Vancouver, B. C.
February 8, 1989.

(PROCEEDINGS RESUMED AT 10:30 A. M.)

J. KARI, Resumed:

CROSS-EXAMINATION BY MR. WILLMS: (Continued)

THE REGISTRAR: In the Supreme Court of British Columbia, Vancouver, Wednesday, February 8th, 1989. Delgamuukw versus Her Majesty the Queen, at bar.

THE COURT: I have looked overnight at the memorandum sent by Mr. Overstall to a number of persons dated December 8, 1986 as requested by counsel and while it comes close to the line, it's my view that it falls decidedly on the side of the line which preserves the privilege. It is a matter that relates to the organization of the case for trial and, in my view, in no way assists the case for the defendants and for that reason I would order that it -- that the claim for privilege which has been made for this document be upheld.

Return it to Ms. Mandell, please.

MR. WILLMS: My lord,

Q If the witness could have his report, Exhibit 877 at page 50, and at the same time the exhibit that we were dealing with yesterday, Exhibit 881-12. Your report is at tab 2 of the book?

A Hm-hmm.

Q And 881-12 is the article The Tsimshianization of the Carrier Indians.

A I have my copy.

Q You have got Ms. Mandel's copy?

A Yes.

Q On page 50 and over to page 51, you have a quote from Morice and that's identified at the bottom of page 51?

A Yes.

Q And I am -- I have got the page that you're quoting from, and so if you can turn back to page 51, what I have given you is the page 27, 26 and 27 from Morice. If you go back to page 50 of your report, you will see that your citation starts or your quotes start on page 27 of the extract from Morice, with the following subdivisions and then you have omitted the number 8 which is in Morice, correct?

A Yes.

Q And then under 9, which is at the bottom of your page 50, you have quoted from Morice, leaving out a couple of words and then you have left out the star at the end of the word Hwotsutsan, H-W-O-T-S-U-T-S-A-N, can

you see at the bottom of the page the star in Morice?
A Yes, almost equivalent to spider.
Q And you recall yesterday I asked you in Kobrinsky at page 202 about Spider River?
A Yes.
Q And I asked you what the Wet'suwet'en name for spider was and I don't think you said, is that the Wet'suwet'en name for spider?
A No, I said a word that is actually a word for caterpillar but I have looked it up since yesterday.
Q What is the word for spider?
A Nekeldluh but spider has a nickname, which is Wetso', and I can spell these. It's real interesting.
Q Let's just -- if you can spell the word that you used beginning with an N.
A The most common Babine-Wet'suwet'en word for spider is Nek'eldluh NEK' accented E underlined L, sir, then D-L-U-H. That's the most common Wet'suwet'en word for spider and it means -- it's related to pulling a line or a rope, in other words, the one that makes webs or dangles or weaves webs, and I just found out last evening that there is a word for spider, Wetso', which is W-E-T-S-O-'. The apostrophe is significant at the end of this word because it proves that Wetso', that nickname for spider is etymologizeable to grandmother, the word grandmother, which is Tso', in Babine-Wet'suwet'en, and in Protoathabaskan. So this is quite interesting, spider has two names, it has its proper name and its nickname, which Wetso' could more literally mean, with "Wah" prefix translated could be regional grandmother. I could point out in Alaska there are languages with dual names for spider, and in Ahtna in Alaska, up here, the main word for spider is -- we will say it's different, but the nickname for spider is "my grandmother". So this is quite striking but I wouldn't etymologize Wet'suwet'en as the word for spider, it is the riverine generic, which means toward the river, because there is no glottal stop after -- it's not Wet'suwet'en, then it would be spider. So Morice didn't commit himself to saying that it meant spider, he said almost equivalent to spider, which is the sophisticated, cautious position for Morice, especially way back in 1892, working on his own with no colleagues and so, yes, my etymology of Wet'suwet'en is precise and it's not related to the Babine-Wet'suwet'en word for spider, but you can prove that by the absence of the glottal stop in the name

Wet'suwet'en, you see. If you said Wet'suwet'en, then you would say "the spider people".

Q The only point I am trying to get at is I thought yesterday this is one of the points where you said that Dr. Kobrinsky was out in left field or --

A I don't mean to be flippant in any way about what Kobrinsky presented in his paper. It's a folk etymology that was presented probably by one of the speakers he worked with. Now, I could also point out that words for grandmother and spider are also used in Central Carrier and Sekani, and we went over that last night with my colleague Dr. Hodges.

MR. WILLMS: My lord, might the extract from Morice be 881-14?

THE COURT: Yes. 881-14.

(EXHIBIT 881-14: EXTRACT FROM MORICE, PAGES 26 AND 27)

THE COURT: I am sure some day I may want to know the answer to this and perhaps you can tell me, Morice said they inhabited two villages, I can't figure out what he is saying those two villages were?

A Tse-tcah and Qayex Weget are the names for -- those are the Athabaskan origin names for Hagwilget and Moricetown, which I am sure you had throughout the court. Those are his spellings of say Tse-tcah and Qayex Weget on that page.

THE COURT: And two smaller places now organizing, what is that next word?

A That's Tsel Q'az Qwah, yes.

THE COURT: And that would be what?

A It sounds like a word for sharpening stone or wet stone, Tsel is axe and Q'az is an old word for wet stone or an edged tool used for grinding and then Qwah is river.

THE COURT: Then he says "and Moricetown", so is he repeating himself there? Sounds like Moricetown is one of the two smaller places and the other two villages are something different, one of which I suppose could be Hagwilget?

A Qayex Weget is the traditional name for a village in the Moricetown area, the old site, that means ancient village. I could spell that. Would you like me to spell Qayex Weget in the current --

THE COURT: Yes, you better.

A I am readinging Morice's writing on this and I would transform this into the 1988 spelling of Babine Wet'suwet'en, which we are using which would be

Q-A-Y-E-X, Qawex, which is the old Athabaskan word for village or settlement, and then Weget is W-E-G-E-T, and that's an old Athabaskan word that means either ancient or great. So usually people in, who are Babine-Wet'suwet'en speakers, think of it as ancient village but if a Koyukon speaker up in Alaska, that's this language up here, if they said the name it would mean great village or famous village. Something like that.

THE COURT: I am not sure what he means then, because --

A I think Tsel Q'az Qwah, there is probably some sites, I know Tsel Q'az Qwah is in the corpus of place names and perhaps there was a village there when Morice was writing. I forget the English name for that. It's on your -- certainly in -- I don't know the country word, I know say Tsel Q'az Qwah is right around Moricetown. It's one of the streams around there. Would you like me to spell Tsel Q'az Qwah in 1989, the current Lithography?.

THE COURT: I guess you might as well.

A That would be T-S accented E underlined L Q apostrophe A-Z and Q-W, and Hargus I fight about this one, Q-W and I like an E, she likes an A so we will say A-H.

THE COURT: Then in the last sentence he says "several members of that sept, S-E-P-T, are allied by blood with their alien neighbours the..." and then it looks like K-I-T-I-K-S-O-N-S?

A By the Gitksan, you see.

THE COURT: You they that's Gitksan?

A Yes. I think --

THE COURT: I have a bad photocopy.

A Are you on number 9?

THE COURT: Yes, the last line in paragraph 9.

A Yes, that's I think how he was spelling Gitksan in those days in this article.

THE COURT: Is that K-I-T-I-K-S-O-N?

A It looks like it. That doesn't seem to be an Athabaskan word. And also he does mention the traditional name of the Bulkley River up there too. But --

THE COURT: What's Hwotsutson, H-W-O-T-S-U-T-S-O-N?

A Gee, this is an interesting word. This isn't the usual name for Tsel Q'az Qwah because there is another syllable there so this looks like Wet'suwet'en Qwah. I am not sure. That's an interesting problem in the place names detail. But reading from Morice, and I am -- I made extensive use of Morice's materials,

although they are predominantly central Carrier interior Sekani, he is a really good phonetician, very good phonetician, he was a very outstanding phonetician, so I would read that as quit -- T-S for him would be -- I would read that as Wet'suwet'en Qwah, and -- but in any case, that's not real -- it doesn't ring a bell with me.

THE COURT: Sorry, Mr. Willms, I interrupted you.

MR. WILLMS:

Q Now, if you can turn back, turn ahead to page 206 of Exhibit 881-12, which is the Kobrinsky article.

THE COURT: Page 206?

MR. WILLMS: Page 206. It's at tab 12, my lord.

Q And the point yesterday where I left off. This was the -- I read the first sentence from the penultimate paragraph, "there is a hint of recency" and then the cite of Jenness and then we searched for Jenness in the exhibits and it wasn't there.

I am showing you now the page from Jenness that is referred to by Kobrinsky, and this is Jenness, 1943, page 494 on the left hand side and 495 on the right-hand side, and one of the questions was were those Jenness's words, origin of real significance, and if you look on page 495 you will see in that full paragraph, Jenness says this: "A cursory perusal of these peerage tables wil indicate many of the titles are in the Tsimshian tongue in some, perhaps most cases, these coincide with titles actually in use among the Tsimshian. Yet only about a third of the Bulkley Carrier seem to have understood and spoke the Tsimshian language so that the bearer of a title often knew little or nothing about its origin and real significance." Now, just carrying on, "This does not mean, however, that the Bulkley natives slavishly copied and borrowed from their Tsimshian neighbours. Their own system, though extremely fluid, was so full of vitality and life that it was capable of absorbing numerous elements from another tribe without impairing its essential vigour. A more detailed examination of its structure will substantiate this point, which is deserving of some attention because it indicates that the system far from being a recent growth among the Bulkley Indians has a history extending back over several generations."

Now, that's Jenness.

A Yes.

Q And my first question yesterday, which is where we got

hung up, was do you accept that that was Jenness's view that Kobrinsky has accurately stated Jenness? And I am take it that you will accept that he was accurately stating Jenness? The second part of that question --

MS. MANDELL: I think he should answer that question.

A I think that's accurate, yes.

MR. WILLMS:

Q Now the second question is: In your linguistic investigations with the people that you worked with in Morricetown, Hagwilget and the third was Hazelton?

A Well, I haven't worked with the Hazelton language but Rigsby has.

Q But in your working with the Wet'suwet'en speakers, do you agree with that comment, do you accept that comment as accurate today?

A No.

Q And why do you say that?

A Well, I do find --

THE COURT: I have lost you. I thought he said he did agree with that first sentence?

A I agree that Kobrinsky quoted Jenness correctly.

THE COURT: I see.

MR. WILLMS: We had that hangup yesterday, my lord, with a couple of quotes that I thought the witness suggested Kobrinsky was not being entirely accurate.

A No, I --

MR. WILLMS: So now I am exploring whether the witness adopts that and, if not, why not?

THE COURT: All right.

A Well, I think it's -- Jenness is making some very good points here that the Bulkley River Carrier, as he refers to it, or as I am referring to as the Babine-Wet'suwet'en, have a system full of vigour, but notice he says "was full of vigour" and it's this ethnographic past mode that Jenness says and he does outline an outstanding research topic, a great dissertation or book topic that somebody should study closely the vigour and the vocabulary and the lexical implications of the Babine-Wet'suwet'en social organizations terminology and no, that hasn't been done in any detail and it is full of vigour today in 1988 and '89 and his statement that one-third of the people are bilingual doesn't mean that the other two-thirds don't know any Gitksan either. So, I do feel that Jenness probably over-emphasizes Tsimshian isolation and Jenness was not a linguist and I can

point out certain phonetic errors in his transcription, but he certainly is recording words and making a good stab at recording the language, but it's not like Morice, he is not in Morice's caliber as a phonetician. So I don't agree with Jenness's use of the word was in that paragraph, he says it was a system that was full of vigour. It is a system that is full of vigour in 1922 and it is full of vigour in 1988, 1989. And there is sophisticated knowledge of Gitksan by quite a few speakers in Babine Lake as well as Moricetown. There are Gitksan people and speakers living there too. There is -- so, it's complex and we don't -- there are the larger regional social interactions that Jenness was unaware of and please keep in mind that Jenness thought Carrier was a single language. Jenness believed that.

Q Do you know of any anthropologists of that period, of Jenness's period, who came to different conclusions than Jenness?

A I don't know exactly all of Barbeau's material but I think Barbeau probably looked at it the way Jenness did. Are there -- I mean, I could comment on Goldman and Stewart and some of that too if you -- I am not sure where you want to -- how you want to --

Q Maybe the way that we can deal with that is finish with Kobrinsky and -- I would like to mark it 881-15, my lord.

(EXHIBIT 881-15: THE TSIMSHIANIZATION OF THE CARRIER INDIANS - VERNON H. KOBRINSKY)

Q Now, Kobrinsky carries on at page 206 and says this: "Similarly, there are no traditions giving accounts of the origin of the Carrier clans such as those which describe the wanderings, adventures and eventual settling of the ancestors of Coast Tsimshian and Gitksan counterparts." There he cites Boas, Barbeau and Adams.

A I am sorry?

Q I was on page 206 and I was reading the next sentence down starting with "similarly". From your linguistic investigation, is that statement true today?

A I haven't worked on that, that kind of folkloristic material to say one way or other. It seems a very strong statement for a young person like Kabrinsky to make, it's essentially a student paper, you realize, it was -- and, by the way, this is an UBC graduate,

not Calgary. Yesterday I said that Kabrinsky did his dissertation in Calgary. I think he is on the faculty of the University of Calgary, I believe, but this is a UBC dissertation that this paper is from in that 1966 conference, I was there at that conference.

Q Are you aware of the oral history related to Dizdlegh?

A Dizdlegh, yes, I am aware of that story, yes. And the squirrel crossing the bridge or the trail or the road, yes.

Q And are you aware of any other, through your linguistic evidence, any other oral traditions dealing with settling of the ancestors of the Wet'suwet'en?

A Well, I don't know their folklore too much, but I have heard stories that have a certain ring of deep antiquity to them, about frogs turning to rocks at certain places and things like this, which certainly do indicate that they have been in the area, you know, for many millennia. I mean, yes, and the Dizdlegh story is significant. It could be looked at as an origin of the dispersal of British Columbia Athabaskans from the Bulkley River, the Dizdlegh story is very -- let me spell Dizdlegh in 1989, 1988-'89 spelling, and that would be D-I-Z-D-L-E-, accented E, G-H, so that site and that story is very important because it does quite explicitly indicate a dispersal of other Athabaskans from the Bulkley River. I would take that as indicating something about the earliest settlement date in the Moricetown area for the Babine-Wet'suwet'en speakers. And the Qayex Weget name and the meaning of that name certainly would support that.

Q Are you aware that there has been no archeological evidence found for Dizdlegh?

A Yes, I saw that in Albright's report but then they said there was a gravel pit in the area and things like that.

