

Vancouver, B.C.
March 22, 1989

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE REGISTRAR: In the Supreme Court of British Columbia,
Vancouver, this Wednesday, March 22, 1989. Calling
Delgamuukw versus Her Majesty the Queen, at bar.
I caution the witness, you're still under oath.

THE COURT: Mr. Rush.

MR. RUSH: My lord, I want to interject in the cross-examination
at this point just to discuss two scheduling matters
with you.

THE COURT: Yes.

MR. RUSH: The first is the question of the re-arrangement of
the week of April the 17th and the 24th.

THE COURT: Yes.

MR. RUSH: We have made our best efforts at trying to see if we
could, of all counsel and witnesses and advisors and
so on, to determine whether or not the week of the
24th could be freed up --

THE COURT: Yes.

MR. RUSH: -- As an off week, and I do not think it's possible,
my lord.

THE COURT: All right.

MR. RUSH: So I recommend we continue with the present schedule.
And I regret we weren't able to do that, but I think
the scheduling had gone far too along the route to
alter things.

THE COURT: All right. And we'll sit on the weeks of April
10th, 17th and 24th and off the week of May 1st.

MR. RUSH: Yes. I think we have the witnesses presently
scheduled Mr. Brody on the 10th, Mr. George on the
17th, and Mr. Morrison on the 24th. We'll continue
with that order and schedule.

THE COURT: Yes. All right.

MR. RUSH: And, of course, the week of May the 1st is an off
week then.

THE COURT: Yes.

MR. RUSH: Now, my lord, the other issue that I'd like to raise
with you is the question of the scheduling of Mr.
Morrell's evidence. Mr. Morrell is the next witness
to be called after Dr. Ray. His evidence is scheduled
to commence in the week of March the 28th. Well,
that's really the week of March the 27th. As I
understand it the 27th is a non-sitting day.

THE COURT: Yes.

1 MR. RUSH: So the week of the 28th, of course, is a four day
2 week. And there has been correspondence between Mr.
3 Grant and Mr. Frey of the Federal defendant indicating
4 that the time allotted in that week of four days may
5 not be sufficient to complete the examination,
6 principally the cross, as I understand it, because Mr.
7 Grant has advised the defendants that it will take
8 approximately two days for the direct. It appears
9 that the cross may take a little longer. Mr. Grant
10 has suggested that April the 1st be a sitting day,
11 which is Saturday. And I raise now with your lordship
12 the spectre or possibility that the cross-examination
13 may move into the following week. Now, there had, I
14 think, been some indication by your lordship that the
15 third week of -- April the 3rd is a week in which you
16 would be sitting in the Court of Appeal, or at least
17 not available.

18 THE COURT: Not available. I have to go east. I'm free on the
19 Monday. I don't have to leave until Tuesday.

20 MR. RUSH: I see. It may well be that it would be necessary to
21 sit on the Monday. Now, my concern, as I'm expressing
22 it on Mr. Grant's behalf, is that we want to be sure
23 that the direct and the cross finish in a straight
24 time sequence.

25 THE COURT: Yes.

26 MR. RUSH: And it's our hope that if those two dates, the 1st
27 and the 3rd, are made available that that ought to be
28 sufficient to complete the cross. What we would like
29 to know from the defendants now, or as soon as
30 possible, is is it likely that their cross will take
31 even longer than that, in which case that could
32 present some serious scheduling difficulties. Now,
33 Mr. Frey, who's been the primary correspondent with
34 Mr. Grant, is not here today and I don't know if Mr.
35 Macaulay can address this issue of what the
36 anticipated length of the cross will be, but I think
37 it would be of great assistance to us to know whether
38 or not within the additional time that's now been
39 allotted we can complete the cross.

40 THE COURT: You think you'll be two days?

41 MR. RUSH: In direct, that's correct.

42 THE COURT: And that will be four days if we sat Saturday and
43 Monday for the cross-examination. Do counsel think
44 four days will be enough?

45 MR. MACAULAY: My lord, four days will be more than enough.
46 It's not the problem of the number of consecutive
47 days. The problem arises out of the plaintiffs'

1 lengthy lists of documents that were provided for us
2 recently. Quite recently. Our advisor on the
3 fisheries matter is going through those and has asked
4 for a limited number of copies, a very limited number
5 of copies of documents recently. If we get them in
6 time and if they can be worked through there shouldn't
7 be any problem at all.

8 I should add another thing. Before the
9 examination in chief begins we'll be making some
10 submissions regarding the relevance of a lot of it.
11 If your lordship accedes to our submissions then there
12 will be a rather short cross-examination -- shorter.
13 So there may be no problem at all. It may not be
14 necessary to sit either Saturday or Monday. I hope
15 that's the case. It's because we are still in the
16 process of getting documents, copies now of documents
17 and checking these long lists. The first one is 176
18 items and then there were some others. As we go
19 through them we may find that there's no problem, but
20 I would think that we could finish the thing by
21 Saturday certainly, and if Monday is held available
22 well we should -- it shouldn't be any problem.

23 THE COURT: All right.

24 MR. MACAULAY: Now, that's subject to Mr. Grant getting on his
25 bicycle and getting those photocopies of documents
26 down to us.

27 THE COURT: Well, I'm sure Mr. Rush will pass those sentiments
28 along to Mr. Grant. Mr. Willms.

29 MR. WILLMS: My lord, I have the same comments. The length of
30 time is not the issue, it's still that there are
31 documents coming in, and it's a question of whether or
32 not the witness will need to be stood down while the
33 documents are being produced and reviewed, but not a
34 question of the length of time.

35 THE COURT: All right. Well, everyone is in agreement. We'll
36 tentatively schedule both the Saturday and the Monday.
37 If we find we don't need to sit on one or either of
38 those days so much the better. If it is necessary for
39 us to do so then we will.

40 MR. RUSH: Thank you.

41 THE COURT: Thank you. All right, Mr. Willms, whenever you're
42 ready. Thank you.

43 MR. WILLMS: My lord, I've handed up another gray binder which I
44 suggest bear the next exhibit number.

45 THE COURT: Another empty binder in the old courtroom.

46 THE REGISTRAR: And the next exhibit number will be 966.

47

1 (EXHIBIT 966: A.G. Binder of
2 Cross-exam Documents for Dr. Ray)

3
4 THE COURT: I've been terrorized by the number of tabs you have,
5 Mr. Willms.

6 MR. WILLMS: My lord, I hope that you can take some consolation
7 from the fact that I've been pulling tabs out from the
8 last several gray binders, and I hope to do it here
9 again.

10 THE COURT: Very well.

11
12 AUTHUR JOSEPH RAY, Resumed:

13
14 CROSS-EXAMINATION BY MR. WILLMS CONTINUED:

15 Q Dr. Ray, could you turn to page 57 of your report,
16 which is the conclusion, and the --

17 THE COURT: I'm sorry. What page was that?

18 MR. WILLMS: It's page 57, my lord.

19 THE COURT: Yes.

20 MR. WILLMS: Exhibit 960.

21 Q It's the portion that I read to you at the close of
22 yesterday's evidence, the assertion that the native
23 people here are able to maintain a high degree of the
24 economic independence. Would it be fair to say that
25 the high degree of economic independence of the
26 Indians in this case depended upon fur trade from two
27 directions rather than any intrinsic sense of value
28 that the Indians had?

29 A How do you mean?

30 Q Well, there was trade coming in from the coast
31 which --

32 A Right.

33 Q Which preceded the Hudson's Bay trade.

34 A Correct.

35 Q The Hudson's Bay trade had actually influenced Babine
36 Lake by virtue of the fort on -- I can't -- Fort St.
37 James.

38 A Right.

39 Q And what my suggestion is that by the time Fort
40 Kilmaurs was established, and the notes that were made
41 which you concluded there was a high degree of
42 economic independence, that by that time that economic
43 independence was primarily related to the fact that
44 there were two different directions to trade and two
45 different directions to take your goods, your trading
46 goods, rather than anything that was intrinsic to the
47 natives of the area?

1 A Well, it's an interesting hypothesis, but the problems
2 I have with it are, first of all, by independence I'm
3 talking about relative independence. This is in terms
4 of the ability of the native people on their own were
5 traders to suddenly be removed from both the east and
6 west to continue their existence at a fairly
7 comfortable level. I would argue that there is no
8 evidence to suggest that from either the coastal
9 direction or from the eastern direction the natives
10 had acquired by this time European goods that had been
11 incorporated into their economy that made them
12 essential hunting tools, essential fishing tools, or
13 an otherwise essential for their subsistence. The
14 general discussion of the coastal trade at this period
15 is that it predominantly was a trade oriented to the
16 feasting ceremonies. There was a very heavy component
17 of what I think it's fair what we call luxury goods,
18 beads, blankets, things like that, that were -- that
19 were valued as one sort of -- the pre-eminent
20 historian on that, Gibson, says they were basically
21 things that could be counted. This was what the
22 emphasis was on.

23 THE COURT: Things that could be counted?

24 A Yeah, easily counted.

25 THE COURT: Tangible personal property?

26 A Yeah, tangible personal property easily counted and
27 you stack it up and when these exchange ceremonies
28 goes on you can see the wealth that was there. Now,
29 it's clear -- I'm not saying that there were no
30 firearms, because we've been through the comment with
31 Brown, one of these groups of Gitksan traders came
32 down and they were well armed with guns and spears,
33 and it was a menacing -- they were considered
34 menacing. But Brown, if you recall the comments that
35 we cited from Brown the other day, he said one of the
36 problems that the Babine had as far as trapping was is
37 that most individuals did not have what he regarded
38 the essential tools of a trappers equipment. That
39 maybe between five or six of them they could
40 collectively put together an equipment. But that
41 suggests to me that the goods are there, they're in
42 circulation, they have not reached what I would
43 consider a level -- a threshold level of dependency.
44 That is the way I use the term.

45 MR. WILLMS:

46 Q So you mean a dependency on the trade for subsistence?

47 A That's right. An economic dependency for subsistence

1 purposes.
2 Q Maybe, if you can turn back in your report to page 11.
3 THE COURT: I'm sorry. Could I then amend your report on page
4 57 where you say "They avoided becoming dependent upon
5 the Hudson's Bay Company" and can I add in their for
6 subsistence?
7 A For -- if you were to make that change I would prefer
8 it to be subsistence technology.
9 THE COURT: For subsistence technology?
10 A That's right.
11 THE COURT: All right. Thank you.
12 A Page 11 did you say?
13 MR. WILLMS:
14 Q Page 11. And this is the discussion at the bottom of
15 the page and the quote from Peter Skene Ogden's
16 travels from Fort Kilmaurs, and you say there to the
17 settlement of Moricetown. My first suggestion, Dr.
18 Ray, is that the date of 1820 is incorrect, and
19 that --
20 A Yes, it should be 1830's. Late 1830's, correct.
21 Q In fact we can pinpoint it to about 1837?
22 A Yes, because he was chief factor from '35 to '45. It
23 is correct later in the report.
24 THE COURT: He was chief factor at Fort Kilmaurs?
25 A Of the New Caledonia district 1835 to '45. And,
26 again, the date -- you're right, the '37 date is
27 probable, but not proveable probably.
28 THE COURT: Thank you.
29 MR. WILLMS:
30 Q One of the references to your report is to the Peter
31 Skene Ogden notes on Western Caledonia with that
32 forward by -- is it Professor Sage?
33 A Yes.
34 Q All right.
35 A Several years ago.
36 MR. WILLMS: My lord, if that could be marked 966-1.
37 THE REGISTRAR: 966-1.
38
39 (EXHIBIT 966-1: Tab 1 of Exhibit 966 - Peter Skene
40 Ogden's Notes on Western Caledonia)
41
42 THE COURT: Yes.
43 MR. WILLMS:
44 Q And just to tie down the date that Peter Ogden --
45 according to Professor Sage on page 46, which is the
46 second page of the extract, you will see that in the
47 second full paragraph, first line, Professor Sage

1 says:

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

"In 1835 Peter Skene Ogden received the coveted commission of chief factor and was sent to take charge of New Caledonia. After seven years' term of office he was prepared to give over this task to his successor."

So that would mean that he was there from 1835 to 1842 according to this?

A Yes. He went on leave in '44, but I think he actually doesn't give up his commission until '45. I don't remember all the details. But, in any event, you're right, he was there in the late 1830's to the early 1840's.

Q Now, what follows is Ogden's notes to his successor. And you've reviewed those notes?

A Pardon?

Q What follows at pages 47 through 56 are a transcript of Ogden's notes to his successor?

A M'hm.

Q This is on his leaving, whether it's 1844 or 1845, or 1842 or '43?

A Right.

Q So that you recognize this as a transcription of Ogden's notes?

A Right, or what's attributed to Ogden.

Q Or what's attributed to Ogden.

A It's not absolute certainty that he wrote it, but yes.

Q Now, just starting with the second paragraph, this is purportedly Ogden speaking.

A M'hm.

Q

"Having now been stationed seven years in this District I cannot say much in favour of the Carriers, a brutish, ignorant, superstitious beggarly set of beings, lavish of promises and should it so happen have no feast to make for departed relatives take precious good care like all rascals to loose sight off. The debt system was introduced in to this district many years since and it is the opinion of some it would not be a good policy to do away with it at present as independent of other considerations the evil has taken too deep root, this could be overcome but again it is said it acts as a

1 hold on them from the great temptations of
2 low prices which the Coast traders who are
3 now annually in the habit of resorting to
4 the frontiers of the District in quest of
5 Furs, it may have this effect on some
6 although I have my doubts, still with many
7 at this place in debt of occasionally
8 clandestinely trading their furs."
9

10 A M'hm.

11 Q Now, just pausing there. Assuming that that is Ogden
12 speaking, and that that's accurate, that seems to
13 indicate a change from your assessment of what Brown's
14 notes indicated in the 1820's?

15 A Well, I would like to make several responses to that.
16 First of all, let's back up to Sage's comments about
17 Ogden. Where is it here? I was just reading this a
18 minute ago. Somewhere in here he describes Ogden as
19 being a generous, or something or other.

20 Q It's on page 46 at the bottom.

21 A 46 at the bottom.

22
23 "The 'Notes on Western Caledonia' are
24 probably a rough draft. In places the
25 meaning is obscure and throughout
26 punctuation is difficult. As few
27 emendations as possible have been made in
28 the text, and spelling of the original has
29 been retained throughout. The document is
30 valuable because it gives details on the
31 trade in that 'Siberia of the fur-traders'."
32

33 Interesting point which reiterates the point I
34 made the other day, past two days, the traders hated
35 the place.
36

37 "Life was hard in that district and Ogden
38 does not minimize its difficulties.
39 Throughout the document, however, the
40 generosity and kindness of Peter Skene
41 Ogden is evident. He was keen and
42 experienced fur trader but he was never
43 lacking in humanitarian feelings."
44

45 Now, unfortunately, I don't have available to me
46 the Hudson's Bay Company records assessments of the
47 character of Peter Skene Ogden, but this is a

1 flattering portrayal of a man who was equally
2 described as vicious, nasty, had a low regard for
3 Indian people, and in prior to taking over New
4 Caledonia, I don't know if you're aware, but Peter
5 Skene Ogden led what were called the Snake River
6 expeditions south of the border. And I think it was
7 on Monday I talked about the Hudson's Bay Company
8 which had the scorch earth policy south of the border.
9 That policy was at Peter Skene Ogden's hands, and he
10 was the one who ruthlessly destroyed the fur base of
11 the Snake River country south of the border before he
12 came into this area. First of all, we have to
13 understand this man. I think he is not -- Sage wrote
14 this many years ago. What is the date of Sage's
15 observation?

16 THE COURT: '37?

17 A Pardon? 1937.

18 THE COURT: It's dated in 1937.

19 A I don't think that observation would hold up in
20 current scholarship. Anyway, now, back to the quote.
21 I would like to point out that he is writing -- we
22 establish the date -- we agree on the date of '37 or
23 thereabouts?

24 MR. WILLMS:

25 Q '37 to '42 -- no. '37 to '44.

26 A '37 to '44. So we are talking about a period that's
27 ten years or so beyond the period of Brown's
28 observations. So I would expect some changes
29 occurred, yes. It doesn't contradict Brown, however.
30 Now, the interesting point -- you raise a very
31 interesting point.

32 Q I just asked about the change. I'm not suggesting any
33 contradiction of Brown, I'm just suggesting does this,
34 if it's accurate, suggest a change?

35 A I would say it suggests the possibility of change. I
36 would like to elaborate on that next. I didn't have
37 time, or didn't take the time the other day to go and
38 explain in depth what purpose of credit in the fur
39 trade was. I think it's probably worthwhile to spend
40 a little time on that since you raise a very important
41 point, because theoretically it could give us a clue
42 about dependency. As far as we can tell going back to
43 the earliest account books of the Hudson's Bay Company
44 credit was given. It probably in fact derives from
45 the French fur trade of the pre 1670 era. Generally
46 what fur traders tried to do, especially under
47 competitive situations, and this is what we are

1 dealing with here, is they tried to extend credit to
2 the Indians in the hopes of laying a claim on their
3 future hunt so that if other traders came by and
4 offered a better deal the Indians would have already
5 pledged their furs. Now, the problem is you could
6 cite virtually any area where the fur trade operated
7 and discover that sensible and helpful as that
8 strategy might have been to the Europeans in almost no
9 place did it work, because Indians, as he suggests
10 here, clandestinely, as they would regard it, carried
11 their trade elsewhere. And we ran across that
12 yesterday, if you recall, in our discussions about
13 Nose-ess and the fish-net. That was part of the gist
14 of that story. The Indians didn't allow themselves to
15 be bound to one side or the other even though credit
16 was given. So that very often you'll find the
17 comments that the Indians are uncreditworthy, and
18 you -- I can't remember whether I introduced in
19 evidence yet the issue of -- we did talk at some point
20 about that they were going to set up, if you recall, a
21 post at the mouth of the Bulkley River, and they
22 didn't. He points out the problem that if they ran
23 such a post they would have to attach Kilmaurs to it
24 or it to Kilmaurs, depending on which way they decided
25 to orient the trade, because otherwise the Indians
26 would take credit at both posts and go back and forth.

27 Q They did establish a post though at the Skeena Bulkley
28 River?

29 A But much later.

30 Q In 1860?

31 A Yeah. We are talking about some 40 years later. So
32 the point in answer to your question here, I think
33 it's a reasonable question, but I think you have to
34 look at this with caution, and it may also help
35 explain why the very negative image of the Indians is
36 coming through here. The Indians were not responding
37 in a manner that Ogden hoped they would. But I would
38 also submit that Ogden is a very negative observer of
39 native people. He was a hard man.

40 Q Turn to page 49 of this. This is on another point
41 that we mentioned from --

42 A Of this?

43 Q Yes, of Ogden's. Page 49 if you move part way down
44 the page.

45 THE COURT: I'm sorry, Mr. Willms, just a moment, please. Page
46 49?

47 MR. WILLMS: Page 49 of the next page, my lord.

1 THE COURT: Can I just stop you there. You say he was a hard
2 man and Dr. Sage says that "he was never lacking in
3 humanitarian feelings." What am I to do with that?
4 A Well, as I said, unfortunately I didn't bring along
5 with me -- I can give you a different assessment of
6 Ogden. But the point is that, as I was saying, one of
7 the most ruthless policies the Hudson's Bay Company
8 engaged in was this policy to create a fur desert
9 south of the border and they put that in charge of
10 Ogden and he ruthlessly carried it out. He was a
11 fairly hard individual.
12 THE COURT: What you're telling me is there were other views?
13 A Yeah, there are conflicting opinions of this man.
14 THE COURT: All right.
15 A And I might add, this would be true of other fur
16 traders if we were to get into the people. Probably
17 the best one you may be familiar with would be David
18 Thompson. You read three different biographies of
19 David Thompson and you think you're talking about
20 three different men. But all I can say is that there
21 is a harsher assessment of him, and I do know that he
22 did lead the Ogden expedition, so.
23 THE COURT: Thank you.
24 MR. WILLMS: On to the next page.
25 THE COURT: Page 49?
26 MR. WILLMS: Page 49, my lord.
27 Q Part way down that first paragraph --
28 A Right.
29 Q -- You'll see a sentence, "When I first assumed
30 charge".
31 A M'hm.
32 Q
33 "When I first assumed charge of this
34 District I found the gratuities given to the
35 Indians very great in the article of leather
36 particularly so, the latter and nearly all I
37 have abolished and abolished and no
38 diminution in our returns has resulted from
39 it and our expenditure decreased, it now
40 remains with you to lessen them and in doing
41 so gradually you will rest assured find no
42 bad effects resulting from it."
43
44 Just pausing there. Accepting that that's a
45 truthful statement by Ogden that indicates a move by
46 the company away from trading leather with no
47 diminution in returns?

1 A No, I don't see that. It says, "When I first assumed
2 this District I found gratuities given to the Indian
3 very great in the article of leather." Gratuities,
4 now, that raises another point about trade. The way
5 the trade was conducted you had gifts, relief, which
6 is what the company gave sick and destitute dependents
7 of regular traders, and outright trade. What he's
8 saying here is we're no longer giving them that as
9 gifts. So, in other words, what it tells us is that
10 gratuities, the gift component of the trade was still
11 there when he arrived on the scene and the key element
12 in the gift exchange was leather and he's no longer
13 giving the leather away. Which if I were the trader
14 there at that point in time there would be two sides
15 to that policy. Obviously leather as we've already
16 established was the critical thing in trade, but
17 giving it as a gift the Indians would be favourably
18 inclined to deal with you, but on the other hand if
19 you could trade it and force the Indians to yield furs
20 for it well then you would be better ahead
21 economically if you could get away with it. So I
22 don't read it the same way you do, because if he had
23 said trade in leather then I would accept your thesis,
24 but he's talking about gratuities in leather.

