently in wintertime when I trap, and we use it in the summer hunting.
Q And is -- do you use that cabin as a base to go out into the territory?
A Yes.
Q Now, you were asked about an application which you made to occupy and build a cabin on your territory, and it was suggested to you that you made that application for a place at Nilkitkwa River and at Gunanoot Lake?
A Yes.
Q And I think you said that it was rejected and you didn't know why, and then you said you built a cabin at Atna Pass?
A Yes.
Q And did you -- did you apply to the Provincial Government to build a cabin at Atna Pass?

A Yes, I did.
Q Okay. And was that -- was that accepted?
A Yes.
Q Okay. Now, you said that you only -- since 1979 you've been trapping steadily on the Wii Tax territory?
A Yes.
Q Is that right?
A Yes.
Q And do you trap in different parts of the territory at different times of the year as you expressed earlier with regard to Djil Djila?
A We do, because we -- we -- in some areas we leave alone for other years in order to build up the stocks.
Q Okay. And can you just generally say whereabouts on the territory that you trapped since 1979 to the present?
A Wii Tax.
Q Okay. And can you say on what parts of Wii Tax territory?
A We trapped on -- on the east side and the west side.
Q And you -- you told me yesterday that you trapped for, or at least your family trapped for different types of fur bearing animals and you identified martens, squirrel, mink, beaver, otter, wolverine and fisher. Are these the types of fur bearing animals you trap for today?
A Yes.
Q And do you hunt in this territory today as well?
A Yes.
Q Now, I'm going to ask you about another area that Mr. Mackenzie questioned you on, and it had to do with the selection by you to take a name in your House of Miluulak, and you told Mr. Mackenzie that when you were young you were selected to take a name and you had to wait until you were mature. Do you recall that?
A Yes.
Q And I wanted to ask you were you -- can you tell his lordship who it was that selected you to take a name?
A It does -- when you select a person it doesn't have to come from a specific person, it has to come from the family.
Q M'hm. And is that what was done here?
A Yes, that's what was done.
Q And when you're referring to the family are you referring to members of the house?

A Members of the house.
Q Okay. Now, you were asked as well about a dispute concerning the taking of the name of Miluulak, and you were asked whether or not it was settled in the family or whether it was settled with the assistance of other chiefs. And can you -- can you tell me, Mr. Jackson, when you look back at that time was the dispute in your mind, was that settled internally in the family or was it settled by the assistance of outside chiefs?

MR. MACKENZIE: I object to that question, my lord.

THE COURT: What is the -- what is the basis for the objection, that it's a conclusion?

MR. MACKENZIE: The basis for the objection is it's exactly the same question that I asked Mr. Jackson twice during my cross-examination and I got a clear answer to it. Unless my friend is leading up to something else. We had a bit of dispute on that in the cross-examination and I challenged Mr. Jackson on it. He gave one answer and then I suggested another answer and he adopted that answer.

MR. RUSH: Well, I, with respect, suggest that the evidence is ambiguous in the extreme. There is -- my notes are the family settled the problems themselves and the outside chiefs were witnesses. It was settled in the family. Outsiders can't settle it. He then upon being further questioned asked if it's not settled in the family you can go to outside chiefs. He said there was conflict, but it didn't last long. In my submission, my lord, that there isn't any clarity with respect to this answer, and in my submission what I'm trying to do is to simply get at what in his mind was the point of settlement, whether it was internally or externally. If he can distinguish between those.

THE COURT: Well, I have his evidence as stated in part the family solved the problem, but they needed witnesses. Outside chiefs can only decide a problem if there is an even vote. Mary McKenzie was at the meeting. She is a wolf. There was some conflict, because my brother-in-law Eli Turner suggested a compromise. What's unclear about that?

MR. RUSH: Well, his -- the brother-in-law in the family.

THE COURT: No, he's Gisgaast clan, killer whale crest, but he suggested a compromise, and it was apparently accepted.

MR. RUSH: Well, that's right, but that doesn't mean that it wasn't settled internally in the family.

THE COURT: I have his evidence that it was settled in the

family.
MR. RUSH: If that's clear to your lordship then that's certainly fine by me.
THE COURT: Do you say that's not the evidence, Mr. Mackenzie?
MR. MACKENZIE: Yes. Mary McKenzie's evidence was that, and that's why I put it to him, that the outside chiefs settled the matter. That the family couldn't settle it.
THE COURT: I don't recall that you said Mary McKenzie gave evidence about this.
MR. MACKENZIE: That's why I mentioned Mary McKenzie's name. I have the reference, my lord, but that's the reason I put the question. I have the passages, but I don't know whether your lordship wishes to see them.
THE COURT: You say Mary McKenzie said that the outside chiefs settled this particular problem?
MR. MACKENZIE: Yes, my lord.
THE COURT: All right. Ms. Koenigsberg.
MS. KOENIGSBERG: My lord --
THE COURT: Perhaps we better wait for Mr. Rush. He's sort of distracted.
MR. RUSH: I'm sorry, my lord.
MS. KOENIGSBERG: My lord, I think that in fact Mr. Mackenzie did put the business about Mary McKenzie, but the witness' evidence was, I believe as your lordship has taken down, and I took it down, that it was as far as he was concerned it was settled within their family with the outside chiefs as witnesses, and we are now left with an ambiguity as to this witness' evidence, I suppose an ambiguity between that evidence of what Mary McKenzie's perception is of what happened and this witness', and I believe that's the question Mr. Rush asked, and I do believe we have that evidence.
MR. RUSH: For once, perhaps many more times, agree with Ms. Koenigsberg. I think that's a summary I can --
THE COURT: All right.
MR. RUSH: Thank you.

Q Mr. Jackson, you were asked about your trapline and the registration of your trapline. Is your trapline a company trapline?
A Yes.
Q Who was entitled to trap in the area of your trapline?
A All the family.
Q All right. Now, I just want to show you, Mr. Jackson, Exhibit 598. And this is the affidavit which you swore on May the 25th, 1988 at Hazelton before Gordon Sebastian, and this deals with the three territories;

the Wii Tax territory, the Djil Djila territory and the Xsa Adee'a territory at Sam Green. Now, does -- does that affidavit set out the description of those territories?

MR. MACKENZIE: I object to that question, my lord.

THE COURT: You're --

MR. MACKENZIE: Sorry, my lord.

THE COURT: Your point is, I take it, Mr. Mackenzie, that it is implicit -- the answer to that question is implicit in tendering the affidavit and witness for cross-examination.

MR. MACKENZIE: It's explicit as well, my lord. The boundary of the Wii Tax territory can be described as follows.

THE COURT: Yes. He's already said that, hasn't he, in chief, Mr. Rush?

MR. RUSH: Yes, but there was a statement made by Mr. Jackson yesterday about the fact that I think he used the language I glanced at the affidavit when Mr. --

THE COURT: Yes. All right. Well, I think you can re-examine him at on that.

MR. RUSH: Okay.

Q Mr. Jackson, this affidavit here that's in front of you, have you reviewed that affidavit? Did you review it before you put your signature to it?

A Yes, I did review it, but -- pardon me, but what happened was when I sat down before I signed the -- my name on the paper or the affidavit is we discussed about it and I was asked where did I get the knowledge to know all the areas which I did, and my answer was what you see mentioned, the people that taught me the areas.

Q In the affidavit?

A In the affidavit. By the way, one correction here. It wasn't -- it wasn't Sebastian. It was Herb George.

Q That you reviewed it with?

A That I reviewed it with, yes. Can I say one more thing?

THE COURT: Well, when we hear what you say we'll tell you whether you can say it or not.

MR. RUSH:

Q Does it relate to what we were just talking about?

A Yes. The reason I said I glanced at the affidavit yesterday was I didn't quite understand the question and now I do.

Q Okay. All right. Where do you live, Mr. Jackson?

A I live in Hazelton.

Q Okay. Did you go home last night?

A Yes.
Q And you returned to Smithers this morning?
A Yes.
Q And did you make a search for feast books --
A Yes.
Q -- That you were requested to by Ms. Koenigsberg?
A Yes.
Q Did you find them?
A Yes.
Q And did you bring them and show them to me?
A Yes.
Q Give them to me?
A Yes.
Q I'm showing you two books. The first one that's in a dark black gray cover with Robert Jackson on the front, name Robert Jackson on the front, and I'm just showing this book to you and ask you if this is a feast book in relation to one of the feasts that you spoke about yesterday in your evidence?
A Yes.
Q All right. And this says on the first page, that is the first clipped together page, "John Moore Feast", and it looks like it says "Hawal Smoke Feast January 8th, 1987"?
A Yes.
Q And then as I leaf through at the third page it says "Family Smoke Feast January 8th, '87"?
A Yes.
Q And then as I go through to the fourth page on the right side it says "Family Names Feast January 10th, '87". And is this the funeral feast that you spoke of yesterday?
A Yes.
Q Does this record the contributions at that feast?
A Yes.
Q All right. Now, I'm just going to ask you about this. Dealing with the page which I believe is the fourth page in -- where it says "Family Names Feast" on the top, and in the -- on the right side "January 10th, '87" there are three catagories. Well, there are four names and then beside that goods, cash and total, and I'll just direct you to the first name which is Robert Jackson and it refers to goods 707, and cash 2,000 and total 200 and $707. Do you see that?
MS. KOENIGSBERG: I think you mean 2,000.
A 2,700.

MR. RUSH:

Q $2,007?
A And $7, yes.
Q Does that reflect the total amount of the goods and cash contributed by you at this feast?
A Yes.
Q And then there are a number of other people who are listed here as contributors?
A That's correct.
Q And it shows a total on the fifth page of 12,828.57. Is that, to your recollection, the total amount of the goods and cash contributions by the members of your family?
A Yes.
Q Now, as I go to the next page, which appears to be one, two, three, four, six pages in, there's also a list of names, and it says "Hawal Cash in Total". Now, we have heard evidence about the Hawal contributions?
A Yes.
Q Does that record those?
A Yes.
Q And the total there shows 3,899.71. Is that to your recollection --
A Yes.
Q -- What you remember being contributed by Hawal?
A Yes.
Q And then over to the eighth page at the top of which is recorded "Chief Robert Jackson's Feast January 10th, '87" it has the name, and then it has An'tim Hanak', and that's spelled A-N-'-T-I-M new word H-A-N-A-K-', and it shows a total of $390. Is that what you recall?
A Yes.
Q And then if I go to the next page, which I believe is page eight -- I'm sorry, page nine, it shows a list of names and then a title of haircut and a total of $869?
A Yes.
Q And opposite that it shows total expenses of 17,987.28. Now, the total expenses, does that reflect the total amount of money that was contributed at the feast?
A Yes.
Q All right. I'm going to set that book aside. And then there's a second book that you've produced which is yellow in colour and says Fanco Spiral Notebook, and the date of October 26, '88 is on it, and the name

is Robert Jackson.
THE COURT: I'm sorry. The date?
MR. RUSH: October 26, 1988.
THE COURT: Yes.
MR. RUSH:
Q And it says name "Robert Jackson, Xsimgitgiigeenix", spelled S-I-M-G-I-T new word G-I-G-E-E-N-I-X. And the subject is John Moore stone. Now, you talked about a second feast in October of 1988 as the stone feast for Johnny Moore yesterday. Does this reflect the contribution and expenses made at that feast?
A Yes.
Q All right. And page one on this indicates that this grave stone feast occurred at Gitanmaax Hall on October 26th, '88 and shows a total of $7,766. Is that the amount that members of the family contributed?
A Yes.
Q It also shows on page two Hawal, same date, and contributions in the total column of 1,896.60?
A Yes.
Q And then on page three it shows further Hawal contributions in the amount of 1,445. All right. And then on page six there are contribution recordings for the haircut and An'tim Hanak' haircut $140 and An'tim Hanak' 294. And it shows on page seven that the total amount for goods, food and cash at this feast was 12,159.60. Is that correct to your recollection?
A Yes.
Q And on page eight it shows total in the pot at the top of the page 6,727, and after payments out were made there was left in the pot 500 -- excuse me, 5,577; is that correct?
A Yes.
MR. RUSH: My lord, I would tender these two books as the next two exhibits. Excuse me, copies of these books as the next two exhibits, and what I'll do is if Madam Registrar could assist us in obtaining copies I'd be happy to have these copies compared against the originals now and enter the copies as the exhibit.
THE COURT: Any objection?
MS. KOENIGSBERG: None, my lord.
THE COURT: All right.
MR. RUSH: Thank you.
THE COURT: The next exhibits are --
THE REGISTRAR: 838 and 839.
MR. MACKENZIE: My lord, may I make a submission?