Q Would that fact affect your views, linguistically, in terms of time depth if there was either archeological evidence supporting that time depth or refuting it?

A Well, I mean, that wasn't the only old -- I mean, if you are getting five and 6000 year dates at several places, the absence of one site in one particular location doesn't disturb me. You know, there are various problems in identifying Athabaskan sites versus -- by the way, when Athabaskan villages in Alaska, they might shift on the other side of the river, maybe due to -- for firewood harvest reasons or something like that, or possibly it -- they keep the

same name and the village could be in a, you know, could be moving a quarter mile, mile and a half. The geography that usually the place names are co-terminus with geographical names so somehow they have a zone themselves, you see. And I also found that when -- you have minor relocations of a village in a region, the name is the same.

Q Are you -- is archeology, the relationship between archeology and linguistics, something that's part of your area of study or is that separate?

A I have read some books on the subject. I am not an archeologist and I have colleagues who are and we discuss these things in different ways. In the -- well, Frederika DeLaguna, certainly needs no introduction, I am one of her reviewers on the etnography, and DeLaguna and Crowe forthcoming, I am proofreading the vocabulary, and she has obviously done archeological work. I think she is Boas's last living students, isn't she? She is or one of the students that's still alive. Yes, I am in touch with archeologists and anthropologists.

Q You would accept that linguistic differentiations are archeolgically invisible?

A No, no. Have you -- just -- I just read, the most recent book I have read is called Archeology and Language by Renfrew, by Indo-European Origins. Excellent book. Cambridge, 1987. And there is -- and -- in the north, there are -- in Alaska there are all kinds of questions about Eskimo affiliation with Eskimo language and archeology problems, Athabaskan language and archeology problems. I can't really claim to be an authority on the archeological traits of the northwest coast, or northwest North America microblades, traditions, these kind of things are being associated with Athabaskans. I do know something about some of the skeletal and physical anthropology on the Na-Dene that's been coming out too. That is relevant too when you want to talk about those deeper time depths. For example, on Kodiak Island right here they have Athabaskan skeletal remains in an Eskimo area. This is quite exciting because Kodiak Island had the highest aboriginal population in Alaska. So Athabaskan skeletal remains here, and they can tell this from the teeth and so forth, are really interesting and significant. So --

Q If I just might have a moment, my lord.
Do we have Exhibit 849?

THE REGISTRAR: Yes.
MR. WILLMS: Can Exhibit 849, tab 8 be put before the witness, please?
THE COURT: What's that number.
MR. WILLMS: 849-8, my lord. It's a paleoecological model of the northwest coast prehistory by Dr. Fladmark.

Q Are you aware of Dr. Fladmark?
A I know who he is. I don't think I have read this particular article but is this some -- well, I am not sure which --
Q This is --
A What year? 1975?
Q 1975. If you turn to page four, which is the third page in here, you will see -- you're aware that Dr. Fladmark is an archeologist or are you aware of him at all?
A I am aware of Fladmark and I have read that popular book he has done on British Columbia prehistory, the --
Q He says, in the last line of that first paragraph: "Further subdivisions such as the tribal groupings of the historical period are based primarily on linguistic data and are invisible archeologically." Now from the linguistic side, would you accept that statement?

MS. MANDELL: Excuse me, my lord. I have never seen this before and I don't -- I mean, you have obviously read the article or the paragraph before. I don't know what he is talking about. I don't know if the witness does or --

A I don't know whether Fladmark would agree with that either now. I think this is when he -- I think this is about the time he was a student.

MS. MANDELL: Perhaps the --

A This is that big one, Mercury series thing. I just borrowed this from a colleague, it's quite striking, I just borrowed this from a colleague up in Fairbanks and I haven't read it yet. I have it at home on my couch. I was just going to read this. But I hadn't read it yet.

MR. WILLMS:

Q Just take a moment and read -- it's a short piece leading up to that statement, can you read the page before and up to that statement and then let me know when you have done that and I will ask you the question again. Now, my question was: Do you accept that

"subdivisions, such as tribal groupings of historical period are based primarily on linguistic data and are invisible archeologically"?

A That's a very strong statement. There is cases when linguistic and archeological data are mutually compatible in different areas of North America. But it is a problem, I mean nobody is going to deny that a site on the Copper River that has 800 A. D. artifacts at the junction of the Copper and Gulkna River, nobody, DeLaguna or Fladmark or anybody wouldn't say the Ahtna weren't there in 800 A. D., and that's as old as that site happened to have been dug.

Q Now, I am just not clear, were you agreeing with Dr. Fladmark or saying that that's a real problem or were you disagreeing with him?

A It's a significant problem to establish ethnicity, especially at deeper time depths but these folks work on these problems, these archeologists. I mean I can't keep up with the field. I mean there is archeological evidence about Athabaskans, I mean Wyoming, and, you know, these ar all at shallower time depths. You know, there are -- somebody told me the other day there is a swirl of microblades going around like this. I haven't seen these articles that indicate Athabaskans way out in the middle America area.

Q Is it something that -- is ethnicity something that you primarily take from the archeologists, in other words --

A No, I work the other way around.

Q For deep time depths?

A No, I work back in time and like I have colleagues in Fairbanks that think just because it's older it's more important. And we have, sometimes, less than felicitious relationships because of that, you know. But I do work back in time and, you know, I have worked from the present back and quite often archeologists think things through the other way but there are various sub-fields in archeology. So, I am certainly not a specialist in archeology, but say for example, Frederika DeLaguna is a close colleague of mine and we talk about these things all the time, and nobody is going to commit themselves to say that the 6000 year old sites up here in the upland area of the Ahtna country, I mean it's really got to be Athabaskan Proto Ahtna and pre-Ahtna. That certainly wouldn't be a radical assumption to make in that area and I don't

know the archeological material from British Columbia so I really -- I am just talking more generally.

Q Well, let's move back into the more recent past, and if you could turn to page 207 of Kobrinsky. This is in the second full paragraph of Dr. Kobrinsky, the very first line, Dr. Kobrinsky, he refers to Goldman up above, which I believe is a reference to your paper, and then it says this: "I am convinced by further evidence that these, a complex of territory owning matrilineal crest divisions, led by a class of potlatching divisional chiefs are manifestations of the fur trade period." Now, do you accept that?

A No.

Q And he carries on, and he discusses the crests in the paragraph and I won't go through that, but that paragraph, right at the middle of the page he says this: "The system of Phratry territories is essentially a system of fur trapping areas adopted to regulate access to fur resources probably with a view to checking hostility in the heat of the competition for claims and possibly too with a view to administering problems of conservation. This is reminicent of Helms and Leacock's conclusion about the primarily Algonguin hunting territories that in fact the territories are properly speaking not hunting grounds but areas surrounding traplines."

Do you accept that statement by Dr. Kobrinsky, that paragraph?

A No, I don't agree with this at all.

Q Now, in respect of those two statements, the ones that I just read to you, what was the linguistic evidence that leads you to say that you don't agree?

A Well, you know, you know, he thinks matrilineality is recent, he thinks there are concepts of territoriality are recent adjustments, and so, I mean, he doesn't cite all the literature he should cite, even at the time this paper was written by DeLaguna in 1975. Are you familiar with DeLaguna in 1975?

Q She did work on the Tlingit?

A No, it's in that Mercury series, 1975, it's not cited in our paper right now. Probably should be. But she felt that the -- the matrilineal clans in the Northern Carrier, Babine-Wet'suwet'en area, are anciently similar to those like those in Alaska that she studied. And a name like Tsi Yu, for example, she cites that as being a very ancient Athabaskan matrilineal clan, the Beaver Clan. We went through my

etyomologies of the clan names yesterday and certainly no one can say they just sort of borrowed them all from their neighbours. So DeLaguna and Aberle, which Kobrinsky cites, which to me is rather humourous since he is a UBC student, and Aberle had not retired yet, but, I mean, do you think he shoots down Diane and Aberle and DeLaguna in 1975, Kobrinsky?

Q Let's just finish with Dr. Kobrinsky and then move on. At the page 209, at the conclusion --

THE COURT: 209?

MR. WILLMS: Page 209 of 881-12, my lord, Dr. Kobrinsky concludes at the bottom paragraph: "I will be pleased if I have convinced a few readers that the Tsimshianization of Carrier society emerged as a practical response to problems arising with the burgeoning white-oriented fur trade."

I take it from your comments so far that you weren't convinced when you read this paper?

A No. Are you familiar with some of the recent papers such as Rubel and Rosman, 1983 and Ives, 1987?

Q Well --

A It is relevant to our discussion and I have them right here with me. Are you familiar with those two sources? Especially Ives, 1987.

Q The Carrier -- the Tsimshian are Carrier, is that the one you are referring to?

A Yes.

Q We will get to that.

THE COURT: If this is a convenient time?

MR. WILLMS: I am going to refer on to some of the other references in the report.

(PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING RECESS)

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

Wilf Roy
Official Reporter

(PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
THE REGISTRAR: Order in court.
THE COURT: Mr. Willms.
MR. WILLMS:
Q The -- do you have your report, Exhibit 877? At page 67 over to 68 you discuss in your report "Tsimshianic loan words pertaining to features of social organization and items of material culture". Now, are you aware that -- that there are scholars that say that the Tsimshianic loan words were borrowed in historic or proto-historic time in response to the fur trade?
A Who are you citing on that, for example?
MR. WILLMS: Well, maybe you could go back to page 52 of your report.
THE COURT: 52?
MR. WILLMS:
Q 52. And you've listed the anthropologists who have worked in the area in 52. And we've already --
A Yes.
Q We've gone through Jenness?
A Yes.
Q And we've gone through Kobrinsky. And maybe we could turn to Goldman now.
A Gee, it's been so long since I've read that.
THE COURT: Well, maybe if the witness would answer the question, we wouldn't have to.
MR. WILLMS: Well --
THE COURT: Maybe we can; maybe we can't. Let's find out before we delve into these writers.
MR. WILLMS:
Q You're aware, for example, that each of the anthropologists that you cite here, Jenness, Goldman, Steward and Kobrinsky, all say that the Tsimshianic loan words for social organization were borrowed from the Gitksan in historic or proto-historic times in response to the fur trade?
A I would more adopt a position of DeLaguna in 1975. There's long-term matrilineal clans or septs in Babine-Wet'suwet'en and as Rigsby and I indicate in our report, that the loan words are in several strata in terms of vocabulary seriation, which are both ancient and relatively recent as well as post-contact. And so we have to -- we need a linguistic model and Goldman, Jenness, Kobrinsky and Steward were not linguists and so I think our view of vocabulary analysis indicates a lot of precontact borrowing

between Babine-Wet'suwet'en. I mean, I gave some examples on this yesterday about that blood and warfare -- blood, red and warfare. I mean, let's give these people a reasonable antiquity in the area for these kinds of sophisticated influences to go on. And we have a more interesting material too than is in Rigsby-Kari 1986. We have -- and we can say that there are deep diffusions. I presented that on my material either Monday or Tuesday. There is the notion of deep diffusions as well as -- and deep diffusions could be 5,000 years old in this area, so -- or even older than that. So --

Q I'm showing you a paper entitled "The Alkatcho Carrier of British Columbia" by Irving Goldman. This is the reference Goldman 1940 on page 52 of your report.

A Oh, the acculturation one, yeah. Yeah. It's been an awful long time since I read this.

MR. WILLMS: My lord, 881-16, please.

THE REGISTRAR: 881-16.

(EXHIBIT 881-16: Tab 16 - The Alkatcho Carrier of British Columbia - Irving Goldman)

THE WITNESS: I must say I don't think I've seen this paper in 15 years or more, so -- or I mean in terms of a close reading.

MR. WILLMS:

Q All right. Well, I'm just referring to it because you did in your report. If you turn to page 339 --

A Excuse me. In my report --

Q At page 52.

A Okay. Yeah. I'm more familiar with Goldman 1941 instead of 1940. This is Goldman 1940. 1941 has a map.

Q All right.

A That's important.

Q All right. Well, then let's just pause briefly at 1940 and I'll put 1941 in front of you in a minute, but I do want to ask you with respect to two references in 1940. The first one's at page 339. Now, just in terms of -- and the map you're talking about places, the Alkatcho Carrier, but it places them to the south of the Babine-Wet'suwet'en?

A The Southern Carrier area apparently.

Q And what -- is it Dr. Goldman?

A Yes. He's one of the other surviving Boas students too.

Q What Dr. Goldman says at 339 about that last full paragraph -- at the beginning of the last full

paragraph on 339 he says this:

> "It is impossible to date the period of initial contact between the Alkatcho Carrier and the Bella Coola; but regardless of when first contact occurred there is some evidence to suggest that the potlatch-rank complex was not adopted before the beginning or the middle of the nineteenth century."

And then he -- he says a little more about that on page 340. If you just turn over the page to the very first paragraph on page 340, the first full paragraph starting with "But", he says:

> "But assuming for the moment on the basis of this sketchy evidence that the potlatch-rank complex diffused to the Alkatcho Carrier no earlier than the beginning of the nineteenth century, we observe a rather striking correlation between the above chronology and the development of an active fur trade on the Northwest Coast."

Now, in your investigations did you note that striking correlation between the adoption of potlatch-rank words and the development of the fur trade?

A No.

Q Now, you did refer -- sorry.

A This is referring to Southern Carrier, Alkatcho Carrier, and I've never worked there at all, so I don't know.

Q I just assumed it was relevant because you cited it in your report. You did mention the 1941 work by Goldman as one of your more -- you're more familiar with?

A This is -- ties in with our new paper too in a way. Yes.

Q I'm showing you -- you could identify this?

A Yes. This is an excellent example of some of the points I was trying to make about Kobrinsky too.

MR. WILLMS: 881-17, my lord, for this one.

(EXHIBIT 881-17: Tab 17 - The Alkatcho Carrier: Historial Background of Crest Prerogatives - Irving Goldman)

MR. WILLMS:

Q And what Dr. Goldman does in this paper, if you look at the map, he divides the Carrier into two groups:

Upper Carrier, including the Bulkley River Carrier?
A Yes.
Q And Lower Carrier, including the Alkatcho Carrier, who he's discussing?
A Yes.
Q And he says -- the very first line of his paper, he says this:

> "The well known tendency for the Athabaskan-speaking people to adopt the culture of their neighbours in toto or in part, affords a particularly fruitful field for the study of cultural process."

