In the Supreme Court of British Columbia

No. 0843
Smithers Registry

Smithers, B. C.
December 16, 1988

BETWEEN:

DELGAMUUKW, also know as KEN MULDOE, suing on his own behalf and on behalf of all other members of the HOUSE OF DELGAMUUKW, and others,

Plaintiffs;

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA and THE ATTORNEY-GENERAL FOR CANADA,

Defendants.

CROSS-EXAMINATION ON AFFIDAVIT
OF
FREDERICK WALE

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OF
FREDERICK WALE

P.R. Grant, Esq. and M. Adams, Esq.	appearing for the Plaintiffs
J.M. Mackenzie, Esq.	appearing for Her Majesty the Queen in Right of the Province of British Columbia
J.A. Macaulay, Esq.	appearing for the Attorney General of Canada

UNITED REPORTING

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SMITHERS, B.C.
December 16, 1988

FREDERICK WALE, a witness herein called on behalf of the Plaintiffs, having been duly sworn, testifies as follows:

S. HOWARD: Interpreter previously sworn

CROSS-EXAMINATION BY MR. MACAULAY:

Q Your name is Frederick Wale?
A Yes.
Q Where do you live, Mr. Wale?
A Hazelton.
Q And what is your occupation?
A Culture co-ordinator.
Q With the Tribal Council?
A No, I think it is involved with human resources, you know, with Tribal Council.
Q Well, are you a member of the public service?
A No.
Q Well, which organization is your employer?
A Well, I guess the Tribal Council.
Q In other words, who writes the pay cheques?
A They do.
Q The Tribal Council?
A The lady that works there, our boss.

MR. GRANT: Do you wish a clarification of that?
MR. MACAULAY: Well, yes.
MR. GRANT: I don't want to intervene, but I can assist you. There is a society known as the Wilp Sisatxw Society. And my instructions are that in terms of the formal employer of this witness that Wilp Sisatxw Society is his employer.
THE WITNESS: Yes.
MR. MACAULAY:

Q How long have you been working for that society?
A Just a little over six months.
Q And before that what was your occupation?
A I was a home school co-ordinator.
Q And who was your employer there then?
A Different bands. Like I was working for the whole band. I was working with DIA at first and then Tribal Council, and I was working for Tribal Council from '70 on.

Q From 1970 on?
A Yes.
Q And was your employer ever the Department of Indian Affairs? Did you ever work as a direct employee of Indian affairs?
A No, they were just assisting.
Q And what were your duties before you took on the present -- your present job six months ago from 1970 on?
A I was making carvings in K'san. I took that for three years. I was just finishing my apprentice when I took this job. I was idle in between, but I couldn't tell you the months I was idle.
Q Now, you mentioned 1970, the year 1970. Was that the year that you started carving?
A No.
Q What were you doing in 1970?
A I was a counsellor then, home school co-ordinator.
Q Home school co-ordinator?
A Yes.
Q And what schools did you deal with?
A I dealt with provincial and federal schools.
Q And what were your duties as home school co-ordinator? What did you do?
A Well, I focused on students that were dropping out, native students.
Q Yes. And did you actually give them instruction?
A Yes.
Q Those students?
A Yes.
Q And at what level were these students? Were they high school students or grade school students?
A It starts right from kindergarten right up to high school students.
Q So you had the whole range of students?
A Yes.
Q And did you give them academic instruction?
A Yes, I give them direction to encourage them to finish their high school.
Q And for how many years were you a home school co-ordinator before you started carving?
A 14 years.
Q 14 years. So that would be 1970 to 1984, is that about right?
A Yeah, something in that line.
MR. MACAULAY: And the curriculum that your students were following, was that the provincial curriculum

studies?
MR. GRANT: Well, he said he worked with both federal schools and provincial schools so maybe you want to divide up that question.
MR. MACAULAY:
Q All right. We will go to federal schools first. What were the federal schools you dealt with? You mentioned federal schools?
A Schools on the reserve level where there was schools right on the reserve.
Q On the reserve?
A Yes.
Q That's what you were calling federal schools?
A Yes.
Q And those were primary schools, were they?
A Primary up to Grade 8, yeah.
Q Up to Grade 8. And what curriculum were they following? What sort of subjects were they taking?
A They were taking the regular subjects.
Q Were there any additional subjects that you wouldn't find in a primary school in Smithers, for instance?
A No.
Q And your students who were in high school, were they -- those were high schools off the reserve, were they?
A Yes.
Q And they were following the ordinary provincial curriculum; is that right?
A Yes.
Q Now, in 1984 you started training as a carver?
A Well, I couldn't remember the exact year.
Q About 1984?
A Well, I can't say.
Q Did you stop being a home school co-ordinator when you started your training as a carver?
A I didn't stop, no, they had their own -- they hired their own home school co-ordinators on a reserve level because it was too high case for me. I just kind of did myself out of a job by going that direction.
Q Well, after you stopped being a home school co-ordinator then you started taking carving?
A Yes, after.
Q And was that at K'san?
A Yes.
Q Which carvers did you work with?
A I worked with Kenny Mowatt, Earl Muldoe, Walter

Harris, Vern Stevens.
Q And you spent about three years doing that?
A Yes. It wasn't -- it was in that area.
Q And in the last six months you've got the employment with the society that Mr. Grant mentioned?
A Yes, Wilp Sisatxw.
Q And what are your duties now? What do you do?
A When I first got hired on I was the maintenance. Now they moved me to cultural co-ordinator.
Q And what groups do you work with as cultural co-ordinator?
A The Wilp Sisatxw has been in co-operation. We will be starting January 30th.
Q So you haven't yet taken up your ordinary duties; is that right?
A Well, I'm putting it together, carving plus singing Indian songs or traditional way of life.
Q You know there used to be a group at K'san that did that, the songs, dancing and that kind of thing; is that right?
A Yes.
Q Now, is your society taking that over?
A No. No.
Q Does that group still continue?
A K'san --
Q The K'san --
A -- dancers?
Q Dancers?
A Yes, they are performing during the summer months at K'san.
Q Do you have anything to do with that organization, K'san Dancers?
A Yes.
Q Is it the plan to organize similar groups?
A No.
Q Well, when your society gets going, when its programme starts developing, will it deal with individuals at the cultural level or will it be forming groups?
A It will be both.
MR. MACAULAY: It will be both. Is one of the objects of the society to teach the Gitksan language?
MR. GRANT: Which society?
MR. MACAULAY: This present society.
MR. GRANT: Wilp Sisatxw Society?
MR. MACAULAY:
Q Yes.

A I can't say on that.
Q Do you speak Gitksan?
A Yes.
Q You learned that at home, did you?
A Yes.
MR. GRANT: The witness, by the way, may need some help in some questions and Miss Howard may help in some questions.
MR. MACAULAY:
Q Fine. Was your father Mr. William Wale?
A Yes.
Q And what house did he belong to?
A Ganauu, Lax seel.
Q And your mother is Kathleen Wale?
A Yes.
Q And she is the head chief of your house?
A Yes.
Q That's Gwoimt?
A Gwoimt.
Q Was Austin Mathews the head chief of your house at one time?
A Yes.
Q Did your mother succeed to the name when Austin Mathews died?
A She was next in line.
Q She was next. And do you have a name in your house?
A Yes.
Q What is your name?
A Dii Haatix.
MR. MACAULAY: What are the other chiefs in your house?
MR. GRANT: Who are they?
MR. MACAULAY:
Q Well, who are they? Their English names and also their chief's names?
A Well, I can't -- I can just name by English.
Q Well, let's do the English names?
A Sadie Harris, my sister.
Q Yes.
A And Howard.
Q Howard Wale?
A Howard Wale, my brother.
Q Yes.
A And Wilfred Wale, my brother.
Q Yes.
A And since my late brother is deceased, my younger brother took Dee from Wally Wale.
Q Wally Wale?

A Yes.
Q Dee is the name and my younger brother has that name now.
Q Now, Wally has a chief's name?
A Yes.
Q And how about Bernard, he has a chief's name too?
A Well, it is the same name. Wally is deceased and now Bernard has got that name, my younger brother.
Q So Bernard has that?
A Yes.
Q Which name has he got?
A Dee.

MR. MACAULAY: That's D-I-I?
THE INTERPRETER: D-E-E.
MR. MACAULAY:

Q D-E-E. Is there a chief's name in your house that's spelled D-I-I?
A That would be the English spelling.