THE COURT: Yes.
MR. MACKENZIE: Of course, these are not listed in the plaintiff's list of documents. Mr. Rush has just brought them to us because they were asked for yesterday. They're clearly relevant. They should have been listed. It should have been produced long before this witness was called. I haven't seen them at all. I wish my right to cross-examine on these documents if anything arises out of them after we have had a chance to review them.
THE COURT: Well, I'm not sure that that's a practical suggestion, Mr. Mackenzie. It -- when would you say this cross-examination would take place?
MR. MACKENZIE: After we have had a chance to review the documents, my lord.
MR. RUSH: Well, I take exception to that. My friend -- this didn't come out of anything that I asked the witness. This witness was asked specifically go and get your feast books and come back. The witnesses that have been examined have been continually asked what do you remember as to your contributions. This witness was asked be more specific about it and bring your feast books back. And, my lord, as far as I'm concerned this was something generated by questions of the other side, and which I had no intention of leading. And while it might be true that it appears that they are relevant documents these documents are generated on an ongoing basis, and the plaintiffs cannot be expected to list these documents on an ongoing basis. It frankly was news to me there was a feast on October 26, 1988.
THE COURT: I think the best I can do is to have them marked for identification now. I think the defendants are entitled to examine them and if there's anything in them that they think requires further attention then the matter can be spoken to again and we'll have to deal with the problem if and when it arises. It may be that some procedure can be developed which will be based upon what we talked about the other day such as by written question, or if it's important enough then I would have to accede to Mr. Mackenzie's -- well, I'd have to consider Mr. Mackenzie's request and perhaps accede to it. I don't think there's anything else that can be done. It might have been better, although I'm not sure, that the documents have been given to your friends and they could have applied to reopen their cross-examination, but that's -- that's of no

particular significance now. I think we -- I think we have said all we can say about this subject. The exhibits will be marked for identification, and if I don't hear from anybody else about it before the end of the trial then they will become exhibits. I'll mark them for identification now just to keep the matter open in case someone wants to raise it at some later date. There may be things in there that shouldn't be in. For example --

MR. RUSH: That's very true. I think the very least that could be expected of my friends is that if they are going to make some -- if they're going to voice some concern about the content of these books they should do so while we're up here, because in my submission it's just not feasible economically or practically for us to have Mr. Jackson to travel to Vancouver, and if we can at all --

THE COURT: I'd be surprised if there is anything in them that's going to result in that.

MR. RUSH: I would too, but I've had an experience with that on one previous occasion with Mr. Morrison, and I don't want to see it repeated.

THE COURT: Ms. Koenigsberg.

MR. MACKENZIE: And what --

THE COURT: Ms. Koenigsberg.

MR. MACKENZIE: Excuse me, my lord.

THE COURT: She is on her feet.

MS. KOENIGSBERG: I did have a chance for three or four minutes to have a look. Other than the numbers don't balance to my eye I think nothing turns on it. I don't -- I don't see any problem. I don't anticipate any problem. I do -- since we seem to be in the middle of this not very much fun topic, but one which is a continuing thorn in all counsel's side, they were documents that -- they are the types of documents which the plaintiffs have occasionally listed, frequently referred to, and relied upon, and one of them is over a year old, and I make no issue other than the fact it wasn't listed, and it would be nice if they were listed, but I understand. These are difficulties.

THE COURT: I think we've said all we can usefully say about this subject. Anything further, Mr. Rush?

MR. RUSH: That's all that I have. Thank you.

THE COURT: Mr. Jackson, there is something I want to ask you. Just looking at this map that hasn't been marked, but it's said to be a copy of I think it's Exhibit 5.

MR. MACKENZIE: It's map 9A overlay.
THE COURT: Map 9A overlay. Can you just show me where Gunanoot Lake is, please?
THE COURT: Probably right on the seam.
A Some --
THE COURT: Perhaps counsel can help.
MR. MACKENZIE: You may want to lift up the --
A Maybe it would be better --
MR. MACKENZIE: And marked right there, my lord.
THE COURT: Oh, it is marked?
A Yeah. Right there.
THE COURT: Yes. All right. Next could you -- could you just take a pen and draw a line to where you say the Carrier-Sekani at Mosque Valley meeting said the boundary should be?
A Yes.
MR. MACKENZIE: Here's a green marker, sir, if you'd like.
THE COURT: Green might be better, because there's red on the overlay. There you are, Mr. Jackson, take the green pen.
A They moved it to here.
THE COURT: Along --
A From there to there.
THE COURT: Yes. From the easterly --
A M'hm.
THE COURT: -- Heavy black boundary, external boundary to the green line. You have drawn through the middle of the -- well, I guess that's through Kotsine Mountain, is it?
A This is their boundaries. The Kotsine Mountain is inside their boundary. This is how they described it.
THE COURT: Yes. All right. Thank you. Anything arising from that?
MR. RUSH: Nothing from me.
MS. KOENIGSBERG: No.
THE COURT: All right. Just a moment while I just mark --
MR. MACKENZIE: I have another copy of that, my lord, if that would be of assistance to your lordship.
THE COURT: Oh, no, that's all right. This one's fine. All right. We're through with this witness then?
MR. RUSH: Yes. Thank you.

(WITNESS ASIDE)

THE COURT: All right. Shall we adjourn for a moment?
MR. RUSH: Well, I'd ask that we stand down for about 20 minutes, my lord. I'm involved with the next witness

and I'm sure this witness will not take the full morning.
THE COURT: All right.
MR. RUSH: I'd be surprised if they did, so if we could take that time.
THE COURT: 20 minutes or longer as counsel may -- may obtain leave.
MR. MACKENZIE: My lord, can I confirm from what Mr. Rush said that Mrs. Basil, who's scheduled for this afternoon, will start at two o'clock?
MR. RUSH: Mrs. Basil?
THE COURT: Mrs. Basil.
MR. MACKENZIE: Lucy Basil.
MR. RUSH: Yes, I think that's true. Mrs. Basil is here, and I think we're on schedule.
THE COURT: Yes. All right. Thank you.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING SHORT RECESS)

THE COURT: Mr. Rush.
MR. RUSH: Thank you. For the brief time before commencing Mr. Joseph, my lord, two brief matters. The two copies of the feast books are now available thanks to the efforts of Madam Registrar, and now if they can be marked the next two exhibits for identification pursuant to your lordship's ruling this morning.
THE COURT: What were those numbers again?
THE REGISTRAR: 838 and 839.
THE COURT: All right. We'll make the coil one, the second one, that was the second one mentioned, that will be 839 the other one will be 838.

(EXHIBIT 838 FOR IDENTIFICATION: Feast Book)

(EXHIBIT 839 FOR IDENTIFICATION: Feast Book)

MR. RUSH: And the second matter, my lord, is that Mr. Grant advices me that Lucy Basil, who's the in court witness this afternoon, he will need a little bit more time just prior to commencing her, and he's suggesting a start time of 2:30. So I've advised my friends of that, and if your lordship --
THE COURT: Yes. All right.
MR. RUSH: -- Will agree to that I think we can finish her this afternoon as well. We have been told she will not be a lengthy witness.

THE COURT: We can sit late if necessary to finish her.
MR. RUSH: Yes. Thank you. I'll call now Mr. Walter Joseph to the witness stand. Mr. Joseph.
THE REGISTRAR: Please take the Bible in your hand.

WALTER JOSEPH, a witness called on behalf of the Plaintiffs, having first been duly sworn, testified as follows:

THE REGISTRAR: Please tell the court your full name.
A Walter Joseph.
MS. RUSSELL: You can sit down, Mr. Joseph. Mr. Joseph, my name is Laurel Russell. I'm the agent for the Attorney General of Canada, and I'm going to ask you some questions this morning.

CROSS-EXAMINATION BY MS. RUSSELL:
Q First of all, Mr. Joseph, what clan are you in?
A I'm Laksamshu clan.
Q And what house is that clan you are in?
A Smogelgem.
Q You're in Smogelgem's house?
A Yes.
Q Are you sure of that, Mr. Joseph? Are you sure you're not in Kloum Khun's house?
A Kloum Khun, that's right.
Q Okay. Mr. Joseph, what house is your wife in?
A My wife is from Fort Fraser.
THE COURT: I'm sorry.
MS. RUSSELL: His wife is from Fort Fraser. I asked him what house his wife was in.
THE COURT: Thank you.
MS. RUSSELL:
Q Your wife is from Fort Fraser?
A Yes. And she is frog clan.
Q Has she been adopted into a house in this area?
A No.
Q She hasn't. So are your children in a house in this area?
A Yes.
Q And what house is that?
A Kloum Khun.
Q I see.
THE COURT: I'm sorry. I can't hear the witness.
MS. RUSSELL: Sorry. Could you speak up a little, Mr. Joseph. He says his children are in the house of Kloum Khun.

Q And you have three children, do you not?
A Pardon?
Q You have three children, Mr. Joseph?
A 12.
Q 12 children?
A Yes.
Q I missed nine somewhere along the way. Can you tell me what occupations have you had in your life, Mr. Joseph? What employment have you had?
A Well, I've worked for the CNR for many years. About nine years I guess.
Q And before that?
A Trapping. Trapping. After I finished working for the CN I went into trucking, which I was in trucking for 15 years or more.
Q Okay.
A And I finished trucking in 1973. I sold the trucks, and then I went into working on reserve building houses.
Q So can I summarize it for you, you began by trapping for a living?
A Yes.
Q And then you worked for the CNR?
A Yes.
Q And that was for nine years?
A Yes.
Q And then you ran your own trucking company?
A Yes.
Q Since then you've been selling your trucks and giving up the trucking business and you've been employed on the reserve --
A Yes.
Q -- Constructing houses?
A Yes.
Q Is that what you're currently involved in, building houses on the reserve?
A Not too much right now. I'm slowing down.
Q We all do. You have an Indian name, Mr. Joseph, don't you?
A Yes.
Q Can you tell me what that name is?
A Gis'saah.
Q And is that a chief's name?
A Yes.
Q And that's a chief's name in Kloum Khun's house?
THE COURT: Sorry. Spelling of the name?
THE TRANSLATOR: G-I-S-'-S-A-A-H.

THE COURT: Thank you.
MS. RUSSELL:

Q Did you take your name at a feast?
A Yes.
Q And when was that feast?
A That was back in, oh, early seventies.
Q I see. And was that after your mother's death?
A Before. My mother passed away in '74.
Q Who held the name Gis'saah before you did?
A My mother.
Q Your mother did. And you took it before she died?
A M'hm.
Q Okay. Did you make a contribution at that feast?
A Yes.
Q And what was that contribution?
A Money, materials.
Q How much money did you pay for your name?
A Oh, at that time probably about, oh, $1,500 total materials, cash.
Q So it was a value of $1,500 cash and material?
A M'hm.
Q Okay. Mr. Joseph, can you, if you could, speak a little bit more loudly and then the judge could hear you. Thanks.
Did your mother hold another name as well as Gis'saah? Did she hold another Indian name?
A She took over another name after she passed her original name over to me.
Q I see. And what was that other name? Maybe I can help you. Did she take the name Kloum Khun?
A Patrick Pierre in Moricetown has that name now.
Q Patrick Pierre has that name now?
A Yes.
Q But he took that name from Johnny Mack?
A Right.
Q Before Johnny Mack took the name Kloum Khun from whom did he take the name?
A I believe Johnny Mack took that name from when my mother passed away.
Q When your mother passed away?
A Yeah.
Q So is it your understanding that your mother had Kloum Khun as a name as well?
A M'hm.
Q And then passed it to Johnny Mack?
A Yeah.
Q That's correct then? Sorry, is that yes?