Just pausing there, is that a well known tendency for Athabaskan-speaking people?
A That sounds like they really had no original culture; all they do is have everybody else's culture, and that is absolutely outlandish. If anybody would think of that -- or that Athabaskan linguistic information does not say a lot about ancient Athabaskan culture that five, six thousand years in time the reconstruction of Proto-Athabaskan is -- I mean, there was an ancient Proto-Athabaskan language, the upper limits of which we do not know. So if -- if all they -- this is a very -- it's strictly a grad school social anthro-orientation with no sense of time perspective in the sapirian sense, s-a-p-i-r-i-a-n.
Q Maybe we can go to page 406 of this grad school paper. Would you turn to page 406? This is where there is a portion on page 406 wherein chapter IV you'll see that Dr. Goldman talks about the historical background of Alkatcho Carrier crest groups. But he also talks about the Bulkley River Carrier, and if you come midway down that paragraph on page 406, he says this:

> "The westernmost group of Carrier, the Bulkley River Carrier, settling close to the Gitksan, a Tsimshian group who controlled the trade route down the Skeena River, traded and intermarried with them. As a direct consequence of trade and intermarriage the Bulkley River Carrier grouped themselves into five exogamous matrilineal phratries corresponding to the Gitksan phratries."

Do you accept that? Is that accurate?
A No. It's not accurate.
THE COURT: Well, what do you say, doctor, when you have two different people living as side by side levers? Do they have common names for their phratries?
THE WITNESS: And they speak each other's languages. They're not coterminous. Who has said they borrowed all the phratric names? I mean, these guys make assumptions based on linguistic -- lack of linguistic control. So he thinks the Bulkley River Carrier are the same as Goldman without having done the language research and he leaves Babine Lake off the map, and he doesn't even know where the Carrier are and the Babine-Wet'suwet'en are in the larger dialect geography, and Jenness does not either. So, you know, it is a good example of the need for the Northwest Coast social anthro-community to -- I mean Suttles is, of course -- I guess right now is the dean of Northwest Coast studies, isn't he, or Suttles and DeLaguna anyway. I mean, they certainly have adopted the fact that there's a Babine-Wet'suwet'en language, and people of that calibre and long-term standing in Northwest Coast studies don't have any problem thinking this through and admitting that, say, Boas send a few students out or Steward --Julian Steward goes to Stuart Lake and doesn't know that the language at Babine Lake is different than at Stuart Lake, and you get this fictitious notion of a monolithic -- or all through the anthropological literature, and I would hope that all of your subsequent expert witnesses become aware of this too whether they're arguing on one side of the fence or the other; that Babine-Wet'suwet'en have every -- every earmark of being an autonomous language at the earliest time in contact. That's Harman 1811. Harman says it right then at 1811. He says they speak a different language and he also says that they're multilingual, in 1811 the first white man to go to Babine, to Babine Lake.
THE COURT: When you have these two people both of the wolf clan --
THE WITNESS: Yes.
THE COURT: -- with the frog clan and I think both with the fireweed.
THE WITNESS: Yes.
THE COURT: I'm not sure if we have eagles in Wet'suwet'en. I think we heard some mention -- I have to check that. But what is your theory that it's just as likely that

the Gitksan borrowed it from the Wet'suwet'en or vice versa or it's just coincidence there?

THE WITNESS: There's a multilingual culture and the anthropologists have tended to seek to draw a boundary and they don't -- multilingualism must be dealt with in a sophisticated way and they -- they have five and five, and they have different names for the clans. It's sophisticated. We find that the -- the words like Lexts'amishyu, I explained those are blends in my -- that's L-e-x-t-s-apostrophe-a-m-i-s-h-y-u. It's not that one slavishly borrowed from the other. They have been communicating in a multilingual zone in the area. The boundary is not as rigid as people want to say and people can see things. Do you know what intervisible means, like intervisible geographical features? It's possible to stand at different points in the country and see mountains in different areas, and they're -- I don't believe that the research on intervisible geography in the area has been done yet, but it's possible to see the mountains up at Bear Lake from Takla Lake, for example, and the same mountain might have three or four different place names and it might be in somebody's territory and outside of somebody's territory. And we need to -- we don't want to even say the place names information in itself is -- it should be adopted uncritically, you know. Are there dual names and triple names and quadruple names for the same intervisible features? That should be part of the research.

THE COURT: What you're saying is that the fact that they have the same names for their clans, or some of them, and they have common names -- just off the top of my head I can think of Gylogyet, chief in Gitksan. It is also the name of a chief or house in Wet'suwet'en.

THE WITNESS: Yes.

THE COURT: This is a -- this is an organic homogenization because they're neighbours and it doesn't mean that they're the same language; is that what you're saying?

THE WITNESS: Well, there's obviously a pure Gitksan language of Tsimshianic origin and a pure Babine-Wet'suwet'en language of Athabaskan origin and contact on a millennial scale, several millennia between Tsimshianic peoples and -- and Athabaskan peoples, and interesting issues of divergence between Niska and Gitksan being shallower in time.

THE COURT: You say the ideas flowed back and forth?

THE WITNESS: Oh, of course. And people travel too and there's

Gitksan speakers who were born in Sekani territory and lots of interesting things that make this a very interesting part of the world.

THE COURT: Thank you.

MR. WILLMS:

Q Morice was one who I think you said although he fluctuated through his life, he did recognize a separate language?

A Yeah. His first -- 1897 is that French memoir he published in France. In 1897 was the first time he -- he does say -- we quote it in our table, our -- in our part two, I believe it is, of Kari and Hargas.

Q Could you turn to page 417 of Goldman of Exhibit 881-17? And you'll see on the right on page 417 the very first full paragraph, Dr. Goldman says:

> "If the argument that Northwest Coast influence made itself felt on the social organization of the Indians of the interior as a result of expanding trade relations is valid, then we have a basis for establishing some chronology to the process. It follows, therefore, that the matrilineal sib system could not have moved to the Upper Carrier until the latter part of the 18th Century. Morice has stated that at the time of the coming of the first whites not all of the Carrier had adopted the clan system from the coast."

And you'll see the cite is to Morice, "Carrier Sociology", page 119. Now, do you accept that -- those statements made by Dr. Goldman?

A And do you accept the fact that Morice consistently made use of Carrier and Babine? So he's talking about the different people and he's talking about the Carrier and not the Babine. So again it's someone comparing apples and oranges.

Q So your distinction there would be, ah, Morice has made an apt analysis but not of the Babine-Wet'suwet'en? It's a different part of the Upper Carrier?

A Yes. And when he does make statements in Morice 1893 that the -- they sing songs with Gitksan words and they do not know what they mean, this is probably a very accurate statement of Morice's, but it's not the Babine-Wet'suwet'en that he's referring to. You can

read that stuff very closely in Morice 1893 and it's probably over in Stuart Lake that they sing Gitksan songs and don't know what the words mean. So as long as we can ferret this out and not get confused when Morice is talking about Carrier, Morice knows the difference. Goldman doesn't. And it's a good example of how a -- an anthro-- anthropological fiction in an externally bestowed ethonym -- have I used that in this presentation, that phrase? An externally bestowed ethonym has created a fictitious construct in the anthropological literature. And you found the very places that someone could marshall to point that out.

Q I'm finished with Dr. Goldman and I -- but I do want to complete your list of anthropologists who worked in the area cited at page 52 of your report. And I -- the last -- in that list, or the last one, the one I hadn't covered is Dr. Julian Steward?

A Yes.

Q Now, this is what you're referring to there, "Carrier Acculturation. A Direct Historical Approach"?

A Yes. And he is talking about Carrier and not Babine-Wet'suwet'en. Even his very first sentence is quite vague and amorphous. He's got some Carrier, some Babine-Wet'suwet'en and he doesn't mention the Bulkley River people and he doesn't mention the rest of Carrier. I mean it's --

Q Well, if you -- if you look to -- it's the page between 738 -- I guess it's 739. The page number isn't on there.

A Um-hum.

Q You'll see what he's done is he has set out a table of what he calls the --

A Oh, yes. This one here.

Q -- "The Northern Carrier Noble-Potlatch or Phratry Groups". All right.

A Yes.

Q And on the left he's got Bulkley River (Jenness), who he's considering. He's got Babine Lake, which is his own material?

A Um-hum.

Q And you just made that point. That's where he was investigating, correct?

A But if you notice his map, it's all centred at Stuart Lake and he just has Babine apparently sort of -- yes. He apparently was there.

Q Well, he says he was here anyway.

A Yeah. Or there was a Babine speaker in Fort St. James, but --
Q All right. And so what he is doing is comparing the Noble-potlatch or phratry groups starting with Jenness' work on the Bulkley River. Now, that's -- there's no question that the Jenness work is Babine-Wet'suwet'en?
A Yes.
Q What you call Babine-Wet'suwet'en?
A Yes.
Q He's also got Babine Lake and Stuart Lake. And he didn't only work one side of Babine Lake. That's both sides, or do you know?
A I'd be interested to know. I don't know exactly where he was, where he did his work. Well, I do. Well, I don't know. There's some obscure source that he published before this. This was quite a few years after he was there, you know. He was there in the thirties and this came out in 1960.
Q And just on the scope of this, if you look back, he -- he -- well, let me just understand this then. What you're saying about this particular work is that this work is related to a different Carrier than the Babine-Wet'suwet'en?
A Well, he's trying to integrate it. He's trying to integrate Jenness and he is assuming that it's a common Carrier language. And it's true that the -- in terms of Carrier, as you move to the east, they seem to have borrowed some -- probably from the Babine-Wet'suwet'en going to the east and it is simpler going in an easterly direction, and that's true, but we have two different Athabaskan languages in the area and Steward obviously didn't -- didn't raise that issue or research it and neither did Jenness.
Q But for the most part won't you agree with me that it is the Babine-Wet'suwet'en as a group who are between the Tsimshian and --
A Yes.
Q -- and the Stuart Lake and Carrier?
A Yes.
Q Now, if you turn to page 742 of Steward. 742. Steward says in the second paragraph under the summary:

> "Among the Carrier, too, the fur trade created a new wealth and local chiefs came

> into prominence. The specific pattern of wealth prominence, however, was dictated by contacts with coastal Indians. The formerly patrilineal Alkatcho Carrier bands exalted the position of their chiefs by reinforcing them with potlatch-sanctioned titles borrowed from the patrilineal Bella Coola. The Northern Carrier were seemingly involved in a conflict that was never wholly resolved. Village chieftainship was a separate role from Potlatch nobility, although the same man might hold both. There can be little doubt, however, that the power of the village chief enabled him to assume potlatch titles when the effect of the fur trade was felt and the Tsimshian matrilineal pattern began to spread."

Now, surely that -- the only way it spreads to the Stuart Lake Carrier is through the Babine-Wet'suwet'en. How else does it get there?

A Well, I -- the aboriginal matrilineality of the Babine-Wet'suwet'en has absolutely nothing to do with the fur trade, the aboriginal matrilineality. The -- the -- to say that the Tsimshian made the Athabaskans matrilineal in this area is definitely contrary to what Dyen and Aberle have demonstrated by complex and sophisticated linguistic analysis and in linguistic reconstruction. If we keep that question out of this, I mean, and talk about influence of the fur trade spreading through the area, I'm sure there are probably changes that the fur trade did in fact affect on people, but it certainly didn't make the Babine-Wet'suwet'en quickly decide to change their social organization and become matrilineal. That's -- I mean, ancient matrilineality in the Athabaskans is confirmed by the reconstruction of the proto-Athabaskan kinship system in the language. So that question aside -- and I -- I think Babine-Wet'suwet'en territoriality is interesting and it shows high aboriginal population density and direct congruity with naming -- toponymic naming and territory -- many of the same territorial principles that are found in Northern Athabaskan, albeit in less populous Northern Athabaskan areas. So it again is a simplified model without linguistic sophistication in terms of Steward's paper. I don't deny that the fur

trade probably shook things up and brought in trade items and so forth, but that really hasn't been studied either. The real -- the real studies of linguistic borrowing can be brought into the 1800 time frame and the 1850 time frame through linguistic work too. So -- I mean there are these interesting French loan words in Babine-Wet'suwet'en. And how many of the French words are coterminous with central Carrier. We don't know that. And that's all this Metis culture becoming -- mixing in with the folks too in complicated ways in the early 1800's. So --

Q I'm going to suggest to you, Dr. Kari, that the work of Dr. Goldman, which you cite for the Stuart Lake Carrier, the work of --

A Excuse me. Goldman for the Alkatcho Carrier.

Q Sorry. Goldman for the Alkatcho Carrier, Steward for the Stuart Lake Carrier, Jenness for the Bulkley River Carrier and even Morice. That all of those works that you cite are consistent with Dr. Kobrinsky's conclusion that the Tsimshianization of Carrier society emerged as a practical response to problems arising -- arising from the burgeoning white-oriented fur trade. They're all consistent, aren't they?

A Well, who's Kobrinsky?

Q Just answer my question, Dr. Kari.

A Yes. Yes. They are consistent with Kobrinsky's conclusions.

THE COURT: Doctor, are all the Athabaskan sub-groups that you have encountered or studied been originally, so far as you know, prehistoric and historically matrilineal?

THE WITNESS: The ones I've worked with?

THE COURT: Yes.

THE WITNESS: Well, the Ingalik are bilateral over here and the Koyukon are matrilineal. These are apparently predominantly matrilineal. There's some problems about Lime Village and -- this is an ancient occupation. L-i-m-e, Lime. But yeah. The Ahtna are sort of the classic ones that Dyen and Aberle cite as having perhaps the most -- the kinship system that's closest to the proto-Athabaskan kinships chart.

THE COURT: It's matrilineal?

THE WITNESS: It's matrilineal, yeah. There's no ambiguity. Here in the Iak(phonetic), I believe had matrilineal social organization, and the Upper Tanana. I don't know. As you go on in here, there are different patterns.

THE COURT: By "here" you mean into the Yukon and British

Columbia?
THE WITNESS: Yeah. I can't speak for this area, but these folks are in this zone matrilineal with some complications down here due to eskimo -- eskimo contact and -- in the Ingalic area, I-n-g-a-l-i-c.
THE COURT: Thank you.
MR. WILLMS:
Q Now, that completes the social organization loan words that you referred to at page 67 --
A Yes.
Q -- in your report. Then you've referred to another loan word and -- on page 68 you talk about "borrowing of the Gitksan vocative form of father indicates that it was common in the past for Gitksan men to marry Wet'suwet'en women".
A Yeah. That may be a much simplified picture too. I mean that was a trend more than the other counter-trend. That's probably -- could be balanced more and shouldn't just seize on the borrowing of the of the word 'father' and assume that the Gitskan did not borrow any Athabaskan kinship terms, because I've just noticed a few that look -- I really want to run these by Bruce. The Tsimshian -- Gitksan origin word for father -- father-in-law looks an awful lot like the Athabaskan word for father's brother. So I -- I think I'm in a way sort of jumping the gun on this and applying -- or this is not a sophisticated analysis yet of the potential congruities and discontinuities between the kinship vocabularies of Gitksan and Babine-Wet'suwet'en. I haven't seen all the Gitksan social organization -- I mean kinship terms either, but I just noticed this one about father-in-law possibly being borrowed from Athabaskan say, for example, so --
Q Does the fact that it was common for Gitksan to marry Wet'suwet'en women, Gitksan men to marry Wet'suwet'en women, tell you anything about whether Gitksan or Wet'suwet'en was a dominant cultural group?
A I probably am in no position really to have an opinion on that, because the kind of data I would want to have on that, genealogies and stuff, I do not know at all. I do not know. You know, I don't know. I mean, you know -- and I do not even know which -- say what Johnny David's chief name is and those sort of things. I just don't know. If you follow what I mean, I don't know the local genealogies and chief names.