25 Q I just read it in the context of the next sentence
26 which says:

27
28 "The lending system I have entirely
29 abolished it was customary formerly to loan
30 guns, axes, tranches, moose skins and traps
31 to the Indians to such an extent that no one
32 on reflection would view it in any other
33 light than an abuse, the Carriers scarcely
34 ever returned an article loaned them but
35 always have some plausible excuse ready when
36 called on, in traps alone from the lending
37 system having so long prevailed as it is
38 only three years since I abolished it, are
39 now most abundantly supplied as regards this
40 place and the same has been adopted all over
41 the district and the returns have not
42 diminished and our indent on the last
43 article has been decreased one-half, they
44 are now sold to the natives at four skins
45 each formerly they were valued at six but
46 this was merely nominal as not ten out of
47 100 were ever sold."

- 1 Just pausing there. It seems as if the gratuities
2 that he was talking about is this lending system which
3 he abolished. Is that the same as the gifts that you
4 were just talking about, or is it something different?
- 5 A Well, as I said, there are three components to trade.
6 There's the barter trade, there is the credit trade
7 and there were the gratuities that were given out.
8 Actually four. There were also, as I said -- he
9 doesn't mention it in here, it was also common company
10 policy to from time-to-time lend assistance to
11 dependents of regular hunters. Now, so far as he's
12 suggesting that his change of system here was
13 successful. I on the basis of this one document and
14 experience with Hudson's Bay Company records at large
15 I would withhold judgment on it in the absence of a
16 series of account books that demonstrate the effect.
17 And I say that, because the Hudson's Bay Company from
18 1670 to 1945, which is a full time span in which I've
19 studied that company, went through I don't know how
20 many rounds of attempting to eliminate credit always
21 saying that the efforts to do so didn't hurt their
22 trade, but the fact of the reality -- or the reality
23 always was they never did eliminate the trade, the
24 credit trade, because it was too essential to the
25 business. So it's hard to assess this in isolation
26 without supporting accounting records, which is the
27 way I like to deal with these if at all possible. But
28 all I can tell you is if you look at the later records
29 for New Caledonia in the later nineteenth-century the
30 company is still running a credit trade, with all due
31 respect to Ogden.
- 32 Q Well, I don't read this as saying -- I mean in the
33 previous page I thought he said he didn't want to
34 abolish the credit trade although he thought it was an
35 evil?
- 36 A You're saying here he isn't saying that, right?
- 37 Q Well, he's changing the credits. That's how I read
38 it. Maybe I don't read it right, but my understanding
39 of this is the credit trade, he's not trading the guns
40 and axes and moose skins, and traps anymore, he's
41 trading something else?
- 42 A Let's go over this page again. If we go back to where
43 we started, "When I first assumed charge of this
44 district I found the gratuities". Does not gratuities
45 suggest to you gifts?
- 46 Q Well, I don't know. I'm not a historical geographer,
47 Dr. Ray, but my understanding from what you said

1 earlier in your evidence was that one way to get trade
2 going with the Indians in light of their habit of
3 giving gifts back and forth to each other,
4 reciprocating, was to give them something and then you
5 get something back, so it's not giving them something
6 without getting anything back. Now, that's what I
7 understood gratuities was, but maybe I'm wrong.

8 A No, no. I just -- I thought you were questioning
9 whether I had interpreted gratuities given as gifts.
10 If we agree on that then I'll move on. I take that
11 that that's what that means. I thought you were
12 saying it didn't mean that. I accept that's what it
13 says.

14 THE COURT: Well, all he said is he questioned gratuities given
15 in leathers.

16 A Yes. Given. So now we were talking about what all
17 this means. If we go down now -- let me just read
18 that sentence and the next couple of sentences and
19 I'll stop where I think we should.

20
21 "When I first assumed charge of this
22 district I found the gratuities given to the
23 Indians very great in the article of leather
24 particularly so, the latter and nearly all I
25 have abolished and no diminution in our
26 returns has resulted from it and our
27 expenditure decreased, it now remains with
28 you to lessen them and in doing so gradually
29 you will rest assured find no bad effects
30 resulting from it."

31
32 Now, the lending system, now he's talking about
33 debts, right? This is where he made a shift. Now
34 he's talking about the lending system, which he claims
35 "I have entirely abolished". So what Ogden is telling
36 us first of all is I'm cutting back on gratuities.
37 Secondly, I've already eliminated the lending system.
38 So he's talking about two of those four components of
39 trade, right?

40 Q Including moose skins.

41 A Moose skins were one of the things that were given in
42 debt, which makes perfect sense given the nature of
43 this trade. So what he's trying to do here, and
44 something the company tried to do whenever it thought
45 it could and rarely got away with it, they're trying
46 to convert this whole trade to what they called a
47 ready barter trade. In other words, Indians bring in

1 the furs, they get the goods for the furs, they go
2 away and that's it. No credits out, no gifts out, and
3 so on. One of the reasons why -- re-reading last
4 night the coastal trade, it's quite interesting, one
5 of the reasons they tried this on the coast as well,
6 because they discovered that the native people when
7 dealing with close friends engaged in what was called
8 a balanced reciprocity. In other words, the gift
9 exchanges in which you exchange items that you
10 mutually agree are of equal value. However, with
11 strangers or non-related peoples or people who with
12 whom they had tension, the anthropologists refer to
13 another form of exchange which is called negative
14 reciprocity, in which you give a gift which you regard
15 as being of lesser value and expect to get -- of
16 lesser value than what it is that you're getting back.
17 And apparently the Western Caledonia and the Coastal
18 Carriers were quite good at this game. So the company
19 would have had -- if this is so, and what you're
20 citing to me, which I find interesting, because I
21 haven't re-read this for sometime, suggests this is
22 one of the things you're trying to deal with. They're
23 trying to extricate themselves from a native practice
24 that they have been drawn into.

Q The next line on page 49, and it's really the
25 footnote, is the most interesting, but the next line
26 at the bottom says:
27

28 "Salmon are bartered at the rate of 90 for
29 one beaver and are paid for in the most
30 valuable goods."
31

32
33 And then footnote 11. I guess this is Professor
34 Sage talking.
35

36 "The beaver skin was the standard of value
37 in the fur trade. The made beaver or M.B.
38 became after 1837 the accepted standard.
39 Its cash value was not fixed but varied from
40 25 to 50 cents."
41

42 And then the last line.
43

44 "Even though the Carriers seemed to have
45 been astute traders the price of salmon can
46 hardly be said to have been very high."
47

1 A Can I comment on that?

2 Q That doesn't seem consistent with what you've been
3 saying. Maybe you could comment on it.

4 A Okay. This was written by Sage. Again, when did we
5 decide this was? Sorry to keep going back, but it's
6 important here. 19 --

7 THE COURT: It's got a date at the top 1937, which is the date
8 of the publication.

9 A Okay. The fact of the matter is that people had a
10 very poor understanding of how the Hudson's Bay
11 accounting system worked, including Harold Innis. And
12 the book I wrote, Give Us Good Measure, was a book
13 that focused based on an analysis of those account
14 books of how that system operated. Now, Sage himself
15 here has made one fundamental error in that in 1810
16 the Hudson's Bay Company theoretically abolished the
17 beaver standard. I say theoretically. I'll come back
18 to that in a minute. The made beaver standard was a
19 standard that was part of the Hudson's Bay Company
20 system from the first surviving account book, which
21 I'm going on memory here, I think is circa 1690-91,
22 and in there you'll see everything in terms of
23 standards. Now, I tried to explain yesterday, and if
24 I had a chalk board, which I'm used to doing this sort
25 of thing on, I could probably explain it a little bit
26 better. The company every year had two -- this is
27 going to get complicated, two sets of standards.
28 There were the official rates of exchange, which I
29 have argued were really accounting standards in which
30 the company equated beaver values to everything it
31 carried on inventory. Now, the comparative standards,
32 which I think I have mentioned already, was the
33 standard which equated all native produce into beaver.
34 There was another standard that was called simply the
35 standard of trade which said a kettle is worth x
36 beaver, a yard of cloth is worth x beaver, a pound of
37 beads is worth x beaver, and so on. So you do all
38 this so at the end of the year when these men close
39 their books, and all of this accounting was done --
40 the primary basis of all this was basically inventory.
41 So you start with the opening inventory, you have a
42 closing inventory at the end of the year, you subtract
43 away all the gratuities you've given away, they're
44 assigned a beaver value, you take away all the goods
45 that were sold to company employees which have a
46 beaver value, and what was left they said is what
47 appears to have been traded and that was given a

1 value. So if you have a certain list of goods then
2 you give a beaver value to those by the official
3 standard. By the comparative standard you assign a
4 series of values of beaver. Now, the fact of the
5 matter is that one of the striking things about the
6 Hudson's Bay Company trade is that the official
7 standards change relatively little over very long
8 periods of time, because they became the reference
9 point for which the traders and the Indians
10 negotiated. Now, for the accountants in London what
11 they would then do for their convenience once these
12 furs would arrive back in England they would simply
13 convert back into sterling using the current beaver
14 price. But the point is that the standards that
15 operated in Canada were usually not closely pegged to
16 the European market. And I think in the writing that
17 I have done I have established that fairly well. Now,
18 this business of I said that he was partly in error,
19 in the time when the Hudson's Bay Company and the
20 Northwest Company were at war with each other the
21 Hudson's Bay Company starts internal reforms, and the
22 key reforms, one of the biggest reforms was made in
23 1810 when first of all they make some of the officers
24 profit sharers. Secondly, they abolished the beaver
25 standard for accounting purposes. The orders go out
26 in 1810 that the men are no longer to keep their
27 accounts in beaver, but rather are supposed to keep
28 their accounts in sterling.

29 MR. WILLMS:

30 Q But just pausing there, didn't you say earlier in your
31 evidence that the debt record and the exchange that
32 Brown was talking about was in made beaver?

33 A I did.

34 Q All right. The only question that I had for your
35 comment was the comment that that was not -- that 90
36 salmon for one made beaver was not a particularly high
37 price?

38 A No, but that was -- you asked --

39 Q What's that got to do with London?

40 A You asked me to comment about footnote 11, did you
41 not? That's what I'm talking about.

42 Q Oh, well --

43 A I -- you want an explanation. That's what I'm talking
44 about. I'm responding to your question about that
45 footnote, and what I'm saying --

46 Q Can I just narrow it to this. I'd like to narrow it
47 to the last line. I don't really care when made

1 beaver became the standard since you've indicated that
2 made beaver was the standard at least at the Kilmaurs
3 post in the 1820's, and he's talking about made beaver
4 here and says that even though the Carriers seem to
5 have been astute traders the price of salmon can
6 hardly be said to have been very high.
7 A I don't have any trouble with that, but all I'm saying
8 --
9 Q All right. We can move on.
10 MR. ADAMS: Well --
11 A My response is --
12 MR. ADAMS: Excuse me, my lord, the question invited a comment.
13 THE COURT: I know. It didn't invite -- I mean, there was
14 nothing wrong with what the witness has been saying,
15 but counsel has now pointed out the area he wants to
16 direct his examination to, and counsel has to control
17 the course of the cross-examination.
18 MR. ADAMS: Yes, but in my submission he can't invite a comment
19 at large --
20 THE COURT: He didn't invite a comment at large. There is a
21 misunderstanding with the witness and counsel as to
22 what the focus was with respect to be with that
23 footnote. I've heard what the doctor said about the
24 date of 1837, although that's not what counsel now
25 says he was inviting comment on. Surely counsel has
26 to be able to keep -- keep the cross-examination going
27 along the lines that he's interested in, and other
28 matters can be developed as necessary at
29 re-examination.
30 MR. WILLMS:
31 Q So just focusing on that line, I think your comment a
32 moment ago was that you don't have any particular
33 disagreement with that, that the price was not
34 particularly high?
35 A No, not for salmon. No.
36 Q Now, look, if we can return then to page 11 of your
37 report where you're discussing Ogden.
38 A Right.
39 Q Now, you know that Fort Kilmaurs was moved in 1836?
40 A Right.
41 Q And I'm showing you an extract from volume six, Helm
42 on the Subarctic, and the extract is an extract by
43 Margaret Tobey on the Carrier. And if you would just
44 turn to the second page of the extract, which is page
45 414, it's got the map?
46 A Right.
47 Q And you'll see that on the map the author here has

1 depicted -- and if you look over at Babine Lake and
2 you'll see the name Babine and then Old Fort 1836 and
3 Old Fort 1822?
4 A M'hm.
5 Q Right. So Old Fort 1822 was the original site of Fort
6 Kilmaurs that was established by Brown?
7 A Right.
8 Q Right. And 1836 was where the fort was moved to at
9 the north end of Babine Lake?
10 A Right.
11 MR. WILLMS: Okay. My lord, 966-2.
12
13 (EXHIBIT 966-2: Tab 2 of Exhibit 966 - Volume 6
14 Subarctic - June Helm)
15
16 MR. WILLMS:
17 Q Now, let's go to the actual account of Ogden, the tale
18 of Western Caledonia, and this is Exhibit 914.
19 A I don't think I have that at the moment.
20 THE REGISTRAR: Exhibit 914 is book three of Antonia Mills tab
21 41.
22 THE COURT: I don't have it here.
23 THE REGISTRAR: Yes. Well, I have it here for the witness.
24 It's tab 41 of book three, Antonia Mills.
25 THE COURT: Yes. All right.
26 MR. WILLMS:
27 Q I'd just like to fix the date of this trip. And you
28 relied on this, and this is what you have quoted from
29 in part on page 11, the trip from Fort Kilmaurs to
30 Hot-set?
31 A Not this exact copy here, but yes.
32 Q Now, if you turn to page 35 of Exhibit 914, which is
33 the second page in, you'll see that Ogden sets out in
34 that full paragraph in the middle of the page it says:
35
36 "Fort Kilmaurs at the date of my present
37 story had been established about a year
38 only. It had been my lot to superintend the
39 cutting of the first stick at its
40 commencement and to witness the hoisting of
41 the British flag."
42
43 So it appears that he made this journey -- if the
44 fort was established in 1836 he made this journey in
45 1837?
46 A Yeah.
47 Q Is that --

1 A Yes, we've more or less agreed on that.
2 Q All right. And just before I go through this with the
3 map, you know, Dr. Ray, that sometime in the 1820's as
4 a result of a rock slide most of the inhabitants of
5 Moricetown moved en masse to Hagwilget Canyon and
6 built new homes there?
7 A He refers to that in his 1826 district report.
8 Q Okay. Just in terms of timing that movement took
9 place before this trip was made?
10 A M'hm.
11 Q And you also recall from George MacDonald in The Epic
12 of Nekt on the trading trails that there's a trading
13 trail from the north end of Babine Lake, that is Fort
14 Babine 1836?
15 A M'hm.
16 Q To Hagwilget?
17 A M'hm.
18 Q Right. You're aware of that?
19 A Yeah.
20 A Is that -- is that epic in evidence?
21 Q Yes, it is.
22 A Could we see it?
23 MR. WILLMS: Could Exhibit 847, tab 19 --
24 THE REGISTRAR: This is the Sylvia Albright report, my lord --
25 book, I mean.
26 MR. WILLMS: It was put in by the plaintiffs during Ms.
27 Albright's --
28 THE REGISTRAR: That's tabs 1 to 39 inclusive, and this is tab
29 19.
30 MR. WILLMS:
31 Q And the trading trails are set out at page 75. And
32 you'll see there is a trail numbered eight from Fort
33 Babine to Gitanmaax?
34 A Right.
35 THE COURT: What page is that?
36 MR. WILLMS: It's page 75, my lord.
37 Q Dr. Ray, I'm showing you a map which has Babine Lake,
38 and about the middle on the right-hand side the fort
39 in 1836. And if you follow it across -- and are you
40 familiar with the geography in this area?
41 A I've never been there.
42 Q So you've never been to Babine Lake?
43 A No, I haven't.
44 Q The trading trail that George MacDonald describes as
45 trail eight goes from the north end of Babine Lake
46 through the Suskwa Pass --
47 A M'hm.

1 Q -- Down along the Suskwa River to where it joins the
2 Bulkley River --
3 A M'hm.
4 Q -- And then proceeds to the Skeena River. It's about
5 the middle. And I'm going to suggest to you, Dr. Ray,
6 that where --
7 A I'm also interested in this trail nine as well.
8 Q Yes, well I'll get to that in a minute.
9 THE COURT: Can we mark the trail in some way. I'm having --
10 MR. WILLMS: Mark the trail, my lord?
11 THE COURT: I'm having difficulty even figuring out the
12 difference between the copy line and the edge of the
13 lake.
14 MR. WILLMS: My lord, if you look -- the Babine Indian Reserve
15 is at the very north end of the lake, of Babine Lake.
16 THE COURT: Yes.
17 MR. WILLMS: And there is a creek it looks like -- well, I
18 can't -- Telkwa Creek or something like that.
19 THE COURT: Let's all look at the same thing at the same time.
20 Let's go over to the table, please.
21 MR. WILLMS: The Indian reserve is at the north end of the lake.
22 THE COURT: M'hm.
23 MR. WILLMS: There is a creek flowing in through the reserve,
24 and if you follow the creek up you will see there is a
25 dotted line up to the Suskwa Pass and then the Suskwa
26 River and then following the Suskwa River down, and it
27 remains as the Suskwa River all the way down to the
28 Bulkley.
29 THE COURT: Where are you starting, Mr. Willms?
30 MR. WILLMS: I'm starting at the Indian reserve.
31 THE COURT: Oh, isn't the fort way up at the end, north end of
32 the lake? Isn't that the lake?
33 MR. WILLMS: This is the north end of the lake.
34 THE COURT: Is that the end of the lake there?
35 MR. WILLMS: Babine. This is the little lake.
36 THE COURT: Oh, I see. Okay. Fair enough.
37 MR. WILLMS: The confluence of the Suskwa and Bulkley -- if you
38 wanted to go to Moricetown from the confluence you
39 would go up the river and down the map to almost the
40 bottom of the map along the river, and if you wanted
41 to go to Hagwilget, then Hagwilget is just off this
42 map, but you would go downstream, and it is just off
43 the map on to the next map.
44 THE COURT: Mr. Willms, I'm sorry, I want to make sure. Have I
45 marked in red on my copy the trail you're talking
46 about? This is the Suskwa.
47 MR. WILLMS: Down the Suskwa.

1 THE COURT: And then the Bulkley.
2 MR. WILLMS: No. This is still the Suskwa.
3 THE COURT: This is still the Suskwa.
4 MR. WILLMS: The Suskwa goes all the way down.
5 THE COURT: This is the fort here?
6 MR. WILLMS: At the Bulkley River, yes.
7 THE COURT: And Moricetown you say is at the very bottom?
8 MR. WILLMS: Bottom of the map.
9 THE COURT: Yes. All right. Thank you.
10 MR. MACAULAY: Has this map got a number, my lord?
11 THE COURT: Not yet.
12 MR. WILLMS: Not yet. Perhaps it should.
13 THE COURT: 967.
14 MR. WILLMS: 967.
15
16 (EXHIBIT 967: Map)
17
18 MR. WILLMS:
19 Q Now, it's the starting point that's of interest, Dr.
20 Ray. If you look at Exhibit 914.
21 A 914.
22 Q 914 is the Tale of Western Caledonia. It's the Ogden
23 trip that you're talking about.
24 A Oh, okay.
25 Q And you will see he talks -- he starts talking about
26 his trip on page 36.
27 A M'hm.
28 Q And he says this in the middle of the page, "On
29 leaving Fort Kilmaurs our route lay towards the end of
30 the lake." Then he talks about the canoe --
31 A M'hm.
32 Q -- And canoeing down the lake. And then he talks
33 about where he gets to at the top of the next page --
34 A M'hm.
35 Q -- Where he says:
36 "A few hours served to take us to Nass-chick
37 a village occupied by some of the lake
38 Indians. This village or rather hamlet is
39 situated at the extremity of the Nass at a
40 point where the opposite shores gradually
41 converging for some distance approach each
42 other so nearly as to indicate at the first
43 glance the commencement of the stream by
44 which the waters of the lake are
45 discharged."
46
47 A M'hm.