A Yes.
Q Thank you. Can you tell me where the Kloum Khun territories are?
A Kloum Khun territory is what they call Uyenii.
Q And can you give me an English name for that?
A It's -- Uyenii is on the south, southwest side of Telkwa.
Q And this is the Kloum Khun territory you're telling me?
A Yes.
Q Can you tell me some landmarks in that territory, Mr. Joseph?
A Yes. Uyenii is surrounded by quite a few other traplines. Kweese is one of them, and I believe Goohlaht, and Knedebeas.
Q Are you telling me now about the Clore River territory?
A Yes. Yes.
Q Mr. Joseph, is that a territory of Kloum Khun or is that a territory of Smogelgem?
A Kloum Khun.
Q Okay. And you're sure of that?
A Yes.

THE COURT: What was the name you say, Cora?

MS. RUSSELL: Clore River. C-L-O-R-E.

THE COURT: Thank you. And I'm not sure if the witness agreed with you or disagreed with you.

MS. RUSSELL: Yes, he agreed with me that it was a Kloum Khun territory.

THE COURT: All right.

MS. RUSSELL:

Q Mr. Joseph, are Smogelgem, Kloum Khun and Tsaibesa all the same house?
A Yes.
Q Okay.

THE COURT: I'm sorry. The three were Smogelgem, Kloum Khun and --

MS. RUSSELL: Tsaibesa.

THE COURT: Okay. Are in the same house?

A Yes.

MS. RUSSELL:

Q Now, to be clear, Mr. Joseph, they're all in the same clan, aren't they?
A M'hm.
Q They're all Laksamshu?
A Yes.
Q But you say they're all one house as well? Sorry, is

that yes?
A Yes.
Q Okay. Sorry. The court reporter has difficulty taking down a nod, so if you could help me by saying yes or no to assist.
Can you tell me the name of the House of Smogelgem? Is there a separate name for the house other than the chief's name?
A The name of the house?
Q Yes, of Smogelgem.
A Well, there's is Saa bee yex and Misdzii bee yex. That's in the same clan too.
Q I see. Can you tell me what those words mean, please?
A Saa bee yex means it's a sun, meaning a sun. Something to do with a sun house.
Q Okay. And whose house does that refer to?
A Kloum Khun.
MS. RUSSELL: Excuse me for just a second. If you would like to spell that for --
THE TRANSLATOR: S-A-A new word.
THE COURT: I'm sorry. S-A-A.
THE TRANSLATOR: New word B-E-E new word Y-E-X.
MS. RUSSELL:
Q That's the Sun House. And you've told me that refers to Kloum Khun?
A Yes. And there is Misdzii bee yex.
Q Misdzii bee yex?
A Misdzii bee yex meaning Owl House. Owl House.
Q Sorry. And who whose house does that refer to?
A The same, Kloum Khun.
Q So both Saa bee yex and the other word is Misdzii bee yex?
A Misdzii bee yex.
Q Refer to Kloum Khun's house?
THE COURT: Yes. I'll need a spelling for that one.
THE TRANSLATOR: M-I-S-D-Z-I-I knew word B-E-E knew word Y-E-X.
MS. RUSSELL:
Q Mr. Joseph, have you in your trapping days made use of any territories of Kloum Khun?
A Yes.
Q And which territory did you use?
A It was in Uyenii area.
Q So you trapped in the Clore River area, did you?
A Yes.
Q And when was that?
A It was 1938.
Q And was that the last time that you trapped in that

area?
A Myself that was the last time, yeah.
Q I see.
A But my uncle's been back there many times.
Q That's your Uncle Dan Joseph you're talking about?
A Right.
Q But you mentioned in your history of occupations that you had done some trapping?
A Yes.
Q Where did you go trapping?
A That's where I went out with my uncle, trapping in that country out there.
Q I see. And that was for a two month period in 1938?
A Yes.
Q And you've done no other trapping since that time?
A Oh, yes. Yes, I've done trapping up -- up towards the Babine area.
Q And can you give me an idea of where in the Babine area you've done that?
A They call that 24 Mile. It's 24 miles out of Hazelton.
Q Is that within the claim area?
A Yes.
Q Can you tell me whose territory that would be in?
A That would be -- that would be the same Kloum Khun territory.
Q 24 miles. Would that be east of Hazelton?
A East of Hazelton, right.
Q And that was Kloum Khun territory?
A Yes.
Q Sorry. That was yes?
A Yes.
Q And for how many years did you trap in that area?
A Oh, for two winters.
Q And when was that?
A That was in '41 and '42 I believe it is.
Q And are you a hunter?
A Yes.
Q And where do you hunt, Mr. Joseph?
A You mean for game?
Q Yes, I mean for game.
A Well, anywhere in Hazelton area, Telkwa, or up the Babine -- Babine Trail. That's up towards the 24 mile, eh.
Q And that's east of Hazelton as you described to us?
A Yes.
Q Do you know in whose territory you hunt?

A No. If you're hunting for game, you know, you can -- I can go hunt anywhere, but if you had a trap and then it's a different -- you have to have permission before you go in there.
Q I see. So you don't need to ask permission for hunting game, you just chased the game?
A No.
Q Pardon me?
A You just go wherever it takes you.
Q And are you a fisherman?
A Not too much, but I fished a couple of season on the coast.
Q When you say you fished on the coast you fished commercially?
A Yes.
Q And have you fished in the area where you live?
A Yes.
Q And you live where?
A Hagwilget.
Q In Hagwilget. And can you tell me whose territory you fished in?
A It's the same, Kloum Khun's fishing area in the canyon.
Q Sorry. Which canyon?
A Hagwilget Canyon. Each house has a separate fishing hole, and it's the same as trapline, you have permission to go down there and fish. Same with a trapline you get permission to go out there and trap.
Q I see. And do you fish every season, Mr. Joseph?
A Yes.
Q When was the last time you fished in Hagwilget Canyon?
A The last time I fished there was in 1959.
Q You were a band councillor for many years, were you not?
A Yes.
Q And you were chief councillor too?
A Yes.
Q From 1954 to 1983 you were a band councillor and from 1975 to 1978 you were chief councillor of the Hagwilget Band, weren't you?
A Yes.
THE COURT: That's of the Hagwilget Band?
MS. RUSSELL: Yes.
Q Mr. Joseph, do you know about a Kloum Khun territory that has within its boundaries Tahtsa Lake, that's T-A-H-T-S-A, Troitsa and Blanket Lakes?
A Yes, sounds familiar to me.

Q And in 1987 on a map known as Exhibit 5 in this trial that territory was shown as belonging to Kloum Khun. And you say that's correct, it belongs to Kloum Khun?
A Yes.
Q That territory in 1988 is claimed by Lucy Namox on behalf of Samooh. Do you know about that?
A No.
Q So you don't?
A I don't recall.
Q You don't know why Kloum Khun has lost this territory?
A I couldn't -- I couldn't answer that.
Q Okay. Did you assist with preparation of maps of the claim area in 1987, in May particularly?
A Pardon?
Q Did you help prepare a map of the territory in May of 1987?
A Yes.
Q And what boundaries did you describe in May of 1987 to assist in that map preparation?
A It was the area that's marked on the map in Uyenii area.
Q So you described -- sorry. Are you finished?
A The boundaries -- the western boundary would be bordering -- the western boundary would border the Haisla people. That would be towards the coast.

THE COURT: Uyenii. Could I have a spelling for that, please?
THE TRANSLATOR: U-Y-E-N-I-I.
THE COURT: U -- I'm sorry.
THE TRANSLATOR: Y-E-N-I-I.
MS. RUSSELL: It's on page two of the affidavit, my lord.
THE COURT: Thank you.
MS. RUSSELL:

Q So you described the Clore River territory in 1987 to be included in the map that is now known as Exhibit 5 in this trial?
A Yes.
Q Okay. When you described that territory in 1987 did you describe it as including Pillar Peak?
A Yes.
Q In 1988 Pillar Peak is shown as being on the western boundary in Kweese's territory. Are you aware of that change?
A Yes, I believe so.
Q And why is Pillar Peak no longer included in the Clore River territory you described?
A Well, I made -- maybe little confused about the time that I've been there. It's been quite a few years,

and I can't recall the changes that might have been made.

Q But you did describe that Clore River territory in 1987 to be included in the large map of the claim area, didn't you?

A Yes.

Q And at that time it included Pillar Peak?

A I believe so.

Q But you're not aware of any explanation of why the map of the claim area and the map of that Clore River territory would no longer include Pillar Peak?

A I couldn't say.

Q Did anyone ask you about the change?

A No.

Q Did you discuss the boundary -- boundaries of the Clore River territory with any of the neighbouring chiefs you mentioned?

A Not that I can recall.

Q Okay. Did you ever hear the Clore River territorial boundaries described in a feast?

A Yes.

Q And when was that feast?

A Through the years I've been through many feasts whether participating in that feast or just being in there as an observer or invited to a party. Now, it's pretty hard for me to recall exactly what -- at what feast these places are mentioned. They are mentioned many times, but I can't say exactly the time or the feast. Like I said, there's many feasts throughout my time that I've been to, and it's pretty hard to pinpoint just exactly which feast at which time that these areas were mentioned. They were mentioned many times in the feast. And Uyenii is a country that is a very rough country. Just the most able bodied people go out there.

Q It's very mountainous, isn't it?

A Pardon?

Q It's a very mountainous part of the claim area?

A Yes. It's a rough country.

Q When you heard it described at a feast did the Clore River territory include Pillar Peak?

A Well, I just mentioned that I can't -- just can't remember the places that were mentioned many times.

Q So you don't recall the specific landmarks that were mentioned when you heard the Clore River described in a feast in the past?

A Yes.

Q You don't remember them?
A No, I don't.
Q Can you tell me about your Uncle Dan Joseph? Mr. Joseph, he died in 1969, did he?
A Yes.
Q And his chief's name -- sorry, I can't say it for you. Can you tell me what that is?
A Lgwa'ha.

MS. RUSSELL: Lgwa'ha. Could you spell that please, Mr. Mitchell? Paragraph 4.
THE TRANSLATOR: What's that?
MS. RUSSELL: Paragraph 4 of the affidavit.
THE TRANSLATOR: L underline G-W-A-'-H-A.
THE COURT: I'm sorry. After the apostrophe H-A?
THE TRANSLATOR: Yes.
THE COURT: Thank you.
MS. RUSSELL:

Q Who told you Dan Joseph's chief name?
A My mother.
Q Your mother. But you couldn't remember it when Marvin George asked you about it, could you?
A No. No.
Q And your mother was -- had died in 1974, hadn't she?
A Yes.
Q So who reminded you of what Dan --
A When I hear that name then it comes back.
Q Oh, I understand.
A Yes.
Q But who reminded you of that name and it came back to your mind then?
A I believe it was my sister.
Q Your sister. And what's her name?
A Elsie Tait.
Q Elsie Tait. Was Elsie ever out on the Clore River territory?
A No.
Q Did Johnny David assist you in remembering about the Clore River territory?
A Some of it, yes.
Q Dan Joseph fished on the coast too, didn't he?
A Yes.
Q He worked for North Pacific Cannery for a number of years?
A Yes.
Q And Dan Joseph's in the House of Kloum Khun as well as you?
A Yes.

Q Or was in the House of Kloum Khun.
Can you tell me who Rose Brown was?
A Rose Brown, I believe, was one of our -- our relatives. She died quite a few years back.
Q And did she have a -- sorry.
A And I believe she's a lady that had the name Kloum Khun.
Q Did she also hold the name Tsaibesa?
A I believe so, yes. I believe so.
Q And she had a trapline in this Uyenii, Clore River territory, didn't she?
A Yes.
Q Do you know who holds that trapline at this date, Mr. Joseph?
A Like to this today?
Q Today, 1988.
A Oh, I couldn't -- I couldn't say.
Q Is the name Charles Skinner familiar to you?
A I've heard that name, yes.
Q Can you agree with me or disagree with me that Charles Skinner holds the trapline in that area?
A Oh, I wouldn't disagree with you.
Q Do you know is Charles Skinner a white man?
A Yes, I've heard.
Q Yes, he is?
A Yes.
Q Yes, you've heard. Sorry. And that trapline has been held by white men since 1945, hasn't it?
A M'hm.
Q Do you know how -- sorry.
A That I don't -- I couldn't -- I couldn't remember.
Q It's a long time ago. Do you know how the trapline came into the white man's possession?
A That I can't -- I can't say.
Q Okay. Mr. Joseph, I'm going to show you a document, and I'll give you a moment to look that over.
Now, I realize you've not seen this document before.
A No.
Q I realize that. Would you look at the description of the trapline which is in the middle of the page commencing on Gosnell Creek. Is that a familiar name to you, Gosnell Creek?
A Yes.
Q Is that in the Clore River territory you've described?
A That is right.
Q It is?