(EXHIBIT 881-18: Tab 18 - Carrier Acculturation. The Direct Historical Approach - Julian Steward)

MR. WILLMS:

Q I'm showing you an extract from "Language" by Leonard Bloomfield. Are you aware of that work?

A Oh, boy. I must compliment you on your preparation, sir. This is -- what is your background? Are you in law or are you in -- you should consider a career change.

Q You are aware of this work, I take it?

A Yes, but I don't know what you have in mind. Yes.

Q Well, I'd like to deal with -- and it's Dr. Bloomfield, correct?

A Of course.

Q And he's a well known linguist?

A Yes. The successor -- you would say that if there was an influential linguist of the 40's, 1940's, it would be Bloomfield, worldwide, yes.

Q And the -- it's the chapter on cultural borrowing and intimate borrowing. And you're familiar with these sections and this work by Dr. Bloomfield?

A Well, I haven't read this since grad school.

Q This is like -- this is one of those works that while you're working your way up to your Ph.D., it's a must read; is that correct?

A Bloomfield's language, yes.

Q Now, on page 461 Dr. Bloomfield talks about cultural borrowing and intimate borrowing. And he says this.

A Excuse me. Let me -- it's 46 --

Q 461.

A Intimate borrowing.

Q I've just included the previous chapter to set the stage for discussion that Dr. Bloomfield carries out here about borrowing. And -- but it's -- I'm really interested in page 461 where he starts talking about intimate borrowing. And the general proposition that he sets out at the first line on page 461 is that:

> "Cultural borrowing of speech-forms is ordinarily mutual; it is one-sided only to the extent that one nation has more to give than the other."

And as a general proposition you would accept that, I take it?

A Yes.

Q Then he -- and he discusses some borrowing between

English and Latin, Scandinavian and German, and then says this in the middle paragraph:

> "In spite of cases like these, we can usually distinguish between ordinary cultural borrowing and the intimate borrowing which occurs when two languages are spoken in what is topographically and politically a single community. This situation arises for the most part by conquest, less often in the way of peaceful migration. Intimate borrowing is one-sided: we distinguish between the upper or dominant language, spoken by the conquering or otherwise more privileged group, and the lower language, spoken by the subject people, or, as in the United States by humble immigrants. The borrowing goes predominantly from the upper language to the lower, and it very often extends to speech-forms that are not connected with cultural novelties."

Now, my suggestion to you, Dr. Kari, is that it is very, very important that culture words describing feasts, potlatches, crests were borrowed from the Tsimshian languages into Babine-Wet'suwet'en. I mean, that tells you something about it, doesn't it?

A I am finding the more documentation that I use that -- and I think I made this point on Monday. That there are a few words like hewal, which are -- h-e-w-a-l -- which are Tsimshian in origin, but it's statistically dwarfed by not borrowing but by innovated lexical items of Athabaskan origin. So in terms of the imprint on the vocabulary, still the number of Gitksan origin words for the social organization domain in the language are still a small percentage compared to the Athabaskan origin words. And this is a situation of intimate borrowing that is not as black and white as the Bloomfield generalization here; that the superior borrows -- I mean the inferior borrows from the superior. That's true. I mean that's why you have Russian borrowings here for when the Russians were in Alaska. The Dena'ina have three or four hundred Russian loan words. Yes. This is true in a general sense in terms of colonial expansion.

Q But isn't it significant, Dr. Kari, that the borrowing

from Gitksan into Babine-Wet'suwet'en is culture complex borrowing where the borrowing the other way is for names of things? Isn't that significant in terms of -- of what Dr. Bloomfield is talking about here?

A Yes. But, you know, he makes a difference between loan words and other -- you know, there's innovation and there's a whole sophisticated terminology for describing different ways languages influence each other. I -- I don't disagree with Bloomfield, but I don't know that all the final word is in that Gitksan is a more powerful and sophisticated group than Babine-Wet'suwet'en and that there's some great dominance in the -- reflected in the vocabulary in that way. I think it's a trade-off. I mean, I think it's an interesting -- real interesting topic that really hasn't been researched that Bruce and I have outlined. Rigsby and I have started to draw a picture of these borrowings in the vocabulary and we don't claim it's the last word. My goodness. My goodness. Really, we -- our report, you know, was cooked up in a very short period of time and we did demonstrate quite a bit of mutual borrowing, and it is intimate borrowing.

THE COURT: I don't know if you agreed with Mr. Willms or not when he suggested that Wet'suwet'en borrowings were -- tended to be cultural words whereas Gitksan borrowings tended to be names of places and that sort of thing.

THE WITNESS: We're finding some other counter-evidence that indicates that even -- I mean, I wish I knew Gitksan well enough to answer that, you know. I don't.

THE COURT: So you don't know if that's so or not?

THE WITNESS: I think there are obvious cases of feasting -- I mean, I've never even been to a feast, by the way, not at all. I have not been to a feast in this area at any time I've been in the area. Okay.

THE COURT: I know.

THE WITNESS: No, I have not been. I've not been seated at a feast at any time and I do not know people's personal names. I mean like Johnny -- I don't know Johnny David's chief name. I don't know what it is. So please don't have me speak to things that I have no real experience on.

THE COURT: Am I being accurate if I note that you do not know the answer to that question?

THE WITNESS: I forget what the question is.

THE COURT: Well, that Wet'suwet'en borrowings tend to be cultural words while Gitksan borrowings tend to be

names of places.
THE WITNESS: Excuse me, your lordship. Gitksan borrowings are not the names of places. Gitksan borrowings we've shown are in the ecological areas.
THE COURT: Well, I'm sure Mr. Willms will accept that qualification.
MR. WILLMS: Names of things.
THE COURT: Names of things. All right.
THE WITNESS: Well, they're all things. They're nouns. They're borrowing nouns. I somehow think some of our -- well --
THE COURT: My trouble is, doctor, I've got the question written down and I want to know what answer to put in.
THE WITNESS: I think that the borrowing is -- is complex and interesting and mutual, in mutual ways, and I think there are other dimensions to it that we've only begun to even suggest the profundity and the antiquity of it. That was my reason for the example for the red and the blood and the warfare. That's exactly why I read that yesterday. And the -- the filth black one. You haven't -- filth, black and good posture. You haven't heard that one yet either. I can't -- I'm sorry. I don't know whether we're talking about Bloomfield or Gitksan, Wet'suwet'en.
MR. WILLMS:
Q I was just talking about your report and what you and Dr. Rigsby said in your report in your appendices. When you read the report and you read the appendices --
A Yes, sir.
Q -- it leaves you with the distinct impression, if it's not down to the last word, that the words that are borrowed from Wet'suwet'en into Gitksan are usually names or more predominantly names of things but not names of cultural hierarchies, names of, as you described in your report, features of social organization. The borrowing for social organization went the other way, from Tsimshian to Wet'suwet'en?
A Not in the macro sense, social organization, the borrowing in terms of the feast, some of the features of the feast complex and the house -- house structure, but, you know, like the house names themselves are Athabaskan names. So let's -- yes. You know, I would assume that the house structure, say, for example, clans with houses, is influenced by Gitksan, and then in that case we found that the 13 names, 12 of them are Athabaskan names in origin and one is a Gitksan

name in origin. So yes. It's -- I think the interesting issues on this haven't been as well researched as we would like to see them through close examination of Gitksan vocabulary and Babine-Wet'suwet'en vocabulary. And we're getting some interesting material. We did it in '86. There's advances since then. I'm going to send Bruce the stemma list on a disk and he can cruise through it and see what he sees in there, you know. Bruce Rigsby. And so -- and I'm not trying to do it all either, please. You know, essentially this is, you know, the eighth language I work with and I do this stuff on the weekends. So I -- you know, please don't overstate the directionality in the borrowing statement at this point in time. I'm trying to be rather cautious about that because -- precisely because people think Tsimshianic are high status and Athabaskan are low status and, you know, I have a lot of problems with that, not in terms of your region at all but in a continental sense about Athabaskan anthropology. And archaeologists can be very -- I mean why in Alaska is eskimo archaeology a hot field and Athabaskan archaeology is a down scale field in Alaska?

THE COURT: My lord, could we mark the Bloomfield extract as 881-19?

THE COURT: Yes. Thank you.

(EXHIBIT 881-19: Tab 19 - Language - Leonard Bloomfield)

MR. WILLMS:

Q One thing, Dr. Kari, about the assessment of intimate borrowing by Dr. Bloomfield and in terms of dealing with dominance. That kind of theory is consistent with the theory that was expounded by Kobrinsky, Steward, Jenness, Morice and Goldman, isn't it?

A Yes. But he's talking -- do you realize that Bloomfield is talking as a specialist in Indo-European and that French -- when the French moved into England at the Normandy Invasion, they did give terms in the jurisprudence area of French origin into English. And yes. That's what Bloomfield has in mind. He's not talking about Gitksan and Babine-Wet'suwet'en.

MR. WILLMS: Dr. Kari, I'm showing you a letter dated April 24th, 1986.

THE COURT: The date?

MR. WILLMS: April 24th, 1986, my lord. This is a letter from Mr. Overstall to yourself. And he says in this letter to you, and it's on the -- the last paragraph on the

first page:

> "There is another aspect of the aboriginal title court case that you may find of interest. This last week the tribal council has started a six-week interpreters course for those Gitksan and Wet'suwet'en who will be interpreters course" --

THE COURT: There's a repetition there. He's repeating himself.
MR. WILLMS:
Q Yes.

> "Course for those Gitksan and Wet'suwet'en who will be interpreting for the chiefs and the elders during the trial, discoveries and commission evidence."

Now, did you attend and assist in the instruction of the interpreters?
A I gave a talk one time for about two hours to the interpreters. The course went for several weeks. I gave one presentation. I have -- excuse me, your lordship. There's been some sort of secondhand scuttle-butt in the area that I taught the interpreters literacy. I don't know if that's been said. I did not. Okay. But please go ahead, Mr. Willms. I did -- Rigsby and I gave a joint talk one day at -- one morning. It was like for two hours. Bruce talked for a while and I talked for a while. I didn't run the course. What is it, a three-week course or something?
THE COURT: It says six weeks here.
THE WITNESS: Six weeks. Yes.
MR. WILLMS:
Q In discussing your attendance at the course, Mr. Overstall finishes that paragraph by saying this, which is at the top of the second page:

> "I think you will find it stimulating and working with the class may be an efficient way of doing some of the field work for your evidence."

Now, did you do some of the field work for your evidence with the interpreters?
A No. I mean, some of the same people who have been

interpreters I've done field work with but not during the course, or -- you know, I wasn't taking notes when Bruce and I spoke to the class. I wasn't writing down the words they say. I was talking about Athabaskan and things like that. And I have worked with and done field work with other people, such as Dora and Alfred and George Holland and Rita George. And some of them were never working as interpreters later. And yes. I've done field work with some of the people that are interpreters, but I didn't do it and didn't encroach upon their time in the six-week course.

MR. WILLMS: 881-20, my lord.

(EXHIBIT 881-20: Tab 20 - Letter dated April 24, 1986)

THE COURT: All right. Is it time to adjourn?

MR. WILLMS: My lord, I just have a very small point here and if I can just do it right now.

THE COURT: Yes. All right.

MR. WILLMS:

Q I just want -- Dr. Kari, can you identify this as your contract with the tribal council, May 12th, 1986?

A Yes. I guess. This seems so, yes.

MR. WILLMS: 881-21, my lord.

THE COURT: Yes. Thank you.

(EXHIBIT 881-21: Tab 21 - Agreement for consultant services dated May 12, 1986)

THE COURT: All right. Are we going to have any difficulty finishing this witness this week?

MR. WILLMS: My lord, I've discussed this with my friends and I will know better by, say, quarter to four today how I'm going. I'm trying to finish by tomorrow afternoon. And if that happens, I think that we are -- there's no problem with this week, but I am concerned about time and --

THE WITNESS: I have a ticket for tomorrow night, but --

THE COURT: So have I. I can sit an extra hour this afternoon if that's convenient.

MR. WILLMS: Well, we'll consider that over lunch, my lord. Most of this arises out of the documents we got late Monday night and whether or not we're ready to deal with that as --

THE COURT: Yes. All right. Two o'clock, please.

THE REGISTRAR: Order in court. Court will adjourn until two.

(PROCEEDINGS ADJOURNED)

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

_____

Kathie Tanaka, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED AT 2:00 P.M.)

MR. WILLMS: My lord, just before I continue with the cross-examination, we had discussed sitting later tonight and that is not -- that won't work out but we would like, if possible, to make up the -- a half an hour tomorrow, perhaps starting at 9:30, if that's agreeable with your lordship. Or adding a little time later.

THE COURT: Yes. Well, Mrs. Ritchie is going to find out. They have set something for me already that has to be done tomorrow or the next day. And we are going to find out if it's not set for tomorrow, then 9:30 will be fine.

We can go ahead and we will find out in a minute.

CROSS-EXAMINATION BY MR. WILLMS: (Continued)

THE COURT: All right. 9:30 tomorrow morning is fine.

MR. WILLMS:

Q Dr. Kari, the next piece of correspondence I would like to show you is a letter dated -- is that June 13th, 1986, from Mr. Overstall to yourself?

A Yes.

THE COURT: I can't read -- this is -- "Here is a copy of your and Bruce's draft report as it now stands." But I can't read the next word.

MR. WILLMS: "None of us have had a chance to read it properly yet so comments and suggestions will have to follow later." That's what it reads?

A Yes.

Q Did you get comments and suggestions later on from Mr. Overstall?

A Yes.

Q And did you get those comments and suggestions from Mr. Overstall by way of marking up the draft or was it by way of a separate piece of correspondence?

A Well, we, Bruce and I had a draft and Overstall marked it and had a round robin of either Bruce and I or me and Bruce, I don't remember, and we wrote on it, and back -- I think it was just basically just one round robin on this. So there was a draft and then a -- or this was what we submitted and then marked and then revised.

Q And those copies, did you retain all of those that were marked up back and forth or were there some that you didn't retain?