- 1 Q Now, it's my suggestion since we all know that the
2 Babine Lake discharges into the Babine River, and we
3 all know that Fort Kilmaurs is located up at the
4 north, and that there is a trading trail there, that
5 where he was going was to the north end of the lake
6 at -- as the commencement of his travels, his overland
7 travels?
- 8 A Right.
- 9 Q All right. Now, just from reading Ogden, I mean it
10 appears that Ogden is describing travelling to the end
11 of the lake where the lake discharges; correct?
- 12 A Right.
- 13 Q And that would be something -- for an experienced
14 explorer like Ogden it would be difficult for him to
15 make a mistake about whether something was flowing
16 into the lake or flowing out of the lake?
- 17 A M'hm.
- 18 Q Do you agree with that?
- 19 A Yes. We have him at the north end of the lake, right?
- 20 Q All right. So he starts his trip at the north end of
21 the lake?
- 22 A M'hm.
- 23 Q Now, if you look at the trading trails set out by
24 George MacDonald on page 75 you'll see that the
25 trading trail which is numbered nine to Moricetown
26 does not start at the north end of Babine Lake, it
27 starts part way down the lake?
- 28 A Just a second here. Right. Okay.
- 29 Q See that?
- 30 A Yes. No problem with that.
- 31 Q Now, have you been to either Moricetown or Hagwilget
32 Canyon to compare the two?
- 33 A I've been through there briefly once about six years
34 ago.
- 35 Q It's my suggestion to you, Dr. Ray, that when you say
36 on page 11 of your report that Hot-set was located on
37 the Bulkley River at the site of the present
38 settlement of Moricetown, and that based on the fact
39 that Ogden started his trip at the north end of the
40 lake that it's more likely, and also based on the fact
41 that the whole town moved according to Morice after
42 the land slide blocked the river, that he's describing
43 Hagwilget not Moricetown?
- 44 A It might be useful if we want to pin this down to look
45 at, I think it's the E2 district report, if you want
46 to.
- 47 Q Well, I'm just trying to -- what did you use to pin it

1 down to Moricetown? How did you conclude from reading
2 Ogden that he ended up at Moricetown?
3 A Because I was reading back from the record from
4 Hot-set which was clearly identified as the principal
5 village by Brown. I can't say that I did it on the
6 basis of having travelled these trails, as I had not
7 been there.
8 Q You would agree with me, would you not, that based on
9 George MacDonald's description of where trading trails
10 were and based on where Ogden said he started off,
11 which was at the north end of the lake, and also based
12 on the fact that Morice says that the village moved
13 after the land slide, and we have a lot of evidence
14 about that already, at least from other writers, that
15 it's more likely that he ended up at Hagwilget than
16 Moricetown?
17 A It's possible by this time that they had moved to
18 there, yes.
19 THE COURT: Doesn't Ogden say they felled a tree across the
20 gorge?
21 MR. WILLMS: My lord, he says that they felled a tree across the
22 gorge, but I think, and I don't know if this is in
23 evidence, but there has been lots of fisheries work
24 done over the years along the river from the mouth of
25 clearing rocks and the like, and I really don't know
26 what the situation was then, and whether it was the
27 same as it is today.
28 THE COURT: All right. Is it beyond credibility that he -- that
29 he visited Hot-set on the return journey and he was
30 describing Hot-set after having passed through
31 Hagwilget on the great circle route?
32 MR. WILLMS: My lord, if you read the journey, and we can go
33 through it, it's clear that he goes up over a pass,
34 down the narrow valley, and comes upon a hill where
35 just -- just above where the river he's on joins the
36 main river and he can see the village laid out before
37 him, and it's 20 miles to Moricetown from where the
38 Suskwa comes in, but it's not very far to Hagwilget.
39 THE COURT: Yes. All right.
40 MR. WILLMS:
41 Q Can we leave it this way, Dr. Ray, that you certainly
42 can't say whether Ogden got to Moricetown or
43 Hagwilget, all you can say is that he got to wherever
44 the people happened to be living at the time?
45 A That he reached the Hot-set, yes.
46 Q Yes.
47 A That's for sure. We could probably dispute the other

1 part, but yes, we know he's describing what are now
2 known as the Wet'suwet'en.

3 Q Yes. On your review of the documents did you come to
4 the conclusion that Brown had visited Hot-set?

5 A He mentioned that he had twice.

6 Q And he also mentions having visited Hot-set and
7 criticizing their method of catching fish?

8 A Yes.

9 Q And suggesting that the river was so shallow wherever
10 Hot-set was that they could put a weir across it?

11 A That's what he said. The Indians didn't seem to agree
12 with him. That's what he said.

13 Q No. That's what he said. And that seems inconsistent
14 with a canyon setting, would you agree with that?

15 A Would seem so, but on the other hand that is the
16 reason that the natives cite for using the dip net.
17 So we have two different points of view, the Indian
18 view and his view.

19 MR. WILLMS: This would be an appropriate time to take the
20 morning adjournment. Oh, 11:15 is fine with me, my
21 lord.

22 THE COURT: I wouldn't be able to come back until 11:30, and it
23 would waste seven minutes, and we can't do that.

24 MR. WILLMS: We can't do that, my lord.

25 Q Can you turn, it's in volume 3 of your binder, your
26 1988 draft, Exhibit 963, and it's at tab 5. Now, is
27 this what you've done here is basically updated some
28 of the matters that you've considered in your report?

29 A Not updated. This was one of the very first drafts.
30 I originally did the research -- I can give you a
31 brief background on this. I originally did the
32 research on tape in the archives in Winnipeg.

33 Q Are you at the wrong tab? I'm at tab 5.

34 A Oh -- oh, sorry. Tab 5. I was at tab 3.

35 Q Tab 5. I've got a 1988 date on mine.

36 A Oh, conference paper.

37 Q Yes. So this is your most recent discussion of the
38 topic; is that fair?

39 A Certain narrow aspects of it for the purposes of the
40 conference, yes.

41 Q Now, in that discussion at page one --

42 A M'hm.

43 Q -- You comment on a report -- this is at the end of
44 the first full paragraph you say:

45

46 "In a report prepared for the Crown
47 historical geographer Sheila Robinson argued

1 that there is no conclusive evidence that
2 suggests that before the advent of European
3 influence in the claim area the Gitksan and
4 Wet'suwet'en lineages and families
5 identified ownership rights to large and
6 precisely tracts of hunting territories."
7

8 And the document that I have put to you is the
9 report that you are referring to --

10 A Right.

11 Q -- Is that correct?

12 A That's correct.

13 MR. WILLMS: My lord, Exhibit 966-3.

14

15 (EXHIBIT 966-3: Tab 3 of Exhibit 966 -
16 Report of Sheila Robinson)
17

18 MR. WILLMS:

19 Q I just would like to start with the assertion that you
20 make that Dr. Robinson is a historical geographer, and
21 you described earlier in your evidence the different
22 types of geography and one of them was a cultural
23 geographer?

24 A Right.

25 Q What's the difference between an historical geographer
26 and cultural geographer?

27 A The difference of focus. A cultural geographer and
28 historical geographer are often interested in the same
29 things, but one more interested in change in culture
30 over time, and the other would be more inclined often
31 to deal with culture in a given cross-section, if you
32 know what I mean, at a given point in time looking at
33 a people rather than looking at a people and their
34 culture changing all the time.

35 Q Isn't another difference that an historical geographer
36 usually works with historical written records, whereas
37 a cultural geographer goes beyond and uses
38 anthropological and archeological tools as well?

39 A Historical geographers use any historical evidence
40 that's useful. It may be archeology, it may be
41 ethnography, it may be historical documents. Even
42 historians would not claim it is to be restricted
43 solely to documents. There is in fact a field in
44 history now called oral history, so there is a problem
45 if you're trying to draw those narrow a boundary.
46 Academics don't work in those tight compartments.

47 Q Did you know when you made this comment on Dr.

1 Robinson's report that she has academic and field
2 experience in archeology and also academic training in
3 anthropology?
4 A Yes, I do.
5 Q And you know that in her report in coming to the
6 conclusions that she comes to, which you comment on,
7 she relies on a significant body of archeological and
8 anthropological discussion to come to that conclusion?
9 A I'm familiar with the sources. I looked through her
10 bibliography very carefully.
11 Q And there are archeological and anthropological there?
12 A Yes, correct. I'd like to comment though that a lot
13 of the archeology is based on ethnographic
14 interpretation, so you're really hard pressed to
15 separate the two.
16 Q For example, Dr. MacDonald's archeology in The Epic of
17 Nekt was a combination of archeology and ethnohistory?
18 A And ethnography.
19 Q And ethnography.
20 A Correct.
21 Q And you're aware that he concluded in there that there
22 was significant tribal boundary change in the 1700's?
23 A I'd like -- can we speak to that?
24 Q Well, first of all, you're aware that he said that?
25 A But I'd like to deal with specifically what he says
26 about that. Yes, he talks about it, but he does
27 not -- MacDonald does not suggest wholesale movement
28 of Gitksan people out of this territory. He does not
29 say that in his article.
30 Q Well, do you have 847-19?
31 A This is The Epic of Nekt?
32 Q The Epic of Nekt. You'll see that at page 79 -- at 79
33 he summarizes at the bottom --
34 A M'hm.
35 Q -- And says that:
36
37 "Summarizing the argument to date, we can
38 see that the Kitwanga Fort National Historic
39 Site is set in a complex framework of
40 intertribal trade and warfare, which dates
41 perhaps as early as the first millenium B.C.
42 when trade and militarism appear in clear
43 evidence in the Prince Rupert Harbour
44 village sites. From those times, a
45 situation of relative stability appears to
46 have prevailed until the early 1700's. By
47 that time there is evidence for a widespread

destabilization of population throughout
much of the Northwest Coast."

And then on the next page he talks about the
Kitwancool and other Gitksan tribes. In the top of
the paragraph he says:

"In the interior, it appears the Kitwancool
and other Gitksan tribes were pushing north
at the expense of their Tsetsaut and other
Athabaskan neighbours to secure the trading
trails that ultimately connected through to
southeast Alaska and the new sources of
wealth."

Now, I read that as a suggestion that the
Kitwancool and the Gitksans are moving into different
territory. How do you read it?

A I would like to go back over that paragraph and make
some emphasis.

Q Okay.

A Okay. Starting with "Summarizing the argument to
date". Actually -- okay. Let's -- yeah, let's start
with;

"Summarizing the argument to date, we can
see that the Kitwanga Fort National Historic
Site is set in a complex framework of
intertribal trade and warfare, which dates
perhaps..." --

I think you could put a big underlining on the
perhaps.

"As early as the first millenium."

Now, he is acknowledging coastal and interior
trade of great antiquity possibly existing, and I
don't have trouble with that, but it is a perhaps.
"When the trading and militarism appear", appear
should be emphasized, "in clear evidence". It's not
clear evidence that appears in these sights.

"From those times, a situation of relative
stability appears to have prevailed until
the early 1700's. By that time there is
evidence for widespread destabilization of

1 population throughout much of the Northwest
2 Coast."

3
4 He's talking about coast, and I should think in --
5 when we review this evidence I would suggest that we
6 should also look at the historical atlas map again
7 that we had in evidence yesterday, because it's
8 relevant to this discussion. Can we see that map?

9 THE COURT: Why don't you think that over, Mr. Willms, and we'll
10 take --

11 MR. WILLMS: He can certainly see it if I can remember what it
12 is, and where it is.

13 A It's the plate from the historical atlas that we were
14 in the other day.

15 THE COURT: We'll take the morning adjournment now.

16 MR. WILLMS: Thank you, my lord. Order in court. Court will
17 recess.

18

19 (PROCEEDINGS ADJOURNED)

20

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

25

26

27

28

Peri McHale, Official Reporter
29 UNITED REPORTING SERVICE LTD.

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

1 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)
2
3 THE COURT: Mr. Willms.
4 MR. WILLMS: My lord, one point perhaps while the witness is
5 reviewing the map that he wanted to see before the
6 break, on scheduling in case we do need extra time I
7 have spoken with my friends and subject to your
8 lordship, if we could perhaps start at nine o'clock
9 tomorrow morning instead of ten rather than sitting
10 late tonight. I have a commitment that I can't get
11 out of.
12 THE COURT: All right. Well, I'll have to check and see. I
13 think it's all right, but I don't know.
14 MR. WILLMS: I am hoping that it won't be necessary, but --
15 THE COURT: All right. And of course --
16 MR. WILLMS: -- it's better than sitting Saturday.
17 THE COURT: Of course we could sit late tomorrow afternoon too,
18 if necessary.
19 MR. WILLMS: That I can do as well.
20 THE COURT: All right.
21 MR. WILLMS:
22 Q Now, Dr. Ray, you suggested that in reviewing the
23 historical atlas that would help you consider whether
24 or not MacDonald is saying what he appears to be
25 saying about the movement of the tribes, of the
26 Gitksan tribes pushing north at the expense of their
27 Tsetsaut or other Athabaskan neighbours?
28 A Yes. I have one slight problem. This copy I have is
29 cut off and a couple of the key words I wanted are cut
30 off as a result on this at last copy. Is this the
31 only -- it's critical to what the point I wanted to
32 make about what he says about coastal destabilization
33 before I moved to the interior stuff.
34 Q Well --
35 A Do you have a complete -- is yours --
36 Q It's not my exhibit. I am sorry.
37 A Oh, I can tell you what it says, but you'll have to
38 take my word for it, that's the problem.
39 Q Well, just -- I am sorry, but what are you trying to
40 get at?
41 A Okay. Well --
42 Q MacDonald is just describing the coast and he's not
43 describing the interior?
44 A What I am trying to get at is this: MacDonald is
45 saying that there is some movement, but he is
46 saying -- he's not saying that there is movement from
47 the core area at issue. With regard to the northwest

1 coast population movement, for example, he states
2 right on this map that the coast Tsimshian villages
3 date back to at least five thousand years, and that
4 the movement he's talking about on the coast was some
5 movement northward from that core area. Now, with
6 regard to the Gitksan, the movement there he's talking
7 in general terms in his summary, but if you look
8 earlier in the article you'll find that the main
9 movement he discusses is in fact the movement
10 specifically along one trail and that's trail number
11 three. He claims they are moving northward to have
12 access to the Russians. He does not say in the core
13 of the article, which is relevant to the summary, that
14 all of these Gitksan groups are pushing north. That's
15 my point. And that's why I am sorry that this --
16 these two paragraphs which is MacDonald's most recent
17 work or statements on the matter where they succeed
18 this Epic of Nekt are cut off. So my point is, yes,
19 MacDonald is saying there is some tribal dislocations
20 occurring, perhaps as early as a thousand years ago.
21 He's not describing wholesale movement. And the point
22 I also was trying to make is that in all of this the
23 emphasis is on -- okay. For example, the northern
24 shift, presumably the whole -- this whole report is
25 laced with that kind of terminology. In the
26 interior -- going specifically to what your question
27 is now, in the interior he says it appears the
28 Kitwancool and other Gitksan tribes were pushing north
29 at the expense of the Tsetsaut - I don't know how you
30 say that word - and other Athabaskan neighbors to
31 secure trails. Now, if you go back into the earlier
32 part of his article he talks -- he discusses -- he is
33 organized to deal particularly with that Kitwan --
34 what is it, Kitwanga Fort. The main discussion there
35 is movement on that specific trail. He's not talking
36 about general northern movement of all Gitksan. Not
37 as I read it and not as he says it. In any event, he
38 does not offer as concrete evidence that any of this
39 happened. He offers us a lot of maybes, presumables,
40 apparentlies, likelies, etc. That's my -- that's my
41 main reaction.

Q All right. Now, the other thing that he suggests is,
42 and this is on page 80, that the causes for warfare
43 changed. And let's see what you say about this. It's
44 the middle paragraph. He says:

45 "Warfare on the Northwest Coast -- "
46
47

1 A Right.

2 Q

3 "-- in the eighteenth century, I suggest, was
4 motivated by the desire to control a new and
5 scarce valuable resource. These trade items
6 include metal, and especially such weapons as guns
7 and knives. The old view of the contact period on
8 the Northwest Coast is proving to be far too
9 simplistic. We tend to look only at the
10 exploration records that came with Maritime
11 contact, overlooking the vast traditional
12 histories of the Indian people for earlier decades
13 of the eighteenth century and beyond."
14

15 And then he says:

16
17 "Archeological research on the proto-historic
18 period in the interior has also been neglected."
19

20 Now, what I understand he is suggesting there,
21 especially if you read the previous paragraph which I
22 won't read out loud, is that the -- this movement,
23 wherever it was taking place, was taking place to
24 control this new and scarce resource which was related
25 directly to European trade?

26 A Yes. But in this case he also does not tell us when,
27 how much, how significant this trade was. And I'd
28 like to read one more sentence where you cut off
29 there. He said archeological research on the interior
30 has been neglected, and he carries on:

31
32 "For example, little has been done to investigate
33 and record the system of trails, bridges, forts
34 and camp spots that formed an arterial system for
35 trade goods throughout the region."
36

37 In other words, the very regions we are talking about
38 he says is poorly researched. Which I read as
39 whatever we say about this archeological period is
40 therefore necessarily highly speculative. Now, the
41 one issue that you are raising in this is the issue of
42 how influential were the Russians in this early
43 period. And recent work in the most recent handbook
44 of the Smithsonian suggests that early Russian
45 influence was probably not that strong.

46 Q I am showing you, it's an extract from a book entitled
47 "The Tsimshian, Images of the Past: Views for the

1 Present" edited by Margaret Seguin. You have reviewed
2 extracts of that in your report. For example, the
3 Epic of Nekt is one of the extracts in this book?
4 A Yes. But I am not claiming that I read that entire
5 book in detail. I did not dwell on this piece, not to
6 my memory, so you'll have to refresh my mind on this.
7 Q The pieces, and I am just going to ask you did you
8 read the piece in there by James A. McDonald on
9 "Images of the Nineteenth-Century Economy of the
10 Tsimshian"?
11 A I can't recall that I have, but I can't say that I
12 didn't. I mean this -- we are talking about something
13 I wrote now first draft of this some five years ago.
14 So I may have, but I don't believe I cited in my short
15 report in evidence.
16 Q Do you know James A. McDonald? Have you heard of him
17 before?
18 A I was the external (?) at his PhD exam at U.B.C.
19 Q You were?
20 A I was.
21 Q And did he get his PhD?
22 A Barely. If you want to know the truth.
23 Q Barely.
24 A He got it.
25 Q Thank you.
26 A It was a difficult degree.
27 Q Now, what -- and you will see on -- perhaps we could
28 mark this, my lord. 966-4.
29 THE COURT: Yes.
30
31 (EXHIBIT 966-4: Document entitled "The Tsimshian,
32 Images of the Past: Views for the Present" edited by
33 Margaret Seguin)
34
35 MR. WILLMS:
36 Q And if you turn to the page 42 you'll see in a section
37 that's headed "Contact with the European Market." I
38 guess we can find Dr. McDonald.
39 A Yeah. He's presently.
40 Q Since he scraped through. And in the second full
41 paragraph he says this, talking about the monopolies
42 and he talks about Legaic and other Tsimshian chiefs
43 in the previous paragraph, but he says this:
44
45 "As the chiefs' monopolies were competitively
46 expanded, more and more Indian groups came to be
47 incorporated into the network. The Gitksan, for

1 instance, were already trading at inland markets
2 were the Coastal Tsimshian for European
3 commodities from American sailing ships when the
4 Hudson's Bay Company trader/explorers reached
5 them, arriving from the east in 1826. From that
6 first contact, the Baymen could not afford to
7 match the prices offered by the Tsimshians."
8

9 Now, just pausing there, that's consistent with what
10 your reading of Brown's journals has disclosed, isn't
11 it?

12 A Yes. But I mean if you want to be precise we would
13 have to say 1822, wouldn't we? And perhaps 1808 if we
14 want to work in Fort St. James, but I won't quibble if
15 it's not a significant point.

16 THE COURT: 1802 at Fort St. James?

17 A 1806. But for the Bay, in particular, we should have
18 1822, 23.

19 MR. WILLMS:

20 Q Okay. Now, he then discusses Trader Brown:

21
22 "The abilities of Trader Brown, who was charged
23 with extending the trade in the Babine Lake area,
24 were under question as a result of the unexpected
25 and serious composition."
26

27 Just pausing there. You have noted that, haven't you?

28 A Yeah. I have no trouble with that.

29 Q

30
31 "The actual anthropological data on this time are
32 incomplete. It is difficult to trace, for
33 example, what economic reorganization occurred, or
34 how labour power was reallocated as a result of
35 the fur trade, but the benefits of a greater
36 social productivity, along with the new wealth
37 that was realized in the form of luxury goods and
38 cheaper commodities, such as western cloths, rice,
39 molases, gunpowder, and other products, flowed
40 primarily to the chiefs and through them to the
41 rest of the Tsimshian."
42

43 Now, just pausing there, he's talking about the chiefs
44 on the coast?

45 A Uh-huh.

46 Q Legaic. And in any of your reading --

47 A Remember, Legaic comes on the scene in the 1830s.

1 Q Well, that's Legaic II, isn't it?
2 A Yes.
3 Q And there are a number of Legaics?
4 A The important Legaic, yes.
5 Q But in any event, that is consistent with at least the
6 European trade with the Coastal Tsimshian?
7 A Uh-huh.
8 Q Okay. Then he carries on and says this:
9
10 "Others offer suggestions of important
11 organizational modifications occurring within
12 Tsimshian society during this time. Marius
13 Barbeau felt that the trade led to a
14 crystallization of the social organization and to
15 the development of extensive hunting territories
16 with inviolate frontiers. (This latter point may
17 actually have more to do with the privatization of
18 territories for the exclusive use of chiefs,
19 rather than the extension of the Tsimshian
20 frontiers to incorporate more land."
21
22 Now, just pausing there again.
23 A Uh-huh.
24 Q In respect of the coast, are you aware of any Hudson
25 Bay's documents or historical records that's
26 inconsistent with that?
27 A No. But I want to comment on what you're saying, but
28 go ahead.
29 Q All right. Well, I just -- just dealing with the
30 coast now, is there any inconsistency that you are
31 aware of?
32 A There was no date on the coast at this period, so --.
33 The point is --
34 Q Now, can I just -- I do want to ask you one question.
35 A Okay.
36 Q And that is this -- and that is this: Is there
37 anything in your historical research of Brown's
38 journals and the records at Fort Babine that would
39 indicate that the coastal fur trade did not either
40 create or have a profound effect on the social
41 organization of the Indians in the area?
42 A You are asking me for an opinion which I'm quite
43 prepared to give, which is opinion that I would argue
44 is as valid as any of the opinions expressed in here.
45 I'd like -- I'd like to preface that opinion by
46 backtracking, though, and stressing one point here
47 that McDonald says the actual anthropological data on

1 this time are incomplete. You agree. It is difficult
2 to trace. So the only solid description existing of
3 Gitksan, Babine, Wet'suwet'en social, political,
4 territorial organization, the earliest complete
5 description that we have is the Brown testimony. I
6 would offer the suggestion that the system that we
7 have been over for the last two days is a very
8 well-articulated system, which suggests to me a system
9 that has been in place for some time. The
10 ethnographers who have developed this thesis have not
11 developed this thesis in reference to any of the Brown
12 material. It apparently was unknown to them. He
13 mentions it here. He does not address it, however.
14 And the previous ethnographic and archeological data
15 did not address that data. And what is abundantly
16 clear from Brown is that you have a fully articulated
17 feasting system with house territories, family heads.
18 In other words, the system -- the very system that the
19 ethnographers describe begin to describe with Morice
20 some 60 years later is a system that essentially Brown
21 has just given us the bone outline for in 1820.