A Yes.
Q And moving down, I won't read it all, I'll just pick out some of the names. Atna Lake, is that a familiar name to you?
A Yes, it is familiar.
Q And Atna River?
A Yes.
Q And are Atna Lake and Atna River in the boundaries of the Clore River territory?
A I believe it is.
Q Okay. And then further down in the description it describes something called Dogs Ear Peak. Is that a name that's familiar to you?
A Dogs Ear Peak. I've heard it mentioned.
Q Do you know if that's on the boundary of the territory that you've described as the Clore River territory of Kloum Khun?
A I believe it is.
Q Okay. There's one more name there. Herd Dome. Is that a name familiar to you?
A No, I don't --
Q Okay. H-E-R-D. But a number of these names that you've told me you recognize?
A Yes.
Q You've told me also are in the territory that you've described as Clore River territory. That's correct, isn't it?
A Yes.

MS. RUSSELL: Okay. My lord, I don't intend to tender this document through this witness. We'll prove it as a business record through a -- at a later date, but I would ask that it be marked as an exhibit for identification so it would have some context.

THE COURT: Any objection?

MR. RUSH: Yes. I don't think it's properly marked. My friend could make up a description and write it out in the same way and ask it be marked. I don't think that's a proper way to put a document in.

MS. RUSSELL: Perhaps I could do a little more to assist, my lord.

Q Mr. Joseph, you told me you recognize the name Rose Brown, didn't you?
A Yes.
Q And you told me that she was holder of the name Kloum Khun and holder of the name Tsaibesa you told me as well. That's correct, isn't it?
A Yes.

Q And you told me she died some years ago?
A That is correct.
Q And you said she had a trapline in the Clore River area?
A Yes.
Q Okay. And you also told me that you didn't know how that trapline had come into white hands?
A That's correct.
MS. RUSSELL: Okay. My lord, is that a sufficient context to simply mark it for identification? I am content to prove it later as a business record.
THE COURT: If you're going to prove it later there wouldn't be any doubt from what you've read --
MS. RUSSELL: Fine.
THE COURT: -- About the identification of the document. I'm not sure that it's been sufficiently adopted by the witness to be marked even for identification.
MS. RUSSELL: That's fine, my lord.
THE COURT: I'm trying to find Herd Dome. It's due west, as I recall, from the south end of Morice Lake?
MS. RUSSELL: My lord, I'm happy to give you the N.T.S. map here, which is unmarked, if you like. I can show you where Herd Dome is.
THE COURT: Is it not a short distance to the west of the -- east -- the northeast end of Morice Lake?
MS. RUSSELL: Pardon me. Sorry. The northeast end of --
THE COURT: Morice Lake.
MS. RUSSELL: Well, I'll show you, my lord.
THE COURT: Didn't we fly over to it from that lookout station?
MS. RUSSELL: It's in between -- sorry, it's directly across from Pillar Peak, and Burnie River separates Pillar Peak from Herd Dome.
THE COURT: Yes. All right. I know where it is. Thank you.
MS. RUSSELL:
Q I'm moving on to something else, Mr. Joseph, and I want you to tell me about the meetings that you held with Mr. George. You met with him in February of 1988; is that correct?
A Which George are you referring to?
Q Pardon me?
A Which George are you --
Q I'm referring to Marvin George.
A Yes. Yes, that is correct.
Q Did you meet with him before February 4 of 1988?
A I believe so, yes.
Q And when would that have been?
A Well, I can't recall exact dates, but --

Q Would it have been in 1987?
A He's my neighbour and we meet all the time, so I can't say.
Q Fair enough. I mean to discuss territory and land claims.
A Oh, we have met a few times, but I can't say you the exact date.
Q Okay. But you've met with him before February of 1988, you think?
A Yes.
Q In the meetings that took place before February of 1988 what did you discuss with Mr. George?
A Oh, we discussed traplines.
Q Anything else -- anything else related to land claims or territory, I mean?
A Well, we went over the Uyenii area.
Q And when you say you went over the Uyenii area how did you go over the Uyenii area?
A Well, just show the person which -- which route we took when we went into Uyenii for trapping.
Q Right. Okay. And did you discuss other traplines with Mr. George other than traplines in the Uyenii Clore River area?
A I believe I mentioned that trapline up 24 miles they call up on the Babine Trail.
Q The one east of Hazelton?
A Yes.
Q When you say you showed the person the route into Uyenii do you mean you showed Marvin George the route into Uyenii?
A Yes.
Q And did you show him that on a map?
A Yes.
Q I see. And did he provide the map to you?
A Yes.
Q And when he showed you the map, Mr. Joseph, did he draw the route in?
A No, I did.
Q You did?
A Yes.
Q And on that map was there a boundary shown of the territory of Clore River?
A I helped him.
Q You helped him. Did he draw the lines and then you confirmed it with him?
A Yes.
Q Okay. Did you have some trouble remembering the

Wet'suwet'en names for the landmarks?
A Yes.
Q Around --
A Yes.
Q Did Mr. George tell you what those names were?
A Yes.
Q Did Mr. George present you -- at that meeting in which you told him the way into Uyenii did he present you with a document that you eventually signed?
A Yes.
Q And it was at that meeting where you showed him the route into Uyenii?
A No. I think -- I believe it was before that.
Q Okay. Just so I'm clear, Mr. Joseph, did you provide the description of Uyenii to Mr. George?
A Yes.
Q Hang on. After he gave you this document or before he gave you the document?
MR. RUSH: Well, is the document in front of him?
MS. RUSSELL: I'm sorry. I'd be happy to give it to you.
Q I'm referring to the affidavit you signed, Mr. Joseph, which is Exhibit 668 in this trial. That's my copy. You're welcome to it.
Now, perhaps you would like me to ask that question again. Did Mr. Joseph give you that document -- I'm sorry. Mr. George, Marvin George give you that document before or after you had described the Clore River territory to him?
A I believe it was after.
Q It was after you gave the description to him?
A Yes.
Q If I could take that back, Mr. Joseph. Just the affidavit. Thank you.
Mr. Joseph, on this affidavit there are one or two small corrections in paragraph 2. On page one it says "My Wet'suwet'en Chief name is Gis'saah. I am a member of the House of Laksamshu, Clan." And there is a little interjection there and someone has printed in Kloum Khun and put initials by it. It looks like S.M.. And was it Shirley Meldrum who made that correction?
A I believe so.
Q And how did she come to make this correction in paragraph 2?
A I couldn't say.
Q Did you tell her there was a mistake in that paragraph?

A Yes, I believe so.
Q Okay. And did she make it at the time you signed the affidavit in front of her?
A Yes.
Q And there's another small correction on page three in paragraph 8. That says, "The boundary of the Loox Kwe territory described above has remained the same through my lifetime and my uncle Lgwa'ha Kwe...", and there's a correction there with Kwe scribbled out with initials beside it. When was that correction made?
A I couldn't say.
Q Was it made at the time that Ms. Meldrum had you sign this document in front of her?
A Yes.
Q And who pointed out the error there to her?
A I believe I did.
Q At the meeting at which you signed the document before the lawyer Shirley Meldrum was there anyone else present?
A No, there was just three of us.
Q And who were the three of you?
A Me, Shirley and Marvin.
Q I see. Now, Marvin's a map maker, isn't he?
A Yes.
Q Is this description of the territory in paragraph 5 on page two of the affidavit your language or is this the map maker's language, the map maker's description of your territory?
A Where?
Q This paragraph 5, "Starting at the confluence of Loox Kwe (Clore River) and Taldzee Ts'anlii (Burnie River), the boundary runs southeast along the height of land to Leez Be'..." and so on in that paragraph. Whose language is that?
A That's the Carrier language.
Q No, Mr. Joseph. I'm sorry, I haven't made my question clear. You told me Marvin George is a map maker, and you told me that you described the area which is known as the Clore River territory to him. This description that's included in the affidavit, "Starting at the confluence of..." is that the map makers language, Marvin George's language?
A Yes.
Q It's not your words, it's Marvin George's depiction --
A Yes.
Q -- Of the territory, and you agreed with that?
A Yes.

Q Can you tell me who your neighbours are in the territory? In the Clore River territory who's the neighbour to the south?
A Kweese.
Q And sorry. Which direction is she in?
A Southwest.
Q Okay.
A Northwest.

THE COURT: Southwest?
MR. RUSH: He then said northwest.
THE COURT: Yes, I know. Northwest?

A Northwest.

THE COURT: Northwest.
MS. RUSSELL:

Q And what about on the south?
A On the south I have trouble remembering the names.
Q Okay. But it's all surrounded by different -- different houses?
Q Right. Well, take your time. If you need to think for a moment you tell me.
Any other neighbour you can think of?
A I couldn't remember. I couldn't remember.

MS. RUSSELL: Okay. My lord, if we could take a five minute break or so I'll --
THE COURT: Yes. All right.
MS. RUSSELL: I think I'm just about done. I just want to make sure I've covered everything.
THE COURT: Yes. All right.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING SHORT RECESS)

MS. RUSSELL: My lord, I have no more questions. Mr. Joseph, Ms. Sigurdson from the Provincial Government will have a couple of questions for you.
THE COURT: Thank you, Ms. Russell. Ms. Sigurdson.

MS. SIGURDSON: I will be very brief.

CROSS-EXAMINATION BY MS. SIGURDSON:

Q Mr. Joseph, do you own property near New Hazelton?
A On the reserve you mean?
Q Off reserve, I believe.
A Yes.
Q And you own that -- it was from the estate of your mother, Julia Joseph?
A Yes.

Q And there are four lots in district lot 882, and I will show you the certificates of title and ask if you've seen anything like this before. There are four titles in that.

MR. RUSH: And the question is have you ever seen anything like this before; is that right?

MS. SIGURDSON: Yes.

A No, I haven't.

Q All right. Your name is Fred -- Walter Frederick Joseph?

A Yes.

Q And you own lots at district lot 882 that is just near South Hazelton, New Hazelton?

A New Hazelton.

MS. SIGURDSON: I tender these certified copies of the certificate of title as the next exhibit. There are four lots, but I propose they be marked under one number.

THE COURT: All right. Next exhibit number will be?

THE REGISTRAR: 840.

(EXHIBIT 840: Certificates of Title)

MS. SIGURDSON:

Q Mr. Joseph, do you know whose territory that property is in?

A In New Hazelton?

Q Yes.

A It's outside.

Q Do you know which chief claims that territory?

A Oh, I believe -- I believe it's Spookw.

MS. SIGURDSON: Thank you. Those are all my questions.

THE COURT: Thank you. Mr. Rush.

RE-EXAMINATION BY MR. RUSH:

Q Now, Mr. Joseph, you told Ms. Russell that your wife was from the frog clan?

A Yes.

Q And you indicated that she was not adopted?

A That's right.

Q Now, under the Wet'suwet'en system do the children follow the mother's line?

A Yes.

Q And would the children -- would the children of your wife, would they be in the same clan as she?

A Yes.