MR. MACAULAY: Well, I'm not making it up. It comes from an interrogatory.
MR. GRANT: Well, I think in terms of the word person and the spelling in interrogatories may not be -- I think Miss Howard can clarify if that's the same as D-E-E.
MR. MACAULAY: Is that the same?
THE INTERPRETER: Well, his starts Dii Haatix. His name is D-I-I, new word, H-A-A-T-I-X, that's Fred's name. But for Wally it will be D-E-E.
MR. MACAULAY:

Q What's Howard's name, chief's name?
A I don't know offhand.
Q And how about Wilfred? What's his name?
A Then again, I have got it down on paper.
Q Well, you can find out is what you are saying?
A No, I can find out, but there is so many names that --

MR. MACAULAY: It is hard to keep track of them all.
MR. GRANT: I can just --
MR. MACAULAY:

Q No, I've got the name. How about Sadie Harris, what's her name, her chief's name?
A I don't know that.
Q Have you a nephew named Shawn Harris?
A Yes.
Q He was born in about 1973, is that about right?
A He would be about nine years old or ten. No, he will be 12 or 13.
Q Does he have a chief's name?

A Yes.
Q And what's that?
A He took Phillip Johnson's name, but I couldn't remember his name either.
Q Phillip Johnson was a member of your house?
A Yes.
Q He is dead now?
A Yes.
Q And Phillip Johnson lived up near Meziadin, did he, for many years?
A He lived in Hazelton when I knew him.
Q In Hazelton?
A Yes. I was pretty young then. I just barely remember him.
Q Well, where were you born?
A Hazelton.
Q And have you lived all your life in or around Hazelton?
A In or around Hazelton area, yes.
Q Did your mother ever tell you where she lived in the 1920's?
A She lived around Hazelton too.
Q And were you ever told where Phillip Johnson lived before he moved to Hazelton?
A No.
Q The job you obtained in 1970 as home school co-ordinator, was that your first job?
A No.
Q What did you do before that?
A I did a lot of different jobs. I was working underground at Silver Standard as a minor.
Q Yes.
A I worked as a clerk at the hardware store which was run by late Bill Sergeant in Hazelton for nine years.
Q Yes.
A I was truck driving for Mosh & Brothers in Hazelton for I couldn't remember how many years.
Q Is that pretty well --
A I'm a commercial fisherman from my dad, but I never kept that too long. I'm not in for that kind of work.
Q You went to the coast with your father?
A Yes, he was a commercial fisherman.
Q And when did you start going to the coast? How hold were you when you started going to the coast?
A I was 16 perhaps. Oh, younger than that, pardon me.

Q And your father had his own boat?
A No, they were all company boats.
Q And did you work on the same boat the first season you went down to the coast? Did you work on the same boat as your father?
A I was working on the cannery too.
Q At the cannery?
A Cannery.
Q And how many years did you go to the coast?
A I couldn't remember that. I was down there just for summer months, hey.
Q From the end of April to --
A June, July, August.
Q And you started when you were about 14?
A Well, I couldn't remember. I was pretty young.
Q Did your mother go down to the coast as well?
A Yes.
Q And did she work in the cannery then?
A Yes, she retired she was a cannery worker.
Q But she worked for many years at the cannery?
A Yes, she did.
Q How old were you when you stopped going to the coast?
A 1947 was the last time I was down there.
Q And after that you had a series of jobs?
A Yes.
Q The ones you've mentioned?
A Mh'm.
Q What level did you reach in school before you left the school?
A I wasn't told what level I reached. I was below -- they passed me Grade 10, but it wasn't Grade 10 because I was in school half a day at residential school and worked half a day on a farm.
Q Did you ever go back to any school after that?
A I attended home school co-ordinator's course in Vancouver.
Q How long a course was that?
A Just for summer months.
Q And that was before -- what in 1970?
A During the period of time I worked with -- as a home school co-ordinator.
Q Oh, while you were working as a home school co-ordinator?
A Yes.
Q Now, did you know Austin Mathews?
A Yes.

Q And he was a very active trapper?
A Yes.
Q And your father was an active trapper?
A Yes.
Q Did you go trapping with your father?
A Yes.
Q And for how many years did you trap with him?
A I can't say how many years, but there was quite a number of years I travelled with my father.

MR. MACAULAY: Well, when is the last time you went trapping?
MR. GRANT: With his father or at all?
MR. MACAULAY:

Q At all?
A Well, I'm still trapping.
Q You are trapping today?
A Well, not today, but I had traps out about a month ago. I was skinning beaver out by my cabin out that area.
Q Have you been trapping every year since you started going out on the trapline with your father?
A Yes, off and on.
Q Did your father have a trapline up near the Kitwancool territory?
A Yes.

MR. GRANT: Registered trapline you are referring to?
MR. MACAULAY:

Q Well, was it --
A Up there as far as I know.
Q Was it a registered trapline?
A That I didn't know. I didn't ask him.
Q But he went trapping out there?
A He was quite active out that way. My mom also knows the area too.
Q But that was not Gwoimt's territory?
A No, but she travelled with him.
Q Yes. And that was a trapping area that belonged to your father's house?
A Yes.
Q This trapping area by the Nass River?
A In that area, yes.
Q And you trapped up there with your father, did you?
A No.
Q The only --
A My brother did, late Clarence did.
Q Was that your eldest brother, Clarence?
A No. He would be the third oldest.
Q Now, you've seen your house's genealogy?

A Yes.
Q And did you notice that Clarence isn't on it?
A I never really noticed.
Q There is no particular reason for that?
A He is deceased.
MR. GRANT: Just a moment. You should show it to Mr. Wale.
MR. MACAULAY: Off the record.

(DISCUSSION OFF THE RECORD)

MR. MACAULAY:
Q Well, I have shown you a copy of genealogy that your counsel has provided us for your house. Your name is there and all your brothers and sisters except for one; is that right?
A That's right.
Q You don't know why that is?
A They must have just slipped. It must have been an error.
Q When did he die?
A '77.
MR. MACAULAY: Now, your father made a will --
MR. GRANT: That's the genealogy of Gwoimt dated January 20, 1988.
MR. MACAULAY: That's it.
MR. GRANT: Just for the record, that's what the witness was looking at.
MR. MACAULAY:
Q Your father made a will, last will and testament?
A Yes.
Q And you were one of the beneficiaries in the will?
A Yes.
Q And you saw a copy of the will after he died, did you?
A Yes.
MR. MACAULAY: Now, did he leave his trapline to Clarence?
MR. GRANT: Can I look at the will? I don't necessarily want to object to the question, I just want to look at the document.
MR. MACAULAY: Off the record.

(DISCUSSION OFF THE RECORD)

MR. MACAULAY: Now, did your father leave his trapline to your brother Clarence?
MR. GRANT: In the will?
MR. MACAULAY:

Q In the will? You can look at it if you want.
A It's on the will.
Q It's on the will?
A Yes.
Q You saw a copy of this will after your father died?
A Yes.
MR. MACAULAY: And the trapline that your father was referring to was the one up on the Nass?
MR. GRANT: Well, just a moment. I think that it refers to sketch 5. And I think that that -- based on what you've informed me, Mr. Macaulay, that these sketches in this file are the attachments to the will, I think then the will plus that sketch speaks for itself to the extent that that sketch can speak for itself because there is no description in the will of the trapline and then there is a sketch. It is either the one up there or it is another one. I think the document speaks for itself.
MR. MACAULAY: Well, yes, now that you've referred to the will and the sketch, the sketch in this file shows the Nass River. But I'm not asking this witness to interpret the sketch or to interpret the will. I am asking him what his personal knowledge of these family affairs is, and either he knows or he doesn't.
MR. GRANT: Okay. If you frame your question that way, of course that's different. I just don't want him to interpret the document, that's all.
MR. MACAULAY: You've looked at a copy of your father's will in my file. You've seen the sketch, but I'm not asking you about that.
MR. GRANT: He didn't look at the sketch. He hasn't seen the sketch.
MR. MACAULAY:
Q You can look at the sketch too if you want. But what I am asking you is from your personal knowledge, your knowledge of your family affairs, did the trapline that Clarence inherited, was that the trapline on the Nass River?
A Yes, according to the understanding I have.
Q And did Clarence trap up there?
A Yes.
Q And he used to go up there with your father while he was still alive?
A Yes.
Q And that is when your father was still alive he brought Clarence with him up to the Nass?

A Yes.
Q And did Clarence continue to trap up there after your father died?
A That I can't say.
Q He never told you?
A No. We don't keep track of each other that close.
Q Where did Clarence live after your father died?
A He lived down commercial fishing in Hazelton.
Q He also lived in Hazelton?
A Yes.
Q Was the late James White a member of your house?
A No.
Q Did you know him?
A My grandfather.
Q What house was he?
A Lax seel.
Q Well, that's his clan.
A Lax seel.
Q That's his clan, but what was the name of the house he belonged to?
A Oh, that I don't know.
Q Do you know anything about his fishing station, that is James White's fishing station, where it was?
A No.
Q He had daughters?
A Yes, my mom. Yeah, mom and late Mariah White.

MR. MACAULAY: Yes. And did your mother ever tell you that she inherited his fishing station or stations, that is James White's fishing station?

MR. GRANT: Just to be clear, are you talking about -- can you give some geographic relationship to this? You've been talking about coastal fishing and you are now talking about fishing station, so are you talking about something on one of the rivers?