22 Q In the 1820s?

23 A That's right.

24 Q And the coastal fur trade really started in the late
25 1700s?

26 A By the late 1700s we should put a date on that. The
27 area we're talking about here, the late 1700s, we're
28 really talking about the 1780s onward.

29 Q Yes.

30 A And I submit that the significant -- and I don't think
31 many would question that, that the really significant
32 coastal trade can be dated to about that time frame.
33 I doubt very much that the system in place, given how
34 well-articulated that system was, was created in that
35 short a period of time.

36 Q Well, of course --

37 A There is no hard evidence to prove that it was. There
38 is no evidence on that point.

39 Q And there is no evidence that it wasn't?

40 A That's right.

41 Q It's still a very interesting question.

42 A It's a very interesting question. But I would submit
43 that in developing their thesis that it was a product
44 of the trade. The ethnographers might have been
45 better served had they used this information.

46 Q But the point that I am suggesting here is that this
47 trade, which influences inland, starting from 1780,

1 had been going on for 40 years before Brown got there?
2 A That's right.
3 Q And you'll agree with me that Barbeau felt, at least
4 for the coast, that it was the trade that led to the
5 crystallization of the social organization?
6 A That's right. However, I would like to point out,
7 since I am here to speak as an expert on the fur
8 trade, that other areas where the fur trade had an
9 effect on the native tenure system, which I think we
10 can all agree is a crucial system to any economy,
11 those transformations took far longer than 40 years
12 and they occurred in a situation in which the trade
13 impinged more directly on the basic subsistence
14 economy than did this trade, which at this point in
15 time many would agree was predominantly a luxury
16 trade. It was not a trade that cashed and
17 commercialized the core of the economy and that is the
18 salmon economy.
19 Q Now, the next part, McDonald carries on a quote from
20 Fisher, and he quotes from a Fisher article that you
21 also quoted as well in your report and said that there
22 were five changes to social organization correlated
23 with the fur trade. The first was the creation of new
24 mercantile leaders such as Legaic. Now, I mean that
25 is beyond dispute at least from the coast, isn't it?
26 A The Legaic chiefs.
27 Q The Legaic chiefs. Second, the concentration of
28 wealth in their hands. Now, one thing --
29 A Excuse me, what page are you on?
30 Q I am on page 43.
31 A All right.
32 Q One thing, I suppose, that a first read-through of
33 Brown without carefully going back through it, as a
34 historical geographer, you might think that he noted a
35 concentration of wealth in the hands of some chiefs?
36 A Yeah.
37 Q Is that correct?
38 A Yeah, he did.
39 Q So that's, at least reading Brown, just reading it, it
40 appears to accord with number two. There appears to
41 be a concentration of wealth?
42 A Well, I take that as a leading question myself. I am
43 not saying -- you are saying that this is what this
44 led to. I am saying what he described was chiefs with
45 wealth concentrated in their hands. If that's what
46 you are asking me I will say yes.
47 Q Then going on: The consolidation of the powers of the

1 leaders, and you'll see that they are ranked. They
2 are one through 20 in terms -- or one through ten
3 Brown ranked them?

4 A But that's my precise point. He first arrives there,
5 it's -- he gives us a finely ranked list. Now, you
6 are supposing that the fur trade produced that. There
7 is no evidence of that. What Brown is describing is
8 what Brown saw and that is a rank list of leaders. I
9 will agree to that, but I will not agree to the
10 suggestion that you have evidence to prove that the
11 fur trade created it.

12 Q Now, just carrying on with Fisher. He mentioned the
13 centralization of nine tribes around Port Simpson.

14 A Uh-huh.

15 Q But one thing that you noted, for example, in
16 reviewing the Hudson's Bay records to the turn of the
17 century, is that Fort Babine, when it moved, also had
18 a concentration of people move with the fort to the
19 north end of Babine lake?

20 A Uh-huh.

21 Q Is that correct?

22 A Yeah.

23 Q And that there was ultimately a fort established at
24 Hazelton and a significant number of people moved from
25 Kisgagas and the northern Skeena down to Hazelton?

26 A Right. And what's the point?

27 Q Well, the point is that the people moved to where the
28 fort was.

29 A But that's -- what's the relevance to 1822, which is
30 the very critical date that we're talking about?

31 Q Well, I'm roaming through the nineteenth century, Dr.
32 Ray.

33 A But we have to -- if we are trying to talk about the
34 evolution of society in post context, we can't roam
35 around. I am here as a historian. You can't
36 understand what's going on unless you understand it in
37 sequence.

38 THE COURT: Mr. Willms, you have lost me. You are reading from
39 Fisher?

40 MR. WILLMS: No, I am reading still from --

41 THE COURT: Still from McDonald?

42 MR. WILLMS: -- McDonald quoting from Fisher.

43 THE COURT: Oh all right. Thank you.

44 MR. WILLMS: I am on page 43, my lord. It's up at the top and I
45 have gone through the first four items there.

46 Q And the fifth item is the use of European trade as a
47 factor in inter-tribal politics. And you have already

1 given some evidence about the Atnahs who were armed
2 and wanted the Babines to trade with them?
3 A Uh-huh.
4 Q And the trade that they wanted wasn't in berrycakes.
5 The trade was in furs?
6 A That is certainly the implication there, that's for
7 sure.
8 Q All right. And --
9 A But remember, they came with guns and spears.
10 Q So that that would appear to have been something that
11 Brown observed?
12 A Yes, he observed it.
13 Q Now, I just --
14 A Remember too, though, that McDonald, since we brought
15 him up, talks about about a coastal trade going back a
16 thousand years, so nothing new.
17 Q Now, if you can just carry on page 43 McDonald
18 concludes with this paragraph:
19
20 "Further support comes from Michael Robinson, who
21 even argues that a new, more complex political
22 organization ('proto-statedom') was being created
23 by the chiefs. Thus, while it may be true that
24 the trader made no attempt 'to change any basic
25 structures or beliefs of the Indian', it is
26 debatable to say that the trade made 'no extensive
27 impact upon Indian society' other than an
28 intensification of cultural practices, as Usher
29 goes on to suggest."
30
31 Now, just pausing with that statement. You agree with
32 that, it's debatable to say that the trade made no
33 extensive impact upon Indian society other than an
34 intensification of cultural practices?
35 A I don't say that. But I said at the same time -- you
36 are talking now in the fur trade in very general
37 terms. What you are asking me is did the fur trade do
38 more than just intensify things by the middle or late
39 nineteenth century, I would say yes. In 1820 I would
40 say it's a moot point.
41 Q Well, isn't 1820 your starting point?
42 A It is.
43 Q Yes. And so --
44 A He's not talking about 1820.
45 Q You don't know what it was like in 1810 or 1800 or
46 1790 or 1780, do you?
47 A Nor does Michael Robinson, does he?

1 Q Well, I am just dealing with you.
2 A Well, I have to respond to this. We are talking now
3 about an academic literature which is making the
4 assumptions and I don't have access to this Robinson
5 article. If he is talking about proto-statedom and so
6 on throughout the Legaic chiefs before, well, the
7 Legaic chiefs don't have an impact on the Bulkley
8 Valley until the 1830s. But if you're asking me
9 what's going on in the 1830s onwards, that's not the
10 point that I addressed in the submission to the court.
11 Submission to the court was what was the base line
12 economy when we get the first detailed European
13 account. That's what I dealt with.
14 Q Well, I am also --
15 A What happened after the fact is another aspect of the
16 history.
17 Q And what happened before that is another aspect as
18 well?
19 A That is a question which we all will have trouble
20 answering since there is no data for it. We have a
21 lot of opinion.
22 Q This is an extract from the cross-examination of Dr.
23 Kari. And it is -- my lord, I should advise you that
24 the quote which is at lines eight through 30 which I
25 am going to read is taken from Exhibit 883 tab 2.
26 THE COURT: Who is the author?
27 MR. WILLMS: The author is Dr. Rigsby.
28 Q And so this is what I put -- I put Dr. Rigsby to Dr.
29 Kari. And it's Dr. Rigsby at 883-2 and I don't know
30 if you are aware of this evidence, Dr. Ray?
31 A I am not. Could you please tell me who these people
32 were?
33 Q Dr. Rigsby is a linguist, a Gitksan linguist and one
34 of the plaintiffs' experts in this case. Dr. Kari is
35 an Athabaskan linguist and one of the plaintiffs'
36 experts in this case. And I am reading Dr. Rigsby to
37 Dr. Kari here. And he says this:
38
39 "Many small Athabaskan-speaking hamlets and local
40 groups, such as the Gitxsinjahl of Caribou Creek
41 must have been gradually and peacefully
42 Gitksanized in socioculture and speech. The fur
43 trade seems to have spurred the Gitksan occupation
44 of the Middle Nass and, especially, the Upper Nass
45 and Upper Skeena territories. As many oral
46 traditions testify, this was not a peaceful
47 gradual process, but some Athabaskan place names

1 were retained. It is interesting to note that
2 there were no Gitksan permanent winter villages on
3 the Middle or Upper Nass, nor on the far Upper
4 Skeena. There were summer fishing camps and
5 hunting-trapping grounds in these territories, but
6 the real bases of operation were the large winter
7 villages at Kitwancool, Kispiox, Kisgegas and
8 Kuldo. It was during this same period of the fur
9 trade that the Nishga and the Tlingit, along with
10 epidemic disease, reduced the Tsetsaut Athabaskans
11 of Portland Canal to a handful of survivors by the
12 turn of this century."

13
14 Now, just stop quoting there, you will see down below
15 that Dr. Kari acknowledges that this is Dr. Rigsby's
16 view in 1987.

17 A Uh-huh.

18 Q Now, I am going to suggest to you that what Dr.
19 McDonald said is completely consistent, that is the
20 expansion of the Gitksan tribes at the expense of
21 their Athabaskan neighbors, the Tsetsaut, is
22 completely consistent with what Dr. Rigsby says in
23 1987 in response to the fur trade?

24 A Well, I submit in terms of the Epic of Nekt, which is
25 the only thing that McDonald in detail that I read
26 does not say this. He is speaking specifically of a
27 specific grease trail and expansion along that trail
28 in terms of this pushing of these people. He does
29 talk about that. He does not say the Gitksan of the
30 Babine area weren't there, which I presume is the
31 drift of this quote here. He doesn't -- this -- this
32 expert, whose background I don't know, so I am
33 speaking in a complete vacuum, doesn't seem to be
34 aware of the villages on the Babine River, does she?
35 Does she acknowledge the three that were there?

36 Q Well, Kisgegas is -- Kisgegas is there.

37 A Well, we are talking -- we've established, I think we
38 agree now after we have been back and forth with
39 Brown, that there were three villages on the Babine.

40 Q Yeah, they're Atnah villages and you interpret that to
41 be Gitksan?

42 A Yes.

43 Q Well, let's just call them Atnah.

44 A Well, I think it's clear that we can call them that,
45 but I think it's clear that they are.

46 Q Were you aware that the spread of Nishga and Gitksan
47 speech communities into the Nass Valley and up the

1 Skeena accompanied the territorial expansion of a new
2 sociocultural system? Did you know that before you
3 wrote your paper on the Hudson's Bay records?
4 A In general terms I know that these things -- I don't
5 know the specific thesis here, no. I am not familiar
6 with it.
7 Q And did you know that the linguistic interpretation
8 was that the differing social relations included a
9 different system of land and resource tenure?
10 A You notice the thing that I find fascinating about
11 this quote, though, it says gradually and peacefully
12 Gitksanized. If what she is saying is so, then it
13 seems to me that we see in 1820 something that
14 happened over a very long period of time, does it not?
15 Q Well, it's the next paragraph. The lower Athabaskan
16 hamlets which are inculturated. I am dealing with the
17 Middle Nass, the Upper Nass and the Upper Skeena
18 territories.
19 A Well, all I say she says it's a slow or gradual
20 process, we have a well articulated system in place in
21 the 1820s, which it did, the slow and gradual process
22 that she is talking about argues for me long antiquity
23 for it.
24 Q You see, you are aware from the Hudson's Bay
25 documents, are you not, that from the north of the
26 Babine River to Sekanni -- to Bear Lake, those are
27 Sekanni areas?
28 A The northern end of it certainly was. The east --
29 northeast of Bear Lake. But what was south and west
30 of Bear Lake in terms of the Brown record I think is
31 otherwise. It's clearly Atnah, belonging to those
32 chiefs Need-chip and -- was it Quo-Em? I think
33 it's -- we have established that fairly clearly from
34 the Brown record.
35 Q Well, perhaps Exhibit 964- --
36 THE COURT: Do you want to mark this?
37 MR. WILLMS: Yes, my lord.
38 THE COURT: All right. 966-5.
39 THE REGISTRAR: Yes, my lord.
40
41 (EXHIBIT 966-5: Excerpt from transcript of evidence
42 of J. Kari)
43
44 A Which one am I looking for now?
45 MR. WILLMS: And the next exhibit, my lord, is 964-5 in book
46 one.
47 THE COURT: Whose book one?

1 THE REGISTRAR: Mr. Ray.
2 MR. WILLMS: In Dr. Ray's book one.
3 THE COURT: All right.
4 MR. WILLMS: And if you --
5 THE COURT: I am sorry, what tab number, please?
6 MR. WILLMS: It's tab five, my lord, and the page appears to
7 have three numbers on it. There is a printed number
8 seven?
9 A Sorry. Which tab are we at?
10 MR. WILLMS:
11 Q Tab five.
12 A All right.
13 Q Printed number seven and then a handwritten 97 and
14 then another handwritten eleven beside it.
15 A Sorry, run --
16 THE COURT: Mr. Willms, are you suggesting a convenient place in
17 Dr. Ray's report where notes on this document might
18 most conveniently be inserted? If you can't it
19 doesn't matter.
20 MR. WILLMS: My lord, I can't recall where it was --
21 THE COURT: All right.
22 MR. WILLMS: -- that this document was cited.
23 THE COURT: All right. Never mind. Thank you.
24 A Was it 7, 97 11?
25 MR. WILLMS:
26 Q 7, 97 and 11.
27 A Right. Okay.
28 Q And you'll see he discusses here in the middle
29 paragraph:
30
31 "While the Indians of this place was at the Atnah
32 village, the Principal Chief of the Siccanies of
33 the Prairies, and four of his countrymen arrived
34 there, to whom Caspins made a present of his
35 shirt, and some other articles and entered into an
36 arrangement for him to come -- "
37
38 A "Here".
39 Q
40
41 " -- here on the first snow ensuing fall. By the
42 different Indians who were then present, I
43 received the following information concerning
44 these people.
45 The Siccanies of the Prairies are a numerous
46 Nation, inhabiting the country to the north
47 of McDougall's River, which principally consists

1 of extensive Plains, it abounds in Moose, Caribou,
2 Beaver and other fur-bearing animals, the two
3 former they hunt for their subsistence and -- "
4

5 THE COURT: "To cloath themselves."

6 MR. WILLMS:

7 " -- to cloath themselves. And the latter as an
8 article of trade. They speak the same language
9 and have the same habits as the Siccanies on the
10 other side of the height of the land -- "
11

12 I guess that's the Rockies,
13

14 "They live by the chase and never for any length
15 of time remain in the same place, but are always
16 moving about for the purpose of hunting. They
17 never work the salmon save for a short time in the
18 spring when they kill some of the large kind for
19 present use. At times they visit the Atnah
20 Villages on the banks of McDougall's River to
21 trade salmon when they are unfortunate in the
22 chase. In the fall of the year they are in the
23 habit of hunting the beaver in the vicinity of
24 bear on Webster's Lake and requested the Indians
25 to visit them there on the first fall of snow, and
26 when they would accompany them here with their
27 fur."
28

29 So that is as far as Brown knew where the Sekannis
30 were. They were north of McDougall's River and they
31 trapped beaver around Bear Lake?

32 A I'd like to -- can I comment on this?

33 Q Well, that's what -- I read that correctly, didn't I?

34 A You read it correctly, but there is a problem with the
35 document.

36 Q It's unreliable, is that what you're going to say?

37 A Yeah. And I'll explain why, on this particular point.
38 Brown -- if you recall, Brown learned this from
39 another Indian, right? This is his -- this is the
40 first report, right? Is this not E(1) that we're
41 looking at? 11 E(1)? I believe it is. Yes, it is.
42 We should view his comments here in relation to E(2)
43 which is this report for 1826 when he goes in to the
44 reasons why he revises his report. I forget, what's
45 the tab number for E(2), because it's relevant here to
46 figure out what was right and what was wrong in this
47 particular set of observations. I don't know what

1 that referencing number system is here.
2 Q Volume 1 tab five?
3 A Volume 1 tab --
4 Q And Volume 2 tab 12 is E(2). My lord, by the way, at
5 page four of Dr. Ray's report he talks about these
6 fairly complete reports on Babine country at the top
7 of the page and --
8 THE COURT: What page, please?
9 MR. WILLMS:
10 Q It's at the top of page four and you'll see --
11 A I still don't have a copy of E(2) or --
12 Q It's Volume 2 tab 12. But you'll see at the top of
13 the page, the witness in his report referred to two
14 fairly complete reports on Babine country and
15 districts to the west.
16 A I did.
17 Q And it's B 11E(1) that I just read to the witness
18 from, the first fairly complete report.
19 A That's correct. But you recall in my discussion of
20 Brown the other day, we discussed Brown as an observer
21 and he was a man who was continually updating his
22 information. That was his first report. He hadn't
23 been there yet, and he heard this information from
24 natives, and he addressses that in Volume 2. That's
25 why I am trying to get to it. I am not saying
26 everything he said there is incorrect, but we should
27 at least compare the two. I am just trying to find
28 the appropriate reference now.
29 THE COURT: Well, then, we have got to go to tab 12, don't we?
30 A Yes. Sorry to take up your time, but I know -- okay.
31 If we go to tab 2, printed --
32 THE COURT: I am sorry, tab 2?
33 A Tab 2, yeah, the page following printed nine.
34 MR. WILLMS:
35 Q Tab 12 you mean?
36 A Yeah. Tab 12, volume -- what is this? Volume 2.
37 THE COURT: Yes. Yes.
38 A It looks like page 76 upper left. Do you see that?
39 THE COURT: I have got tab 12 with a printed nine on it. I
40 don't see any other.
41 A Okay. Then flip over the page following printed page
42 nine.
43 THE COURT: Oh.
44 A The first full paragraph says "the information."
45 THE COURT: Yes.
46 A Can I read that?
47 MR. WILLMS: Page 15?