Q Now, you also answered a question -- now you might

recall this, Mr. Joseph, the question was if there were landmarks in the -- in respect of the territory which you described at Clore Creek, and you said Uyenii, it's surrounded by other traplines?
A Yes.
Q And then you said Goohlaht, Kweese and Knedebeas. Do you recall that?
A Yes.
Q When you were referring to surrounded by other traplines were you referring to the territory of other hereditary chiefs?
A Yes.
Q And do those territories border on the Clore Creek territory?
A Some of them, yes.
Q Okay. Now, you also said that Kloum Khun, Smogelgem and Tsaibesa are all the same house. And, Mr. Joseph, do you -- and you answered yes. Now, is Smogelgem -- perhaps I should put it this way. Is there one of those chiefs that is higher in rank than the other chiefs or are they all the same rank?
A I believe they would be all the same -- same rank.
Q Is there one chief that is considered head of the clan?
A Yes.
Q And which chief is that?
A I believe it's Smogelgem.
Q Okay. Now, you talked about the area that you trapped toward the Babine. You said I trapped toward the Babine area 24 miles out of Hazelton?
A Yes.
Q Who did you trap with when you were out there?
A Donald Raymond.
Q Sorry?
A Donald Raymond.
Q Yes.
A Donald Raymond's wife, Pete -- Peat Gray and myself. There was four of us.
Q You said you were out there in two winters. Were you out there with the same group of people in two winters?
A Yes.
Q And what house were Donald Raymond, his wife and Pete Gray from, if you remember?
A Kloum Khun.
Q Now, is the area out of 24 miles, that 24 mile area out of Hazelton, is that an area where Smogelgem could

go?
A Yes.
Q And is that area, could that also be considered Smogelgem's area?
A Yes.
Q And what -- when you were out there do you recall what you were trapping?
A You mean --
Q What game you were --
A Oh, marten, fisher. Whatever we can catch.
MS. RUSSELL: My lord, I understand that you have permitted this re-direct in the past. I would like to put my objection on the record. It does not arise out of the cross-examination.
THE COURT: All right. You've done so.
MS. RUSSELL: Thank you.
MR. RUSH:
Q What else did you trap out there, Mr. Joseph?
A Oh, marten, fisher, beaver, fox, weasel.
Q Now, you were asked about fishing and you said that you fished at the Hagwilget Canyon?
A Yes.
Q And at whose fish site did you fish in the Hagwilget Canyon?
A Kloum Khun.
Q Is there a Smogelgem fishing site there?
A Yes.
Q Is that different from, or is it the same one as Kloum Khun's?
A I believe it's the same one.
Q Okay. And do you remember how many -- how many seasons you fished at the Hagwilget Canyon?
A Ever since I was big enough to fish until the time they destroyed it.
Q When did they destroy it?
A 1959.
Q Is that when you stopped fishing there?
A Yes.
Q And when you say they destroyed it who was the they you were referring to?
A Fisheries. Federal Government.
Q Now, you were asked about an area two names of which I was able to record. You were asked if you knew of a Kloum Khun territory that was in the area of Tahtsa Lake and Troitsa Lake. I think your answer was you were familiar with it?
A Yes. Yes.

Q Now, do you know who was using that area?
A No, not really.
Q And do you know -- all right.
THE COURT: Mr. Rush, I'm sorry. Were you saying Takla or Tahtsa Lake?
MR. RUSH: Tahtsa.
THE COURT: T-A-T-S-A?
MR. RUSH: I think it's T-A-H-T-S-A. And Troitsa Lake.
THE COURT: How do you spell that?
MR. RUSH: T-R-O-I-T-S-A.
THE COURT: I'm sorry. Where are they? I naturally think about Takla Lake. I'm sure we are not talking about Takla Lake. Oh, in the southwest corner.
MR. RUSH: In the southwest corner, south of Morice Lake on the western side.
THE COURT: That's close enough.
MR. RUSH:
Q The area that we have just been describing, Mr. Joseph, have you ever been there yourself?
A No.
Q When you were -- when you were at Clore Creek with Dan Joseph in what language did you converse with him?
A Native.
Q Wet'suwet'en language?
A Yes.
Q You speak Wet'suwet'en?
A Yes.
Q And he did at that time?
A Yes.
Q Right. And the area that he described to you, and that you heard described by him, was that described in the native language or in English?
A Native.
Q You were asked about Pillar Peak, and you were asked if -- if the territory at Clore Creek that is in your affidavit whether or not it includes Pillar Peak. Do you know the Wet'suwet'en name for Pillar Peak?
A No, I don't.
Q Okay. Now, you said that in a subsequent -- in a subsequent answer to a question posed by Ms. Russell that you said that you believed that your territory included Pillar Peak?
A Yes.
Q Would you know the -- the -- the features, the landmarks more by their Wet'suwet'en or by their English names?
A More by Wet'suwet'en names.

Q Okay. Now, you were also asked about an area that was described as Gosnell Creek, Atna Lake and Atna River, and you were asked if your -- the territory which you described in your affidavit at Clore Creek whether that territory included those places, and you said I believe they did. And, again, I would ask you do you know the Wet'suwet'en name for Gosnell Creek or Atna Lake or Atna River?

A One of the main river that flows through the area would be what they call it Loox Kwe.

Q The main river that flows through the -- river of the territory that you describe is Loox Kwe?

A Loox Kwe, yes.

MR. RUSH: And I think, my lord, that that is Clore, and it's at -- it's at page two, paragraph 7.

Q My question to you, Mr. Joseph, was do you know the Wet'suwet'en name for Gosnell Creek?

A Not right offhand, no.

Q Okay. And similarly do you know the Wet'suwet'en name for Atna Lake or Atna River?

A No, I don't.

Q And do you know the Wet'suwet'en name for Herd Dome?

A I can't -- I can't remember now.

Q Okay. You indicated to Ms. Russell as well that the words that were used in paragraph 5 at -- where you describe the territory of Loox Kwe, Clore Creek, she referred you to the words and I'm quoting, "Starting at the confluence of...", you said those words were Marvin's words. Now, prior to your seeing this affidavit did you describe to Marvin in your own words the boundary?

A I believe we did.

THE COURT: Could I ask on this affidavit where it talks about Clore River and gives the Wet'suwet'en spelling what is that first character?

MR. RUSH: That's L with a slash through it, and there are probably others more gifted in this than I, but there are apparently two ways of -- two linguistic ways of describing that sound, and one is with the L with a slash through it and the other is with the L with the line under it.

THE COURT: The L underlined?

MR. RUSH: Yes. And seen a lot of it also underlined. And the sound --

A It's the --

THE TRANSLATOR: It's the same.

MR. RUSH: It's the same, but the sound is L as I understand.

THE COURT: All right. As long as it's not a strike out.
MR. RUSH: No, it's not a strike out. It's intended to convey the cli (phonetic) sound.

Q Mr. Joseph, you said that you were with Mr. Dan Joseph, your uncle, in 1938 in the Clore Creek territory?
A Yes.
Q And were you trapping with him at that time?
A Yes.
Q Okay. And did you trap in the same area all of the time or were there different areas that you used?
A Different areas within the boundary of the trapline.
Q Okay. How many different areas were there?
A Well, when you mention different areas you mean the different -- different lines that you have --
Q Yes.
A -- In an area?
Q Yes. Do you remember how many different lines you had in that area?
A We had about six, I believe.
Q Okay. How old was Mr. Joseph when you were with him in 1938? Approximate age if you can't recall specifically.
A Oh, probably be about 40.

MR. RUSH: All right. Those are my questions. Thank you.
THE COURT: All right. Thank you, Mr. Joseph. You're excused.

(WITNESS ASIDE)

THE COURT: Mr. Rush, do you still want to start at 2:30?
MR. RUSH: Yes, I think so. It will be Mr. Grant who will be moving into the courtroom at that time.
THE COURT: All right. We'll adjourn then until 2:30.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING LUNCHEON RECESS)

THE COURT: Mr. Grant.
MR. GRANT: Yes, my lord. I'm tendering Mrs. Lucy Basil, Chief Guhe', for cross-examination regarding an affidavit which is Exhibit 662. And this is an affidavit with respect to the territory of Wah Tah Kwets in the Houston area. In fact it's an area that surrounds Houston, the Municipality of Houston. I just want to advise your lordship that, and I think from what my friends have both said, they're probably in agreement on this, Ms. Basil, actually it's Lucy Basil Verigin,

has given evidence by way of commission evidence November 23rd through to the 26th, 1987, and in fact Exhibit 120B in the trial, Exhibit 120B is an affidavit of Mrs. Verigin with respect to another territory that was tendered in advance of her cross-examination or her commission evidence, and I would, of course, state that she is -- as she has given evidence already at trial that the cross-examination should be limited to this particular affidavit in this territory.

THE COURT: Any problem with that?

MR. MACKENZIE: Yes, my lord. There --

MR. GRANT: Oh, there's one other point that I should say. There was an interview tendered provided to my friends since the cross-examination and, of course, if they wish to cross-examine with respect to the contents of that interview I don't object, but this witness, as I said, has given four days of evidence at trial. Except for those two matters I would object to other evidence.

THE COURT: All right. Any problems with that, Mr. Mackenzie?

MR. MACKENZIE: Yes, my lord. I don't know which interview Mr. Grant is referring to, but I think we're ad idem he only referred to one interview. We have had disclosed to us several interviews since the completion of the commission, and normally I'd apply to reopen the commission, because those interviews relate to exactly the material that she, Mrs. Basil, testified to in her commission.

THE COURT: Mr. Grant has said he wouldn't object to you examining on the interview subject to the commission. Perhaps he'll enlarge on that. He wouldn't object to cross-examination on more than one interview subsequent to the commission.

MR. GRANT: Yes. The interview I have noted is an interview with this witness. I think the question of interviews with other witnesses --

THE COURT: Probably stands on the same footing, doesn't it?

MR. GRANT: If it relates to her evidence, yes.

THE COURT: Let's see how we get along.

MR. MACKENZIE: I think though subject to that we're in general agreement.

THE COURT: Swear the interpreter and the witness, I suppose. Well, the witness has already been sworn.

MR. GRANT: She was sworn on the cross-examination.

THE COURT: She can just be cross-examined. Mr. Holland has been sworn. You don't need to swear him again.

THE REGISTRAR: Witness, I remind you, you're still under oath.
THE COURT: Tell her that, please, Mr. Holland.

LUCY BASIL VERIGIN, Resumed:

MR. GRANT: And with respect to this witness' evidence, for madam reporter, as well as the court, she will probably give much of her evidence in English. She needs the aid of a translator, and she will request the aid of Mr. Holland's assistance.
THE COURT: Thank you, Mr. Grant.

CROSS-EXAMINATION BY MR. MACKENZIE:

Q Mrs. Basil, what is your chief's name?
A Guhe'.
Q And what is the name of your house?
A Wah Tah Kwets.
Q And what is the name of the clan to which you belong?
A Laksilyu.
Q And can you tell his lordship what the names of -- what the name of Wah Tah Kwets house is in Wet'suwet'en?
A Kwen Beegh Yex.

MR. MACKENZIE: Do you need a spelling for that?
MR. GRANT: My lord, we have a bit of a difficulty here in that there is a Wet'suwet'en examination going on upstairs.. I understand the translator is there. Just one moment.
MR. MACKENZIE: I have a spelling for that.
THE COURT: Mr. Holland can't help us.
THE INTERPRETER: I believe the speller has his --
THE COURT: The speller is away for a spell.
MR. GRANT: Yes, my lord, Mr. Jim would be available to do it phonetically and he would then meet with Mr. Mitchell afterwards and confirm them and provide the information to madam reporter later tonight.
THE COURT: All right. Let's take advantage of all the help we can get.
MR. MACKENZIE: I appreciate Mr. Jim's assistance. Some of these words have been spelled by Mr. Mitchell in the commission evidence, but I'll just follow Mr. Grant's suggestion, my lord.
THE COURT: Yes. This can all be verified later.
MR. MACKENZIE: Yes, my lord.
THE COURT: All right. We want the name of the Wet'suwet'en name of the House of Wah Tah Kwets. What's the word again?