MR. MACAULAY: Fishing station in the claim area.

MR. GRANT: So it would be one of the fishing stations on the claim area.

MR. MACAULAY:

Q Perhaps we can start with that question again. Did your mother ever tell you that she inherited from her father, her father James White's fishing station in Gitksan country?
A She never talked to me about it.
Q So you never --
A But they have fishing areas, but she didn't say that she inherited. I can't say.
Q Well, your house has traditional fishing stations?

A One.
Q One?
A Yes.
Q And where are they?
A There is one located up near An Lagaas sim daex that is up near Kisgagaas where I have got my cabin.
Q Any others?
A Not that I am aware of. There might be others.
Q You know Wilmer Johnson?
A To see him, yes.
Q You know him to see him?
A Yes.
Q Does he live in Hazelton?
A Yes.
Q And do you know his chief's name?
A No.
Q Do you know what house he belongs to?
A He belongs to the Wolf Clan.

MR. MACAULAY: That's his clan, but his wilp, what is --
MR. GRANT: Maybe Miss Howard can translate the question.
THE WITNESS: No, I don't know.
MR. MACAULAY:

Q What is the connection or the relationship between Gwoimt and Tsabux? Perhaps you can translate that.
A Who is Tsabux?
Q Well --
A I have heard the name, but I can't place it. Is that Wilmer Johnson? No, I don't think so.
Q Mr. Wale, we have an affidavit that your counsel has given us and it is sworn by Mr. Wilmer Johnson. He in this affidavit says that his chief's name is Tsabux. In fact, he puts it the other way around. He says: "I, Tsabux, also known as Wilmer Johnson make oath and say..." and then he goes onto depose to certain things. Clearly you didn't know that Wilmer Johnson was Tsabux, did you?
A Tsabux, I have heard him in the feast house, but I didn't remember at the time when you asked.

MR. MACAULAY: And what do you know about the Tsabux house?
MR. GRANT: What do you mean by that question?
MR. MACAULAY:

Q Well, I'll be more specific. Perhaps I'll refer to Mr. Wilmer Johnson's affidavit again. In this affidavit he says -- no, that's not quite accurate. His affidavit had attached to it some answers to questions called interrogatories. He was asked certain questions, and in answer to one of the

questions he said:

> "In 1958 or 1959 when I received the name Tsabux I shared the house with Gwoimt."

And it is the latter part of his answer that I want to ask you about. He says he shares with Gwoimt. I want to know what he shares and how he shares and why he shares with Gwoimt.

A Oh, Wilmer is close related to mom.
Q Yes.
A Whenever there is a feast put up by the Wolf Clan, that's when they join together on contributing towards that feast. And they are related in that way or they are close.
Q Is Gwoimt close to any other house?
A No, just --
Q Tsabux?
A Tsabux and the family, the brothers and sisters.
Q Did you know Fanny Robinson?
A Late Fanny Robinson?
Q Yes. You did know her?
A I was pretty young then.
Q Well, according to my note she died in 1958. Does that sound about right?
A I can't say.
Q Do you know what her chief's name was?
A No.
Q Or what her wilps was, her house?
A No.
Q Now, have you read the answers your mother gave to interrogatories, questions that were put to her by the Province of British Columbia in this lawsuit? Have you read those?
A Not really, no.

MR. MACAULAY: Well, now, in answer to one of the questions your mother identified two territories as Gwoimt territories.

MR. GRANT: Do you know what question you are referring to?

MR. MACAULAY: 59C. One of them was described as Xsu wil Binaast to Glacier Creek. You in your affidavit have identified Xsi'an Binaast as Shewililba Creek?

MR. GRANT: I would ask if the Gitksan words you are referring to be given by Miss Howard.

MR. MACAULAY:

Q Sure.
A He said it should be Xsi Getsit is Glacier Creek.

That's all part of the boundaries.
MR. MACAULAY: If we could have that spelled.
MR. GRANT: What number is Xsi Getsit?
THE INTERPRETER: It is number 2 on your Rivers and Creeks in the affidavit.
MR. MACAULAY: But the English name is Shegisic Creek?
THE INTERPRETER: Yes.
MR. GRANT: Just a moment. I think there is some confusion. Well, I can leave it for re-direct, but I will raise it.
MR. MACAULAY:
Q Well, I am asking the witness what he understands Glacier Creek to be. I am not suggesting any particular answer to him and if he wants to consider that again or does he stay with his answer that it is --
A There is two different names described on there. That map shows Glacier and the affidavit shows different.
Q Well, Mr. Wale, my map doesn't show a Glacier Creek, and that's why I'm asking the question.
A The forestry called it Glacier Creek.
MR. GRANT: I think the confusion may be that the reference to Glacier Creek may or may not be -- it may be a local name. It may or may not be on your topographic maps. I didn't want you to be mislead so that's why I am endeavouring to intervene. I was not trying to change the witness' answer.
MR. MACAULAY:
Q My understanding of it now is what is known on the ordinary Canada maps as Shegisic Creek is the same creek as --
A Xsi Getsit, it is the same creek.
Q Number 2. And that's Glacier Creek on forestry maps?
A Forestry named it that, and I don't know if it is on the map.
MR. MACAULAY: Well, as long as we are talking about the same creek. Now, this same -- what your mother actually said, the description she gave regarding that territory was she said:

"Runs from Xsu wil Binaast to Glacier Creek on the Babine Slide."

MR. GRANT: Can that be translated. And I am only requesting it because when I used Gitksan words he did not understand them.

MR. MACAULAY:
Q I have no objection at all.
A He says that it isn't Xsu wil Binaast, it is Xsi Getsit that runs on the Babine Slide side.
MR. MACAULAY: I don't think I heard that. What was his answer?
THE INTERPRETER: He said that that is not Xsi'an Binaast, it is Xsi Getsit that is on the Babine Slide side.
MR. MACAULAY: You mean Glacier Creek is on the Babine Slide side?
THE INTERPRETER: Mh'm.
MR. GRANT: Well, he was saying Xsu wil Binaast is on the Babine side.
MR. MACKENZIE: No, I'm sorry, that's not what he is telling you.
MR. GRANT: Well, that is what Madam Translator just said.
MR. MACKENZIE: That's not what she said.
THE INTERPRETER: Xsi Getsit is Glacier Creek.
MR. MACAULAY:
Q I understand. So your mother should have, in your opinion, used the word "side" after the word "slide" in this answer?
A It is roughly 13 miles west where the slide is at.
Q The slide is well outside your territory?
A Yeah, the slide is 13, 14 miles east of Glacier Creek. That's where the boundary comes down.
Q So you believe that's a misprint?
A Yes.
Q It should read "side" instead of "slide"?
A Well, Xsi Getsit should be Glacier.
Q Now that we are both looking at this interrogatory answer, you notice there is another territory described Gitan gwalxw?
A Gitan gwalxw.
Q Where is that?
A Up by the Swan Lake area.
Q And have you ever been there?
A No. No, I hunted in there, but I have never trapped in there.
Q Is that a Gwoimt territory?
A Yes.
Q And you don't describe that territory in your affidavit?
A No.
Q Why is that?
A I wouldn't know.
MR. MACAULAY: Does any member of your family use that territory now?

MR. GRANT: The house or family?
MR. MACAULAY:
Q I am talking about the family. It is a big family.
A The family, they use it.
Q Yes. Which one of your brothers or sisters uses that area?
A Well, that would be Sadie's -- my younger sister's children. They hunt up in that area.
Q Do they hunt moose?
A Yes.
Q Do they trap there?
A That I don't know.
Q You haven't heard?
A Well, I never questioned them.
Q But they have told you that they hunt up there?
A Well, that's where they hunt. They don't go and hunt just any place.
Q And they hunt there because it is Gwoimt's territory?
A They hunt there because they are concerned about the area and Gwoimt owns the territory.
Q Is there a claim to that territory by the Kitwancool people?
A At one time I guess they did.
Q And where does that stand, that claim?
A That is before my time. You don't take my word on it. It is just what mom said they went to court and they won the court case on account of that they were in that area way before my time.
Q Who went to court?
A Gwoimt.
Q Gwoimt did?
A Yes. The chief at that time.
Q Yes. And they won that lawsuit --
A Yes.
Q -- that they started?
A Yes.
MR. GRANT: Well, I don't know if it was a lawsuit.
THE WITNESS: It was taken up in court.
MR. MACAULAY: Well, a proceeding in a court that's what the witness said.
MR. GRANT: The witness described it as a court proceeding.
MR. MACAULAY:
Q And is your mother claiming that territory in this action, in this lawsuit?
A That I don't know.
Q Now, which -- what are the names of the rivers and