A Well, the one I brought from Fairbanks is the only one I have and I haven't looked at that in a long time even. I have an interesting anecdote about -- in response to the gentleman behind you for the federal government, raised about the editorial process, but I am not sure, I haven't looked at the draft even that I brought down to see for sure. That's the only draft I have and I think it's the only draft, but, yes.

MR. WILLMS: My lord, 881-22?

THE COURT: Yes.

(EXHIBIT 881-22: HANDWRITTEN LETTER DATED JUNE 13, 1986)

MR. WILLMS:

Q The next piece of correspondence is a letter from you dated September 3rd, 1986 from you to Mr. Overstall, all you say is: "Dear Richard: Here are two stages of the project I am now working on. Let me know if I can be of help with your place names."

A Yes, this is Shimpeats, Alaska, that's what I am referring to. Shimpeats, Alaska. I sent him some -- I am doing this place names book. It's published and I sent him some proofs or something to show about the place name and the format, you know, when you publish place names, you can have an interlinear format, and you have a native name and a translation and a gross and the annotation. That's what this was about. Nothing to do with Rigsby/Kari 1986.

Q Except that when you say: "Let me know if I can be of help with your place names." That's a reference to the meeting you ultimately had with Marvin George?

A Yes, that's when they wanted me to come down and help them with the numbering system and place names and translation format. It's not the draft Rigsby/Kari, it's the 1986 visit in December, you see, that came up right after this in December.

MR. WILLMS: 881-23, my lord.

THE COURT: Yes.

(EXHIBIT 881-23: HANDWRITTEN LETTER DATED SEPTEMBER 3, 1986)

THE COURT: I am sorry, Mr. Willms, but I am now informed that the matter that I must hear has been set for tomorrow morning at 9:30. It's a matter having to deal with an appeal that has to be completed before Mr. Justice Carruthers, who is a member of the bar, leaves on his trip around the world. If we don't do it tomorrow --

It's a question of sentencing in a criminal case.
MR. WILLMS: Will we still start at ten?
THE COURT: I am quite sure we will finish it by ten.
MR. WILLMS: Maybe then tomorrow morning we can all discuss it further.
THE COURT: I can sit about an hour late tomorrow afternoon. But that's as much as I can sit tomorrow. I have a ticket for tomorrow night that isn't to a concert but something I must attend.
MR. WILLMS:
Q Thank you. I am showing you a letter dated October 23rd, 1986 from Mr. Overstall to yourself and the part that's been blocked out is -- you can ignore the fact that it's been blocked out -- but in this letter Mr. Overstall says: "I enclose two tapes that Alfred Joseph made on the September field trip to the Bear Lake area."
Did you ever transcribe those tapes, make a transcript of them?
A No, I listened to them and did -- I didn't do a full transcript in any sense but they were native language tapes, I believe with William French, and I just made an evaluation of what language he was speaking after listening to the vowel qualities and orthonymic clusters and some of the lexical items it was rather clear to me that he spoke Babine-Wet'suwet'en. But the tape I thought was made at Takla Lake. I don't know, they might have gone up to Bear Lake or whatever, but the tape was made in Takla Lake with William French who lives in Takla Lake. But I did make a judgment that he did speak Babine-Wet'suwet'en. I had never been to Takla Lake at the time and I could tell that from the tape. I didn't transcribe the tape though.
Q In your report you describe the tape as a tape from Takla Lake?
A Yes, I thought it was made at Takla Lake and they might have been talking about Bear Lake or something, but all I was doing was classifying the language that William French speaks and it's Babine-Wet'suwet'en.
Q It's at page 54 of your report.
A Right.
Q Which is Exhibit 877.
THE COURT: Page 54?
MR. WILLMS: Page 54.
A Hm-hmm.
Q And it's in that second line in the middle paragraph

you say: "Some audio tapes were made with Takla Lake speaker William French in the fall of 1986 confirmed that the Takla language belongs to Northwestern Carrier rather than Central Carrier."

A Yes.

Q But those are the tapes that were sent to you by Mr. Overstall in October of 1986?

A I think so, yes.

Q Your only knowledge of where those tapes were made is from what Mr. Overstall told you?

A Well, maybe I am confused. Maybe they were made at Bear Lake and French lives in Takla Lake and consider that to mean that he is a Takla Lake speaker. I don't know where the tapes may have been made. But I, you know, I haven't listened to them in so long. Maybe they were made in Bear Lake but I made the judgment that this person on lives in Takla speaks Babine-Wet'suwet'en.

Q Have you ever met William French?

A I have seen him. I haven't worked with him.

Q How do you know where he lives?

A He was in Takla Lake last summer when I was there.

Q Last summer he was in Takla Lake?

A Yes. I didn't work with him there but I was introduced to him and he is obviously a Babine-Wet'suwet'en speaker too but I have no notes from French in person in my 1988 notes.

Q Did you know that his father is Gitksan?

A French's father?

Q Yes.

A No. Doesn't surprise me.

Q Or that his mother is Sustut Dene?

A I don't know anything about Mr. French. I just listened to the tape and what language he speaks.

MR. WILLMS: My lord, 881-24.

(EXHIBIT 881-24: LETTER DATED OCTOBER 23, 1986).

Q But I want to ask one more question, in the second paragraph Mr. Overstall says to you: "I suggest that if you have time you listen to the tapes" which you obviously did, "and if there is sufficient information on them to substantiate or expand your opinion on the linguistic boundary of the Northwest Carrier, you contact Alfred and discuss them with him."

Now, is that Alfred Joseph that he is referring to?

A Yes.

Q Did you do that?
A No, it wasn't necessary.
THE COURT: What do you mean that it wasn't necessary?
A Well, if he said Nah or Nay, I can hear it on the tape. He said Nay for the itterative prefix so, like on our table six in our current paper, there is quite a few diagnostic measures of Babine-Wet'suwet'en and I listened to the tape and he say Nay instead of Nah and he had some clusters, K underline L clusters and G, E, L and, you know, so --
THE COURT: But --
A That's not enough to show it's not Carrier or Sekani or Gitksan, and so --
THE COURT: Is that -- was your response then just to put this sentence in on page 54 of your report?
A Yes, to say that I had reviewed the tape and it looked like Takla Lake is a Babine-Wet'suwet'en speaking village. Now, we were -- we did not try to let this prejudice our views this summer when we went to Takla Lake either but the fact is that the people who are, say, 40 years old and lived in Takla Lake all their lives speak Babine-Wet'suwet'en and not Central Carrier and not Sekani and not Gitksan, and so that's, you know, further material from our 1988 notes.
MR. WILLMS:
Q But as a result of listening to the tapes, you did, if I can put it this way, put Takla Lake within the Northwest Carrier language area?
A Yes.
Q So you did -- there was a boundary?
A Well, it begin to look that way and I -- I have discussed it with the chief of Takla Landing and all this sort of thing now, that's William George, but, yes, I have a better understanding now than I did from the tape. And maybe the tape was made at Bear Lake. I have no idea.
Q I am showing you a letter dated January 8th, 1987 from yourself to Mr. Overstall, and you enclosed your revised report, that's what you say in the first paragraph, do you remember how many revised reports from you went to Mr. Overstall and then back to you and then back to Mr. Overstall?
A In terms of anything I have records of, all I have is what I brought down from Fairbanks. So, I -- there wasn't that much to it. The main problem editorially is rather trivial, and that is that Bruce got on a roll on the word processor and had like 50 pages of an

introductory textbook on language and culture going in and both Richard and I thought he should cut it back to what section two is now in our report. He had a very long section two, worldwide sort of overview of the significance of the linguistic evidence and so forth, and I remember telling Bruce, just kidding, this is the textbook you should write some day but it doesn't really belong in a -- you know, we are trying to get our point across about the language so let's north be so verbose. So when the gentleman, Mr. Macaulay, is that right, excuse me --

THE COURT: Looks like Mr. Macaulay.

A I wasn't sure. When Mr. Macaulay was raising the question that Overstall was sort of actively involved in the editorial process, it was to kind of tone Bruce down from this 30, 40 page statement about the relationship between language, race and culture and so forth.

MR. WILLMS:

Q Going down to this toning down, you say in the second paragraph: "I have also gone over section 3.1 by Bruce, but I made no revisions. You're right that the last paragraph of 3.1 is a bit weak."

Just stopping there, you are talking about a paragraph that Dr. Rigsby had written?

A Yes, I don't even know what paragraph or the numbering system in the report is -- you know, I am not sure what 3.1 is and what -- I must say, Overstall was a good -- I have worked with lots of editors in my career, and Overstall was a good editor and he had healthy dialogue about stylistics and references and so forth all along. Nothing anybody's defensive about in terms of drafts.

Q Well, let me just carry on, you say: "One can draw two conclusions based on the comparison of the two languages." Now, I take it you are talking about comparing Gitksan to what you now call Babine-Wet'suwet'en; is that right?

A Yes.

Q So that you say: "It has been stated that the long term association as neighbours may have contributed to the retention of such phonological conservatisms in Wetsoo Wet'een as the front and back velar series and the labialized back velars."

So what you are doing here, you are explaining one conclusion which is long term association?

A Phonological -- no, I am explaining -- I am sorry.

Q Just read through to the end of that paragraph and then I will ask you a question.
What you are doing there, first of all you're saying there can be two conclusions based on the comparison of the languages and then you set out one conclusion here, long term association, correct?
A Well, I set out two points, I think: One is phonological and the other is lexical.
Q So both of the conclusions that you're talking about follow?
A Yes.
Q All right.
A And this is in our report, that I think Babine-Wet'suwet'en is the only Canadian Athabaskan with front and back velars and labialized back velars and Gitksan has those same things so that you could say, they didn't borrow them from the Gitksan but they didn't lose them because of them.

MR. WILLMS: My lord --

A That's exactly what I mean.

THE COURT: I don't. I am sorry?

A I hope you follow me. But that's a very good generalization to make.

THE COURT: I don't follow you because I haven't figured out what that -- long term association as neighbours is one conclusion. What's the other conclusion?

A They both, both points inter-marriage, they both lead to long term association. The phonological, conservatizing influence of Gitksan has something to do with the conservative consonant series in Babine-Wet'suwet'en. That's mutually reinforcing the phonology, completely independent of lexical borrowing and there is an influence of long term association through inter-marriage, which is -- maybe this isn't a very well written letter but it's not inconsistent with what our report says.

THE COURT: Well, you say there are two long term associations, one general and one through inter-marriage?

A One is phonological and it's -- I guess what we are doing is combining linguistics and social interaction, mutually enforcing, the conclusion is that they have been --

THE COURT: Is paragraph 3.1 in here now?

A I don't know if our draft numbers were the same as the numbers --

THE COURT: Well, you have got a paragraph 3.1 is Gitksan, language or a dialect, page 15.

A Yes, that wouldn't be what we are talking about here. That would be probably -- well, I am sorry, I --

THE COURT: I am too.

A In my letter it states points that are made in the report. I am sorry.

THE COURT: I am not sure that we should --

MR. WILLMS: My lord, this will become, and we have now been able to read the draft reports because we have got better copies now, and I think when I go through the drafts with the witness, we can come back, re-visit this where Mr. Overstall said the conclusion was rather weak.

THE COURT: All right.

MR. WILLMS: And perhaps we can just at this time mark the January 8th letter as 881-25.

(EXHIBIT 881-25: LETTER DATED JANUARY 8, 1987)

MR. WILLMS:

Q I am showing you the first page of the letter of January 20th, 1987, from Mr. Overstall to Dr. Rigsby, and we don't have the last pages. Perhaps we will still get them. But you got a copy of this, did you get a copy of the whole letter or just this page?

A I -- unless I made a mistake Xeroxing this sort of stuff, I -- which I probably did or something, I probably had the whole letter. Because we were trying to coordinate our editing and we weren't writing separately. They were copying me. I must have forgotten it. The one point I want to make is the introduction he is talking about, our editing of section 2, Rigsby/Kari 1987, not section 1, and I definitely know that. That was this linguistic methods where Bruce I thought was getting a bit verbose and we both agreed.

Q Perhaps --

A You see, it's down to ten pages now where it was 30 or 40 pages.

Q You will see that Mr. Overstall, starting in the middle of the paragraph, says this: "I took the liberty of writing the introduction myself as it is more straightforward and easier to do that way rather than send you a list of instructions. Feel free to change it to a form with which you feel comfortable." Then you will see in the next paragraph he says this: "As you can see from my draft introduction, I suggest that the linguistic evidence can indirectly support

the chiefs' assertions on territoriality" and then I won't read on. But there is no question that it was Mr. Overstall, if you refer to Exhibit 877, who wrote the first four pages, isn't it, that's the introduction?

A No, I -- I would claim that Bruce and I wrote that. The introduction, one, two, and I don't know why this is blacked out here.

Q It's blacked out because it happens to say exactly what the second paragraph of this letter says, it suggests that the linguistic evidence can indirectly support the chiefs' assertions on territoriality.

MS. MANDELL: Excuse me, that isn't what the blacked out section says.

THE COURT: On page 2? Or on page 1 or both?

A I mean, I just have my own copies that aren't blacked out. Am I allowed to look at those? I don't know what's --

MR. WILLMS:

Q In any event --

A I don't think Overstall claims to be an expert on Gitksan or Athabaskan and Bruce and I certainly are and we are able to address the basic concerns of our original contact in the introduction and we didn't need Overstall to write the section 1 by any means. We are capable of forming our opinions and whenever.

THE COURT: Doctor, he says he wrote the introduction. Are you saying --

A I think he is talking about section 2. I think it was -- I think that's what he really means. I really believe that. I don't know, as I recall section 1 was written rather late as a precis as it was supposed to be a precis of our findings and it was written by Rigsby and I. So what we refer to the introduction was this business that Bruce is now talking generally about language, culture and society and historical linguistics and I did have to tone Bruce down about being verbose about that and Richard did too. So I think that's what what's really involved here. Because the sections weren't numbered until this was re-typed, this was all re-typed from our earlier drafts. It was re-typed in Hazelton. So that's what my opinion is on this.

THE COURT: Mr. Overstall wrote section 2?

A No, he hacked it down, he edited it heavily from something very long to what it is today and it doesn't pertain to British Columbia at all. It's a general

introduction to our approach. And that's what we were thinking of as the introduction at this stage. I am stating my sincere belief and memory of this, so there is some semantics about the introduction as it now stands in the numbered report and what Bruce and I were calling the introduction which was to set the scene for people to understand where we are going from in terms of Boasian anthropological linguistics and the fact that languages are genetically related and this sorts of thing. Bruce had a very long, and it was really nice but I said it would be burdensome for the reader or the proceedings to talk a lot about race, language and culture and the nature of historical linguistics so it's rather brief here. But what we have here is very good.

MR. WILLMS:

Q You have page one of your report in front of you; correct?

A Yes.

Q And it says at the top "introduction"?

A Yes.