A Kwen Beegh Yex.
MR. MACKENZIE: Could you give that to his lordship and the reporter.
THE TRANSLATOR: K-W-E-N new word B-E-E-G-H new word Y-E-X.
THE COURT: Thank you.
MR. MACKENZIE:
Q And what are the names of the other houses in the Laksilyu clan?
A G'en egh la yex.
MR. GRANT: My lord, I'm not objecting to my friend introducing the witness on background, but I think my friend is -- this is cross-examination which was raised directly on commission evidence which was the question of the houses, the other houses other than her own house, and my friend by asking these questions, in my submission, is repeating evidence that was led either on direct or which he had an opportunity to deal with on cross. This is nothing new, and it was only a year ago this witness was examined.
MR. MACKENZIE: This relates to the interviews that Mr. Grant mentioned, my lord.
THE COURT: All right. I'll have to rely on counsel not to be unduly or totally repetitive.
MR. MACKENZIE: Could we get a spelling for that, please?
THE TRANSLATOR: G-' --
THE COURT: I'm sorry.
A G-'-E-N E-G-H L-A new word Y-E-X.
THE COURT: That's one of them, is it?
A Yes.
THE COURT: All right.
MR. MACKENZIE:
Q And what's the meaning of that name, Mrs. Basil?
A House of Many Eyes.
Q And who was the chief of that house?
A Hagwilneghl.
THE COURT: Who?
A Hagwilneghl.
MR. GRANT: Hagwilneghl.
MR. MACKENZIE:
Q That name was held by Sylvester Williams before he passed away?
A Yes.
Q And what's the name of the other house in the Laksilyu clan, or another house?
A Tsee K'al K'eyex.
THE TRANSLATOR: T-S-E-E K-'-A-L K-'-E-Y-E-X.
MR. MACKENZIE:

Q And what's the meaning of that name?
A The House Beside the Flat Rock.
Q And who was the chief of that -- the head chief of that house?
A Wah Tah K'eght.
Q And who holds that name today?
A Henry Alfred.
Q Yes. Now, is the name of a Wet'suwet'en person's house an important fact in -- is the name of your house an important piece of information in your life?
A Yes.
Q And that's something that -- how long have you known that information, the name of your house?
A Well, ever since I start going to feast house.
Q And when would that be?
A I was about 14.
Q Do you remember being interviewed by Leonard George on February 18, 1982?
A Yes.
Q I'm going to read you a passage from that interview, the transcript of that interview.

MR. GRANT: Do you have a copy?

THE COURT: What's the date, please?

MR. MACKENZIE: February 18, 1982. It's on page six of that transcript.

Q "Leonard George: What is your tribe and what house do you belong to?
Lucy Basil: I'm Laksilyu and I can't remember what house."
Were you asked that question?
A Yes.
Q Did you give that answer?
A Yes.
Q Was the answer true?
A Yes.
Q Do you recall being interviewed on January 28, 1983 by Leonard George again?
A Yes.
Q I'm going to read you a passage from that transcript of that interview on page one.
"Leonard: What tribe are you in?
Lucy: Frog tribe.
Leonard: That's Laksilyu, right?
Lucy: Yes.
Leonard: And your name?
Lucy: I think Guhe'. Lucy Rose Basil.
Leonard: And the house you belong to?

Lucy: G'en egh la yex. I was born in 1920 and will be 63 this coming March."
Were you asked those questions?

A Yes.
Q And did you give those answers?
A Yes.
Q And those answers are true?
A Yes.
Q Now, in your affidavit, which is Exhibit 6 -- I beg your pardon, 662, you speak about a territory near Houston?
A Yes.
Q And that territory you speak of extends south of Houston and then north, and Houston's about in the centre, is that fair to say?
A Yes.
Q Now, you were -- you testified in the commission that we spoke of earlier about an area south of Houston called Buck Flats area; correct?
A Yes.
Q And you spent many years -- your earlier years in Houston and at Buck Flats; is that true?
A Yes.
Q And so you travelled each -- you travelled each year between about 1920 and 1936 back and forth between Houston and Buck Flats, is that fair to say?
A Yes.
Q Now, your father's -- your father was Peter Jim?
A No, it's not.
Q That's you brother. I beg your pardon. Your father was Moose Skin Jim?
A Yes.
Q And he had a trapline whose northern boundary was about Bob Creek, is that fair to say?
A Yes, that's true.
Q And Bob Creek is a creek that flows into the -- into Buck Creek south of Houston?
A Yes.
Q Yes. And it's about one day's walk south of Houston, is that fair to say?
A Yes.
Q Yes. And this territory that you're speaking about today would be north of Bob Creek, north of your father's trapline territory, is that fair to say?

MR. GRANT: Is my friend talking about a registered or a territory? On this he said trapline and now he says territory. Now he said it would be north of your

father's trapline territory. Is he talking about a registered trapline?
THE COURT: Mr. Mackenzie will clear that up.
MR. MACKENZIE:
Q Yes, the territory you're speaking of now is north of Bob Creek, isn't it?
A Yes.
Q And your father's registered trapline went to about Bob Creek, didn't it?
A I don't know anything about the registry, but the territory was at that, yeah.
Q Yes. So the area in which your father trapped was south of Bob Creek; correct?
A In all that area.
Q Yes. He wouldn't trap north of Bob Creek in the area you're going to describe today, would he?
A As far as there's a lake called Frog Lake that's where he goes.
Q Is that in this territory, the Houston territory?
A Yes.
Q That's the only place where he would go?
A Yes.
Q Now, which chief owned the -- this Houston territory when you were growing up?
MR. GRANT: What, in the affidavit?
MR. MACKENZIE: Yes.
A Ah K'ot.
THE COURT: Just a minute. Just a minute, please.
MR. MACKENZIE: Yes.
THE TRANSLATOR: A-H K-'-O-T.
THE COURT: I'm sorry.
THE TRANSLATOR: A-H K-'-O-T.
THE COURT: U-H?
THE TRANSLATOR: A-H K-'-O-T.
THE COURT: Thank you.
MR. MACKENZIE:
Q Is that chief's name in the House of Wah Tah Kwets?
A Yes.
Q Who held that name when you were young?
A My aunt.
Q Would that be your mother's brother?
A My mother's sister.
Q Yes, your mother's sister. And what was her name?
A Eva Isadore.
Q So she held her own territory; is that correct?
A I beg your pardon?
Q Who owned the territory? Did Eva Isadore own the

territory?
A Yes.
Q And who used this territory?
A Well, whoever is the relatives.
Q When you say that do you mean only the members of Wah Tah Kwets?
A Yes.
Q And no one else used the territory?
A No.
Q And is that for as long as you can remember?
A Yes.
Q And do you remember being examined on commission on November 23, 1987?

THE COURT: Mr. Grant.

MR. GRANT: Well, my lord, this is where I'm concerned is that my friend is now using commission which is evidence at the trial to re-cross-examine the witness, and I object to that, because I think that that's not a proper -- it's not a discovery transcript or a statement outside of court. It's evidence before the court. There is -- in other words, you have the evidence of what the witness said in November of '87 before you. You also have this evidence. And I submit that just because of that lapse of time it isn't fair, or I shouldn't say it isn't fair, I say it's not proper to put to this witness evidence which this witness has given in this trial, in this case which is trial evidence. My friend can make whatever argument he wants to make with it. It's like him putting to the witness on two days ago, putting the witness yesterday --

THE COURT: I wouldn't think there was anything wrong with it. Yesterday you said this, today you say that. What's wrong with that?

MR. GRANT: Well, I'm anticipating that if my friend is leading on cross-examination then he's doing his cross-examination two times.

THE COURT: Well, it's awkward, and it's novel, but I think it's a matter of first impression, but when we get that sort of situation you fall back on principle, and the principle is that cross-examination unless there is a good reason to the contrary is unlimited. I would not allow Mr. Mackenzie just to re-cross-examine the witness on something that happened before, but we have a situation where the witness has given evidence on commission. She has been cross-examined. Then she is tendered in support of a subsequently sworn affidavit

and is now being cross-examined on that affidavit. It seems to me that what she said before, even though it's evidence in this same case, is no different in principle from a previously sworn statement. And while I have a -- not just a jurisdiction, but a responsibility to ensure that there is not unnecessary duplication, and that we are not just having the same cross-examination again. It seems to me that for the purpose of cross-examining on this affidavit counsel is entitled to challenge what she says on -- in the affidavit by laying a ground work of previously sworn statements. I don't think there's any reason in principle why Mr. Mackenzie should be precluded from using the previously sworn statements as long as it's not mere repetition.

And I think you may proceed, Mr. Mackenzie.

MR. MACKENZIE: Thank you, my lord.

Q You remember being examined in chief by Mr. Grant at -- on your commission evidence -- on your commission on November 23, 1987?

A I ask my interpreter to explain to me.

THE COURT: January 23, '87?

MR. MACKENZIE: And November 23, 1987. Commission went for four -- for four days, and I'm referring now to November 23.

THE COURT: All right. Well, explain to her, Mr. Holland, that Mr. Mackenzie is going to ask her about something she said on her commission when she was examined by Mr. Grant in November 23, 1987, please.

A Yes.

MR. MACKENZIE:

Q This passage appears on page 17 of the commission at line 39, and it goes over to page 18 at line 17, and I'm going to read the questions and answers, Mrs. Basil, and I'd like you to listen to them. Mr. Grant was asking you questions.

"Q Just to be clear that we have all this on the record, my understanding is that when your mother moved back to Moricetown members of the House of Wah Tah Kwets still used the house territories. That's right?

A Yes.

Q And you refer to one of the territories at Macdonald Lake which was used by your Uncle Jack Joseph?

A Yes.
Q Okay. Did Pat Joseph also use that?
A Yes.
Q And that was your other uncle?
A Yes.
MR. MACKENZIE: Excuse me, Mr. Grant, I'm going to have to ask you not to lead on territorial evidence."

And Mr. Grant asked you these questions.

"Q Okay. There was another territory near Houston?
A Yes, right in Houston. That's where the town is right now.
Q Right. And which of your relatives used that territory when your mother moved back to Moricetown?
A Well, I don't think anyone -- anybody did after that.
Q Okay. Before your mom moved back to Moricetown which of your relatives used that territory?
A As far as I remember it there was nobody there. I guess just anybody did."

Were you asked those questions?
A Yes.
Q Did you give those answers?
A Yes.
Q Were your answers true?
A Yes.
THE COURT: When did your mother move back to Moricetown, please?
A After my father died.
THE COURT: And when was that, please?
A Around 1941, I think.
THE COURT: Thank you.
MR. MACKENZIE:
Q Now, I'm going to read from page 34 of the commission, line 40, to page 35, line 16. This is the examination in chief by Mr. Grant.

"Q Now, you've told us earlier that you were born at Houston. When you were small did the Wet'suwet'en live at Houston?

A Yes. Quite a few of them.
Q Do you recall some of the people that lived at Houston, their names?
A Well, there was Jim Holland, Enoch Seymour, Satsan, S-A-T-'-S-A-N. His name was Houston Tommy. Round Lake Tommy. My father, mother.
Q M'hm.
A And there is others. I can't recall the name.
Q Okay. Did Alec Tiljoe live there?
A Yes.
Q Did Alfred Namox live there?
A Yes.
Q Now, did these people live at Houston all year round in the town?
A No. Houston is just like a stopping place for them when they go and are trapping. Some of them had houses there. When they going out trapping they get prepared there to go out trapping, and when they come back from trapping they -- they get their rest there, and it's just like a home to them. Everything was there for them."

Were you asked those questions?
A Yes.
Q Did you give those answers?
A Yes.
Q Were the answers true?
A Yes.
Q And Alfred Namox, for example, was not in the House of Wah Tah Kwets, was he?
A Yes, he is.
Q Yes. Alec Tiljoe also?
A No.
Q And Jim Holland was not in the House of Wah Tah Kwets?
A He is Dawamuxw.
Q And now I'm reading to you from page 95 to 96 of the commission. This is my cross-examination. Page 95, line 47, to page 96, line four. Sorry. My question starts at line 43 page 95.

"Q And when you were living in Smithers your husband owned the home, your home there. Did he get permission from the

chief who owned this territory to live there?

A No. Houston area was -- the territory was belong to my mother's uncle and the Indian people they -- everybody had houses around there. Nobody got permission from anyone. It was just everybody allowed to build houses along there as a stopping place."

Were you asked that question?

A Yes.
Q And did you give that answer?
A Yes.
Q Was the answer true?
A Yes.
Q And you were speaking about Houston?
A Yes.
Q Now, speaking about your early days in Houston, as you've said, your family had a home there, didn't they?
A Yes.
Q And many other Indian people lived there as well, didn't they?
A Yes.
Q And, of course, in those days there were a lot of white people living in Houston, weren't there?
A Yes, as I remember it was.
Q Yes. And the railroad was in Houston at that time?
A Yes.
Q And did your mother have any employment during those years, that you can recall?
A Yes.
Q What was she doing?
A She works with my father. She helps my father when they haul ties and loading ties.
Q Those were ties that were used for the railroad building?
A Yes.
Q Yes. And that was -- there were many people employed in that industry at those years?
A Just a few.
Q Yes. So your mother was assisting in loading the boxcars?
A Yeah. Helping my father.
Q Yes. And did your mother also make different kinds of crafts to sell to people in Houston?