valleys in that Gitan gwalxw territory?
A That's a different area all together. I haven't been up that way. I just hunt up there.
Q You go up there yourself?
A I sport fished up there quite a few years ago. I know just approximately where it's at. There is a cabin there, a landmark apparently. It is supposed to be still there, I don't know.
Q And is there a valley in that territory?
A That I can't say.
MR. MACAULAY: Well, are there any -- do you know the names of any lakes in that territory?
MR. GRANT: English or Gitksan?
MR. MACAULAY:
Q Either?
A All I know is that Gitan gwalxw, that's the territory.
Q But that's the name of the whole territory?
A I am not familiar with that area myself. Mom is. She trapped up there.
Q But you have been there yourself?
A Just sport fishing.
Q Right. And did you notice whether or not there was a large valley or some other unusual feature in that area?
A It is all a lake there. I presume it was flat.
Q Yes.
A Swan Lake.
Q Is Swan Lake part of the territory?
A That I don't know.
Q Now, coming back to the first territory, the one that's described in your affidavit?
A Tsuwinhl Getsit.
MR. GRANT: He said Tsuwinhl Getsit.
MR. MACAULAY:
Q What name did you call that?
A Tsuwinhl Getsit.
THE INTERPRETER: It should be G-E-T-S-I-T. It is just past Tsuwinhl Geets, but the way he says it is Tsuwinhl Getsit.
MR. MACAULAY:
Q Well, the name you first used, is it these two words? The first time you pronounced the name, was it those two words?
A Tsuwinhl Geets.
MR. GRANT: Is that yes?
THE INTERPRETER: Yes.

MR. MACKENZIE: Mrs. Howard gave a different name.
MR. MACAULAY:
Q Well, is there another name for that territory that you know of?
A No.
THE INTERPRETER: Are you talking about when he said Getsit?
MR. MACAULAY: Yes.
THE INTERPRETER: That's the name of the creek in Tsuwinhl Geets territory. Tsuwinhl Getsit, it is one in the same.
MR. MACAULAY: Did you know that --
MR. GRANT: Just to be clear because of his pronunciation question, the witness has given Tsuwinhl Geets which is on page 2 of his affidavit. There was a pronunciation of Tsuwinhl Getsit which would be the first name -- that is the first word of that name and Getsit is the second word under number 2 under Rivers and Creeks on paragraph 7. So just to be clear, those are the two words that are being talked about or two pronunciations of the same word.
MR. MACAULAY: Did you know that in this lawsuit when this lawsuit started it appeared that Geel was claiming a large part of the area that you describe in your affidavit? Did you know that?
MR. GRANT: Well --
MR. MACAULAY: I am asking if he knows that.
MR. GRANT: Well, I am not sure if the foundation of that is true unless it is based on his interrogatory answer. Because if it is based on draft maps they were never put in as part of the claim Exhibit 5.
MR. MACAULAY: Exhibit 5. Exhibit 5 whatever it is is an exhibit at the trial. And --
MR. GRANT: I'm sorry, there is a draft map which was Exhibit 5 in the discovery of Mr. Sterritt. I can't recall what trial exhibit it is.
MR. MACAULAY: 102.
MR. GRANT: If that's what you are referring to.
MR. MACAULAY:
Q No, I'm not referring to that. I am referring to Exhibit 5. Well, we will start again. Mr. Wale, the plaintiffs in this action put in a big map as one of their first exhibits.
A What do you mean by the plaintiffs?
Q The plaintiffs are all the Gitksan hereditary chiefs. They are represented by one group of lawyers at court. You know that, don't you?
A Yes.
Q And your mother is one of the named plaintiffs. She

is a head chief of the house so she is one of the plaintiffs. Early in this lawsuit at trial a big map was marked as an exhibit and it showed various territories of various houses. And in the territory we are talking about now, the one you are describing here in your affidavit the southwestern part of it had the name Geel, not the name Gwoimt. Did you know that?

A No, I didn't. Did you say it was overlapping, that's what you mean? I didn't know.

Q Did Geel ever trap in the southern part of the area that you describe in your affidavit?

A That I don't know.

Q The southern boundary of your territory is known in English as Sterritt Creek; is that right?

A Xsa Iss?

Q But are you aware on the government maps it is called Sterritt Creek?

A I noticed a sign there saying Sterritt Creek.

Q Right. And that's your southern boundary on that creek that has a sign saying Sterritt Creek?

A Yes.

Q And in fact in your affidavit -- look at your affidavit about the eighth line of paragraph five and the ninth line there is a reference to Xsa Iss and then in brackets Sterritt Creek?

A Yes.

Q And that's the southern boundary?

A Yes.

Q And that's a creek that flows from Thomlinson to the Skeena River?

A That's the range it is coming from, the mountain range.

Q Now, in that area near the confluence of the Skeena and Sterritt Creek, did you ever trap in that part of the territory -- of your territory? That would be north of Sterritt Creek and east of the Skeena?

A No, not in that area. My brother and late Austin trapped in that area. That was a while back. I never trapped myself there.

MR. MACAULAY: Did Geel hunt goats in around Mount Thomlinson?

MR. GRANT: What time frame are we talking about?

MR. MACAULAY:

Q Any time that he knows about?

A I don't know.

Q Are there goats on Mount Thomlinson?

A Yes.

Q Do you hunt them yourself?
A No, I don't. A lot of hunters go in there and hunt them, white people, you know.
Q I am not asking about --
A But you are asking for hunters. There is white sport people go up there and hunt.
Q Is Mount Thomlinson in your Gwoimt territory?
A Part of it, yes.
Q Part of it?
A Yes.
Q Do you know Joshua McLean?
A Yeah.

MR. GRANT: Can we go off the record.

(DISCUSSION OFF THE RECORD)

(BRIEF ADJOURNMENT)

MR. MACAULAY: There was a document, it's a form of will that I showed the witness earlier in this cross-examination. It purports to be the last will of William Wale. I am going to ask that this be marked Exhibit 1 for identification. And for the record, I should mention that the will itself refers to six sketches which are attached. The witness was shown sketch number 5 during the cross-examination. I think it appropriate that the whole document, that is the will plus the six sketches be marked for identification.

(EXHIBIT 1 FOR IDENTIFICATION: Last Will and Testament of William Wale and six sketches)

MR. MACAULAY: And I will provide copies for counsel shortly.
MR. GRANT: As it is an exhibit for identification, of course I have no objection.
MR. MACAULAY: I asked the witness about Exhibit 5. I think I should show him a copy, but it is a photocopy of Exhibit 5. Do you remember --
MR. GRANT: That's Exhibit 5 for identification at trial. It is an exhibit for identification as well.
MR. MACAULAY: Mr. Wale, I was asking you if you knew anything about Geel and a claim Geel might have to an area near Sterritt Creek. And I told you about a map that the plaintiffs' lawyers had put in as an exhibit, Exhibit 5 for identification. I am going to show you a copy of this map now, and

particularily the area that we have been talking about.

MR. GRANT: Just before you proceed to do that, I want to set out for the record that Exhibit 5 is Exhibit 5 for identification. The only identification for which Exhibit 5 was ever used by the plaintiffs was for the identification of the territory of Gyolugyet which territory is not proximate or anywhere near this territory. I shouldn't say that, it doesn't border on this territory or these two territories you are talking about. And no other plaintiff has utilized this map to identify the boundaries of their territory including Gwoimt or Geel. Having said that, you are free to put it to the witness.

MR. MACAULAY:

Q Here is the map. And you'll see the area along the Skeena River that we have been discussing. And there are two houses identified in this area, one is Gwoimt and the other is Geel. And I was asking you about this area that is -- bears the name Geel. You've told me that you weren't aware of any claim by Geel in that area that's north of Sterritt Creek?

A I'm just aware of my own boundaries.

MR. MACAULAY: But you are not aware that Walter Harris or anyone else in the house of Geel made any claim to part of what is part of the territory you described as Gwoimt?

MR. GRANT: Well, that's where I object because I don't think there is any evidence that Walter Harris or Geel made any claim. What there is is there is a map which has been utilized to show the territory of Gyolugyet which has other territories on it, but no witness has claimed that for Geel in evidence and that's why I object to the question.

MR. MACAULAY: Well, I wasn't present at the examination for Mr. Harris and so I can't make a comment on that.

MR. GRANT: Mr. Harris has not been examined.

MR. MACAULAY: Hasn't he?

MR. MACKENZIE: No.

MR. GRANT: So it is very good that you weren't present because all of the counsel would have been interested in knowing what happened.

MR. MACAULAY: However, we have an affidavit of Walter Harris, Geel, in which he --

MR. GRANT: This is the interrogatory?

MR. MACAULAY: Yes. He refers to Sterritt Creek amongst other descriptions of territories.