Q And it starts off by saying "In their statement of claim filed in the Supreme Court of British Columbia" and then talks about the assertions that are made by the hereditary chiefs, right?

A Yes.

Q Then if you look back to the letter that Mr. Overstall wrote to you, you will see that he -- after he tells you in the first paragraph he has taken the liberty of writing the introduction, and saying that you can change it if you want to, he also says "I have also added a copy of the statement of claim to the package so that you can check some of the assertions I make on your behalf." Now, I will ask it one more time and then leave it, but didn't he write the introduction here, pages one to four? Isn't that what happened?

A No, that's not what happened. We had written introductions and we wrote this and he did have to -- we did have to get a quote from him, I didn't know what the quote was that the claim was saying. We have to quote you folks properly. I don't know what Delgam -- I can't even pronounce the name of the case and I haven't seen, you know, how it was phrased as to what the proposition is before the court of law. So, sure, he had to give us information that was their claim but we are certainly capable of saying our linguistic evidence supports the claim without having

Overstall prove it before we do. You know, I feel the editorial process as far as Overstall is very healthy and surprisingly good and rigorous, considering he is a geologist by training. So --

MR. WILLMS: My lord, I would like to mark the first page of this letter 881-26.

THE COURT: Yes.

(EXHIBIT 881-26: FIRST PAGE OF LETTER DATED JANUARY 20, 1987)

MR. WILLMS:

Q The next document is a letter from Mr. -- Dr. Rigsby, back to Mr. Overstall and although it's dated, the printed date is February 1st, 1986, there is -- that's -- there is no question that's 1987?

A I guess so, sir. I guess you're right. I will take it you're right.

Q Well, it just says: "I received your air expressed letter of 20 January and other materials." I read them through and the only January 20th letter we have seen is the one that I have, that's been marked 881-26.

A Yes.

MR. WILLMS: Could this be 881-27, my lord?

THE COURT: Yes.

(EXHIBIT 881-27: LETTER DATED FEBRUARY 1, 1987)

MR. MACAULAY: My lord, I think that should be --

MR. WILLMS: It says 1st of February, 1986.

THE COURT: I will change it to '87. Seems to me to be obvious, considering the reference to the earlier letter.

MR. WILLMS:

Q Now, you know from the letter of January 20th, 1987, that we just referred to the first page of, that Mr. Overstall had not only sent the draft report or a portion of the report back to Dr. Rigsby, but also had a series of questions for Dr. Rigsby, correct?

A Yes.

Q We saw the question number one. And you know, for example, that as Mr. Overstall says in the first paragraph -- sorry, as Dr. Rigsby says in Exhibit 881-27, "Your comments and suggestions are on the whole I think very good from a stylistic and substantive point of view."

So that you know that Mr. Overstall's suggestions to Dr. Rigsby were not just, you know, put a comma

there, cross that T, but also put this in, throw that out kind of comments?

A Yes.

Q Now, down below in that middle paragraph, Mr. Overstall -- sorry, Dr. Rigsby says: "Enclosed is a copy of the draft main body of our report with my revisions and suggested changes. I have not seen Jim's revised sections. He sent me only the section on G. W. relations."

Now, was there a time when you were doing revisions for Chapter 4, sort of separately, while Dr. Rigsby was doing revisions on his own or were you exchanging your own material back and forth fairly regularly?

A Well, there wasn't all that much go around on this. I mean, we, such as it is, considering our other schedules and obligations, Rigsby and I had not spent all that much time on this report. So, I -- I don't recall very many go arounds on this. Seemed like there was, you know, a couple of exchanges, and like I say I brought my draft down that I had in Fairbanks, if I had a full paper trail of everything, you know, overwritten files on my computer and so forth, I don't have them now on my part and I can't -- Bruce has a different writing style than I do and a different way of working and he may have more drafts than I do on his parts and so forth. You know, I just -- I don't think that Overstall's use of the word or Bruce's use of the word substantive would mean that Overstall is telling us whether Gitksan or an Athabaskan loan word was or something like that. Or that it was really of a linguistic nature, it was in terms of argumentation structure and emphasize this and emphasize that, you know. So substantive is, in that sense, not in terms of that, you know, Het'el is H accented E-T-'-E-L, cedar, and that Bruce and I think it's borrowed from Gitksan into Athabaskan.

Q The letter on the first page in the full paragraph before the bottom of the page, Dr. Rigsby says: "I have tried to attend to the six questions of the report in your letter as much as possible."

Now, as I said we have only got the first page and we have seen question one, but if you turn to the -- you remember there were -- maybe you don't remember how many questions there were, but you remember a series of numbered questions from Mr. Overstall to Dr. Rigsby?

A Well, yes, I --

Q Now, on the second page Dr. Rigsby deals with the fourth question from Mr. Overstall, if you could please turn to the second page you will see he says this: "Your fourth question about linguistic archeology or linguistic prehistory touches upon matters I first dealt with in a 1969 paper and which continue to exorcise me. I recall that I gave you some photocopied pages from that paper to read toward the end of my stay in Hazelton and I was surprised when you gave them back to me without comment. I am enclosing the same for you again and I have re-written them in a special section which you may or may not want to include with our report."
Now, you have seen that 1969 paper by Dr. Rigsby?
A I know that paper, yes. It's an unpublished paper. I know that paper. I haven't read it in quite a few years but that's between Rigsby and Overstall whether, whatever this paper -- yes, yes.
Q You recognize that the paper that Dr. Rigsby is referring to is called Some Linguistics Insights Into Recent Tsimshian Prehistory?
A Yes, this is an unpublished paper.

MR. WILLMS: My lord, if I haven't already I would like to mark the letter 881-27 and the paper by Dr. Rigsby 881-28.

(EXHIBIT 881-28: SOME LINGUISTIC INSIGHTS INTO RECENT TSIMSHIAN PREHISTORY - RIGSBY, 1969)

THE COURT: What's the date of this paper?
MR. WILLMS: 1969, my lord.
THE COURT: Thank you.
MR. WILLMS:

Q You will see on the first page of the paper at the become bottom, Dr. Rigsby says: "Americanists have customarily regarded the Tsimshian speaking peoples as speaking a single language whose three main dialects - Coast Tsimshian, Nass or Niska, and Gitksan, correspond to the three major territorial divisions. In fact there are really two Tsimshian languages which we call 'Coast Tsimshian' and 'Nass Gitksan.'" Now, you know now that Dr. Rigsby in this report says that there is four languages, not two?
A Yes.
Q And are you also aware of the position from reading Dr. Rigsby's work of the Kitwancool-Gitksan between the Nisga'a and the Gitksan of the Skeena River?
A I know he mentions it in our report. Sort of

intermedial.
THE COURT: What are the four, please?
MR. WILLMS: The four, my lord, which are set out at page 28 of the report are at the bottom, there is Coast Tsimshian, it's right at the very bottom of page 28, my lord. Coast Tsimshian, Southern Tsimshian and then Interior Tsimshianic, which in the body of the report Dr. Rigsby breaks down into two languages rather than two dialects?
A Yes.
MR. WILLMS: Between Nisga'a and Gitksan.
Q You know that Dr. Rigsby in his paper says that Nisga'a and Gitksan are mutually intelligible?
A Yes.
Q I think you said on the very first day one of the tests of whether something is a dialect or a language is whether or not they are mutually intelligible, if they are?
A That's one of the tests. I didn't say it was the only test. You have various degrees and shades of intelligibility in the languages I know and I don't know how you would look at some of the evidence either, like Holikachuk and Koyukon are quite mutually intelligible but that doesn't mean they are not separate languages. And Inuit is spoken all over the arctic from Alaska to Greenland and that's one language, and in the opposite ends they are not mutually intelligible but as a continuum of dialects they are. So these are complex questions and Rigsby's position in 1986 is more articulated and refined than it was in 1969. And I also should point out that Southern Tsimshian was not even discovered then. So that makes the whole picture change, when there is a more southerly dialect, this Hartley Bay of John Dunne worked on when he found five speakers in the mid-'70s of a southern Tsimshian. So that changes the aerial picture from the 1969 paper and this is summarized in the 19 -- in the report. And I -- this shows a growth in the field of Tsimshianic studies and so forth.
Q Now, if you turn to page 11 of the -- Dr. Rigsby's 1969 paper, he -- and it's the paragraph at the bottom of the page. Dr. Rigsby says this at the bottom of the page: "The Gitksan began expansion up the Skeena Valley and we imagine that peaceful intermarriage, sociocultural absorption, and replacive bilingualism initially characterized their upriver movement. Moving into a slightly different environment, they

borrowed Athabaskan forms for some new fauna. Many small Athabaskan hamlets and local groups must have been gradually and peacefully Gitksanized in socioculture and speech."

Stopping there, from your perspective from an Athabaskan linguist, in other words from being on the other side of that, is that consistent with your understanding of the movement up the Skeena?

A It's looking like that way. But this -- we are talking about a very slow process, probably, you know, in the millenial level, you know.

Q Now, he carries on here, he says: "In the case of the Hagwilget Carrier Athabaskans who lived right on the ethnographic boundary of the Northwest Coast and the Interior, we have Diamond Jenness's monograph which identifies their borrowing of many features of Gitksan social organization, their acquisition of many Gitksan personal names and crest names, and fairly common inter-marriage and bilingualism. Jenness estimates that perhaps one-third of the Hagwilget Carrier were bilingual in Gitksan late in the last century. The Gitksanization of the Hagwilget Carrier began to end with their missionization by Roman Catholic priests in the second half of the past century."

Just stopping there, is that consistent with your linguistic work on the other side of the line there?

A Well, I don't believe we have a sentence like the Gitksanization if ever occurred began to end anywhere in our report so I don't really care to comment on that one way or other. But we don't have a sentence like that in our report. But this is a prescient paper, I might say, and our further work more fully brought out a lot of interesting data. We see a boundary there today at Hagwilget and Gitksan, and it's very interesting and maybe Athabaskans were further west. That seems possible. They were maybe further west at some point in time. This could be very ancient time.

Q Just skipping down to that next paragraph on page 12, Dr. Rigsby continues and says: "The fur trade seems to have spurred the Gitksan occupation of the Middle Nass and especially the Upper Nass and Upper Skeena territories. As many oral traditions testify, this was not a peaceful gradual process, though some Athabaskan place names were retained."

Once again, linguistically from the Athabaskan side, that's accurate, isn't it?

A Well, he is talking mainly about the Nass River.
Q And the upper Skeena?
A Yes.
Q And Athabaskan speaking people and a movement in the fur trade period, correct? That's what he says? I am just asking you whether from the other side of the line, the Athabaskan side of the line, the Athabaskan linguistic evidence is consistent with what Dr. Rigsby says here?
A Well, he is not talking about -- well, I don't want to comment on this position because it's not my position and Bruce would have to comment on whether that's still his position today. And I didn't write this. I didn't write this and I don't think I want to say that Gitksan have not been in -- and Nass have not been in their areas for a healthy period of time. I haven't seen the -- I don't know the archeological correlates to that, for example, and I don't want to say that this position in an unpublished paper by someone else -- I mean, I didn't write this paper, right? So if Bruce still espouses to this position or -- it's a matter you would have to take up with him. It doesn't -- I don't imagine that much recency to Gitksan or Nass presence, I don't -- in upriver areas, that doesn't seem recent to me. I am certain they were there pre-contact.
Q Maybe the last line of that paragraph would help you. He says this, in the last line of that paragraph: "It was during this same period of the fur trade that the Nass and Tlingit, along with epidemic disease, reduced the Tsetsaut Athabaskans of Portland Canal to a handful of survivors by the turn of this century." And you will recall that in the lower map, which is the Exhibit 875, you have got Tsetsaut in the Upper Nass and Upper Skeena on this map, correct?
A Yes.
Q So that as I understand what Dr. Rigsby is saying there, he is saying that the fur trade, based on linguistic evidence that he has, the fur trade pushed the Gitksan up into an area that was at the time of contact, according to Boas, Tsetsaut, isn't that what he is saying?
A Well, you know, there is plenty of literature that enriches all of this point of view in different ways and I don't want to comment on an opinion of Rigsby that he may not want to adhere to any more and he never published this paper and it's true that Tsetsaut

have had a tragic history, but I --
Q Well, this paper, Dr. Kari, if you look in your report to what is called the bibliography for chapters one, two, three and five, and let me just make it clear, your evidence is that Dr. Rigsby, he wrote chapter three on the Gitksan, you wrote chapter four on the Wet'suwet'en and you co-wrote or co-authored one, two and five, is that a fair description of how this report was written?
A Yes, yes, essentially.
Q So in the bibliography for chapters one, two, three and five on page 72, he cites this paper?
A Yes.
MS. MANDELL: He cites it for one, two, three and five. Three is the chapter dealing with the Gitksan linguistic relations.
MR. WILLMS: Yes.
Q But you will agree with me, Dr. Kari, that this particular statement by Dr. Rigsby is not internal to Gitksan, it's got a Gitksan-Athabaskan flavour, doesn't it? I mean there is two sides to this movement?
A Well, we are looking at replacive bilingualism, if you understand what replacive bilingualism means. Do you understand, sir, what replacive bilingualism means? Please tell me if you understand what replacive bilingualism means?
Q Is it peaceful?
A Generally speaking, peaceful, yes.
Q That's not what he is talking about in the paragraph I read.
A It's somewhat contradictory within the organization of this paper but I am not -- I say that's a good point, it's an astute point on your part but whether Rigsby holds to this model or some other model is really a matter for you and he to discuss and replacive bilingualism seems to indicate something that's going on in the area. There are several quotes, such as Adams, have you seen the quote in Adams, early on about page 15 in Adams, 1973, there is a statement that as of 1820 the Kitsegukla village might have been half Athabaskan speaking and that's pretty close to contact time. And are you familiar with that quote? That was from Barbeau or something. I don't even know that we have had any final word in any way about the onset of interaction between Tsimshianic people and Athabaskan people in that area. We know there are

deep difusions in the Queen Charlotte Islands of Athabaskan origin too, so --

THE COURT: What year did you say that half of Kitsegukla was?

A Well, it's a quote in Adams.

THE COURT: Was it 1820?

A Yes, there is a statement in Adams which is from some un -- as I recall, perhaps, Mr. Willms, you remember this better than me, in the the quote in Adams about Kitsegukla, it was from Barbeau in the --

MR. WILLMS:

Q You mean from his work The Gitksan Potlatch?

A Yes, and there is some interesting bit -- I would say some of that is the best quote that I know about early multilingualism further down river than it is today.

THE COURT: What was the year that you gave? Was it 1820?