1 THE COURT: It looks like it's page 76.
2 A It follows printed nine.
3 MR. WILLMS: Oh here we are.
4 MR. ADAMS: I believe that's a 16, my lord.
5 THE COURT: Is that a 16?
6 A Oh, handwritten 16.
7 THE COURT: Okay. If you say so.
8 A Would you like me to read that?
9 MR. WILLMS:
10 Q Yes.
11 A
12 "The information I received regarding the
13 Siccaunnies of the Prairie, and stated my report
14 of 1823, is not to be relied upon."
15
16 That's the report you were reading from.
17
18 "They being described there as a numerous nation,
19 inhabiting a country consisting of extensive
20 plains, and abounding with Beaver and large
21 animals. Whereas by the accounts I have had of
22 them since they are only a small band of
23 vagabonds, who are excluded from the society of
24 all other Indians on account of their crimes and
25 reside principally in the mountainous country
26 lying between the Babine River and Bears Lake."
27
28 So they are in the mountainous country.
29 Q Yeah, well, I -- maybe you misunderstood me. I was
30 suggesting to you that they lived between McDougall's
31 River, Babine River and Bear Lake. That's what he
32 says here, isn't it?
33 A But we have to then get out this map and have a look
34 at what McDougall's River does and what north in this
35 case would be. I submit that he's talking about this
36 territory in here. The groups we were talking about
37 yesterday we were talking about the territories over
38 in here. See, there is a string of mountains running
39 from Bear Lake down here. Here's McDougall's River.
40 We were talking about this area yesterday over here.
41 Q Well, all that I'm asking is whether or not Brown
42 noted that from McDougall's River to Bear Lake was
43 Sekanni territory?
44 A Yes. But I'm saying that the way the river is
45 oriented, that doesn't tell you a whole lot.
46 Q Now --
47 A Because he clearly -- Brown also subsequently on his

1 trip describes what are Atnah territories related to
2 Need-chip in the area also north of Babine River. But
3 I don't think the two -- the two reports, if you look
4 at the map, are not necessarily in conflict. If you
5 look at geography of the area.
6 Q So somewhere in there in the mountains north of Babine
7 between the Babine River and Bear Lake, somewhere
8 there I suppose the Atnah hunting territory stopped
9 and the Sekanni territory started according to Brown?
10 A Yes. It might be helpful to look at John Stewart's
11 report for 1824 where he describes, I believe, Sekanni
12 territory as being primarily the area around the upper
13 headwaters of the Peace, Parsnip and Findlay rivers.
14 Q Now, one of the other works that you refer to in
15 writing your report was Adams work on the Gitksan
16 potlatch. And --
17 A It's not cited in my short report. It was used in the
18 long report. So yes, I cited it, but it's been four
19 or five years now since I read it.
20 Q And you recall that Adams commented that the people in
21 the Kitwancool spoke Tsetsaut?
22 A Yes.
23 Q And that people speaking Stikine were living in
24 Gitsegukla and Kitwancool?
25 A Yes. And what time period is it when we find this
26 information?
27 Q Well, I think --
28 A This is memory ethnography done this century, right,
29 well after the fact of these reports. So you are
30 reading backwards into the history.
31 Q Yes. He says as recently as the 1830s half of the
32 inhabitants of Gitsegukla spoke the Hagwilget language
33 and the Village of Kitwancool was half Stikine?
34 A As early as. And what is the reference?
35 Q No. As recently?
36 A As recently?
37 Q Yeah.
38 A It doesn't say it was. It says as recently. No
39 evidence, and it's post Brown.
40 Q Well, this is something that's been adopted by one of
41 the plaintiffs' witnesses in this trial.
42 A Well, I haven't seen -- I haven't seen that. All I am
43 saying is that you are asking me to respond to this as
44 a historian. This is talking about a period after
45 which we are focused in this record.
46 Q Well, I'm talking about a period that is
47 contemporaneous and precedes the period that you are

1 focusing on. The 1830s is contemporaneous?
2 A Yes.
3 Q Correct?
4 A But you are saying as early as.
5 Q No. As recently as.
6 A Oh, as recent.
7 Q No. He says as recently.
8 A As recently. All -- well, I don't have evidence on
9 that one way or the other and as far as I know there
10 isn't any historical document that can establish that
11 one way or the other, so it has to be a matter of
12 opinion. There --
13 Q One thing that you noted on your review of the
14 Hudson's Bay documents was that putting aside fur
15 trapping, the exploitation of animals by the Atnahs or
16 the Babine/Wet'suwet'en was pretty minimal?
17 A Uh-huh.
18 Q Is that correct?
19 A Uh-huh.
20 Q You have to say yes or no.
21 A Oh sorry. Yes. This I assume means in terms of food
22 and that sort of thing. I have to say it would have
23 some for clothing.
24 THE COURT: What did you say, Mr. Willms, by the -- by the
25 Atnahs or Babine?
26 MR. WILLMS: Or the Babine/Wet'suwet'en.
27 THE COURT: Thank you.
28 MR. WILLMS:
29 Q Now, we started off here with Dr. Robinson's article
30 and I'd like to return -- you don't need to have it in
31 front of of you unless you want to review it.
32 A I'd like to review it.
33 Q But you know that one thing that Dr. Robinson relied
34 on in concluding that there was really no reason for
35 sophisticated land tenure and no reason for hierarchy,
36 hierarchical development before the advent of the fur
37 trade, one of the references of Dr. Robinson were Drs.
38 Goldman, Dr. Stewart, Dr. Kobinsky, Diamond Jenness,
39 and Morice and anthropologists and archeologists, is
40 that correct?
41 A Uh-huh. In other words, you are referring to the
42 ethnographic literature, and I will speak to that in a
43 minute if you want.
44 Q Yes.
45 A Yes.
46 Q But that is what she -- is one source of her opinion
47 and you recognized in reading her opinion or report

- 1 that that is a conclusion that many anthropologists,
2 for example, have come to, for example, that house
3 owning territories among the Wet'suwet'en is
4 relatively recent?
- 5 A That's the conclusion they came to in the absence of
6 any good historical records, that's correct.
- 7 Q Now, I would like to put a series of propositions to
8 you and ask you to identify, if you can, a Hudson's
9 Bay reference that refutes it. And the first one is,
10 the first proposition is the Gitksan moved up into the
11 Upper Skeena and the Upper Nass in response to the
12 coastal fur trade. Now, is there anything in the
13 Hudson's Bay records that refutes that proposition?
- 14 A In response to which fur trade?
- 15 Q The coastal fur trade.
- 16 A It doesn't speak to it.
- 17 Q All right. So the answer is there is nothing in the
18 Hudson's Bay reports that refutes that because it
19 doesn't speak to it?
- 20 A Correct.
- 21 Q Now, second, is there anything in the Hudson's Bay
22 records which refutes or disputes conflicts between
23 the inhabitants of the Skeena River and the Nass River
24 in the late 1700s and early 1800s that is armed
25 conflicts?
- 26 A Obviously not for 1820. We don't have a record.
27 There is no historical record to establish that.
- 28 Q Is there anything in the Hudson's Bay documents which
29 refutes the proposition that Carrier social
30 organization was patterned after Tsimshian or Gitksan
31 social organization?
- 32 A I say it makes that an open question, because Brown
33 makes it clear that the two societies were very
34 similar in 1820 and you cannot conclude from that that
35 who borrowed it from whom.
- 36 Q But I'm putting my questions in terms of refuting.
37 There is nothing in the documents that refutes that
38 proposition. It's unclear, but it's not refuted?
- 39 A Doesn't speak to it.
- 40 Q All right. Fourth, trade between the coast and
41 occupants of the Bulkley and Skeena drainages had
42 occurred prior to the end of the eighteenth century?
- 43 A Trade had occurred. Well, the Hudson's Bay Company
44 doesn't speak to that.
- 45 Q And finally, notions of beaver trapping territories
46 where access was limited by or owned by a chief
47 developed in response to the coastal fur trade. Is

1 there anything in the Hudson's Bay records that would
2 refute that?

3 A The references in the Hudson's Bay Company to that
4 system are in relation to the feasting system, the
5 antiquity of which we can't establish. So I guess
6 that the record doesn't speak to it since it can't.

7 THE COURT: Mr. Willms, could I have that question again? The
8 nature of beaver trapping territories --

9 MR. WILLMS: Notions of beaver trapping territories where access
10 was limited by or owned by a chief developed in
11 response to the coastal fur trade. That was the
12 proposition. And the question was: Is there anything
13 in the Hudson's Bay records that would refute that and
14 I think the witness' answer was they don't speak to
15 it.

16 THE COURT: Yes.

17 Q Perhaps we can get started, Dr. Ray, on your Exhibit
18 962, and that's tab four, and you should have before
19 you at the same time your report, and you probably
20 don't need anything else.

21 A Which -- which volume are we at?

22 Q Volume 3. So all you need for the present purposes is
23 your draft at tab four, which has been marked Exhibit
24 962, and your report, which is Exhibit 960.

25 A Right.

26 THE COURT: I am sorry?

27 MR. WILLMS: It's Volume 3 tab four, my lord.

28 THE COURT: Yes. Thank you.

29 THE COURT: I wonder, Mr. Willms, is there any point in starting
30 this in five minutes?

31 MR. WILLMS: It would be more convenient to take a run at it
32 after lunch.

33 THE COURT: Yes. I think we will adjourn until 2 o'clock.

34

35 (PROCEEDINGS ADJOURNED PURSUANT TO LUNCHEON
36 ADJOURNMENT)

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

41

42

43

44

45

46

47

Laara Yardley,
Official Reporter,
United Reporting Service Ltd.

1 ¹h2 A.J. Ray (for Plaintiffs)

2 (PROCEEDINGS RESUMED PURSUANT TO LUNCHEON ADJOURNMENT)

3

4 THE REGISTRAR: Ready to proceed, my lord.

5 THE COURT: Thank you. Mr. Willms.

6 MR. WILLMS:

7 Q Now, the documents that we were organizing were Volume
8 3 of your document book and your report. I just have
9 one question before we get going, and that is the
10 first document that has been disclosed from your files
11 is the document at tab 3 which has been marked Exhibit
12 961, the draft dated February 17th, 1984. Was there
13 no correspondence between anyone at the tribal council
14 and you setting out what the scope of your work was to
15 be?

16 A We never -- we never signed a contract, nor did we put
17 it in writing. It was just a verbal understanding.

18 Q Can you explain how did you come to be engaged? Who
19 approached who, and when?

20 A Well, I have a colleague, or had a colleague at UBC in
21 the history department, now retired, Keith Ralston,
22 who I don't know exactly what his relationship with
23 the council was at that time, but he was, I think,
24 involved in the Kemano hearing, whatever it was. And
25 I came to UBC in 1981 and Keith suggested it might be
26 useful for them if I did a history of the early
27 involvement of the Hudson's Bay Company in this
28 territory. And I can't remember the exact sequence of
29 events after that, but it was agreed that this would
30 be useful. And that's what I agreed to do, I agreed
31 to do it on the basis that I understood at the time
32 they were strapped for cash so I said I would do it on
33 the basis that my expenses incurred in actually doing
34 the report -- I did not charge them a fee to produce
35 the report, I simply charged them the expenses I
36 incurred in preparing the report. So it was -- the
37 long and short of it is it was a very informal
38 arrangement. There is no contract and no
39 correspondence that I could dredge up, but I don't
40 keep records the way you people do.

41 Q I wouldn't be so quick to say that.

42 A There might have been.

43 Q Okay. Now, let's turn to tab 4. And if you would
44 please turn in tab 4 which is Exhibit 962 to page
45 seven.

46 A This is the 16 January report, right?

47 Q 1985, yes.

1 A Yeah.
2 Q And at the same time --
3 A Did you say page seven? Sorry.
4 Q Page seven. And at the same time Exhibit 960, which
5 is your report, page nine.
6 A Okay.
7 Q And what you have said in your draft at the bottom of
8 page seven, it's the last -- second to last line:
9 "Cabbah", C-A-B-B-A-H, "was one of these, and he was
10 the leading chief of one of the Babine tribes" in
11 quotes, and then you have clans --
12 A Question mark.
13 Q -- Question mark. And then in the final you say on
14 page nine, and this is midway down that paragraph.
15 A M'hm.
16 Q
17 "Cabbah was one of these and he was the
18 leading chief of one of the Babine
19 'tribes'."
20
21 And then you go on to say:
22
23 "The latter term was used by the traders to
24 identify the various subgroups of the
25 Babine, Wet'suwet'en and Gitksan; thus
26 'tribes' in fact were the houses or
27 lineages."
28
29 A M'hm.
30 Q Now, what Hudson's Bay documents did you read between
31 January 1985 and the time of your report that allowed
32 you to make that addition to your report?
33 A Well, let's back up again back to how I got into this
34 whole thing. When I first arrived here in B.C. this
35 was my first research into this area and so I was
36 re-familiarizing myself with some of the literature
37 after I did this search through the archives. So in
38 this first volume here I was speculating, brackets
39 clans. Remember, this was an internal document for
40 comment and on the basis of feedback and suggestions
41 it seemed -- I mean, clans in anthropological
42 literature they refer to clans as sometimes clan
43 segments, which are really groups, subgroupings of
44 clans. I read lineage in that sense. So to me it's
45 not clear whether we are talking about a full clan,
46 but we're clearly talking about more than a single
47 house and therefore it seems reasonable in that

1 circumstances to probably at least use the term
2 lineage in this instance as opposed to a full clan.
3 So it really reflects my revision based on feedback
4 and thinking about the matter and re-examining the
5 record. And having re-examined the record again very
6 extensively this last week I would say the lineage in
7 this sense I'm more content with than my first
8 speculation of clans. Not that I think there might
9 have been clans there, but I don't think in this
10 context it's necessarily a clan, it's not necessarily
11 isn't either, I would admit.

12 Q Lineage could mean related by blood; right?

13 A Kinship group possibly be related by blood, yes. It
14 may extend beyond that as well. These are corporate
15 groups.

16 Q Well, yeah, we've heard it described as that. I just
17 didn't see anywhere in the Hudson's Bay documents
18 where it was described as corporate groups. Maybe you
19 could help me with that. Are they described as
20 corporate groups anywhere in the Hudson's Bay
21 documents?

22 A There is one reference. Now, again, I've been through
23 these records back and forth so I can't remember
24 exactly, but there is one reference I believe to one
25 of the Wet'suwet'en, one of the Western Babine, as
26 having as his descendant -- I'm trying to remember if
27 it was a bear -- what the animal was. There is in
28 fact a reference to at least one of these groups as
29 being descended from what an anthropologist would
30 refer to as a mythical ancestor. So there is in
31 evidence, but I can't right here give you that exact
32 reference but there is evidence to suggest they're in
33 existence, yes. But not in this particular instance
34 here, no.

35 Q Just in the same tenor, if you turn to page ten of
36 your draft and page eight of your final, in the middle
37 paragraph on page ten of your draft, the second line
38 you say:

39
40 "Caspine was the leading chief..." --

41
42 This is -- sorry. It's page ten of your final and
43 page eight of your draft. Let me get this straight.

44 A Just a second. Easy to make the mistake.

45 Q Page eight of the draft, page ten of the final.

46 A Right. Okay.

47 Q And in the final you have:

1
2 "Caspine was the leading chief of the
3 village but he was not the prominent chief
4 of his house."
5

6 A Right.

7 Q You see that? And in your draft what you've said is:

8
9 "Caspine was the leading chief of the
10 village but he was not the prominent chief
11 of his tribe."
12

13 And then you've got clan again. So you've changed
14 that to house. Now, did that come from the Hudson's
15 Bay journals or did that come from the feedback that
16 you were getting on drafts of your report?

17 A Could you take me back to page ten? I have to catch
18 this line again.

19 Q On page ten in the second paragraph --

20 A Where are we?

21 Q -- Second line.

22 A Oh, okay.

23 Q The word house appears in the final, the word tribe
24 paragraph or parenthesis clan appears in the draft.
25 Just let me back up. Tribe is the word that was used
26 by Brown?

27 A Not the only word. He uses the term tribe, and he
28 uses the term band, and he uses the term family. He
29 uses these three terms. And he tends to use tribe and
30 band somewhat loosely, so you have to be careful in
31 each context which he's referring to.

32 Q He doesn't use clan and he doesn't use house?

33 A He doesn't use clan, no. And I can't remember in the
34 case of house. I suspect not.

35 Q Okay. So do you recall who it was that -- that
36 assisted your thought processes here on what these
37 were when you were interpreting the Hudson's Bay
38 records?

39 A Well, for one it would be my -- just my general
40 familiarity with the organization. These lineages,
41 for example, were -- we've been through this, I think,
42 the other day, were in fact in a given house were
43 multiple families who were related. So in a sense
44 house and lineage and family as he uses them are
45 essentially interchangeable.

46 Q Well, he uses families.

47 A Yeah. I would say that of the terms in there the

1 family would be the closest equivalent to what we
2 understand as house today.

3 Q Or it could be very close to what we all understand as
4 a family today?

5 A Except these are extended families.

6 Q Well, I know you're saying that, but Brown presumably
7 coming from a Scottish background didn't have this
8 complicated kinship theory in mind when he used the
9 word families?

10 A Yeah, but let's back up. If we recall the description
11 of Hot-set we had 28 houses.

12 Q He could use clan.

13 A We had a population of 700, right? Roughly some 700
14 people in 28 houses.

15 Q Well, that's Ogden.

16 A Ogden. Okay. But, I mean, we are talking about the
17 same village, right? You agree that Hot-set is
18 Wet'suwet'en. We are not sure exactly where on the
19 river it is, but we have a village of some 700 people
20 living in 28 houses. Sounds to me as though these are
21 pretty big families, correct?

22 Q Well, that's when Ogden is there.

23 A Okay. So --

24 Q I'm just talking about Brown, and you're reading Brown
25 and you're describing the people that Brown described.

26 A Okay.

27 Q And you're describing them in your draft as being a
28 chief of a tribe, and you're describing them in your
29 final as the prominent chief of his house, and I'm
30 wondering who it was that helped you clarify your
31 thought processes on these anthropological terms,
32 'cause they're not his words, he didn't use house.

33 A No, but I'm saying that my sense and understanding of
34 what the social anthropologists have to say about this
35 social organization of the Gitksan and the
36 Wet'suwet'en people, and considering the record let's
37 go back to Brown and Hot-set, if we don't want to deal
38 with Ogden, but as I recall, again I'm having to go on
39 memory, and I'm sure we can dredge it out here if I
40 get it wrong, but he described Hot-set as being a
41 village of some 700 people, with 20 ranked chiefs as
42 heads of families. So it seems to me we're still
43 talking about groupings of fairly large people in
44 residential units. So I accept your point that the
45 word house is not in Brown, but I think the inference
46 that what he's talking about is equivalent to what
47 ethnographers are talking about late

1 nineteenth-century is reasonable. So -- well, anyway,
2 I just -- do you want me to say anything more on that?
3 Q Maybe you can just say this, there was nothing in the
4 Hudson's Bay documents that specifically delineated
5 the word clan and the word house?
6 A No, and that's why I've used clan in brackets.
7 Q But tribe is used and family is used?
8 A And band is used.
9 Q And band is used?
10 A Yeah.
11 Q Okay. And you -- your understanding is that when he's
12 talking about tribe and band when you read it it looks
13 like it's interchangeable?
14 A Yes, but not a hundred percent, that's why we'd have
15 to go through every single instance, but I think most
16 of the time that's a reasonable approximation, yes.
17 And he differentiates that from family.
18 Q Yes.
19 A So we've got some sort of a grouping that extends
20 beyond the family.
21 Q Yes. Now, if you could turn now to page ten of your
22 draft.
23 A Okay.
24 Q And page 12 of your final. And you'll see that in
25 your draft at page ten you've quoted Ogden?
26 A M'hm.
27 Q And then you have a paragraph at the bottom of the
28 page ten which is not -- which has been taken out of
29 the final, and the paragraph says this:
30
31 "Ogden's observation that the village was
32 divided in half is of interest in that Adams
33 claimed Gitksan villages were divided into
34 halves by crest groups. Marsden asserts
35 that there is no evidence to support Adams'
36 interpretation."
37
38 That's a personal communication. That's Susan
39 Marsden, is it?
40 A It's a woman I never met. I got this letter out of
41 the blue, which I think you've got somewhere in your
42 records too, and that's what was written to me.
43 Q All right. And then you carry on:
44
45 "If Adams is correct perhaps the Hot-set
46 settlement pattern of the early 18th century
47 reflected a similar social organization."

1
2 Now, was it because of Marsden's communication to
3 you that you decided to delete that from the final or
4 why did you take that out?
5 A Well, as I said, it, first of all, was speculation.
6 The village is described as divided in two, but since
7 I had no more information to deal on the point one way
8 or the other, and my main focus was on the economics
9 not the social I just decided to delete it. I don't
10 know Marsden and it wasn't on the basis that I
11 considered her authority one way or the other, but --
12 Q The next -- it's page 12 of your draft and it's page
13 22 of your final. And there -- it appears that the
14 paragraphs at the bottom of page 12 and over to the
15 top of page 13 of your draft have been moved to page
16 22 and revised somewhat in the final.
17 A Let me read these two paragraphs. So the second
18 paragraph on page 12 and on to page 13, is that it?
19 Q Yes.
20 A Okay.
21 Q It looks like that has been moved, but revised on to
22 the last paragraph on page 22. If you can read that.
23 A Okay. And -- okay. Now, on the short -- on the
24 submitted report where do we pick up?
25 Q Page 22, that paragraph.
26 A Yeah. I see now. Okay. Good. Yeah. Okay. Just
27 the paragraph at the bottom of the page?
28 Q Yes.
29 A Right.
30 Q Now, you can track some of the sentences verbatim, but
31 you can see there's been some changes there as well?
32 A Right.
33 Q And the first change that I want to ask you about is
34 in your draft. You said that Brown reported that the
35 villages increased in size as one descended the river?
36 A M'hm.
37 Q And one of the largest was located near the forks.
38 And then in your draft you thought it might be
39 ancestral Kispiox or Kitsegukla, and then your final
40 you say it's the forks of the Bulkley and Skeena
41 Rivers. And you've already discussed in your evidence
42 in chief that your initial view was that there was not
43 a settlement at the forks of the Bulkley and Skeena
44 River?
45 A Yes, but on re-examining, going over that report
46 several times it was clear that there was and I was in
47 error in my initial reading of that.

- 1 Q Well, going back to The Epic of Nekt, which is one of
2 my favorite plaintiffs' exhibits.
- 3 A Do I have a copy of that?
- 4 Q Yes. It's the -- oh, Exhibit 847-19, and it's page
5 66?
- 6 A Right. Thanks. All right.
- 7 Q You'll see that in respect of the fort locations
8 described by MacDonald here, which during -- in his
9 report he said came into prominence in the 1700's and
10 petered out in the early 1800's, he has forts at
11 Kitselas, Kitwanga, Kispiox and Kisgegas, but no
12 fort -- you'll see that Gitanmaax is written in there,
13 but no fort there?
- 14 A No fort at the forks.
- 15 Q At the forks?
- 16 A Yeah.
- 17 Q Now -- and did you understand when you read
18 MacDonald's work on The Epic of Nekt that there were
19 also villages located at or near most of these forts?
- 20 A Yeah.
- 21 Q And you also recall that the forks was described by
22 Brown as where Macdougall River met Simpsons River?
- 23 A Right.
- 24 Q Okay. Now, Dr. Ray, I'm showing you what is an
25 extract of a larger map, which I'm going to show you
26 as well. And you can please take both of them. The
27 larger map is a map of North America drawn by J.
28 Arrowsmith ordered by the House of Commons to be
29 printed July 31st and August 11th, 1857.
- 30 A M'hm.
- 31 Q If you look at the bottom -- I think it's in the
32 bottom right hand.
- 33 A To be printed, right.
- 34 Q First of all, do you know of or are you aware of
35 Arrowsmith?
- 36 A Arrowsmith produced a series of maps over a long
37 period of time, some of which were based on company
38 records.
- 39 Q Hudson's Bay Company records?
- 40 A I also know that John Stuart, I believe, comments on
41 the inaccuracy of Arrowsmith vis-a-vis New Caledonia,
42 but I forget the reference.
- 43 Q But you know Arrowsmith was making maps, and he was
44 making maps to the best of his ability based on the
45 information of the day?
- 46 A That's a loaded question. Of course, it doesn't mean
47 they're accurate. The short answer to that is yes.