MR. GRANT: Can I take a look at that? Well, the reference there, the last reference is to Sterritt Creek and numerous fishing holes along the Skeena.
MR. MACAULAY: Yes.
MR. GRANT: Whether that is a claim to the land or a fishing site there --
MR. MACAULAY: Well, we will find out perhaps later. Anyhow, all I am asking this witness, having shown him this map, whether he confirms that he doesn't know of any other claims by Walter Harris or anyone in Geel's house to an area north and east of the intersection of Sterritt Creek and the Skeena River.
MR. GRANT: And up to Shewililba Creek from this mountain?
MR. MACAULAY:
Q Yes.
A All I'm aware of is my own Gwoimt territory. I am not aware of Geel's territory.
Q And Walter Harris has never spoken to you about any claim he might have to any part of the territory that you describe in your affidavit?
A Well, there was talks, but there was nothing serious like --
Q Was there talk between yourself and Walter Harris?
A We agreed that we could perhaps travel on the same area. There is a road pushed right through there and it wouldn't matter.
Q What you are saying is you have no objection to --
A No, I got no objections to if he was, you know --
Q To him travelling through the area?
A There are so many people travelling through there now. You can't keep track of all the people that are travelling through there. They have a road pushed in by Westar and this summer I had a lot of people turned back on account of they were going through our territory. I was really disgusted how they travel through that territory without approaching myself or mom. I didn't quite get some of your question.
Q Well --
A I spent quite an amount of my time up in that area. I have got a cabin on the north end of that trapline. And people do come and break-in those cabins that are up there that belongs to the people that are trapping up there. I'm just so fortunate that mine hasn't been broken in. I've got a lot of stuff in there.
This summer was the worst summer that we had

for people coming in there. Not the native people. They respect their territory. But the white people that are intruding there. They are logging without mom's permission. They've destroyed the territory without consent from my mom. And the game that was there -- I remember the first year they logged there they shot five moose and one salt lick there after they clear-cut. And the salt lick is out where the moose lick and where they get their salt. That's all dried up now. There is nothing there for moose to hang around because there is no shelter.

It is not only that. I can name quite a few games that are disappearing up in that area. Now it's the fishing that's going to be ruined on account of the logging along the river. And I'm really against that because I volunteer myself as an enhancement for working with young kids picking minnows and stuff up, working with them in one of the schools in Hazelton. That's my concern about mom's trapline.

All these years there has been -- you know, we go up there and it is pretty quiet. All the trails are destroyed. Landmarks are destroyed. Cabins destroyed without forestry approaching us sitting across the table and saying: I see your name here that you owned this territory. That hasn't been happening. And I think it is only right that we sit across the table and talk. I can't hurt anybody. We can just sit and talk and agree with something on paper which our people years ago, they didn't know how to read and write. They used to go by X what mom said just to sign a cheque. Is this what they are going for is X when they are dealing with native people? Is it?

Q Well, I am not asking you --

A No, I'm asking you. Do they go for a signature as X and they accept that in any position?

Q I --

A Whether federal or provincial?

Q I can't answer your question because I don't know.

A Well, this is what's been happening. Look at the white people out there now today. They go down the canyon. They dip fish. They go and sell it into Smithers area here. We're against that. I don't sell fish. I spend a lot of time there and I know what people that comes up there, and that kind of hurts me inside. Sure it's okay for mom not to say

anything, a quiet woman. She has got a lot of knowledge, more knowledge than me put together maybe with her own style of life the way she was brought up. I think this is one of the things that we have to recognize, the knowledgeable people that spent all these years trapping, fishing, hunting. Now I have to sign a little piece of paper to get a permit, why is that?

Q Well, that's what this lawsuit is about, Mr. --

A No, but why do I have to sign a paper? My grandfather never signed a paper to go hunting, fishing, trapping. They knew their territory. I'm sorry, you know, I have to bring that up but that's just what's happening. I like to see people sit across the table and say: Hey, look, this is your territory. Let's talk about it and discuss it and see what kind of a direction we are going here.

Q Well, Mr. Wale --

A We are not going any direction at all. We seem to be going in one channel.

Q Well, I'm trying to find out about your territory by asking you questions about this.

A But this is the thing we are facing, that's why I brought it up.

Q Where is your cabin on the territory, is it on the --

A Xsi Liginsxw. Xsi Liginsxw close to Xsi Iss.

MR. MACAULAY: Is that on the affidavit?

MR. GRANT: Just a moment.

THE WITNESS: About half a mile up --

MR. GRANT: Just a moment. It's not on the affidavit. It's just not named, that's all.

MR. MACAULAY: Well, is there an English name on the map that one can refer to to locate your cabin?

MR. GRANT: Do you have a spelling for that name that the witness gave?

THE INTERPRETER: Xsi Liginsxw, Babine River. X-S-I, new word, L-I-G-I-N-S-X-W.

MR. MACAULAY:

Q Well, the English word for that is Babine River, isn't it?

A Yes.

Q So your cabin is on the Babine River?

A Yes.

Q Is the cabin on the Kisgagaas Indian reserve land or off that?

A Laa gaa sim deex it is called. It is part of

Kisgagaas. It is on the west side of Kisgagaas.
Q So the cabin is inside is the boundary of the reserve?
A Yes.
Q Now, getting back to Walter Harris, was it you or your mother who had a discussion about his right to cross your land?
A I don't think anybody is crossing it. It is just -- I don't think there was any crossing. It is just -- you know, since you brought it up I wasn't aware myself.
Q Did you yourself have any discussions with Walter Harris concerning the Gwoimt territory?
A We had talked about that it was close and we both use the land. It doesn't matter whose land because he is my brother-in-law.
Q You are married to his sister?
A No, he is married to my sister.
Q He is married to your sister?
A It was kind of a verbal agreement.
Q So the discussion was about his having permission to use this land?
A Well, like I say there are a few people hunt there and he does hunt there and the boys hunt there. I don't keep track of -- there is so much traffic there now. I can't keep track of anybody. At one time you can.
Q I am asking only about Walter Harris and his family.
A He still hunts in there.
Q Does he hunt up around Mount Thomlinson?
A I don't know.
Q You don't know?
A I haven't seen him hunting there before.
Q Does anybody trap in there now?
A There is quite a few people trap up in there.
Q In the territory that you've described in paragraph 5?
A Not in my territory, their own territory.
Q But in your territory, does any member of your house or anybody with your permission?
A I do trap in there myself.
Q Anyone else?
A No.
Q And within the territory, what area did you trap when you were out this last season?
A Well, just when we were out this summer -- well, late this fall I was trapping on the north side.

Q The north side of the Skeena?
A No, on the north side where I was at on the trapline.
Q Well, the Skeena River intersects your territory; is that right?
A Yes.
Q And part of your territory lies northwest of the Skeena, but the main part of your territory is southeast, south?
A Yes, I trap on that area plus the reserve where there is swamps trapping beaver.
Q Does anybody trap on that small portion of your territory that lies on the other side of the Skeena, that is the west side of the Skeena?
A It is all burned off.
Q And how long has it been burned off?
A Well, I couldn't tell you the exact years, but roughly about ten years, eight years since it -- all that side, that mountain on that side is all burned. I don't know, it is quite an area. It would show on the forestry map.
Q And there is a logging road in there?
A Yes, both sides.
Q Well, the trapping that you do, is it -- is it near the reserve boundary?
A Yes, along in that area, yeah.
Q So it's at the north end of your territory?
A Yes, that's what I said before it is on the north end of the trapline. On the bottom side it is all logged off so you can't trap there. There is so much disturbance with the machinery and logging trucks and loggers that are travelling up and down there you can't do anything. You are run over if you are on the road. So my best thing is not to park. I've been driven off the road with logging trucks. They got no respect for any cars or trucks.
Q Is there still some trapping territory, that is territory that is suitable for trapping along Shewililba Creek?
A They are logging in that area. You know, like I say you have to see it first before you could believe what I'm saying. It is a disgrace how they left things. You can't trap with windfalls and logs that they leave. It is good for pulp, and yet they took the high grade logs out of there and you can't trap there. It is discouraging me to even go up to my own territory on the count of traffic and logging

trucks. The guys when they finish work you have to get out of the road. Loggers, they just don't have respect for anybody, you know, when they go home.

Q So the Shewililba Creek area is now a logging area?

A Yes. What really hurts me inside is they have got logs that they cut on the right of way and they pile it up, and they don't take those logs in on account of it was on the right of way. I don't know what policy the forestry has. I know what you are talking about at Shewililba. They burned three piles of sound logs right in that area.

MR. MACAULAY: Is there an area in your Gwoimt territory called Luu ska Tsee'it? I will spell it. L-U-U, S-K-A, T-S-E-E, apostrophe, I-T.

THE INTERPRETER: Where is that?

MR. MACAULAY: It was a word that was used by Joshua McLean. It doesn't appear in the affidavit. I am asking you if you are familiar with it.

THE INTERPRETER: Can you give me the spelling again?

MR. MACAULAY: L-U-U, S-K-A, and then another word T-S-E-E, apostrophe, I-T. And if you could -- Mrs. Howard, if you could pronounce that properly for the witness.