A I may be wrong, but there was some such quote like that in Adams citing Barbeau and Barbeau did his work in the early 1920s. So, I, you know, I don't know that all the research that's really pertinent to the onset of interaction or the onset of fur trade stimulated changes has been researched and we are not archeologists that would be look at proto-history where there might be the latest material on that that might bring to bear those sorts of things, questions on those sorts of things. I don't know the archeological literature in British Columbia that you might want to marshall to flesh out a point like this and Bruce never published this paper in 1969.

MR. WILLMS:

Q Just to complete this paper and then perhaps we can take the break, he says, he sums up at the bottom of page 12 and over to page 13, he says: "To sum up these last materials, we have been arguing that the recent spread of Nass-Gitksan speech community boundaries into the Nass Valley and up the Skeena Valley accompanied the territorial expansion of a highly efficient socio-cultural system out of its place of original development an instance of cultural dominance, if you will."

Now, Dr. Kari, whether you agree with that or not, you will agree that that is the same theory that Dr. Kobrinsky had in his paper, correct?

A It sounds similar and I do not know that Bruce adheres to this position today at all. I am quite sure that he doesn't and -- well, I just say I do not know. My feeling is he wouldn't want to publish a statement like that at all. And it's a -- scholars are allowed

to change their views based on further work and so forth. And we are finding more and more deep diffusions all the time between Tsimshianic and Athabaskan languages, we are looking to a more southerly proto-Athabaskan homeland that we previously considered. And when Bruce talks about the recent past, he is talking in the last 2000 years.

MR. WILLMS: This would be an appropriate time to take the afternoon adjournment.

THE COURT: All right.

(PROCEEDINGS ADJOURNED FOR SHORT RECESS)

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

Wilf Roy
Official Reporter

(PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
THE REGISTRAR: Order in court.
THE COURT: Mr. Willms.
MR. WILLMS:
Q Dr. Rigsby -- sorry. Dr. Kari, in 1975 you wrote a paper and its reference to the report called "Babine, A New Athabaskan Linguistic Grouping"?
A Yes.
MR. WILLMS: My lord, might be that 881-29?
THE COURT: Yes.
(EXHIBIT 881-29: Tab 29 - Babine, A New Athabaskan Linguistic Grouping - James Kari)
MR. WILLMS:
Q And this was the beginning of the work that you did which ultimately led to your very recent paper, the 1989 paper where you classified the language as Babine-Wet'suwet'en?
A Yes.
Q Now, the -- on page 4 of this paper, you -- perhaps it's easier to follow from page 3 over to page 4. You talk about at the bottom of page 3:

> "The question to which this report is primarily addressed is whether the language of Babine Lake and Bulkley River is a dialect of Carrier or is a separate language. We see that Morice vacillated on this question but treated Babine as a dialect of Carrier. The importance of the linguistic position of Babine is underscored by Jenness' remarkable study of the Bulkley River Carrier done at Hagwilgate in 1924-25, which details a major adaptation by the Athabaskans to the stratified social culture of the Gitksan. Jenness' monograph is also an important source of linguistic information on the Hagwilgate language. One is struck by the large number of Gitksan loan words in the study."

And then on page 7 you carry on with this discussion of loan words at the bottom, and say this in the bottom of page 7:

> "In Jenness' Hagwilgate ethnography one is struck by the large number of Gitksan loan words for house and personal titles, even

Gitksan song lyrics. Athabaskan is notoriously conservative regarding loan words."

Now, first of all, can you say -- what does that mean, "notoriously conservative regarding loan words"?

A Well, that's the Sapir quote that we have in our report today, that they almost seem to be resistant to borrowing words. But now we have a richer picture than that. I -- it's an interesting theory. Is there a language that just sort of blocks out loan words? Is there such a thing as a language that's so resistant to borrowing that it has almost no loan words? But Sapir was citing Athabaskan as such an example, but we -- it's a more variated picture than now in terms of -- well, there's a lot of ways I could respond to that, but please go ahead with your questions.

THE COURT: May I interrupt, because I'm not sure that I understand this?

THE WITNESS: I don't know that Mr. Willms has phrased a question yet based on my 1975 paper and asking me what my current view is.

THE COURT: I'm sure he will. But what does this mean, "One is struck by the large number of Gitksan loan words"? Does that mean loan words that have been incorporated into Gitksan or --

THE WITNESS: Into Athabaskan. Hagwilget speakers have something -- well, see I'm wrong on the first one. House, not house titles, but personal titles, yes. So I'm wrong in what I said here. The large number of house titles. We find there's only one out of thirteen is Gitksan origin. So I -- I would not make that statement in terms of the house titles, but there are a lot of Gitksan loan words in the personal name area.

MR. WILLMS:

Q By "Gitksan loan word", do you mean that's a Gitksan word --

A Non-Athabaskan.

Q -- that is loaned into the Athabaskan?

A That the Athabaskan speakers now use.

THE COURT: Are these two sentences not inconsistent? One says you're struck by -- or Jenness said he was struck by the large number of loan words.

THE WITNESS: Yes. When I looked --

THE COURT: The next says "Athabaskan is notoriously

conservative regarding loan words".
THE WITNESS: This might be a counter-example to the Sapir quote. That's what I was -- it's a good paper topic itself, you know, that maybe Sapir was wrong.
MR. WILLMS: But -- now, this assumes in terms of loan words that there is a -- a sort of a sharing of loan words, but where you've got a conservative group regarding loan words but another group that's culturally dominant, that might account for a larger number than you would normally expect, wouldn't it?
MS. MANDELL: Well, I don't even understand that question. Maybe it could be broken up in three parts, not one.
MR. WILLMS:
Q All right. If we can harken back to the question I asked you this morning about whether a significant number of borrowed words, for example, for culture, for peerage and things like that indicates cultural dominance in Bloomfield.
A In Bloomfield. Yes.
Q What I'm going to suggest to you here, breaking it into steps, is that if you assume that Athabaskan is conservative regarding loan words, as is said here in your paper -- now, that may change and I'll ask you that in a moment. But if you assume that Athabaskan is conservative, then an explanation for the large number of loan words would be cultural dominance. That would explain it, wouldn't it?
A It wouldn't be the only possible explanation.
Q But it would be one?
A It would be one explanation.
Q Now, I will ask you is Athabaskan notoriously conservative, in your experience, regarding loan words?
A Well, if Dr. Sapir were alive today -- he died in 1939 -- I would -- I would take issue with his statement, and I've actually found that rather true in my work. But they don't have -- there are more loan words turning up in different Athabaskan languages in different parts of the continent. They aren't resistant to loan words. That was an overstatement in Sapir 1921. But I also think that there is such a thing as Athabaskan culture. It's a 6,000-year time depth in Northern North America.
Q Just carrying on with what you wrote in 1975. And I stopped right before Sapir. You then carry on and say:

"And Jenness presentation of the terminology for the social organization at Hagwilgate is the most thoroughgoing example of linguistic borrowing by an Athabaskan people."

A That's not true anymore. But that -- you know, it's not a bad paper in 1975 and I didn't publish it. But --

Q And you give a good example right after. You say that your inspection of Jenness table of peerage yielded 25 names, peerage names of probably Athabaskan origin but 36 of Gitksan?

A Yeah. That holds true to say that -- what I mentioned yesterday with Casmel Williams in Babine Lake. C-a-s-m-e-l is his spelling of his first name. That -- yes. But I now don't regard personal name borrowing at all as the same kettle of fish as loan words in conversational vocabulary, for example, sir. I would like to clarify domains of borrowing, and personal naming is -- there are a lot of Gitksan personal names. The Delgamuukw name, which I had someone say for me at the break, that's the -- the personal name in the court action and so forth. Yes. In that area those -- many of the Wet'suwet'en and Babine people use Gitksan words. But if you talk about -- you carve them into domains, yes. It's an interesting picture. There are some loan words here. I've been working with Russian loan words in Dena'ina, 400. Aleut has 700 Russian loan words out here in the Aleutian Islands. I mean I can talk about loan words for the rest of the afternoon. But what -- I would take issue with Sapir 1921 and I'm still struck by the large number of personal names that I saw in Jenness. And -- and we had real interesting kinds of Gitksan loan words in Hagwilget, but I have no more than 150, not even that many. That counts the French. I mean, there are well under 100 outside of the personal names. So, you see, there are different ways to present and amplify this whole picture of the borrowing of -- into Babine-Wet'suwet'en. But I do think loan words and personal names, we want to make a distinction there. And what I was mainly struck by in this peerage table, I'm still struck by today and I'm struck by it by Casmel, Babine and Williams last summer, that they use a lot of Gitksan names and they know what they mean. They know what they mean. And this is a very sophisticated kind of multilingualism

in the area that has a millennial sort of cast to it that it didn't happen post-contact. There isn't any possible explanation of all of this interesting, richly-textured picture happening, you know, because the white man showed up.

Q Lower down on page 8 you talk about bilingualism. After you quote Jenness, you said this in 1975:

> "Today the amount of bilingualism between Hagwilgate and Gitksan is not great. I noted that some Hagwilgate elders have a fair knowledge of Gitksan vocabulary. Some know many Gitksan songs but often are not sure of their meaning. Of course, this topic needs to be investigated further."

A Yes. And I never published this paper. And there are more extensive meanings as, say, a person as young as Dora pointed out the name Delgamuukw at the break. And you know what that means in Athabaskan, Delgamuukw? Do you know what Delmuh means in Athabaskan? The owl is hooting. So we really don't -- D-e-l-m-u-h. Delmuh is the owl is hooting. So yes. It is being investigated further and I do not have a final position on it at all. It's a very rich multilingual pattern here that more than -- I have got elders that have a fair knowledge of Gitksan vocabulary. What did I know about Gitksan vocabulary in those days? So, you know --

Q Who are your -- today with the knowledge that you've got today of Babine-Wet'suwet'en in the Hagwilget/Moricetown area, from which informants would you say that you got most of your information? You named a few the other day, but --

A In -- on the Bulkley?

Q Yes. On the Bulkley.

A The three persons more than any other were -- well, I did quite a bit of work with Joe George, so he would be about fourth on the list. Margaret and Charles Austin would be second, tie for second on the list, and -- and Alfred Joseph the most.

Q Okay. Just flip back to page 1 of this paper if you wouldn't mind. This is 881-29. You will -- you'll see -- you've said who helped you?

A Yes, sir.

Q

> "Walter Joseph, chief of the Hagwilgate

band, was very helpful to me during my stay and also supplied linguistic information. My informants at Hagwilgate were Charles Austin and Margaret Austin."

You just mentioned them?

A Um-hum.

Q Mary Ann Austin, Ron Austin, Joe George. You just mentioned Mr. George?

A Um-hum.

Q Matthew Pierre and Sarah Pierre?

A Um-hum.

Q You really had -- these are the main informants in 1975 and they are today for you; isn't that correct, for the Babine-Wet'suwet'en language at -- in the Bulkley River? They were then and they are today?

A No. I -- my main informants? I mean what -- I -- I don't even use that phraseology myself when I talk about people I work with. I don't say my main informants. So I -- I -- I have worked with various people in a scale of hours, you know, hourly scale. I've worked with more than others. You can't tell me how many of those hours are from reading my 1975 papers, sir. What are you asserting? That I've worked with some people and not others? I've worked with about 34 speakers of Babine-Wet'suwet'en and I certainly am not prejudiced by Alfred Joseph when I listen to Francis Skin speak at Francois Lake in any way and not in any way. I listen to every speaker and the vowel qualities that they say when they speak to me. I'm trying to do my best as a phonetician and as a linguistic to etymologize their language. So what is your point about my main informants?

Q Well, I asked you to name and I thought you named four.

A Yeah. Ron Austin is a young guy, younger than me. He's the youngest speaker at Hagwilget and I haven't seen him since. And Matthew and Sarah Pierre are dead and Mary Ann Austin is a very good speaker and she's not in good health, and I haven't worked with her too much since and I saw her last summer and I was pleased to see her again.

Q Maybe we could go back to page 8 of your report, Exhibit 881-29. And we get back to Dr. Rigsby here. At the bottom of page 8 you say this:

"Rigsby posits that the Tsimshian have

> expanded their territory in late prehistoric times. He suggests that the ancient Tsimshian homeland is in the Lower and Middle Skeena River Valley."

A He changes. He doesn't have that position anymore though, sir. Excuse me.

Q

> "The Nass/Gitksan split (from coast Tsimshian) resulted from an early movement out of the Middle Skeena Valley. The Niska replaced Tlingits and Athabaskans (the extinct Tsetsaut) in the Nass Estuary, while the Gitksan expanded up the Skeena River, gradually absorbing other Athabaskan groups. The Gitksanization of the Hagwilgate people may exemplify a former pattern of peaceful absorption."

Just pausing there, partway through you said that you didn't think that he had that same view today. Is that what you were saying?

A "The Gitksanization of the Hagwilget people may exemplify a former pattern of peaceful absorption". That's what we're saying today.

Q All right. You're just not saying that the Tsimshian expanded -- you don't think that Rigsby -- Dr. Rigsby is saying that the Tsimshian have expanded their territory in late prehistoric times?

A Well, I -- yes. That's true, sir. I think we've managed to develop a -- a sense of it being a much slower process, a more protracted process, I think is what we would say, so late prehistoric. I wouldn't write that today and I don't think you'll find that in Kari and Hargas 1989.

Q You then say -- and this is your language, I guess, not -- not Dr. Rigby's anymore on page 8a:

> "Note that Jenness speculated that in earlier times there may have been contact between the Kitimat (Kakiutl speaking) Indians of Douglas Channel and the Bulkley River people, implying that the Athabaskans formerly held territory further down the Skeena River."

A Yes, sir.

Q Is that consistent with your linguistic research today?
A I haven't proven that, no. I haven't found that to be -- I haven't -- I never -- and, actually, I don't know about Wakashan in -- in Babine-Wet'suwet'en. I don't think we've identified hardly any. Jenness did drop that possibility though.
Q You mean he suggested that possibility?
A Yes. As in a page I cited, but I actually haven't proven it.
Q At the very end of your paper on page 34 where your notes start, under note 2, you said this:

> "At Hagwilgate in 1975 there were about 150 speakers of Babine. Children are not now learning the native language. The youngest speaker I met is age 20. The language ability of the 20-30 year old generation is mixed, with some non-speakers and some excellent speakers. The language is somewhat stronger at the larger reserve, Moricetown, though I was told by a young couple from Moricetown that the youngest good speakers of Babine are teenagers and that the children are not using the native language much. Several persons commented that at Babine Lake the language is the strongest, with children speaking well."