1 Q I'm not going to suggest they're accurate, I'm going
2 to suggest that Arrowsmith used the information of the
3 day to make his maps?
4 A We are talking now 1857?
5 Q Yes.
6 A Somewhat earlier. Date unknown. Okay.
7 Q And you'll see that on this map by Arrowsmith in 1857
8 that Simpsons River -- if you go up to Dixon Entrance
9 you can see Simpsons River there?
10 A M'hm. It's a remarkably bad map for the time,
11 actually.
12 Q And he has Simpsons River and then you can see Babine
13 Fort?
14 A M'hm.
15 Q And then over, and so there's a river coming out of
16 the north end of where Babine Fort is?
17 A M'hm.
18 Q And then if you go further over to the right you'll
19 see a lake where it appears this river starts with the
20 name Connelly Lake and Fort. See that?
21 A Yes. That's why I'm amazed it's such a poor map of
22 the river.
23 Q First of all, you recognize that Connelly Lake and
24 Fort, Connelly Fort is at Bear Lake?
25 A Oh, yeah, there is no problem with that. But he's
26 got -- relative to Babine Lake he's got it in the
27 wrong direction, but yes.
28 Q He has the river properly -- if it's the Skeena
29 River -- if Simpsons River is the Skeena River he's
30 got it properly flowing out of Bear Lake. I mean,
31 that's where the Skeena River rises?
32 A It's one of its headwaters.
33 Q One of its headwaters. And then he has a river coming
34 into it from Babine Lake?
35 A M'hm.
36 Q And no mention whatsoever -- well, there's no Bulkley
37 River there or anything like that?
38 A That's what's wrong with it.
39 Q Have you been -- have you reviewed documents where
40 Simpsons River was described as the Skeena River?
41 A The early -- the very early accounts of New Caledonia,
42 the -- what this map shows is some geographic
43 confusion. This is exactly the point I was trying to
44 make the other day of French maps. This map for this
45 section we are dealing with here, that shows the
46 information roughly as Stuart and some described it in
47 the early days of moving into New Caledonia. I would

- 1 say with this 1857 date on here that you're looking at
2 information that probably dates to -- he's got the
3 fort on there, but he has used geographic information
4 that really dates back to the 18 -- I wouldn't even
5 say the 1820's.
- 6 Q Well, he's got the fort at the end of the lake, so
7 that's got to be 1836?
- 8 A The way the knowledge of the geography of this area
9 emerged in roughly the following sequence, and if you
10 want to get the idea of where these names and rivers
11 are we should be going back to John Stuart, who's I
12 think the person who originally named them. But
13 Macdougall River is the river that drained the Babine
14 Lake. Simpsons River was the river lying to the west
15 of that lake which joined it and flowed to the ocean.
16 Sometimes they joined the Bulkley as being -- the
17 Bulkley Skeena as being the Skeena. And Arrowsmith is
18 really out to lunch in his rendering of this. If you
19 look at a modern map, for example, the Skeena doesn't
20 flow in the way that this is indicated.
- 21 Q Oh, I'm not suggesting -- what I'm trying to get at is
22 where the forks of Simpsons and Macdougall River, and
23 I'm trying to get at whether the Bulkley River and the
24 Skeena River, or whether they're at the Skeena River
25 and Babine River, or whether anybody knows where the
26 forks were back in Brown's day?
- 27 A It's absolutely clear if we want to go through each of
28 one those documents one more time. It's clear in the
29 context of each document what we're talking about. If
30 you want to start throwing around forks in a very
31 general term you can try and mess up upper and lower
32 forks. You can do that, but I'm not going to go along
33 with it, because they didn't do it. Arrowsmith didn't
34 know what the heck he was mapping here.
- 35 Q What about the extract that you referred to or I
36 referred you to yesterday about the Atnahs of Simpsons
37 River barring the fish from entering -- from getting
38 to the Atnahs of Macdougall River. Now, how did the
39 Atnahs of the Bulkley River block the fish from
40 getting into the Babine River?
- 41 A Why don't we look at the district report of 1826 which
42 has a heading called "The Atnahs of the Babine River".
- 43 Q Well, no, no. Maybe I didn't make that clear. Do you
44 recall the reference to the Atnahs of Simpsons River
45 barring it to prevent fish from reaching the Atnahs of
46 Macdougall River?
- 47 A There was a reference to the Indians barring the river

1 flowing into Babine Lake. We should look at the
2 passage again. We've been back and forth over these
3 so many times I don't remember the exact wording.
4 This is the time when Brown learns --
5 Q It's tab 10 of volume 1.
6 A Tab 10 of volume 1. Okay. What page were we at? I
7 found it.
8 Q Page 44.
9 A He said. Look it here. He says -- he says, "The
10 Atnahs of the forks of Simpsons River and those of
11 Macdougall River" --
12 Q -- "Had quarreled amongst themselves and in
13 consequence of this quarrel the former had constructed
14 a barrier to keep the salmon from going up to the
15 latter."
16 A That's right.
17 Q So what he's telling you there is that Simpsons River,
18 as exactly what I was trying to explain to you a
19 minute ago, he says at the forks of the -- Atnahs of
20 the forks of the Simpsons River, i.e. the Bulkley
21 Skeena is what he's referring to, and those -- he's
22 now differentiating, and those of Macdougall River.
23 Those are what I tried explain the previous couple of
24 days are what I call the upper Atnahs. The Macdougall
25 River is now the Babine River, so it is not a single
26 river. All I would say to you about this Arrowsmith
27 map is it's exactly the kind of thing I was explaining
28 the other day. Arrowsmith was a compiler of maps. He
29 did not travel any of this territory. He's getting
30 all of his information secondhand, and he's done a
31 rather bad job of it for 1857. I'm sure you could
32 probably find better maps than that one.
33 Q But I thought Simpsons River and Macdougall River
34 joined?
35 A They do.
36 Q Oh.
37 A Is this a modern map? Do we have a modern map?
38 THE COURT: Yes, we have a modern map.
39 MR. WILLMS:
40 Q We have modern maps, but it shows the Babine flowing
41 into the Skeena and then the Skeena flowing down to
42 where the Kispiox River comes into it and then it
43 flows further and the Bulkley River comes into it.
44 A Until Brown traverses his theory they were not totally
45 clear what the relationships of these rivers were.
46 They saw the Babine River as being the Macdougall
47 River, and it joins at the forks with the Bulkley

1 which was the Simpsons, and so if we were just gonna
2 put our minds -- let's go back and use a mental map
3 now trying to imagine ourselves as fur traders then
4 and what are they seeing. Their vision of the Skeena
5 was that the Macdougall was one of the tributaries of
6 the Simpsons River and the Simpsons River was the
7 river that flowed to the coast beyond the forks.
8 That's what the geography was all about.

9 MR. WILLMS: My lord, can we mark the Arrowsmith -- I think we
10 should mark the original. This is a smaller version
11 for each of us to follow along, but I think we should
12 mark the whole map which the witness reviewed.

13 THE COURT: What is the next number?

14 THE REGISTRAR: The next number is 968, my lord.

15 A I remember Stuart saying Arrowsmith also had
16 fictitious rivers on here.

17 THE COURT: The larger map will be 968 and the smaller
18 reproduction will be 968A.

19 THE REGISTRAR: Thank you.

20

21 (EXHIBIT 968: Arrowsmith Map - Original)

22

23 (EXHIBIT 968A: Arrowsmith Map - Small Reproduction)

24

25 THE COURT: Was there ever an earlier Anglicized name for the
26 Skeena?

27 A There were some other -- as I said, one of the early
28 names was Simpsons and they combined it. The Bulkley
29 was lumped in with the lower Skeena and that's what
30 they called the Simpsons River until they started
31 differentiating. One of the problems of these as
32 these mental maps emerge we start piecing it together.
33 You can sort of see it on this this map here. If you
34 go basically east of the Rocky Mountains you're
35 getting there reasonably good geographic coverage for
36 example of the Mackenzie and Slave and those rivers.

37 THE COURT: All right. But I can't assume then that at any
38 place I see reference to Simpsons that necessarily
39 means the Bulkley. It may mean the Skeena?

40 A Yeah.

41 THE COURT: All right.

42 MR. WILLMS:

43 Q And if you can -- and I'm putting before you a draft
44 of your report.

45 A Right.

46 Q It has a little note on it, "Pages 1-33 revised to 20
47 November 1984 after oral comments by Grant, Rush,

1 Charles Bishop and written comments by Alfred Joseph,
2 Mike Kew and Clark & Cove." And then there's a little
3 note on the front, "Richard please pass along to Skip
4 Ray, Neil"?
5 A Yes, so these would be Neil's comments.
6 Q These are Neil Sterritt's comments?
7 A Yes.
8 Q And perhaps some of Mr. Overstall's. I think if you
9 look through this you'll see that there's some of his
10 too, but I'd like you to turn --
11 A Also, I had comments from George MacDonald as well,
12 but they didn't seem to get in here.
13 Q If you turn over to page 11 -- 11 of the draft.
14 A Of this thing you just gave me?
15 Q Yes. This is --
16 A Right.
17 Q Something you produced and somebody else noted it
18 up --
19 A Yeah, right.
20 Q -- In November. Now, on page 11 you can pick up where
21 we were in your draft Exhibit 962 at page 12.
22 A Just a sec. Let me put this down.
23 THE COURT: What is 962?
24 MR. WILLMS: It's the draft at tab 4, my lord. I'm right on the
25 same line that I read to the witness from that, from
26 page 12 of tab 4.
27 THE COURT: All right. What page?
28 MR. WILLMS: It's page 12 of tab 4 and I'm at page 11 of the
29 loose document that I just handed up.
30 THE COURT: Yes.
31 MR. WILLMS:
32 Q And you'll see there -- you say there:
33
34 "Brown reported that their villages
35 increased in sizes as one descended the
36 river and one of the largest was located
37 near the forks (either ancestral Kispiox or
38 Kitsequekla)".
39
40 Now, forks is underlined, and there's a note in
41 the margin that says:
42
43 "Note the junction of the Bulkley River and
44 Skeena River were known as 'the forks'."
45
46 That's Neil Sterritt's note?
47 A I presume. I haven't had enough correspondence with

1 Neil to know what his handwriting looks like, but I
2 presume this, as you said, is a copy from him. I'll
3 accept that's what it is.

4 Q You received this, didn't you, from Richard Overstall?
5 A This was when, four years ago now? Is there any date
6 on here?
7 Q Well, there's 20 November 1984 in the beginning.
8 A Revised in '84. Yes, so we are talking about
9 something five years ago. I'm sorry if I am a little
10 fuzzy but until two, three days I hadn't even recalled
11 that I had lying around, so anyway I'll assume those
12 are his comments.

13 Q You don't know when you got it?
14 A No, I don't. Presumably before I made the final
15 revision.

16 Q Right. And you'll see on page 20 as well of this
17 draft with Mr. Sterritt's notes on it you'll see in --
18 in the page where you say:
19
20 "The village between Weep sim and the
21 'forks' (the Bulkley-Skeena confluence)
22 undoubtedly was Kispiox."
23

24 And there's a note to reinforce that. "The forks
25 is always Hazelton", and then "Hazelton", and then at
26 the very bottom of page 20 in your type set you say:
27
28 "Of interest, there appears to have been no
29 settlement at the confluence of the Bulkley
30 and Skeena Rivers, the later location of
31 Gitanmaax."
32

33 And then there's the handwritten note "There was
34 Hazelton established 1866 as fur trade post."
35 Now, I'm going to suggest to you, Dr. Ray, that
36 when you read the Hudson's Bay journals it is simply
37 not clear where the forks are. When the word forks
38 shows up there are any number of places where the
39 forks could be?

40 A Well, except that Brown's second trip and his second
41 district report, which we went over the other day, and
42 we start counting from the villages he was at down
43 river argue against your point. And the mistake I
44 made at this time is missing the fact that he clearly
45 identifies one at the forks, and in the context of
46 that journal I don't think you can read it any other
47 way. The initial mistake in saying there was nothing

1 there was my mistake in reading the record, and in
2 fairness to myself this was my -- that was my first
3 pass through those records so I was still feeling my
4 way through the geography.
5 THE COURT: Didn't he say there was three villages below the
6 forks?
7 A There's three upper villages near the forks of the
8 Babine and Skeena.
9 THE COURT: Yes.
10 A There's one just -- one which we are not sure is Beast
11 or Bear River, and one between there and the forks --
12 one at the forks and three below the forks.
13 THE COURT: Did he say one at the forks?
14 A Yes. It's in the transcript I think now. It should
15 be.
16 THE COURT: All right.
17 MR. WILLMS:
18 Q Yes, my lord. And if you can turn to Dr. MacDonald
19 I'll give you two -- two alternative theories, Dr.
20 Ray, on the three villages below which coincide
21 with -- and do you have -- sorry. It's George
22 MacDonald again.
23 A Right.
24 Q At page 66. And you'll see that on page 66 he's got a
25 fort at Kisgagas?
26 A M'hm. Sorry, which page?
27 THE COURT: 66.
28 Q 66. Which appears to be at the confluence of the
29 Babine and the Skeena?
30 A Right.
31 Q And one of the things that he said, or two of the
32 things that he said was first of all these villages
33 were two day's travel apart going downstream?
34 A Those are the villages below the forks, yeah.
35 Q Below the forks, and that the uppermost village had a
36 trail over to a location -- to the land of the
37 Utsanass (phonetic)?
38 A M'hm.
39 Q Now, if the forks are at Kisgagas, and if the villages
40 are where these forks, are then the uppermost village,
41 Kispiox, there is a trail over to the Utsanass
42 (phonetic); correct?
43 A Yeah.
44 Q From there. And then down a little further is
45 Kitwanga and then a little further is Kitselas?
46 A Well, I have two problems to your thesis. It just
47 doesn't fit George Brown's description. Furthermore,

1 George MacDonald read my report and he agreed with it.
2 Q Which draft?
3 A This draft, this long draft.
4 Q Oh, this long draft. Yes. Yeah. The long draft with
5 ancestral Kispiox or Kitsegukla being the one located
6 near the forks?
7 A No. This is the -- in general terms he agreed with
8 it.
9 Q Yes.
10 A But the fact of the matter is in terms of the Brown
11 thing we are talking about the relative location of
12 these villages. The fact of the matter is the Brown
13 description makes it perfectly clear that your
14 interpretation doesn't apply.
15 Q Okay. Let's go to another interpretation, and this is
16 on page 12 of the Neil Sterritt comment. Maybe we
17 should give it a number, my lord. 966-6.
18 THE COURT: Right.
19
20 (EXHIBIT 966-6: Tab 6 of Exhibit 966 -
21 Notes of Neil Sterritt)
22
23 A Sorry. Which page?
24 MR. WILLMS: 966-6.
25 A Oh --
26 MR. ADAMS: My lord, I wonder if we could just be clear which
27 pages are included. The version I have is an extract
28 as far as I can see.
29 MR. WILLMS: Well, no it's not. It's all that we got. All we
30 got was pages eight through --
31 THE COURT: 20.
32 MR. WILLMS: 21.
33 THE COURT: 21, yes.
34 MR. WILLMS: I presume it was -- it was longer.
35 A Well, I presume so too. I think he was just doing his
36 commenting on pages on which he wanted to comment,
37 because I don't remember.
38 Q Now, you made a point about a calculation of Brown's
39 on the number of people --
40 A M'hm.
41 Q -- In the Gitksan population. And it's actually in
42 this draft at page 11. That is in Exhibit 966-6.
43 A The speculation that the Gitksan population was about
44 a thousand.
45 A Brown's speculation.
46 Q Brown's speculation. And you say it's an under
47 estimation considering there were eight major

1 villages.
2 A Which we revised to nine, I believe.
3 Q Now, one of the things that you noted from Brown is
4 that when he estimated 300 adults at Weep sim when he
5 came back the next year he realized that that must
6 have been all of the adult males from the local
7 villages.
8 A Around that village.
9 Q No. Other villages.
10 A Remember we are talking about ceremonial villages in
11 these other villages and there were two villages.
12 A Five miles apart.
13 Q Yes. Weep sim and Childocal and half a day to the
14 other village on the way back?
15 A Okay, let's say two major villages. If you wanted to
16 for the benefit of the argument go on the low side say
17 150 for the two big villages.
18 Q Well, let's -- let's go to the extract which is 964-12
19 where you were reading from.
20 THE COURT: What tab number is that?
21 MR. WILLMS: It's volume 2 at tab 12. It's the thinner --
22 A These are the documents or --
23 THE COURT: Yes.
24 A I can't keep track of what I'm looking for.
25 THE COURT: What page number?
26 MR. WILLMS: It's -- it's -- there's a printed eight and where
27 my notes indicate that the witness started reading in
28 direct with a number 13 in the upper right-hand
29 corner.
30 THE COURT: Yes. And --
31 A I have no idea where we're at at this point.
32 THE REGISTRAR: I've got it here.
33 A Oh, okay.
34 MR. WILLMS:
35 Q It's tab 12, and if you go to the printed eight and
36 there's a handwritten 13 in the upper right-hand
37 corner?
38 A Correct.
39 Q And then at the bottom is the part that you read about
40 the numerous raise last spring at the Village of Weep
41 sim I saw about 300 men.
42 A M'hm.
43 Q All right. Now, if you carry on to the next page he
44 first of all that's last spring, so the spring before
45 he saw 300 men at Weep sim?
46 A M'hm.
47 Q Now, at the top of the next page he says this:

1
2 "This spring I went down to the Village of
3 Childocal but did not see so many Indians at
4 the whole of the villages as in the
5 preceding year, and a considerable number
6 being at a distance in their winter
7 encampments. From what I conclude" --
8
9 THE COURT: From which I conclude.
10 MR. WILLMS:
11 Q
12 "From which I conclude that all the young
13 and active men belonging to the different
14 villages attached to the above two".
15
16 Meaning Weep sim and Childocal.
17
18 "Were then assembled."
19
20 All right. I read that as he's referring back to
21 the previous year and saying that 300 men from the two
22 villages were assembled the previous year. That's the
23 conclusion he draws from coming back the next year and
24 finding nobody there?
25 A Okay. So we could take that as a rule of thumb and we
26 could do a recalculation. Do you want to do that?
27 Q So then he does this;
28
29 "Taking these as the number of men capable
30 of carrying arms I do not suppose that this
31 part of the nation amounts to fewer than a
32 thousand individuals."
33
34 Now, what he's ease saying there, as I understand
35 it, is that for the Babine River there are about a
36 thousand people. Now, I don't know whether there is
37 two villages, three villages or however many he
38 passed.
39 A Well, we know there are three major villages and there
40 are a number of summer camps. Yes, I just did a quick
41 recalculation if we want to -- so we would have --
42 Q But that's his thousand.
43 A That's -- so this is for Babine River only.
44 Q Yes.
45 A And this is the smallest number, and I was using that
46 to try and guesstimate and I didn't ever call it any
47 more than that, the total population of the Gitksan.

- 1 So if we take his nine villages now by 150 we've still
2 got 1,350 men alone, adult men alone, and we would
3 have to multiply it by a factor of -- it's probably
4 reasonable to multiply by a factor of at least three
5 and that's, I think, giving you the benefit of the
6 doubt.
- 7 Q Okay. And on this one in -- referring to your Exhibit
8 966-6, you're disregarding the note that's made in the
9 margin, I guess by Neil Sterritt, that "Kisgagas was
10 always the largest Gitksan village". You're assuming
11 that it wasn't, that they're getting bigger as they go
12 downstream?
- 13 A Yeah. Talking about Gitksan as a whole, yes, I would
14 disregard that, because I think -- I can't remember
15 now, but I presume Neil is referring to the Babine
16 River area. But Brown makes it clear that the
17 villages as you go down get bigger and bigger.
- 18 Q But he never went there, did he?
- 19 A No. If we do a recalculation on that basis we've got
20 by my count, I don't have my pocket calculator, but
21 we're say 4,000 on the low side for the Gitksan and we
22 don't know by what factor the downstream villages
23 increase in size. So perhaps we can compromise and
24 say we've got a population of somewhere between four
25 and 7,000. I'm afraid I wrote on one of your
26 documents. It's a bad habit.
- 27 MR. WILLMS: Well, it's actually your document. It's your
28 exhibit. I'm going to turn back to the drafts again,
29 my lord, now.
- 30 THE COURT: Which draft?
- 31 MR. WILLMS: The big draft and the final.
- 32 Q I'll give it a number. It's 962, which is tab 4, what
33 I call the big draft.
- 34 A Am I supposed to have Neil's comments?
- 35 Q No, you don't. Not any more.
- 36 A Okay.
- 37 Q And the pages that I'd like you to turn to are 17 in
38 both the draft and the final. In your draft you are,
39 and in your final you're speculating about where the
40 settlements of Weep sim and Childocal were situated.
- 41 A M'hm.
- 42 Q And you say in the third line of both you refer to the
43 settlements on Father Morices 1907 map, but in your
44 draft you call them abandoned settlements and you've
45 taken the word abandoned out in your final. What was
46 it that caused you delete the word abandoned?
- 47 A Quite honestly I can't recall. And I think as I'm

1 trying to mentally picture the Morice map I think what
2 I was referring to were these settlements that he put
3 on his map. So at this point in time in the absence
4 of having gone over this stuff recently I would not
5 want to hazard a guess why I took the word abandoned
6 out, except that I was thinking in terms of former
7 sites. So, anyway, the long and short of it is I did
8 this five years ago and I can't remember.

9 Q Okay. At the bottom of the page of both you talk
10 about Agent Loring's correspondence of 1890 indicating
11 that the village with the forks had been abandoned due
12 to Nishga raids. And in your draft on page 18 you've
13 put in parenthesis "probably in the early 1850's" and
14 then you've taken the date out of the final. Do you
15 recall why you took that out?