MR. GRANT: Can we go off the record a moment?

MR. MACAULAY: Sure.

(DISCUSSION OFF THE RECORD)

MR. MACAULAY:

Q Is there a feature or either a hill or a creek or a marsh or a meadow, some geographic feature in your territory that has that name?

A Yes.

Q Which --

A I couldn't remember just whereabouts it is.

MR. MACAULAY: Okay.

MR. GRANT: Just to be fair, my understanding from the notes and I presume these notes that you are taking it from are that these are Mr. Sterritt's notes. But there are two of -- there are two Luu ska Tsee'its, that's what the top part of that note says so I just think to be fair to the witness --

MR. MACAULAY: That is not my understanding that I got from Mr. McLean. My understanding from Mr. McLean is there are two creeks which have that as part of the creek names.

MR. GRANT: Yes.

MR. MACAULAY: And then there is a feature in behind.
MR. GRANT: Which is the Luu ska Tsee'it?
MR. MACAULAY: Yes.
MR. GRANT: So you are asking about the feature in behind?
MR. MACAULAY:

Q Yes, not about the creeks. Do you know Abel Oakes?
A Yes.
Q Is he still alive?
A No, he passed away quite a number of years ago.
Q Now, he put up a pole at Gitanmaax 30, 40 years ago?
A That I am not aware of. I was too young at that time.
Q Was he a member of your house, Gwoimt?
A He is a member on mom's side, yes.
Q Yes. Well, is there a pole new at Gitanmaax that is a Gwoimt pole?
A Yes and no. I can't say for sure, but they have all fallen down and they are all rotted and you can't replace them.
Q Well, of these poles that have fallen down, can you identify one as being a Gwoimt pole?
A The only pole that I am aware of up where I've got my cabin at Laa gaa sim deex. There was a pole there and it belonged to Gwoimt.
Q Yes.
A And I know the exact location, but that is a number of years ago. It is all mossed in. I wanted to dig it out, but I haven't touched it yet.
Q And how long was that pole raised?
A Oh, that was way before my time.
Q And did your mother --
A Before mom's time too.
Q I see. In your lifetime, has there been a Gwoimt pole raised either at Kisgagaas or at Gitanmaax?
A That I can't say.
Q Was there a smokehouse built in 1984 by Gwoimt?
A In what location?
Q I don't know. Anywhere in the Gitksan area?
A There is a smokehouse that I built up where my cabin is.
Q Did you build that in 1984?
A I couldn't remember the year, but it's not really that old. It is right next to my cabin I built a good size smokehouse beyond Gwoimt's territory on the reserve where I am.
Q And before you built that smokehouse, was there any Gwoimt smokehouse anywhere in Gitksan territory?

A I guess so, but I'm not aware of it where I built my wilp sahon. I'm not aware of it, but they are probably all decayed down you might say.
Q Well, when you were young and when your father was alive, did he have a smokehouse?
A Yes.
MR. GRANT: The question before was whether there were smoke houses and the Gwoimt territory; is that right?
MR. MACAULAY:
Q No, a Gwoimt smokehouse anywhere in Gitksan territory?
A Oh, going back, my grandmother had a smokehouse in Hazelton where she had her property. That was a long time ago. She was Gwoimt then if that's what you're referring to.
Q And was that still in use when you were young?
A Yes.
Q When did it -- when did your house or family stop using it?
A When they moved out of the house it wasn't in use then. They built a new home in Hazelton.
Q And how long ago did they build a new home in Hazelton?
A Well, a fire on the house in '56 on the new home that was built before that.
Q The new home was built sometime before '59 after?
A Yes. Our new home burned in '56, that's all I remember.
Q And during the interval between the abandonment of your grandmother's smokehouse and your building a smoke house in the last few years --
A Yes.
Q -- has there been any Gwoimt smokehouse?
A Well, you could call my smokehouse Gwoimt because it is on her territory.
Q Yes, but you built that in the last few years?
A Yes. And what I do is I give her all the smoked fish that she provides during winter months. She herself, she can't do that on account of her age.
MR. MACAULAY: But before you built that smokehouse there was no Gwoimt smokehouse for many, many years; is that right?
MR. GRANT: I just want to be clear because when you say "Gwoimt" smokehouse, are you referring to a smokehouse used by the person named Gwoimt or a smokehouse used by the member of the house or a smokehouse on the Gwoimt territory. I think there

is a little bit of confusion by the witness as to what you are referring to.

MR. MACAULAY:

Q I am asking about a smokehouse used by any member of the home or by any member of the wilp Gwoimt before you built yours in the last few years?

A Yes, there was one across from mom's mother's ranch across from Hazelton. She had a smokehouse there.

Q That was your grandmother's smokehouse?

A Smoke house. And then mom and dad were there too during the summer.

Q Yes. And that was no longer in use after the new house was built?

A Well, there were new regulation on the town you are not supposed to have built smoke houses. It has got to be outside of town. So we've got one outside of town quite a ways.

Q Well, the one outside of town is the one you built in the last few years?

A Oh, I can't build it in Hazelton right next to my house.

Q No.

A Because the municipal would jump your back right now. They don't like that. At one time when I was younger there was -- you name it, just about every house on the reserve has a smokehouse where they hang their fish during the winter months.

MR. MACAULAY: Well, does Howard Wale have his own smokehouse?

MR. GRANT: Today?

MR. MACAULAY:

Q Today?

A No.

Q How about Wilfred Wale, does he have his own smokehouse?

A Wilfred doesn't have a family. Howard he gets all his fish from when he is commercial and sport fishing when he gets back from that.

Q And Sadie Harris, your sister, does she have a smokehouse?

A I don't know. She lives out at Kispiox and you have to --

Q And Wally, your brother Wally, does he have a smokehouse?

A He is deceased a year and a half ago.

Q How about Bernard?

A Bernard is in Rupert right now and that's where he is staying.

Q How long has he lived in Prince Rupert?
A About a couple of years ago, a year and a half.
Q Before he moved to Rupert did he have a smokehouse?
A Oh, he shared -- like we share our smokehouse.
Q The one you built?
A Yeah.
Q Right. Well, is it fair to say that you are the only member of your house who was operating a smokehouse now?
A Well, it is shared.
Q Yes.
A You could come in and hang your fish there.
Q The other members of the house can use it?
A Yes.
Q But there is no other smokehouse that's being used by --
A Not in Hazelton, no.
Q At Hazelton.
A It would be out of Hazelton.

MR. MACAULAY: Or anywhere else?
MR. GRANT: Well, I think there is some major -- the witness was answering some more, I think you should --
MR. MACAULAY: He is doing very well, but I am trying to find out if there is any other member of his wilp who is operating a smokehouse?
MR. GRANT: Other than the one that he has?
MR. MACAULAY: Yes.
MR. GRANT: You said he said that has been used. Maybe that should be translated.
MR. MACAULAY:

Q Sure.
A As far as he knows he is the only one that has a smokehouse in the family. He doesn't know about the other members. Sadie might be just sharing one with Margaret Foster in Kispiox.
Q Are you the registered holder of a trapline? Are you the holder of a registered trapline?
A Yes.
Q And is that the trapline that used to be registered in the name of Austin Mathews?
A Yes.

MR. MATHEWS: I'm showing you a trapline map and it's part of a government file. I'm going to ask you if that -- first, have you got a map that is similar to that?
MR. GRANT: This is one of your listed files, I gather?
MR. MACAULAY: Oh, yes. Do you want the number? That's an original you see. Our document number is 4590.

MR. GRANT: It is like a tracing paper. I think it would be agreed that the drawing is on tracing paper, if not on a --

MR. MACAULAY: It is the usual material that these trapline maps are drawn on.

MR. GRANT: Can I take a moment to look at this. I understand it is a print -- it is different. It is a form of drafting paper. I differ that it is the normal form of trapline maps. At least provincial maps are maps the province delivers generally are not on this form the ones that are utilized.

MR. MACAULAY: Well, that may be.

MR. GRANT: Go ahead.

MR. MACAULAY:

Q Have you got a map that is similar to that one that you are looking at?

A Similar, yes.

Q And are the boundaries of the trapline, the registered trapline similar to the boundaries shown there?

A The territory that we call Lax yip could be a little different in areas. You go by mountain and creeks for your guidelines.

Q You mean your map has more detail about say mountains?

A Not really.

MR. GRANT: He is referring to -- the answer was referring to his Lax yip.

MR. MACAULAY: What's Lax yip?

THE INTERPRETER: That's hereditary territory.

MR. MACAULAY:

Q I am not asking you about your hereditary territory. I am asking you about your trapline. Have you got a map like this?

A Yes.

Q With your territory?

A Yes.

Q And does your map have your name or Austin Mathews on it?

A It is not marked like that.

Q It isn't. It doesn't have Austin?

A The old maps are all marked with their names on it.