A Yes.
Q And how would -- would she take them around or would they be sold in a store in Houston?
A Stores.
Q Stores, yes. And those early days the Wet'suwet'en people and the white people in Houston got along fairly well?
A Yes.
Q And they worked together in the tie industry, for example?
A Yes.
Q And the Wet'suwet'en people traded berries and other goods to the white people in the Houston area?
A Yes.
Q And are you aware also that some of the Wet'suwet'en people assisted in the hay fields, for example?
A Yes.
Q Yeah. And they also assisted in some guiding. Do you know that?
A Yes.
Q And you knew one of the prominent storekeepers in Houston at that time, Mr. John Gould?
A Yes.
Q And how did you come to know him?
A He was a storekeeper.
Q And what contact did you and your family have with Mr. Gould?
A We go to his store to buy stuff from store.
Q And what else did you do with respect to Mr. Gould?
A Sell furs to him.
Q So he was the fur buyer in Houston at that time?
A Yes.
Q And the Indian people would bring their furs to him for sale?
A Yes.
Q Your mother had several brothers?
A Yes.
Q She had four brothers?
A Five.
Q Five brothers. And one of them was Round Lake Tommy?
A Yes.
Q And he was Wah Tah Kwets?
A Yes.
Q And another was Louis Tommy?
A Yes.
Q And he also had the name Wah Tah Kwets after Round Lake Tommy?

A Yes.
Q And another was Jack Joseph?
A Yes.
Q Those are three of your mother's brothers. Now, they were all in the house of Wah Tah Kwets, weren't they?
A Yes.
Q And your Uncle Jack Joseph had a trapping territory?
A Yes.
Q He had a registered trapline as well?
A Yes.
Q And where was that?
A Macdonald Lake.

THE COURT: Whereabouts?

A Macdonald Lake.

MR. GRANT: This was canvassed, my lord, on commission evidence about the location of his registered trapline.

MR. MACKENZIE: Since that time there has been a very significant change in the claim as to that territory, my lord.

Q So Macdonald Lake or Macdonald was Laksilyu territory?
A Yes.
Q And it was owned by the House of Wah Tah Kwets?
A Yes.
Q Your husband when you married was Frank Basil?
A Yes.
Q He also trapped out there?
A Yes, instead of me. He went for me.
Q Yes. Now, did you know your mother's brothers well? They were alive when you were.
A Yes, I know them all.
Q And you knew that Round Lake Tommy owned land just north of Barrett Lake near Houston?
A Yes.
Q And your Uncle Jack Joseph also owned land in Smithers, didn't he?
A Yes.
Q And they were -- they were not enfranchised, were they?
A No.
Q You and your husband were enfranchised?
A Yes.

MR. GRANT: My lord, my friend may not have got my point, but I say that with respect this question of enfranchisement, the question of ownership of land by these uncles, the question of Jack Joseph's trapline all was canvassed, and the question of Jack Joseph's house, and which house owned Macdonald Lake was all

canvassed with this witness on commission, and there's nothing this witness has said on her affidavit that changes it or even raises any of these topics again. She was examined in direct and on cross on all of those points, my lord.

MR. MACKENZIE: Well, my lord, I'm not going to be referring to matters in the commission again. I thought that I had to refer to these matters briefly because of a significant change in the claims by the plaintiffs since the close of commission.

THE COURT: All right.

MR. MACKENZIE: I say that the situation has changed significantly.

THE COURT: I'm not going to respond to what Mr. Mackenzie has -- Mr. Grant has said, because you tell me you're not going to be examining further on her commission. If you were I would think I might want to hear argument on what Mr. Grant has just said. Now that's not necessary.

MR. MACKENZIE: I just wanted to deal with some other information that came to our attention after the commission.

MR. GRANT: Is this from the interviews?

MR. MACKENZIE: Well, we'll find -- we'll see.

Q Now, in your affidavit at paragraph 9 you speak of the Houston territory, if I may call it that, being described in the feast as being owned by Wah Tah Kwets. Do you recall that's in your affidavit?

A Yes.

Q Yes. And you would attend the Wet'suwet'en feast in Moricetown?

A Quite often, yes.

Q Even after you had gone to Terrace and lived in Terrace you would continue to attend the feasts in Moricetown?

A Yes. Everytime I have a chance I come up.

Q And when would you -- when did you last hear this Houston territory described in the feast?

A Not lately. Long time ago.

Q Can you tell his lordship when that might have been?

A I can't remember. Long way back.

Q Now, it's fair to say that in your view the seating and the practices of the feast have changed significantly since the days when you were a young woman, is that fair to say?

A Yes.

Q The seating arrangements at the Moricetown feast, for

example, have changed?
A Not much.
Q But they have changed, haven't they?
A Little bit, yeah.
Q And that's of concern to you?
A Yes, it is.
Q And other things that have changed is the ways in which they're distributing different types of food?
A Yes.
Q Yes. In fact do you recall Leonard George telling you that the potlatch, the way you're doing it today, is altogether wrong?
A I won't reply that because I -- I won't say it's wrong, but it's different than the old days.
Q Oh, I'm sorry. But you recall Leonard George telling you that the potlatch is wrong?
A No.
Q You don't recall that?
A No.
Q Do you recall Leonard George telling you that it's costing far too much money now?
A It is, yes.
Q And do you recall Leonard George telling you that?
A Yes.
THE COURT: Well, are you telling me that it is costing too much money or you just telling me Leonard George told you it's costing too much money?
A I didn't understand.
MR. GRANT: I think maybe --
A I'll ask my interpreter.
THE COURT: See, Mr. Mackenzie, I don't know on what basis it's admissible that Leonard George is telling her these things. It certainly doesn't prove the truth of it because he said it to her.
MR. MACKENZIE: We don't have an opportunity to examine Leonard George, my lord.
THE COURT: You can call him as a witness if you want.
MR. MACKENZIE: He's a plaintiff. I'm sure your lordship is aware of that.
THE COURT: You can call a plaintiff. Apart from that -- apart from your difficulty with this witness how does it advance the case in any way whatsoever to have her say what Leonard George says that was a fact that was whizzing around out there, or if it's whizzing around at all, or if there is such a fact. It doesn't prove it.
MR. MACKENZIE: This is a conversation that the witness and

Leonard George had.
THE COURT: It's an out of court statement made by someone else. You say it's because -- you're asking -- well, I suppose if he's a party you're saying it's an admission made by a party, are you?
MR. MACKENZIE: That's the type of thing I'm heading toward, my lord. These are in the interviews that are produced to us, and --
MR. GRANT: Of course, Mr. George was the interviewer, and as my friend knows Mr. George was hired at that time to conduct interviews, and he was questioning the witness about certain things. This was --
THE COURT: He was interviewer for?
MR. GRANT: He made many gratuitious comments of his own.
THE COURT: For whom was he interviewing?
MR. GRANT: He was interviewing the witnesses -- the witness as one of the persons employed by the tribal council.
THE COURT: I'm sorry. Employment of who?
MR. GRANT: Of the tribal council.
MR. GRANT: He would be in a similar role as Mr. Joseph was asking the witness questions about things she knew. What he did in the course of these, and what my friend is now getting to, is he made what I would call gratuitous comments of his own. Sometimes they're even referred to as my comment. Now, it's unclear through the interviews whether or not all of these comments are comments which he made to the interviewee, such as Mrs. Basil, or not, but he did his own editing one could say.
THE COURT: Well, I think I've spoken too quickly. I think Mr. Mackenzie is probably right. If Mr. George is a party a witness can be asked about an out of court statement made by a party. Is there any answer to that, Mr. Grant?
MR. GRANT: Well, no. That's -- I agree. I don't disagree with that. All I'm saying -- and yeah -- I'm not going to counter further, because it appears it came out of the interview. I would ask if the question could be translated to the witness. I think it's unclear.
THE COURT: She wasn't having any trouble until I got into it, because I asked for a subtlty that I shouldn't have bothered with, but we have got to start again anyway. Go ahead, Mr. Mackenzie.
MR. MACKENZIE:
Q Mr. -- Mrs. Basil, do you remember we have actually, I think, referred to this. We have referred to this interview already. It's an interview that you had

with Mr. George on February 18, 1982, and I was referring to the transcript on page six. And you recall that Leonard -- I'm going to read it. I'm going to read a question and answer from page five and then get to another passage.

"Leonard George: I was talking to elder the other day and he said that he had seen some changes in the seating arrangements at Moricetown. Have you seen any?

Lucy Basil. Yes, it is changed. It's true."

Now, were you asked that question?

A Well, I'm confused right now. I'll ask my interpreter to explain little more to me.

I didn't remember that far back if we talked about that.

Q Now, I'm just going to read another passage from this. And you then discussed the berries and the problems with the berries and passing out the berries, which you've already mentioned in your evidence.

MR. GRANT: Well, I don't think she mentions problems with them.

MR. MACKENZIE:

Q Well, you said another thing they do wrong is when they're putting up berries. Now then Leonard George says at the end of your discussion;

"Leonard George: What you have just told me is the same is what Mom and Dad used to tell me. The potlatch the way they are doing now is altogether wrong, and it is costing far too much money. It is getting expensive as there is a lot of money involved."

MR. GRANT: That's part of what he says. That's -- I ask you to read more.

MR. MACKENZIE:

Q "I remember a long time ago when someone died one person would get hired, he would make the cotton, he was paid a little money and some material things. They gave each other a lot of material things."

Do you recall Mr. George saying that to you?

A Well, it's too far back. I can't remember it all. But about seating I can't remember saying that, but little bit too much in the feast, that's the part I remember saying.

Q One other matter is, as I understand it, we didn't discuss this on the commission, but was it your mother's mother that came from Ootsa Lake?

A Yes.

Q And your father's mother came originally from Kispiox;

is that correct?
A Yes.
Q And your father's mother moved to Mosquito Flats?
A Somewhere there, yes.
Q And that's Dizkle?
A Yes.
MR. MACKENZIE: Yes. Can we have a spelling for that?
A Dizkle.
MR. MACKENZIE: Yes.
THE TRANSLATOR: D-I-Z-K-L-E.
THE COURT: Is that Mosquito Flats?
A Yes.
MR. MACKENZIE:
Q That's the ancestral home of the Wet'suwet'en people?
A Yes.
Q And your mother's -- your father's mother, your grandmother, met your father's father there?
A Yes.
Q That's where they married?
A I don't know exactly where.
Q And then what happened after that?
A I think they moved to Moricetown after that.
Q Is that when the people of Moricetown founded the village?
A Yes. Described they moved -- they found Moricetown and they moved there because it's easier to fish there.
Q And the other people from Dizkle went where?
A Some move down to where Hagwilget was already there. Some moved there. And some of them, to I understand, moved to Skinner Crossing, or else they get married and they move there.
Q Your grandmother was quite elderly when she died, about 90 years old?
A Yes.
Q When was that, about 1939?
A Something like that, yes.
Q So this move from Dizkle to Moricetown, would that be sometime late eighteen hundreds?
A Quite awhile back. I can't remember.
Q Your understanding is your grandmother told you all the people came to Moricetown then?
A Yes.
Q One of your grandmothers also used to walk to Vanderhoof; is that correct?
A Well, some of them did.
Q Was that your mother's mother or your father's mother?

A My father's mother.
Q Could you tell his lordship exactly why they would be doing that?
A Whatever they fish there, or whatever -- wherever the food is easy to get.
Q Would they go further afield than that?
A Yeah, different areas.
Q Where are some of the other areas they would go to fish?
A Well, lakes. Wherever there's big lakes.
Q Would they go as far as Fort St. James?
A Some people go as far as Fort St. James.
Q And they would stay in those -- at those lakes and fish?
A Yes.
Q And they would put up fish there?
A Yes.
Q And did your grandmother tell you they did that every year?
A Whoever been able to go will go. Every year somebody go.