16 A No, I don't. All I can say is, again, this is an
17 early stage of getting to know this stuff, and it was
18 speculation and I took it out. The truth of the
19 matter is I don't even remember reading Loring's
20 report.

21 Q Now, you've already, and I think that my friend took
22 you through this at page 22 of your draft which
23 relates to page 21 of your final, but it's the portion
24 where you changed -- that there appears to have been
25 no settlement at the confluence of the Bulkley and
26 Skeena River and the later location of Gitanmaax, and
27 then you then speculate that Gitanmaax was one of the
28 three villages. But then in your draft just on the
29 same vein at the bottom of page 23 --

30 A Sorry. Which one am I --

31 Q Page 23 of your draft.

32 A Right.

33 Q And just on the same point of the forks and Gitanmaax
34 and whether there was anything there.

35 A Right.

36 Q In your draft you say:

37 "Also while there does not appear to have
38 been a village at the Skeena Bulkley forks
39 in 1826 major summer trading fairs were held
40 there."

41 there."

42 there."

43 A M'hm.

44 Q And you've taken that out of your final. Now --

45 A Yeah. I've substituted -- near as I read it
46 substituted the line "either he misunderstood his
47 informants or Gitanmaax at the forks was one of his

1 three villages."

2 Q Sorry. Was that based on any new Hudson's Bay records

3 that you reviewed between the time of the draft and

4 the final or did you just reinterpret it with some

5 help?

6 A Given the general understanding by everybody there was

7 a village there I -- it says exactly my thinking on

8 the matter, and it's clear now having gone through

9 those things, as we did the last previous two days,

10 that was one of the errors I had made and he refers to

11 that village, I can't remember now, at least two or

12 three times, but it's in the transcript.

13 Q It's the village at the forks.

14 A The Skeena -- or the Babine Simpsons --

15 Q Simpsons forks.

16 A Sorry. The Bulkley Skeena forks.

17 Q No, no. He doesn't use Bulkley River.

18 A Anyway, we know what he means. I'm talking about in

19 modern terms. It's not -- it is not -- he is not

20 referring or was not referring to the forks of the

21 Babine Skeena, because he was at that forks when he

22 was talking about what was down river. That's totally

23 clear from the record.

24 Q Well, we know he went as far as the Village of

25 Childocal?

26 A Childocal, which was just short of the forks of the

27 Babine and Skeena, right. Yes, we do know that.

28 Q Something that's called the Beast River or Bear River?

29 A We went over that as well. It's either Beast or Bear.

30 Re-reading his journals it's most likely Bear River,

31 but given what they knew at the time that's the most

32 likely assumption.

33 Q Could you turn to page 24 of your draft and page 23 of

34 your final. And it appears here if you look at your

35 draft --

36 A M'hm.

37 Q -- You can pick up claimed exclusive rights to certain

38 tracts of hunting and trapping and then B11 E1, 2.

39 That's in your draft part way down the middle.

40 A M'hm.

41 Q In the middle of the page.

42 A Right.

43 Q Now, everything above that appears to relate to the

44 same portion on page 23 of your final which is

45 everything above "claimed exclusive rights" in the

46 second paragraph, but it appears to have been somewhat

47 rewritten.

1 A Just a second here. I haven't got myself tracked in
2 yet. On my draft 23 where, on the page top or bottom?
3 Q At the bottom of the page.
4 A Is this where we're at, here?
5 Q You'll see "claimed exclusive rights to certain tracts
6 of hunting and trapping lands B11 E1, 2 claimed
7 exclusive rights to certain tracts of" -- now, above
8 that, as I make it, there have been some changes.
9 And, for example, one of the changes is that this
10 sentence has been added to the final.

11
12 "Nonetheless Gitksan and Wet'suwet'en
13 lineage heads did not hold private title to
14 property in the manner of English or
15 Scottish nobles."
16

17 Now, did you review any other Hudson's Bay
18 documents between the time you wrote your draft and
19 the time you wrote your final to be able to come to
20 that conclusion?

21 A Just in the sense of understanding from the record
22 that these people -- these men of property were heads
23 of family and as heads of family were clearly
24 responsible for that family's territory, which is not
25 the way I understand -- I may have a poor
26 understanding of English and Scottish nobles, perhaps
27 they had the same responsibility, but I don't think
28 so, but it's clear in his context that these were
29 heads of families and the people on their territory
30 were their responsibility.

31 Q So the use of the word "men of property or nobles",
32 notwithstanding Brown's cultural background, your
33 interpretation is that it was completely different
34 from anything he's experienced before?

35 A Certainly very different than he or any other fur
36 traders further east had experienced among native
37 people, yes. That's one of the reasons it fascinated
38 him so much.

39 THE COURT: Can we take the adjournment now, Mr. Willms?

40 MR. WILLMS: Yes, my lord.

41 THE REGISTRAR: Order in court. This court will recess.

42

43

44

45

46

47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

(PROCEEDINGS ADJOURNED)

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

Peri McHale, Official Reporter
UNITED REPORTING SERVICE LTD.

1 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

2

3 THE COURT: Mr. Willms.

4 MR. WILLMS:

5 Q Just carrying on with where your draft and your final
6 coincide, you do specifically note in your report that
7 it was beaver that could only be trapped with the
8 approval of the noble who held the land in question.

9 A Correct.

10 Q And you also noted that marten appeared -- there
11 appeared to be no restrictions on marten or on the
12 hunting of large game or the taking of fish. And as I
13 understood your distinction, your explanation of why
14 this would be important, you suggested that for the
15 Wet'suwet'en the reason for the distinction was that
16 the beaver meat was important to feasting?

17 A Uh-huh.

18 Q Is that correct?

19 A That's correct.

20 Q All right. But you also noticed that the land tenure
21 system described by Brown applied equally to the
22 Atnahs as well as the Babine?

23 A Yes.

24 Q And you also noted that the Atnahs didn't like beaver
25 meat; they thought it was unclean?

26 A Yes. That's what Brown tells us.

27 Q So it probably wasn't very important to their
28 feasting?

29 A One could -- one could assume that. I don't know.
30 It's reasonable for the record, yeah.

31 Q Well, isn't the real difference between beaver and any
32 other animal, that the currency of the fur trade was
33 the beaver?

34 A No. The --

35 Q Didn't -- sorry. Didn't you describe the Hudson's Bay
36 debt record at Fort Kilmaurs as being in beaver?

37 A Well, you didn't let me finish my explanation. As I
38 was saying, yes, I have said beaver was one of the
39 most important commodities. It was the staple of the
40 trade. It had been for a long time. And that the
41 tradition of using it as a standard goes way back.
42 The company also attended in areas where it was
43 important to use a main market standard, which is
44 really just fixing on another part of this
45 comparative. It's a curious thing, the assumption --
46 seems to me that you are making an assumption, though,
47 and that is if a fur becomes valuable, that encourages

1 conservation and that explains the whole thing. The
2 counterpoint would be, then why wasn't exactly the
3 same thing applied to marten, river otter, muskrat and
4 lynx? Those furs actually had a higher relative value
5 than beaver.

6 Q But I just want to start with what the currency of the
7 fur trade was, at least the Hudson's Bay fur trade.

8 A You mean the unit of account.

9 Q The unit of account was beaver?

10 A Yes.

11 Q The unit of wealth was beaver?

12 A The unit of account, yes, was beaver.

13 Q And the Gitksan really as far as you are aware had no
14 special reason for conserving beaver, because they
15 thought the meat was unclean and obviously therefore
16 wouldn't eat it at their Feast, like the Wet'suwet'en?

17 A Yes. They clearly didn't. We don't know. But
18 while -- it's not quite as simple as that, however.
19 Because again, if you go into these descriptions and
20 these district reports, as you probably know, one of
21 the most common winter coats of natives across the
22 whole of Canada was the so-called beaver coat. That
23 was the winter coat. And there are a few -- in fact,
24 some references in here to the trade of those coats.
25 So I would say that even if you take away the Feast
26 argument you still -- you are still dealing with a
27 situation in which this is a country not rich in fur,
28 and fur was an important winter garment, so if they
29 are not going to -- if they don't have access to furs
30 to wear, what else do they wear?

31 Q Well, it's my suggestion, Dr. Ray, that the reason why
32 the resource was husbanded, and I'll use that term
33 instead of conserved, but the reason why the resource
34 was husbanded by the nobles was because it was the
35 currency of European exchange in the area at the time?

36 A That's certainly a hypothesis you are entitled to
37 hold. I don't share it, but --

38 Q Well, what other hypothesis would hold equally for the
39 Gitksan and the Wet'suwet'en? Certainly feasting
40 doesn't. What does?

41 A One of the things that beavers do is being an immobile
42 animal, they allow one to stake a territory quite
43 easily and in fact that's one of the ways territories
44 were staked elsewhere. I think it's Harmon among
45 others mentions that fact. So -- and I am saying to
46 you is if we are going to argue the thesis about if a
47 resource becomes commercially important and therefore

- 1 it has to be husbanded, then we also have to ask
2 ourselves not only why would the Gitksan husband
3 beaver if they don't eat it, why aren't they
4 husbanding other things as well.
- 5 Q Well, didn't you just answer that a minute ago? You
6 said -- I mean the beaver are relatively immobile and
7 it would be easy to stake a territory for that as an
8 additional reason for the fact that it was the
9 currency of exchange of European trade?
- 10 A It was one of the -- but on the coast currency of
11 trade was the sea otter, right?
- 12 Q Well, not the inland trade I am sure.
- 13 A No, the inland trade -- what I am saying is the inland
14 trade is simply not a beaver trade. We have the
15 returns here from Fort Babine, I think in this report,
16 do we not, showing the furs taken out?
- 17 Q Well, it's just that in going through your report you
18 seem to rely on the Feast as the reason why beaver is
19 treated differently than every other animal and every
20 other resource. And it's treated the same way by the
21 Gitksan and the Wet'suwet'en, but the Gitksan thought
22 the meat was unclean. And so I'm suggesting that the
23 other reason why they might have treated it exactly
24 the same way was something that was common to both the
25 Gitksan and the Wet'suwet'en and that was the beaver
26 was the currency of European exchange?
- 27 A But I -- speculation that I am raising a reservation
28 on that point I am raising with you regarding other
29 furs I did raise in this report. I can't remember in
30 here where the page is. But I mean I am not -- I
31 can't prove or disprove your hypothesis with regard to
32 the Gitksan. What we do have is solid information
33 with regard to the Wet'suwet'en and other Babine.
34 That we do have.
- 35 Q Now, one thing that you noted, and this is in page 26
36 of your draft, but which is taken out of page 25 of
37 your final, in your draft on the bottom of page 26 you
38 say this:
- 39
- 40 "As was common throughout the West Coast area, the
41 social rank and associated land tenure system was
42 linked to the potlatch."
43
- 44 And then you -- then you have taken that out of your
45 final. And I suggest to you that if you assume that
46 that's accurate, which it appears you did when you
47 wrote your draft --

1 A It was -- again, we are talking about my initial
2 impressions as opposed to my final decisions, yeah.
3 Q That that links quite neatly to the value of beaver
4 which is the currency of exchange at the time and
5 important at least in the Wet'suwet'en feasting?
6 A The main change in this second -- in the final draft
7 was deletion of the word "potlatch," since it was not
8 used in the record.
9 Q Well, you also took out that whole line I just read to
10 you. That's a bigger change, isn't it?
11 A Which one?
12 Q Well, I read you from your draft:
13
14 "As was common throughout the West Coast area, the
15 social rank and associated land tenure system was
16 linked to the potlatch."
17
18 A Oh, yeah, well, the whole feasting system was
19 inter-connected with the tenure system, yes. I don't
20 have any trouble with that.
21 Q Okay. So --
22 A I thought you were quibbling about the word
23 "potlatch."
24 Q Well, I will quibble with that in a minute.
25 A Okay.
26 Q So you didn't delete it because it was wrong?
27 A No.
28 Q You just decided to take it out. Okay.
29 A I mean I don't think there is anything in my report
30 that suggests that I am saying it didn't relate to the
31 Feast.
32 Q Good. Now, you've got "potlatch" changed to "Feast."
33 A Uh-huh.
34 Q And can you explain why you've changed that?
35 A Well, as I said, my background was from -- partly was
36 from anthropology and the term potlatch is what's used
37 out here in the literature at large. Since I was
38 trying to stick -- keep this report as close to the
39 record as was reasonable, I decided to use the term
40 that is the term in the record. The word "potlatch"
41 never appears in these records in this period.
42 Q All right. Okay.
43 A So what you are seeing now is a word -- is a
44 terminology closer to the record.
45 Q Okay. Unlike your decision to put "house" into your
46 final instead of "tribe"?
47 A Yes. If you want to substitute "tribe" for "house," I

- 1 don't have any objection.
- 2 Q Okay. Now, can you turn to page 28 of your draft and
- 3 page 27 of your final. And in your draft at the
- 4 bottom of page 28 in summing up you say:
- 5
- 6 "It is clear from the foregoing that the early
- 7 contact society of Babine and Wet'suwet'en was
- 8 finally ranked. Access to wealth or the means of
- 9 production was regulated by a land tenure system
- 10 in which tracts of lands were owned by clans, but
- 11 subdivided and apportioned to men of property or
- 12 nobles who were the lineage -- "
- 13
- 14 And then you have got parens "house"?
- 15 A It should be square brackets. I mean that's my
- 16 injection.
- 17 Q "Heads." All right. Now, in your final you say that
- 18 the discussion clearly indicates that access to
- 19 resources. So you have taken out --
- 20 A Sorry. I have lost -- where in the final? Now, I
- 21 have lost myself.
- 22 Q Bottom of page 27.
- 23 A Yes. Sorry. Okay.
- 24 Q All right. Just picking up. It's clearly indicates
- 25 there?
- 26 A Right.
- 27 Q And then it's "access to resources" instead of "access
- 28 to wealth," as you said in your draft.
- 29 A Uh-huh.
- 30 Q "In which tracts of land," and you said in your draft
- 31 "the tracts were owned by clans but subdivided and
- 32 apportioned to men of property who were the lineage
- 33 house heads," and I take it when you used the word
- 34 "clans" in your draft you mean tribe?
- 35 A Yes. I was thinking these larger groupings of these
- 36 families.
- 37 Q All right. And there is some subdivision and
- 38 apportionment. And then in your final you've got them
- 39 instead of owning they just manage the tracts of land.
- 40 Now, what was it that caused you to change "wealth" to
- 41 "resources" to change the ownership of the clans to
- 42 management by house heads?
- 43 A Because I'm talking here -- I shifted the emphasis
- 44 somewhat and talking about -- first of all, I think
- 45 we'll agree that furs, wild game on the land is a
- 46 resource, right, which is converted into wealth --
- 47 well, it can be a wealth in itself, but it's a raw

1 material, right?

2 Q Like marten?

3 A Yeah. Marten, beaver, fish, salmon, all these
4 resources are products of the land and the heads of
5 those families manage those tracts of lands, but they
6 are also - a bit loose writing on my part, I suppose,
7 they were also by the record, the record clearly says
8 they owned those properties. So in that respect they
9 should have probably left the original on that point
10 as it was, because in that sense that is closer to
11 what the record says. As we have said, men of
12 property possessors of tracts of lands, those with
13 land stakes or various terms to that effect.

14 Q They managed the beaver trapping. Isn't that what the
15 Brown record shows, beaver trapping?

16 A He specifically addresses himself to that, because
17 that was one of his preoccupations, yes. But the
18 problem is that ideally the record should have given
19 us more detail than it did. We are not totally clear
20 what happens to the rest of the resource. It seems to
21 me it would be reasonable to suppose that things like
22 marten, members of a house, we are talking -- I mean,
23 okay. What term would you like me to use? If we are
24 talking about members of the same family on a given
25 family's territory, it seems the way the context of
26 the record works I would say that these other
27 resources were accessible to the members of that group
28 in that territory, but beaver which was closely tied
29 to the feasting complex, was more tightly controlled
30 by the head. That was -- that would be the way I
31 would interpret it.

32 Q Well, in your report you specifically interpreted it
33 at page 25 and this is why I'm --

34 A Final now or draft?

35 Q In the final. And this is why I am just wondering
36 about your change from "wealth" to resources, because
37 on page 25 you say:

38
39 "In contrast to beaver some other resources were
40 not as carefully husbanded."

41
42 And then you say:

43
44 "Men who did not have a land stake were allowed to
45 trap marten."

46
47 And then you say this:

- 1
2 "This no mention is made about prohibitions
3 concerning the hunting of large game or the taking
4 of fish."
5
6 No mention is made of those two. Now, certainly those
7 two might be called subsistence items, correct?
8 A First of all, they took --
9 Q Well, would you agree that those were subsistence?
10 A Yes.
11 Q Large game and fish?
12 A Yes. Could I say something about that? First of all,
13 relatively little large game hunting was done in this
14 area and as far as fish was concerned Brown and others
15 make it clear that most of the fishing was a communal
16 activity except he doesn't explain the exception may
17 be with regard to the Hot-sett and the dip net
18 scenario, but these other groups, including the
19 Gitksan, were -- they fished with barriers and those
20 were collectively put together. So -- and they
21 belonged to a particular village. So --
22 Q Well, the Babine --
23 A It wouldn't surprise me in that sense, if you want to
24 use it in that sense it's commonly available to the
25 members of the house since they collectively are
26 engaged in the activity of obtaining it.
27 Q And the Babines had nets and in fact they sold the
28 nets to Trader Brown and Trader Brown used the nets to
29 get fish?
30 A That's right. But if you read all of the accounts in
31 Stewart, Brown, Connelly and most of these people,
32 they point out that most of the fishing in this area
33 was done by barriers, which was -- these were -- a
34 bunch -- one person didn't build the barrier. You
35 remember one exception with the Wet'suwet'en where
36 he -- they said, well, they couldn't get -- they
37 wouldn't cooperate on doing that particular activity.
38 But these other areas, it's -- the barrier is a
39 collective activity. So it's a collective fishing
40 exercise. So you wouldn't expect him to talk about
41 that in the same sense as a more individual activity
42 such as trapping would be where one or two people
43 would be more efficiently engaged in the activity.
44 Q I suggest to you, Dr. Ray, that your draft in its
45 reference to wealth with particular reference to the
46 Hudson's Bay notes on the restrictions on beaver only
47 is a more accurate description of what is being

1 regulated than your access to resources which from
2 your report itself is clear -- it is clear were not
3 regulated. I mean it's wealth that access was
4 regulated to, isn't it?

5 A Well --

6 Q It's the beaver?

7 A It seems to me it's fairly hard to draw that rigid a
8 distinction between wealth and resource. It's hard to
9 have one without the other. And again, you are asking
10 me about some revision that I made some time ago. I
11 don't remember the exact. I went through this careful
12 analogy in making this revision as you are
13 attempting to draw here. But --.

14 Q Now, the next portion of your draft which is at pages
15 30 through 3 -- the top of 33 is a discussion of
16 coastal trade and especially a discussion of George
17 MacDonald and the Epic of Nekt. And if you look at
18 page 28 of your final, that whole discussion has been
19 taken out?

20 A Uh-huh.

21 Q Was that your idea to take that out?

22 A Yes. Because -- no, it wasn't my idea to take it out.
23 The final report, the decision was -- first we went
24 over how I came to write my first report, right? The
25 idea was that I was going to deal with the initial
26 Hudson's Bay company expansion into this area. The
27 Council has hired other experts to deal with
28 archeology, linguistics and so forth. So I deleted
29 the archeology since I did not do any archeology and
30 that's basically why it's not there.

31 Q Okay. You didn't take it out because you thought that
32 any of it was inaccurate or incorrect or wrong, did
33 you?

34 A I didn't give that consideration one way or the other.
35 I was asked to take it out since they had experts
36 dealing with the archeology and I took it out.

37 THE COURT: What is the part that's been taken out did you say,
38 Mr. --

39 MR. WILLMS: Page -- page 30 of -- 31, 32 and just to the top of
40 page 33 to the Nass Rivers.

41 THE COURT: Starting at the top of page 31?

42 MR. WILLMS: Starting at the top, except early post contact
43 inter-village trade as the title is still in the final
44 at page 28.

45 THE COURT: Yes.

46 MR. WILLMS: But then in the draft everything that follows on
47 page 30 all the way to the top paragraph on page 33

1 ending "Nass Rivers" has been taken out. Now, the
2 fisher reference on page 33 of the draft is in. There
3 is a -- there has been a little bit of rewriting, my
4 lord, but the fisher reference is really where the
5 report picks up again in respect of the coastal fur
6 trade.

7 Q Just dealing with the portions that were taken out,
8 you are aware, and there is no dispute, that there
9 were Russian goods that came into this area in the
10 eighteenth century?

11 A Very, very few before the 17 probably 80s, according
12 to Jim Gibson who is the expert on this subject.

13 Q And then, of course, there was -- and there is no
14 dispute about this, because you have even noted it in
15 Brown's notes, that there is an European trade in
16 goods, American and British --

17 A Yes.

18 Q -- in the eighteenth century that is coming into this
19 area?

20 A Shipboard trade.

21 Q Shipboard trade?

22 A Starting 1778 on the south coast of B.C.

23 Q All right.

24 A Again very little before the 1780s.

25 Q And --

26 A And that's mostly sea otter trade at this time.

27 Q You'll see on page 32 of your draft --

28 A Oh. My draft, sorry.

29 Q In your draft, yes.

30 THE COURT: What page, I am sorry?

31 MR. WILLMS: Page 32 of the draft.

32 THE COURT: Yes.

33 MR. WILLMS:

34 Q That you say there that:

35

36 "The introduction of European goods --"

37

38 That first full paragraph:

39

40 "-- mostly ironwares into the regional economy in
41 the eighteenth century led to conflict as chiefs
42 struggled to gain control over important trading
43 routes."