Now, when you revisited the area in 1985 did you discover any change in this that you had noted in 1975?
A Yeah. That's a pretty accurate assessment of the language maintenance in 1975.
Q And in 1985?
A Well, yeah. The youngest speakers are getting older and the children aren't learning the language too much in -- in Hagwilget and Moricetown, but they do appear to be in Babine Lake. It's a reasonable sociolinguistic profile for -- I think I was there 10 days in 1975.
Q I'd like to turn back to Dr. Rigby's letter, which we left in mid-paragraph, Exhibit 881-27. It's his letter of February 1, 1987. 881-27, my lord. And where I left off, Dr. Kari, was in the middle of that paragraph on the second page after Dr. Rigsby saying that he'd enclosed his 1969 paper again, rewritten it

in a special section which you may or may not want to include with our report.

A I'm sorry. Which paragraph?

Q It's in the second paragraph.

A Okay. Okay. I see where you are now.

MR. WILLMS: All right. I read you the first part and then we went into Dr. Rigby's 1969 paper, which he'd sent to Mr. Overstall revised. And then he says this:

> "As a result of my reading in the areal prehistory and talks with Deanna, you and others when I was in Hazelton, I changed my views to see the Gitksan as having been in their Middle Skeena heartland for longer than I previously thought and I came to see the relationship between the Gitksan and the Wet'suwet'en as more problematic. He -- it produced the fur trade."

THE COURT: Preceded.

MR. WILLMS: Preceded the fur trade.

THE COURT: I'm not sure about that.

THE WITNESS: It preceded the fur trade considerably.

MR. WILLMS:

Q It's hard to read. It could be produced.

A Preceded. It didn't produce the fur trade, that's for darn sure. It preceded.

MR. WILLMS:

Q

> "It preceded the fur trade considerably and was not strictly a matter of the Wet'suwet'en becoming 'Tsimshianized' or 'Gitksanized'. I wrote about some of these concerns in my draft, but they've been edited out as, I guess, not strictly linguistic."

Just pausing there --

A Interesting. I don't know exactly what he was referring to that was edited out, but that's a pretty good statement of both Bruce and I and my opinion. There's a lot more antiquity to this, the Gitksanization of the Wet'suwet'en and the reverse, the Carrier -- or the -- the Babine-Wet'suwet'enization of the Gitksan is a real issue that's -- we see as a more protracted and complex process through our work in '86 and even more

complex and more protracted the more we research it, say, as my work in '88.

THE COURT: This suggests that the -- which I saw again a moment ago -- that the Gitksan original line was the Middle Skeena.

THE WITNESS: That's an open question. You know, the archaeological dates and the up river now are as old as it -- as Prince Rupert. So it's really an open question as to -- you know -- you know, it's exciting as a research issue and --

THE COURT: That is your present view, is it?

THE WITNESS: I don't know what -- I don't have a view on the original homeland of the Tsimshianic-speaking people. I don't have a view. I don't know anything that much about that archaeological material in Prince Rupert. Bruce does. And -- but we do see the equal -- we do not want to have through these proceedings everybody talking about the Gitksanization or the Tsimshianization of the Athabaskan without at least entertaining the proposition of the opposite and the Athabaskanization of the Tsimshians. And that is -- it's a give and take. It's that -- it's a trade-off, actually. It's a very interesting trade-off. And Athabaskans have a lot more in North America than the Gitksans do or the Tsimshianic peoples do. So, you know, Athabaskan culture is not everybody else's culture, and they just have a language but nothing very old beyond that. That's certainly not the case.

MR. WILLMS:

Q Deanna, the reference in the middle paragraph, is that to Deanna Ludowich?

A Deanna who?

Q Ludowich.

A I don't know that name. I don't know anybody named Deanna.

MR. WILLMS: Ludowich. You weren't aware of an anthropologist named Deanna Ludowich?

THE COURT: I'm sorry. I'm getting where I'm not sure that I'm not going to make much sense of this in due course, because on page 8 of your 1975 paper, isn't it? Yes. Mr. Willms directed you to the last paragraph. Particularly he suggests you're talking about Rigsby; that the ancient Tsimshian homeland is the Lower and Middle Skeena River Valley.

THE WITNESS: Yes. This is not Rigsby 1969.

THE COURT: Not his present view. That's what I thought you said.

THE WITNESS: Yes. His more recent view was looking at that Prince Rupert archaeological data, which I am not prepared to address in my own background, but I think he -- you see, the Southern Tsimshian changes the picture. That's the whole problem in terms of modelling Tsimshian prehistory, and which I am not really up on. I don't know the country, the archaeologica data. But the Southern Tsimshian is big news in that there's a fourth Tsimshianic language and it is to the south. And when you do these models of prehistory -- I mean this is not as complex as modelling Athabaskan prehistory at all all, not at all. But, you know, he might want to shift a radius to account for Southern Tsimshian if he were dealing with, say, time depth, with, say, Southern Tsimshian, Coast Tsimshian, Gitksan, so it's now more complicated.

THE COURT: Doctor, my problem is that you have told me that -- that Dr. Rigsby no longer adopts -- no longer has the view that the ancient Tsimshian homeland is in the Middle -- Lower Middle Skeena River Valley. But I see in this letter, which is dated 1st of February, '87, that's exactly what he says, isn't it? "I changed my views to see the Gitksan as having been in their Middle Skeena heartland for longer than I originally thought."

THE WITNESS: No. That's -- he -- that is a change in view from what I was quoting in his 1972 paper. They've been in the Middle Skeena longer than he thought. But he -- I've heard him just say that he thinks the coast, the ocean, is the most ancient homeland, and that's not what he said in 1972. But I really -- as far as what Bruce's current position is and how -- I mean, I am not thoroughly up to stream on it. I just -- I hope that helps.

THE COURT: I'm sure he's not -- or I shouldn't be sure of anything. Is he drawing -- or do you draw a distinction between homeland and heartland?

THE WITNESS: Yes. Yes.

THE COURT: Would you?

THE WITNESS: Yes. Yes. He didn't say homeland. He didn't say proto-Tsimshian homeland in the letter, did he?

MR. WILLMS:

Q No. When you want to talk about where the language group first started, you use something like proto the language, like proto-Athabaskan or proto-Tsimshian?

A Proto-Indo-European.

Q Or proto-Indo-European.
A But there is now a complex essentially paradine shift going on in Indo-European studies because of attempts to correlate English and language and archaeological evidence. It is complicated. I can't -- I mean, we do not, you know, think that there is some simple way to draw a circle here and a circle there and say that we've got the proto-Athabaskan homeland figured out on the one hand, which we certainly don't, or the proto-Tsimshianic homeland figured out over here and they were formerly here and now they're here. The model of a sociolinguistic model of language change is what most people want to look at to have a -- especially a feel for issues such as multilingualism and community shift in interchange over the long time due to intermarriage and multilingualism, so that's clearly part of the picture here in terms of Babine-Wet'suwet'en Gitksan interaction.
Q Now, just for the next question, and this is maybe a little bit -- require a little organization, but if you could have, first of all, your report, Exhibit -- you'll still need the letter. Your report opened -- that's Exhibit 877 -- opened to page 40. At the same time the letter, which is 881-27, open at the second page. And the third document is the 1969 paper by Dr. Rigsby, 881-28. If you could open that to page 3. Do you still have Dr. Rigby's paper on some linguistic insights into -- it's 881-28.
A Did I keep it? The page on Rigsby is page 3 of 881-28.
A Page 3.
Q Page 3.
A Yes.
Q Okay. The second -- the letter open at page 2 and your report at page 40. All right. Do you have --
A Okay. I'm starting to -- yes, sir.
Q Now, just starting --
A Yes. Especially the second paragraph. Yes.

MS. MANDELL: My lord, I hesitate to interrupt at this point, especially not having a question out, but I do want want to clarify that I had understood that Dr. Rigby's report would not -- that Dr. Rigsby would not be required for the cross-examination of his report and that Dr. Kari would answer with respect to both his report and the areas which they did in common, that is chapter IV, where there was an area where perhaps they could both be said to have co-authored it. Now, if my

friend is going to be putting -- putting details about specifically the Tsimshian language from Dr. Rigsby's section of the report to the witness, I'd ask that there be some guidance put to that before these questions start, because Dr. Kari isn't an expert on the Tsimshianic language and he wasn't tendered to be that, and I think we could get into a lengthy amount of cross-examination on what Dr. Rigsby thinks or feels about something or how he answers to things, but he wasn't here and he wasn't intended to be here for that.

MR. WILLMS: My lord, there's a couple of answers to that. The first answer is that any witness' evidence and the weight to be given to evidence, even a document to be filed, is a matter for your lordship and whether or not there may be other evidence already in this proceeding which may go to the weight of the report filed by Dr. Rigsby is something that we can't be foreclosed from arguing, in my submission, simply because we didn't require his attendance for cross-examination. But probably more importantly, this witness, my lord, through his earlier paper has shown that one of the interesting areas linguistically is the Gitksan, the Tsimshian-Athabaskan interface. He's referred to it in his 1975 paper. If you look at the map that Dr. Kari brought to Court with him today, he's got the Athabaskans completely surrounding the Tsimshian-speaking people. Certainly it must be relevant that when you've got languages speaking on two sides of a particular line, that the person on one side has got to know a little bit about the other side before he can say that they're different.

THE COURT: Well, I'm sorry, Mr. Willms. Let me interrupt you. I'm not sure what you're saying, Ms. Mandell. Are you saying that cross-examination of Dr. Kari on any matter included in Dr. Rigby's report is forbidden territory? You put -- you put Dr. Rigsby -- Dr. Rigby's report in. Your friend didn't require you to call the witness for cross-examination, but you put it in under the Evidence Act. Is there -- are you suggesting there's some rule that now prevents Mr. Willms from using it in his cross-examination of Dr. Kari simply because he's chosen not to cross-examine Dr. Rigsby?

MS. MANDELL: I think that he can go this far. I think that the report is in evidence, as is the rest of the exhibits, and he's entitled to put parts of the report to this

witness or any others and ask for their opinion about it or ask them to comment or use it however he pleases with respect to that, but I think that where he crosses the line, and this is what I'm asking your lordship's assistance with respect to, is that if he's seeking to cross-examine -- essentially cross-examine Dr. Rigsby but he doesn't have Dr. Rigsby here, so instead he's using this witness to test the hypothesis placed before the Court, which are within Dr. Rigby's domain, I think it's a question of -- first of all, it's a question of not using this witness for within the area that he's qualified as an expert. He's not an expert in Tsimshianic languages and so I say then that if the effort is to try and prove or disprove Dr. Rigby's report with reference to this witness and that there is some merky area as to the area that he's been qualified as an expert that may extend to his having some expert knowledge about the Tsimshianic language, that's just not the case. And, you know, the question wasn't asked and I don't know what it will be, but I do think that for Dr. Rigsby -- for the Tsimshianic -- the cross-examination with respect to the Tsimshianic language, in my view it's not properly cross-examination that should be placed before this witness for his expert opinion on the Tsimshianic language. Now, you know, he can say what he has to say about it on its face or somebody who comes at it from the Athabaskan point of view. That's fine. But he's not an expert in the Tsimshianic language and we don't tender him to be that, and I don't want there to be a confusion that he's here answering for Dr. Rigsby with respect to the answers he might give or the questions which might be asked.

THE COURT: Well, I sympathize with the problem. It's a very difficult one to articulate. And I think if I can equate the situation to the father on his hands and knees in the basement looking for the gerbil that's escaped and he strikes at it three or four times and he doesn't hit it, and I don't think you hit it, Ms. Mandell. I think if you and your friend had no discussion at all about cross-examination of Dr. Rigsby, that you put in Dr. Rigsby's report, Mr. Willms would be in the same position he is now in cross-examination examining this witness on a matter on the specialty of the witness generally, which is linguistics. I don't think the witness is going to have any difficulty with any question that may be

asked him that doesn't bear upon his knowledge. There is -- this is an unusual case because there's an interaction between Tsimshian and Gitksan and Babine-Wet'suwet'en -- I'm sorry -- Tsimshian and the Babine-Wet'suwet'en languages here, and I think the matter is at large and I agree that he couldn't cross-examine and say what did Dr. Rigsby mean by this or what did he mean by that, but he can say do you know if his present view is different from what he has stated. I see nothing wrong with that. I think that's been put to another witness. I don't -- I don't think, with respect, that I can give effect to your objection, Ms. Mandell.

Proceed, Mr. Willms.

MR. WILLMS:

Q Thank you, my lord. The -- the starting point is the page 3 of the report of Dr. Rigsby, which is cited in the report filed at Court. And you'll see that Dr. Rigsby there on page 3 after discussing the relationship between the languages -- by the way, at the top of the page he talks about Gitksan and Coast Tsimshian sharing items on the Swadesh 100-word list and Nass with 75 with the coast language. That's in your report too. What's the Swadesh 100-word list?

A It's misspelled in the 1973 -- 1969 paper. It's S-w-a-d-e-s-h. Morris Swadesh was the person most associated with the theory of glotto chronology that was developed in the 1950's and the 100-word list.

Q And what's -- what is that theory all about?

A Well, the idea was that languages may change similarly or at a constant rate, and if you looked at 100 words that were more or less universal to human beings and you compare different languages on the 100 words and if the ratio was, say, that a certain percentage of the words would tend to be replaced, you could maybe date the times that -- in the past that languages had diverged from one another, and Bruce here is citing the Swadesh -- please try to follow me on this. It's interesting -- the Swadesh list without calculating a -- a year of divergence and dispersal. And so it's simply a method. It's just what he says in the paper; that he looked at 73 of the items on the 100-word list and Nass shares -- you know, they share a 73 -- they share 73 of the items on the 100-word list. Now, Swadesh would go take that figure and say, you know, they -- I don't know how you'd compute it, but this is a thoroughly -- the -- the time depth implications in

terms of something analogous to carbon 14 dating is totally false then after that because it's been proven to be not a reliable -- strictly reliable measure of the time of divergence. So Bruce rather than calculating and saying that say Nass and Gitksan have been split for 500 years, he simply presents what he found.

Q And he does that at the bottom of that paragraph. He -- there's no calculation?

A He makes an estimate and he doesn't say that he computed it from the Swadesh 100-word list. He just presented the percentage from the Swadesh 100-word list.

Q And he said:

> "We estimate the time depth involved in the divergence of the two languages to be no more than a millennium, probably more like half a millennium, but our estimate is purely impressionistic."

A Yes. So -- yes, sir.

MR. WILLMS: Now, then going to the letter --

THE COURT: I think, Mr. Willms, you haven't actually started on your comparison with these three documents. I think we might usefully start that in the morning.

MR. WILLMS: Thank you, my lord.

THE COURT: I suppose I have to warn counsel that once one embarks upon another proceeding, there's always the risk that it might run over a few minutes. I hope it wouldn't, but I think we should set our next time for ten o'clock. I may be a few minutes late, but I hope not.

THE REGISTRAR: Order in court. Court will adjourn until 10:00 a.m. tomorrow.

(PROCEEDINGS ADJOURNED)

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

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Kathie Tanaka, Official Reporter
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