THE COURT: Where is Dizkle?
A Dizkle?
THE COURT: Yes.
A Mosquito Flat.
THE COURT: Where is that, please?
A Beside Hazelton.
MR. GRANT: It's in the area, my lord. If you're going to from here to Hazelton there is on the highway -- on the highway there is a place called Rainbow Ranch. Just to your right it's in that area.
THE COURT: All right. Thank you.
MR. MACKENZIE: You had a discussion about Mosquito Flats when Steve Robinson was here, the question of whether Oket (phonetic) owned land there as well.
THE COURT: Yes.
MR. MACKENZIE:

Q Now, just speaking about the territory at Houston, did your mother trap in that territory?
A Yes.
Q Yeah. And where would they have trapped?
A Right around the area where the town is now.
Q Yeah. And other Indian people living in Houston would trap there as well?
A Not everybody. Just -- just the tribes.
Q The different tribes?
A Not the other tribes, just my mother's tribe.

Q And which tribe was that?
A That's Wah Tah Kwets' house.
Q And are you aware now that there's a registered trapline in that area?
A I don't -- I don't follow registration. Registry just boundaries like the territories where the Indian people used to go.
Q And you say your mother moved back to Moricetown after your father passed away?
A Yes.
Q And no one used the territory up to that time?
A I don't remember. I don't think so.
Q I'm instructed Mr. Baggerman, B-A-G-G-E-R-M-A-N, who is the gentleman who owns the registered trapline in the area you're describing in your affidavit -- have you ever heard of him?
A I know him, and I heard about that, but I didn't know it was in Houston territory. I knew he was up in the other territories.
Q And how did you come to know that?
A I was told that.
Q And --
A And I heard Mr. Baggerman himself in the court.
Q Yes. And what was that related to?
A Well, it was about that trapline he bought, but I didn't know it was on -- in Houston territory.
Q And how did you come to be involved in that discussion?
A Well, Baggerman went to court with Johnny David and I came up to interpret for Johnny David just one time, and that's when I discovered that, but I never heard any more after that.
Q Now, have you seen a map of the territory that you're describing in your affidavit today?
A No.
Q Have you ever looked at a map, a government map with this territory on it?
A Yes. I don't know how to read maps, just glance at it.
Q When did you look at the map?
A I'll ask my interpreter who will -- who will ask that question again.
Q When did you look at the map?
MR. HOLLAND: Which map?
MR. MACKENZIE:
Q The map of the territory you're describing in your affidavit.

A I seen it previously at the prep.
Q I'm sorry. At which?
A I've seen it previously at a prep -- prep meeting.
Q Oh, at a preparatory meeting. Which meeting would that be?
A Before we come to court.
Q And when was the meeting?
A An hour ago. Two hours ago.
Q Is that the first time you saw it?
A Yes.
Q Had you never seen a map of the territory before that time?
A No.
Q No. Had you ever seen a map of your father's territory at Buck Creek before that time?
A I seen it the time I went to last year after when I moved to --
Q After the commission?
A Yes.
Q Is that the only time you saw a map of that territory?
A Yes.
Q Okay. We referred to the -- to the interview that you had with Leonard George on February 18, and I'm going to refer to your commission evidence as well. And these are questions and answers that I asked you about this subject on page 143 at line 45.

"Q Yes, Mrs. Basil, we were talking about the Buck Flats area. And have you ever seen a map of your father's territory,
A No, I haven't.
Q No. Have you ever looked at a government map with Buck Creek on it?
A No.
Q Do you have any government -- have you ever had a government map, purchased one?
A No.
Q No. Have you ever read a government map?
A No, I never."

Were you asked those questions?
A Yes.
Q Did you give those answers?
A Yes.
Q Were the answers true?

A Yes.
MR. GRANT: Well, I just wonder -- I'm just wondering what -- there's nothing contradictory here. Why is it being read again to this witness? It's exactly what she said today.
THE COURT: I have to assume it's foundation for the next series of questions.
MR. GRANT: Next series of questions.
THE COURT: I have to assume that.
MR. MACKENZIE:
Q I'm going to read a passage of your interview with Mr. George on page one, Leonard George checking the boundaries on her dad's trapline at Buck Flat where she was raised.
"Leonard George: How far from the turn off is the line, the Trout Lake turn off?
Lucy Basil: My dad said that was where the line was about two miles above the Trout Lake turn off.
Leonard George: There is a waterfall on the river. She was showing the spot approximately where it was on the map."
Now, did Leonard George ask you those questions?
A Yes.
Q And did you give those answers?
A Yes.
Q And were the answers true?
A Looks to me there's two different areas he's asking there. That turn off to Trout Lake is the reserve boundary and then the territory boundary is the falls.
Q Yes. But he says that you pointed it out on a map. Is that true?
A No.
Q You didn't have a map there at the interview?
A No. I don't think I see a map.
Q Okay.
THE COURT: Are you going to be awhile, Mr. Mackenzie?
MR. MACKENZIE: Not too much longer. Did your lordship want to have a break?
THE COURT: Sometime. If you're going to finish shortly we should stay and finish.
MR. MACKENZIE: My lord, I think we'll be 20 minutes.
THE COURT: I think we'll take the adjournment now then.
MR. MACKENZIE: Take a short break.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING SHORT RECESS)

THE COURT: Mr. Mackenzie.
MR. MACKENZIE:
Q Mrs. Basil, you said that your mother's sister had the name Wah Tah Kwets?
A Yes.
Q And who has that name today?
A One of Sarah Tait's granddaughter. I think her name is Darlene Vantunum (phonetic).
Q And is there some concern about her having that name?
A Yes.
Q What is that?
A 'Cause she doesn't live in the village. She is in Prince George all the time. She never sit in the feast house.
Q And what is being planned in response to that situation?
A I don't think anybody's got any plan for it.
Q Well, what have you heard has been planned?
MR. GRANT: Well, I object. This is hypothetical speculative evidence in the future, and it's hearsay.
THE COURT: It sounds very hearsayish. What are people saying.
MR. GRANT: They're plaintiff's comments again, my lord.
MR. MACKENZIE: Let me put the question directly then, my lord, and see what my friend has to say about that.
THE COURT: I remember hearing a question of what rumors have you been told are circulating in the --
MR. MACKENZIE: Okay. Let me just ask you directly here.
Q Do you recall a meeting to discuss the territory we are talking about today on Thursday, May 5th, I think it must be this year, 1988 --
A Yes.
Q -- In Terrace?
A Yes.
Q Who did you meet with?
A Marvin George.
Q Yes. And you recall telling Marvin that it was your mother's uncle who had the name Ah K'ot?
A Yes.
Q Is that -- how do you -- let me see if I can put this -- reconcile that with your evidence that it was your mother's sister.
A After him.
Q After him.
MR. GRANT: The statement also incorporates that, my lord. My friend stopped it part way through it. Then after he died.
MR. MACKENZIE:

Q Then after he died Eva Isadore took it, had the name next. Now, Sarah Tait's granddaughter has the name. She is not using the name, and there's talk that the name will be taken away. Did you say that?
A I say that, yes.
Q Now, who did you hear that talk from?
A This is my concern.
Q Yes. Without giving a name can you say?
THE COURT: Any point in pursuing this?
MR. MACKENZIE: Fine, my lord, I won't press it.
THE COURT: No evidentiary value at all.
MR. GRANT: Well, if it's plaintiffs saying that. Fine, my lord. I won't press it, my lord. That's the interview there.
Q When did you first see this affidavit that you were talking about today, Exhibit 662?
A Just today.
Q When did you -- and when did you see it before you signed it?
A Oh, they brought it back to Terrace.
Q It was brought to you in Terrace?
A Yes.
Q That was in June 1988?
A Yes.
Q Was that the first time you saw it?
A Yes.
Q Did you see any drafts of the affidavit?
A I ask my interpreter.
I read it. I read it myself.
Q Yes, but you read it the day that you signed it; correct?
A Yes.
Q And you read it before you signed it, of course?
A Yes.
Q But had you seen a draft or another affidavit like this before that day?
A No.
Q No. And who brought it to you?
A It was -- I think it was Marvin and was another girl. I can't remember her name.
Q Was it a lawyer?
A Yes.
THE COURT: Do you live in Terrace?
A Yes.
MR. MACKENZIE:
Q And is it fair to say that you didn't -- that you didn't have a chance to read in detail the boundary

description of the territory?
MR. GRANT: When, my lord?
MR. MACKENZIE:
Q On that day that you signed the affidavit?
A Well, I went over it pretty fast, and I -- and I look at it. I think it was right.
Q Because they told you that this was the Houston territory; correct?
A Well, we talked about it before that.
Q Yeah. And they told you that this affidavit related to the territory around Houston?
A Yes.
Q Yeah. And the affidavit was not translated to you?
A No.
Q One other question. You referred in the affidavit, as you said, to the feast. Did you receive your name, chief's name at a feast?
A Yes.
Q When was that?
A I was very young, about 14 years old.
Q Yes. That was still on commission.
How much, if anything, did you pay for your name at that time?
A I couldn't remember. My mother was doing all that.
MR. MACKENZIE: Okay. No further questions, my lord.
MS. RUSSELL: I have no questions, my lord.
THE COURT: All right. Thank you. Mr. Grant.

RE-EXAMINATION BY MR. GRANT:
Q What house do you belong to, Ms. Basil?
A Kwen beegh Yex.
Q Mr. Mackenzie read an interview, an excerpt from an interview with you of January 28, '83, and he read a series of questions here from Leonard George, but the one -- and it started about being in the frog tribe, in Laksilyu, and your name and your birthdate and your age, but there was one question in the middle of that and that said the house you belong to is the question and then the answer, the note says, G'en egh la yex.
A At the time I guess I was mixed up and I mentioned wrong name.
Q Did you ever read over this interview with Mr. George since the time of the interview?
A Yes -- no.
Q You never verified how accurate all of his notes were?
A No.
Q You were asked by Mr. Mackenzie who used the

territory, and then you said your relatives used the territory. I'm talking about the Houston territory.
A Yes.
Q And then he referred you to evidence where other people like Jim Holland and different other chiefs lived in Houston. You remember that?
A Yes.
Q Just this afternoon. Was Wah Tah Kwets -- did those people outside of Wah Tah Kwets' house, those Wet'suwet'en people outside of Wah Tah Kwets' house who lived in Houston, did they have the consent of Wah Tah Kwets to be there, or was it understood that other -- that this was a community of Wet'suwet'en that different houses would live in?
A They all agree -- they all agree with each others that they going to build houses there, and that's their stopping place on the way to trapping grounds on the way out of and coming back in.
Q And they went to different territories?
A Yes.
Q Thank you. You were asked if Eva Isadore owned the territory, the Houston territory. Did she own it alone or did she -- or did other house members have any say in it?
A Well, every house members uses it.
Q You were talking -- asked about Dizkle and your grandmother. Did people live at Dizkle before your grandmother's time?
A I guess she was pretty young at that time.
Q Before what she told you did people live there before her time?
A I think so, yes. They go there to get fish. This is where she meet my grandfather.
Q Had people lived at Hagwilget before your mother's time?
A Yes.
Q Your grandmother's time?
A Yes.
Q And did people live in Moricetown before your grandmother's time?
A Yes.
Q You were asked about when the woman and Mr. George came to you about your affidavit in Terrace. Do you read -- can you read English?
A She -- the lawyer, she questioned me on it.
Q Okay. And did she read the affidavit to you?
A Yes.

MR. GRANT: Those are all my questions on re-direct, my lord.
THE COURT: All right. Thank you, Mrs. Basil. You're excused. I'm sorry. I was going to ask you how long have you lived in Terrace?
A 21 years.
THE COURT: All right. Thank you.

(WITNESS ASIDE)

MR. GRANT: My lord, with respect to tomorrow there is one witness scheduled for in court tomorrow morning.
THE COURT: Yes.
MR. GRANT: I would just ask given my own schedule if we could start at 10:30, and I don't mind making that over a shortened lunch hour, like one hour lunch hour, like one and a half --
THE COURT: Can we finish conveniently tomorrow?
MR. GRANT: This witness was estimated for one day. I don't mind making up the extra time. I believe it's Abel Brown in court.
MR. MACKENZIE: Our estimate is half a day.
THE COURT: All right. 10:30 then. No objection I take it?
MS. RUSSELL: Oh, sorry. No, my lord.
THE COURT: All right. 10:30 tomorrow morning. Thank you.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED TO DECEMBER 9, 1988 AT 10:30 a.m.)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings herein to the best of my skill and ability.

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Peri McHale, Official Reporter
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