44

45 A Uh-huh.

46 Q All right. Now, that -- you recognize that as being
47 taken from MacDonald?

1 A Uh-huh.
2 Q Is that -- you have to say yes or no.
3 A I am sorry. I just had water in my mouth. Yes.
4 Sorry.
5 Q And then you discussed the archeological evidence and
6 cite MacDonald, and then you say this:
7
8 "MacDonald indicates that Tsimshian-speaking
9 groups expanded their territory along these routes
10 at the expense of Athabaskan speakers."
11
12 A That's right. That's -- was it trail nine that we are
13 talking about? He refers in this -- you're back to
14 the Epic of Nekt and rereading that, yes, he is
15 referring to a very specific trail in that case.
16 Q Well, he's referring to a couple of trails into the
17 Stikine, isn't he?
18 A Yeah. And he's speculating too. We agreed on that
19 this morning, right?
20 Q He's talking about -- there is one trail into the
21 Stikine that goes up from Kitwanga to Kitwancool and
22 there is another route into the Stikine that goes up
23 the Skeena River?
24 A But the primary one he's referring to is the northward
25 push towards where what he regards where the Russians
26 to be in that -- I don't have that Nekt thing with me
27 to know what route I'm talking about. But his article
28 is referring to a very specific route. I might add
29 that MacDonald is not an expert on the Russian fur
30 trade.
31 Q Could you turn to page 77 of the Epic of Nekt.
32 A I don't have it with me, I don't think. Or maybe I --
33 Q It's 847-19.
34 Q Just so that we are -- everyone is clear on what
35 MacDonald is talking about.
36 A So which page are we at?
37 Q Page 77?
38 A 77.
39 Q He says at the top of the page:
40
41 "It was while plotting the major trading trails of
42 the Tsimshian against their new tribal boundaries,
43 achieved in the early eighteenth century at
44 expense of the Tsetsaut (Athapaskans), that I
45 became aware that the knew territories coincided
46 with long sections of two important trails to the
47 Stikine that were the source of trade goods to the

1 Gitksan and Carrier people in the early 1700s.
2 This helped to explain why the Kitwankul tribe
3 waged such a costly war for what had previously
4 been a worthless piece of real estate. There are
5 numerous details in the Beynon notes about the use
6 of trails and of the bridges which spanned the
7 rivers. The example of the bridge at Kesgigas
8 village will serve to demonstrate this."
9

10 Now, if you look back to the maps -- first of all,
11 you'll see that two important trails to the Stikine
12 and he mentions the bridge at Kisgegas?

13 A Uh-huh.

14 Q Now -- and if you turn back two pages to his trading
15 trails.

16 A Uh-huh. We are now on page 75.

17 Q At page 75. You will see that there is the trail from
18 Kitwanga Fort that goes up and it's numbered three?

19 A That's trail three, right.

20 Q Trail three. And you'll also see that there is a
21 trail that goes from Kitwanga through Gitseguecla,
22 Gitanmaax and then either through Kispiox up through
23 Kuldo and up to the Stikine to Dease Lake or through
24 Kisgegas and then back over to the Skeena and up to
25 Dease Lake. Those two trails, Telegraph Creek and
26 Dease Lake, those are the Stikine trails he's talking
27 about?

28 A Uh-huh. But most of this discussion he is primarily
29 focusing on trail three as I recall.

30 Q Well, he just -- he was talking about the Kisgegas
31 bridge which is not on trail three?

32 A Furthermore, let's go -- where were we -- where were
33 we -- that's page 77?

34 THE COURT: Yes.

35 MR. WILLMS:

36 Q Page 77.

37 A

38 "Against their new tribal boundaries, achieved in
39 the early eighteenth century."

40

41 Now, what is his evidence for that? There is no
42 historical evidence for that, we'll concede that,
43 right?

44 Q Historical?

45 A There is no historical evidence that these boundaries
46 he's talking about -- I mean there is no historical
47 documentation for these alleged boundaries, is that

1 not so?

2 Q Just your oral histories?

3 A He doesn't cite any.

4 Q Well, I think you just read the oral histories.

5 A So this -- what he is doing is he is interpreting his

6 archeology through ethnography.

7 Q Yes, that's what I understand he's doing.

8 A So you can get into a circular trap. The archeology

9 proves the ethnology, the ethnology proves the

10 archeology.

11 Q Well, are you discounting that?

12 A What I am saying is we don't have evidence. I can't

13 say it didn't or didn't happen. We don't have any

14 evidence. I am just asking if you can give me some

15 hard information that tells me that the scenario is

16 so? And I submit to you there isn't and that the

17 Russian trade for the 1780s was not a large scale

18 trade.

19 Q You see, he also -- he deals with Kisgegas, and I

20 won't deal with the bridge about the whistling bridge

21 in the next paragraph, but the next paragraph down he

22 says this, this is from archeology:

23

24 "It was soon apparent that the assemblage of

25 historic trade goods differed radically from other

26 sites in the area."

27

28 A Uh-huh.

29 Q

30

31 "There were none of the glazed ceramics, clay pipe

32 fragments, nor even bead types found at the other

33 sites, such as Kitselas Fortress. Instead, there

34 were only metal tool blades, weapons, brass and

35 copper ornaments, and two distinctive kinds of

36 trade beads. The latter were not the type traded

37 by the Hudson's Bay Co., but they were identical

38 to those Russian beads on Tlingit costumes in the

39 Leningrad museum, collected in the early 1800s

40 from Russian America."

41

42 A So I submit that that supports my thesis. He is

43 talking about something collected in the 1800s, so

44 therefore it could have been traded in the 1780s or

45 thereafter.

46 Q Yes. And that's when they could have gotten there.

47 A And he tells us nothing about volume, does he?

- 1 Q Well, I am more interested in when they got there, Dr.
2 Ray, rather than the volume of the trade.
- 3 A Well, the fact of the matter is that until volume
4 reaches a substantial point it's hard to argue that
5 there has been a substantial culture change based on
6 my experience elsewhere anyway. That's my opinion, of
7 course. You are entitled to yours and he doesn't give
8 us any hard information to draw this conclusion.
- 9 Q The only thing he does do is at the very bottom of
10 that paragraph that I read you in talking about the
11 excavation that he's doing or the excavation says
12 this:
13
14 "The father of one of our excavators, when
15 examining a trade kettle in one of the food cache
16 pits, said that the Gitksan called all such pots
17 'Lussan' for "Russian," as this was the early
18 source."
19
- 20 A That still doesn't -- it doesn't say anything other
21 than there is some Russian trade goods in there and I
22 am not denying that at all. What we are arguing about
23 is how much impact this trade had happened at this
24 time and I am just asking my point to you is there is
25 no concrete evidence to support this interesting
26 thesis. I don't discount that it's an interesting
27 thesis, but there are no facts, solid facts to
28 establish it. And the Russians were expanding in this
29 area and I know from Gibson's work on expansion of the
30 Russians that they are still very mostly active in the
31 Alaska area, they are moving down, they are trading
32 what would be regarded as land furs. And he cautions
33 that one has to be careful. He says that a lot of the
34 so-called lands furs the Russians are getting they are
35 in fact getting from the coast, the sea coast. And
36 that's where they are caught as opposed to assuming
37 they are coming from the interior. So all I am saying
38 to you is that prior to the 1780s there is some trade
39 goods coming in here. The volume of trade is at best
40 thin.
- 41 Q All right. Let me put this proposition to you: There
42 is nothing in the Hudson's Bay records that you
43 reviewed that would refute the proposition that
44 MacDonald makes, that Tsimshian-speaking groups
45 expanded their territory along these trade routes at
46 the expense of Athapaskan speakers?
- 47 A I never said there was. What I am saying is there is

1 no evidence to the contrary position.
2 THE COURT: Mr. Willms, looking at that map on page 65, neither
3 of those trails 3 or 19 require a bridge at Kisgegas,
4 do they?
5 MR. WILLMS: My lord, my understanding, although this isn't the
6 best trail map in the world, but that the bridge at
7 Kisgegas, there was -- were goods traded up to Fort
8 Connelly and beyond. In fact, there were Russian
9 goods that were traded beyond the Rockies prior to the
10 Hudson's Bay getting there, which would require
11 crossing the river, but that -- that either side of
12 the river up the Skeena, that the bridge -- now, I'd
13 have to go back to see the description that MacDonald.
14 He has --
15 THE COURT: All right.
16 MR. WILLMS: -- a description in Dr. Ray's appendices of these
17 trails.
18 THE COURT: Fort Connelly is on the Bear?
19 MR. WILLMS: Bear Lake.
20 A Yeah.
21 THE COURT: Bear Lake. And that's the Skeena that flows out
22 of -- old Fort Connelly is on the Skeena, is it?
23 MR. WILLMS: It's on the Skeena. It's on Bear Lake.
24 A It's on the head of the Skeena.
25 THE COURT: What is the river that flows out of Bear Lake?
26 A Bear River into Skeena River.
27 THE COURT: Bear River into Skeena River?
28 A Yeah.
29 THE COURT: So you could go up the Skeena to get to Fort
30 Connelly without ever having to cross the Babine River
31 at Kisgegas?
32 A Certainly looks that way to me.
33 THE COURT: According to this you could anyway, although there
34 may be a better reason why one shouldn't go that way.
35 MR. WILLMS: I think if you look at topographic maps there is
36 good reason why you might want to cut over at
37 Kisgegas.
38 THE COURT: Yes. All right. Thank you. That may well be.
39 MR. WILLMS: But it's Dr. MacDonald's description of the trading
40 trails that I am relying on, my lord.
41 THE COURT: All right.
42 MR. WILLMS: Like the witness, I haven't seen this area.
43 A Maybe you should take a trip.
44 MR. WILLMS:
45 Q Now, one thing, did you review any oral histories at
46 all?
47 A None.

1 Q None?
2 A None.
3 Q Are you aware that there are oral histories about
4 conflicts in this area between the different ethnic
5 groups?
6 A I said I haven't reviewed them.
7 Q No. I know you haven't reviewed them. Were you aware
8 that there were --
9 A Oh.
10 Q -- oral histories that talk about conflicts at
11 Kisgegas, as Kispiox?
12 A Such as they are mentioned in passing in here. But
13 basically the answer is no. I was doing archival
14 research. I wasn't doing oral history.
15 Q I am showing you one of the oral histories recorded by
16 Barbeau and Beynon which discusses the peace ceremony
17 between the Nishga and the Kisgegas and you'll see --
18 and these -- some of these you can date directly from
19 them and this is from Wolf Clan invaders, my lord.
20 One of the -- and that's on the title page, one of the
21 Barbeau Beynon --
22 THE COURT: Yes.
23 MR. WILLMS: -- collection. The informant was John Brown
24 formerly of Kisgegas. It was taken in 1920 and I'll
25 get to the dating in a minute. But you'll see that
26 the first paragraph discusses the Nass River Indians
27 and the Kisgegas making friends, and the Kisgegas not
28 going to the Nass. And then -- and I won't read
29 through the whole extract, but it talks about the
30 reasons for the disputes between them, and it's the
31 last page that provides some of the dating to this
32 oral history in the last paragraph where it says:
33
34 "This happened when the informant, John Brown, was
35 a child, nine or ten years of age, and he was
36 about 70 in 1920."
37
38 Which would take this back to about 1860. And I did
39 note in your report, Dr. Ray, that you noted Loring,
40 that Kisgegas had been abandoned in the 1850s due to
41 Nishga raids?
42 A So this is pushing south. But I thought we were
43 talking about Kisgegas pushing north.
44 Q Well, this is Kisgegas, but all that I am interested
45 in here is whether or not there is anything that you
46 are aware of in the Hudson's Bay records that indicate
47 that there were not disputes between the Nishga and

1 the Kisegegas Indians as recently as 1850?

2 A Well, we have the records, we have the Brown records,
3 which don't speak to much violence other than these
4 flare-ups between individuals within the territory
5 and --

6 Q And barring of the river to prevent salmon from
7 getting up, which you call an economic advantage,
8 correct?

9 A It wasn't bloodshed, was it?

10 Q Well --

11 A But that's the point. You are talking about warfare.
12 That was -- economic blockade is another way of
13 forcing an issue, and I thought we were talking about
14 warfare. Isn't that what we're talking about? I mean
15 putting up a barricade to stop fish from flowing into
16 the Babine River, I mean if they wanted to in fact
17 engage in blood warfare they would have done so, but
18 they chose otherwise. All I am saying is you asked me
19 is there evidence in those records that I looked at
20 for a lot of conflict in this core area that I looked
21 at and my answer to you is no. You are talking -- I
22 thought we were talking about territorial expansion.
23 My understanding, most areas that I am familiar with
24 where post contact territorial expansion of Native
25 groups took place, a lot of bloodshed took place and
26 if that's what you are asking me, the answer is no.

27 Q Well, didn't you note an armed party coming to suggest
28 with guns and spears that some trading should take
29 place?

30 A Yes. But that wasn't a war party, was? It.

31 Q Well, I don't know. Guns --

32 A No bloodshed occurred.

33 Q And didn't you also note from the journals that people
34 at Hot-sett had been killed, that people were trying
35 to hide at Fort Kilmaurs?

36 A But you are trying to equate internal -- I mean
37 people have committed murders in our society, we don't
38 call it war, do we? I mean that's what we are talking
39 about. They are internal conflicts which occurred
40 between individual families which were resolved in a
41 couple of occasions through Feast ceremonies. There
42 is no reference in any of the Brown material of
43 organized raids of Gitksan or Wet'suwet'en northward
44 or toward the coast. There is one reference, not in
45 the records that I cited, but there is one reference
46 in one of the Stuart Lake journals of a group of
47 Sekanni that came down on a war party, but they don't

1 in fact do anything. They are dissuaded. Now, I would
2 argue, since we are into this business of war, I
3 assume that one of your assumptions is that these
4 Gitksan are armed from the coast and are therefore in
5 a power position to push their way north and east.
6 But I would submit to you that if the Russians are
7 expanding down the coast from the north, why are not
8 the northern groups who would be getting the arms
9 first pushing south into Gitksan territory? It seems
10 to me you could argue just as reasonable a counter
11 thesis, if you are talking about a relative balance of
12 power.

13 THE COURT: Didn't we see a passage a moment ago when I think it
14 was Brown on his -- one of his journeys when he
15 counted the number of men, didn't he say that the
16 women and old people and children had gone into the
17 hills because they thought that it was a war-like raid
18 that was approaching?

19 A They appeared it might be a raid coming, yeah. So
20 they were on their guard for sure. But I mean the
21 point is he asked me if there were any evidence or any
22 accounts of organized conflict and I'm saying that
23 there isn't.

24 MR. WILLMS: Can that be Exhibit 966-7, my lord?

25 THE COURT: That's the --

26 MR. WILLMS: That's peace ceremony between the Nishga and the
27 Kisgegas.

28 THE COURT: I am sorry? Is this the Wolf Clan invaders?

29 MR. WILLMS: It is from Wolf Clan Invaders. I just handed
30 another one up, my lord.

31 THE COURT: But the first one is what number, please?

32 THE REGISTRAR: Be 966-7.

33

34 (EXHIBIT 966-7: Tab 7 "A Peace Ceremony between the
35 Niskae & Kiskagas)

36

37 THE COURT: All right.

38 MR. WILLMS: And the next one speaks to the point that --

39 THE COURT: All right. That will be 966-8.

40

41 (EXHIBIT 966-8: Tab 8 "The Tsetsaut and Gitwinkul at
42 War" M. Barbeau)

43

44 THE COURT: Well, doctor, I am sorry, I just want to go back a
45 bit. If people are fearful of war-like attack just
46 because somebody shows up, doesn't that indicate a
47 mind set regarding hostilities?

1 A Well, as I mentioned to you before --
2 THE COURT: Can one just ignore that and say well, nothing
3 happened so -- ?
4 A No, I'm not -- your honour, what I was suggesting and
5 I mentioned briefly that I don't have the exact
6 reference, I am just talking from memory. The
7 question was: Was there warfare? And the only case I
8 can think of of an organized war party showing up was
9 at Fort St. James. Now, the trouble I'm having is I
10 can't remember if it was in Fraser or at Fort St.
11 James at this time. But it was a Sekanni party. And
12 there is some evidence that Sekanni alternatively
13 raided and traded on the eastern edges there of the
14 Gitksan territory. That's a possibility. And I
15 suspect if these Gitksan were on their guard, as you
16 say, and you're right, they obviously must have been,
17 that that -- it was coming from that quarters,
18 certainly I don't -- there is no evidence to suggest
19 that they feared that at this particular point in time
20 the Babine. So it might have been fear of a Sekanni
21 party coming -- because remember Brown is coming from
22 the east and he's coming down the Babine River and
23 they hear the dogs barking and whatnot, and that's why
24 they took off into the hills. So -- and that would
25 fit with a Sekanni threat. But I don't think -- I
26 don't think -- well, in any event, that's -- in
27 reference to your question, that's the only one I can
28 come up with.
29 MR. WILLMS: This next extract is again from Wolf Clan Invaders
30 and it's the Tsetsaut and the Kitwancool at war. The
31 informant was Stephen Morgan of Gitsegukla, who
32 learned the story from his mother's brother who lived
33 at Gitwinlkul and who died long ago who was in the
34 Tsetsaut war which happened before he, Morgan, was
35 born, about a hundred years or a little over, and this
36 was recorded in 1923. And I won't read through it,
37 but it talks about the disputes between the Tsetsaut
38 and the Kitwancool. And if you work back you've got
39 it about a hundred years before sometime in the 1820s
40 the disputes between the Kitwancool and the Tsetsaut.
41 And that's -- the Tsetsaut are coming down this
42 Stikine trail through --
43 MR. ADAMS: My lord, that's not what it says. It says it
44 happened a hundred years before the informant was born
45 and that doesn't put it in the 1820s.
46 A It puts it in the 1720s, doesn't it?
47 MR. WILLMS:

1 Q Well, it says he was in that Tsetsaut war which
2 happened before he, Morgan, was born. The war
3 began -- if you read the next -- the next --
4
5 "A member of my family was a very brave man, whose
6 name was -- "
7
8 And then he gives the name.
9
10 "It was at the time when the Tsetsaut had a war
11 with the Gitwinlkul."
12
13 Now -- so as I read that, the war reference was from
14 the mother's brother who had to be alive when he told
15 it to Morgan who was a hundred years old.
16 THE COURT: Well, he says it happened about a hundred years.
17 MR. WILLMS: Yeah.
18 THE COURT: Or a little over. Sounds like he's talking about a
19 hundred years ago from the time -- and what is the
20 date?
21 MR. WILLMS: And it was recorded in 1923.
22 THE COURT: Yes. Is that not correct, Mr. Adams?
23 MR. ADAMS: Well, my point, my lord, is that it's not at all
24 clear whether it's a hundred years before Morgan was
25 born or a hundred years before 1923. And we don't
26 know from this when Morgan was born, but that would
27 put it considerably earlier, that's all.
28 MR. WILLMS: Well, let's go to the last page, because there is
29 some handwriting here which helps date it a little bit
30 more. And I still say it's around a hundred years or
31 maybe a bit more. But the last line is:
32
33 "I learned from the brother of my mother who lives
34 at Gitwinlkul and died long ago."
35
36 So that's who he learned it from. He was in that war
37 himself.
38
39 "It happened before I was born, nearly a hundred
40 years ago or a little over."
41
42 Now, I read that as being a living person talking
43 about what someone who was living during the war has
44 told him and then died and dating it at about a
45 hundred years ago.
46 THE COURT: All right. Well --
47 A Still isn't clear to me that's what it says, but we'll

1 go with that, I'll go with that.
2 THE COURT: That's a matter of argument.
3 MR. WILLMS: That may be, my lord.
4 Q And I just want to ask this witness whether or not
5 from any of the Hudson's Bay records that he's
6 reviewed there was anything to indicate that Brown had
7 information from as far afield as Kitwancool?
8 A Well, of course we can't know that, can we? All we
9 know is what he reported. He doesn't report it.
10 Whether he knew about it is another matter and it's
11 forever for speculation, but it doesn't say anything
12 about it and the answer is no.
13 MR. WILLMS: Perhaps we could mark that and adjourn for the day.
14 THE COURT: Yes. That will be 96 --
15 THE REGISTRAR: 966-8, my lord.
16 THE COURT: Yes.
17
18 (EXHIBIT 966-8: Document entitled Wolf Clan Invaders
19 by M. Barbeau)
20
21 THE COURT: All right. Gentlemen, I'm sorry to say that I have
22 something scheduled already in the morning, but we can
23 start at 9:30. Is that convenient?
24 MR. WILLMS: That's convenient for me, my lord.
25 THE COURT: Yes. And we can sit late in the afternoon if we
26 find if necessary to do so. Are we more or less on
27 schedule?
28 MR. WILLMS: My lord, I hope to finish in about an hour or an
29 hour and a half in the morning.
30 THE COURT: All right. Well, Mr. Macaulay is always brief. We
31 will count on him not to let us down. I am very
32 anxious not to sit on Friday. There is a historical
33 prohibition against it that I would like to avoid.
34
35 (PROCEEDINGS ADJOURNED UNTIL THURSDAY, MARCH 23, 1989
36 AT 9:30 A.M.)
37

38 I hereby certify the foregoing to be
39 a true and accurate transcript of the
40 proceedings herein to the best of my
41 skill and ability.
42
43
44

45 Laara Yardley,
46 Official Reporter,
47 United Reporting Service Ltd.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47