Q Did you get a map from the game officials?

A Yes.

Q And was that after you registered your trapline?

A Oh, that was way before I was on the trapline and I picked it up just to compare it.

Q You picked it up at the game office?
A Yes.
Q And your trapline is a company trapline as they call it, isn't it?
A Yes.
Q It is Frederick Wale and Company?
A Yes.
Q And who is in the company?
A My brothers and sisters.

MR. MACAULAY: All of them?

(NO AUDIBLE RESPONSE)

MR. GRANT: Nodding affirmatively.
THE WITNESS: They wouldn't have to be all there, but that's how we understand it.
MR. MACAULAY:
Q So Sadie Harris is on your company trapline?
A Yes, she belongs to our house.
Q Well, before you held the trapline it was your mother's trapline?
A Yes.
Q And before that it was --
A Austin's.

MR. MACAULAY: Austin's. Do you know about any dispute with your neighbour Joshua McLean or William McLean, his father, about who owned the east side of Shegisic Creek?
MR. GRANT: What time are you talking of?
MR. MACAULAY: In William McLean's lifetime.
MR. GRANT: And Austin Mathews?
MR. MACAULAY:
Q Yes. You are not aware of that?
A No, I'm not aware of it.

MR. MACAULAY: For the record, I was showing the witness the map forming part of DIA file E5828 which is our document number 4590.
MR. GRANT: Before re-direct I would like to have a chance to read that file.
MR. MACAULAY:
Q Now, I am going to spell out a name because I can't pronounce it. I will ask you if you recognize the name as being a name of a territory, a Gwoimt territory. A-N-L-A-G-A-S-I-M-D-E-E-K. I will spell it again. A-N-L-A-G-A-S-I-M-D-E-E-K. Perhaps Mrs. Howard could pronounce that for you. Do you recognize that name?

A Yes.
Q And is that a territory?
A That's where mom is -- where we are from originally from Anlaagaasimdeex. Mom is a chief there. That is the name.
Q Well, is it a place?
A Yes, it is a place. It is part of Kisgagaas Village on the west end of the village.
Q It is inside the Indian reserve now?
A Yes.
Q And was that the name of a piece of ground?
A Anlaagaasimdeex, yes.
Q I see. Was there a longhouse on that piece of ground?
A That's where that totem pole was down.
Q Right. And was there a longhouse there? Were you told by your mother about a longhouse being there?
A No, she never mentioned it.
Q But as you understand it, in olden times --
A Yes, that was a long, long time ago.
Q Your wilps, wilp Gwoimt lived there?
A The previous Gwoimt you might say.

MR. MACAULAY: At the feast is there any mention of the territory up by Swan Lake?
MR. GRANT: At what feast are you talking about?
MR. MACAULAY: Feasts put on the by the members of the house of Gwoimt?
MR. GRANT: That this witness has attended you mean?
MR. MACAULAY:

Q Yes, obviously that you've attended?
A Not that I know of. When I attended a feast that would be quite a while back. That would be when Phillip Johnson -- Phillip Johnson, that was way before, and I would be just a baby maybe.
Q When was the last feast of your house that your house put on?
A When my late brother died February 19, 1987.
Q Which brother was that?
A Late Wally Wale.
Q Wally. And before that when was there a feast of your house?
A That I can't tell you the date, you know. I can't tell you that.

MR. GRANT: Just a moment.
THE INTERPRETER: That was the only -- it was the last feast that he remembered that the house of Gwoimt put on is when Wally died.

MR. MACAULAY: Yes. And I asked him about the one before that and his answer was he didn't remember; is that right? I just want to make sure I have that.
MR. GRANT: I was just asking the interpreter to ask him if he wanted a break because you are on a sensitive personal area and if he feels like a break I would like him to have a break.
MR. MACAULAY: I don't object to a break.

(BRIEF ADJOURNMENT)

MR. MACAULAY:
Q Mr. Wale, is there an adaawk of your house that refers to or describes in any way the territory near the Swan Lakes?
A Yes, my mother knows of one.
Q Have you heard that adaawk at the feast hall?
A They have one and my sister Sadie has it. We don't like to tell it outside of the house, but it is told within the house.
MR. MACAULAY: Now, when did you last hear that adaawk?
MR. GRANT: This is the adaawk relating to Swan Lake?
MR. MACAULAY:
Q Yes.
A One of the house members told it on a tape. It is in the possession of my sister Sadie, and we listen to it.
MR. MACAULAY: Those are my questions. Thank you, Mr. Wale.

MR. MACKENZIE: I missed some of the questions so if I ask a question that I missed, you'll tell me.
MR. GRANT: He was asking about an adaawk relating to Swan Lake.

CROSS-EXAMINATION BY MR. MACKENZIE:
Q I would like to ask you about that adaawk relating to Swan Lake, Mr. Wale. You have heard the adaawk on tape?
A Yes.
Q And it is in which language?
A Gitksan.
Q And can you tell me when you last heard it?
A Last spring.
Q And does that adaawk refer to any territory other than Swan Lake?
A It talks about the territory in the Kisgagaas area Tsuwinhl geets.
Q Does the adaawk talk about the territory at Gitan

gwalxw and the territory at Kisgagaas?
A Can you say that name again, please?
MR. GRANT: By Kisgagaas you are referring to the Tsuwinhl geets territory?
MR. MACKENZIE:
Q Yes, Tsuwinhl geets.
A He talks about the territory of Tsuwinhl geets.
Q Just those two territories.
A I can't tell you for sure because I only listened to it once. I know it talked about Tsuwinhl geets.
Q So are you telling me that the only time you heard the adaawk was last spring?
A Yes.
Q You hadn't heard it before then?
A Different areas, but this is the first time that I heard the tape in our own language by one of our relations Arthur Sampson.
Q Is Arthur Sampson related to you?
A He is related on mom's side.
Q He has passed away now?
A Yes.
Q Is he a member of the house of Gwoimt?
A I can't say for sure.
MR. MACKENZIE: Can you say that Arthur Sampson spoke about the Gitan gwalxw territory?
MR. GRANT: On this tape?
MR. MACKENZIE:
Q On this tape?
A I can't remember. The only part was at Kisgagaas where I have got my cabin so I was more interested in that area.
Q So you can't recall whether it included the Gitan gwalxw territory?
A I can't say.
Q But your mother has told you about the Gitan gwalxw territory?
A Yes.
Q And can you tell me when was the last time she may have told you about it?
A Not the exact date, no.
Q Can you tell me what she said about that territory?
A She told me that one of her grandchildren took the name. Shawn Harris took the name in one of the feasts. He is the one that is hanging onto that territory.
Q Do you know if any member of your house is trapping in that territory?

A Like I said before, I think Walter's boys do hunt there. I don't know if they are trapping or what they are doing, but I know they travel up and down there quite often because they are right up to Kispiox.
Q They go up the logging road past Mitten Lake?
A Yes, they do.
Q Yes. And your territory is before you get to Swan Lake, is it not?
A I'm not really too familiar with that area.
Q I see. Can you tell me -- you said that you were hunting and fishing up there. Can you tell me where you were hunting and fishing?
A At Sweetin. Down below Sweetin.
MR. MACKENZIE Well, that gives us an idea where you are talking about. So you have an idea that your territory is up near the west of Sweetin?
MR. GRANT: The witness has said he is not too sure of the territory and below Gitan gwalxw. He is giving about the best description he can give.
MR. MACKENZIE:
Q You said you were in Sweetin?
A Fishing.
Q And you think that is just below Gitan gwalxw?
A Above.
Q What do you mean by "above"?
A Up river.
Q And when you say "up river", do you mean the Kispiox River?
A Yes, where the two rivers meet there Sweetin and Kispiox.
Q And can you say that Gitan gwalxw is up the river from Sweetin?
A I'm not too sure. I am not really familiar with that area.
Q No, I understand that. But I thought you said --
A I fished there.
Q Well, do you know the name of the next river west of Sweetin?
A No.
Q No. Have you been west of Sweetin on the Kispiox logging road there?
A No.
Q Do you know that your -- that Walter hunts west of Sweetin?
MR. GRANT: Walter who?
MR. MACKENZIE:

Q Walter Gale -- I'm sorry, Walter Wale, your brother? Do you know that your brother --
A I haven't got a brother name Walter Wale.
MR. MACKENZIE: I'm sorry. Do you know that your brother hunts west of Sweetin?
MR. GRANT: Which brother?
MR. MACKENZIE:
Q The brother that you said was hunting there? You said your brother was hunting up in that area. You said that Sadie's family was hunting up there?
A No, I didn't say that.
MR. MACKENZIE: Can you tell me what you said then please?
MR. GRANT: No, I object to that question. The witness has been cross-examined for two and a half hours.
MR. MACKENZIE:
Q Can you tell me what you said about the members of your family hunting and fishing in that area?
A My own area is at Kisgagaas.
MR. MACKENZIE: No, can you tell me what you said about the members of your family hunting up at Kisgagaas area.
MR. GRANT: I object. You can ask him what he knows about that, but you can't expect this witness two and a half hours into cross-examination to remember what he said two half hours ago. It is a totally unfair question. You have your notes on what he said.
MR. MACKENZIE:
Q Your sister Sadie's children hunt up there; is that correct?
A Yes.
Q And they hunt moose up there?
A Yes.
Q Do you know whether that is west of Sweetin?
A That I can't say.
Q Do you know whether they hunt near Gitan gwalxw?
A Come again?
Q Do you know whether they hunt near Gitan gwalxw?
A Yes.
Q And how do you know that?
A By talking to them.
Q And did they tell you where they were hunting?
A Yes.
Q And where did they say they were hunting?
A Up in that area.
Q Did they give the name of the place they are hunting?
A You don't usually give a name when you are talking to people where you were hunting. Were up that way

in that area, and they say yes.
Q And which area did they say?
A Up towards that area you are referring to.
Q Well, how did they refer to the area?
A What do you mean?
Q What name did they use for the area?
A They would say past Sweetin.
MR. MACKENZIE: And you understood that to be west of Sweetin?
MR. GRANT: Well --
THE WITNESS: I don't know for sure. I have to look at the map before. There is a bridge across there. I don't know if it is west or east.
MR. MACKENZIE:
Q I see. Can you read maps?
A Not very good.
Q You said you would have to look at a map.
A Well, I can read but not very good.
Q I see. If you looked at a map could you tell where they are hunting?
A They don't tell me the location, the exact location if that's what you are after.
Q Okay. Has any member of your family told you where Gitan gwalxw is?
A Yes.
Q And where is Gitan gwalxw?
A It is up towards Swan Lake area.
Q Is it before you get to Swan Lake?
A That I don't know.
Q Oh, I see. Has any member of your family told you of the river valley at Gitan gwalxw?
A No.
Q Do you know that it is the Nangeese River?
A I think that's what they call Swan Lake, Nangeese. Don't take me right on --
Q Have you heard of the river, the Nangeese River?
A It was mentioned.
Q And when would it have been mentioned?
A Oh, I couldn't tell you that.
Q Who would have mentioned it?
A My mom.
Q And is that where she was trapping?
A Yes.
Q Yes. Is that where Phillip Johnson was trapping?
A Yes.
Q Yes. And do you know that's where Abel Oakes was trapping?
A I don't know.

Q Do you know that's where Austin Mathews was trapping?
A No.
Q Now, your mother was trapping on the Nangeese River. Is that the territory claimed by Gwoimt?
A Yes.
Q Yes. And would your mother tell you how far up the Nangeese River?
A We don't go by miles.
Q Would she say it was up to the headwaters of the Nangeese River?
A That I don't know. She only told me there is a cabin there where she used to stay.
Q Oh, yes.
A And she figures it is still up.
Q Oh, yes.
A Unless there are loggers that pushed it over. I wanted to go check it this summer, but I never had a chance to go up in that area because I'm concerned about it myself.
Q Oh, yes. You haven't been up there yourself I take it, have you?
A No.
Q Do you know where that Nangeese River is?
A No.
Q Did your mother have a registered trapline up there?
A That I don't know.
Q Do you know if anyone is trapping up there now on the Nangeese River?
A There was some white people trapping up there and they took quite a bit of fur out of there without our permission. He came and approached me. I said: Do you know whose trapline that is? He said: Yeah. He said: Can we have your permission? That was after they trapped there, and I said: No. You are trespassing.
Q Yes.
A And they told me they got a lot of beavers out of there and that was after they did that and then come and ask me. I don't know what kind of a --
Q Do you know who that was?
A David Larson.
Q Does he live in Hazelton?
A He lives close up in that valley, up in that area.
Q Up at Kispiox?
A Yes. There is so much of it going on you can't keep track of the white people that are trespassing on

different territory. I think it is hurting a lot of our elders, you know. Our traditional way of life is to respect and to ask before you even go on the territory. And those territories have been going for I don't know how many generations, five that I know of just about is what mom said. And I think it is just kind of a ridiculous way of approaching our people. To me we are not existing as far as the loggers are concerned, you know. How would they like it if I go and treat somebody's private property. It's the same thing. You are trespassing. This is what they are doing. This is before the Europeans come to this area that our ancestors trapped, logged, fished and they never trespassed any territories at all. They have respect.

Q Your ancestors Gwoimt?

A Now today, you know, they are coming in and just slaughtering the area. I don't think that's fair, you know, without approaching chiefs. You deal with that in a feast house.

Q Yes.

A And these people, they just laugh at you if you mention feast house. How much money they spent to get that name and that territory which has been traditionally passed on and on. What do I tell my kids and my grandkids? I have got grandkids. They would be saying: You're a liar. Look it is cleared off. Where is the trail? Where is the cabin that you are telling us that you used to go by the trail? Where is the trails? Where is the cabins? How do I answer them? You know, you probably have a family yourself. You set goals for them to be educated. We educate our kids out in the wilderness where we are raised as young people, not as warriors.

Q So did your mother tell you that the people in Gwoimt had been using the Nangeese Valley for over five generations?

A Well, it is close to that. She didn't say that, but by just looking at the people that are, you know, on their stones and stuff that she had mentioned names. I was going to take pictures of the years that are marked on the tombstones.

Q Oh, yes. Well, you have spoken with great respect for your mother's knowledge and she was very knowledgeable about all the Gwoimt territories.

A Thank you.

Q And that's what you've told us.
A Thank you.
Q And she has the knowledge about the territory and the Nangeese Valley.
A Yes.
MR. MACKENZIE: She has the territory about the Tsuwinhl geets territory?
MR. GRANT: She has the territory --
MR. MACKENZIE:
Q She has the knowledge about the Tsuwinhl geets territory.
(NO AUDIBLE RESPONSE)
Q Nodding yes. And it would be from your mother that you learned much of the knowledge you had about Gwoimt's territory?
A Yes, she took the time to talk to all of us.
Q Your mother is still alive?
A Yes. I was sorry I was going to bring her today and she could have explained more briefly what's there.
MR. MACKENZIE: Can you tell me whether you and your mother are claiming the Nangeese territory now?
MR. GRANT: In this lawsuit?
MR. MACKENZIE:
Q In this lawsuit?
A It would be up to Shawn. Shawn was given the name. He took the name of the previous holder of that area so it would be up to him.
Q I guess there is no doubt in your mind that that Nangeese Valley is Gitksan territory?
A Yes, that is right.
Q Now, speaking about the Nangeese Valley, you also told us about your mother mentioned that the dispute that Phillip Johnson had a long time ago?
A Yes.
Q Yes. And your mother had told you that it had gone to some sort of a court?
A Yes.
Q And did she tell you that she had succeeded in that court hearing?
A Yes, and it took awhile and they won the case.
Q Do you have any sense of when that might be?
A No.
Q I actually have a -- I have a record of that court hearing here.
A Oh, have you?
MR. MACKENZIE: Yes. And I wanted to --
MR. GRANT: How convenient.

MR. MACKENZIE: Mr. Grant is very appreciative. I have a copy for Mr. Grant as well.
MR. GRANT: I would be even more appreciative if you gave it to me. That was my first question as to what document this is. Is it provincial --
MR. MACKENZIE: It is on the front.
MR. GRANT: 3439?
MR. MACKENZIE: Yes.
MR. GRANT: For the record, although this is listed, this is not a document which has been reviewed by this witness. It's about 18 pages long and it appears to be an excerpt from one of your larger document files, I presume traplines. So this witness has had no opportunity to review this or neither has counsel. It has not been reviewed I should say.
MR. MACKENZIE: No, this is just an extract. This is what the document number is and it deals with this problem with the dispute. I think that's all we have is the extract.
MR. GRANT: Just so I'm clear, this document that you are giving me is an extract from a larger document number, but what you are saying is that this is all of the documents relating to this particular incident?
MR. MACKENZIE: Yes.
MR. GRANT: That are in that number?
MR. MACKENZIE:
Q Yes. You've already mentioned the names of several of the people in your house. Your mother told you that the dispute was with Amos Williams? Did she say that, his name?
A I couldn't remember the exact name, but people from Kitwancool.
Q Well, I would like to mark this document as an exhibit then and it is an archival document as indicated there for Public Archives of Canada.
A What year was that?
Q It was 1932 was the actual hearing.
A That was the day I was born, the year 1932.
MR. MACKENZIE: It is a little before your time. And the dispute had been going on for sometime, apparently, for several generations.
MR. GRANT: Well, wait a minute. If you wish to give evidence, I would be only too happy to cross-examine, but I don't think you should give evidence.
MR. MACKENZIE: Just responding to Mr. Wale's question. At any rate, Mr. Wale, I have given your counsel a copy so you will be able to look at it when you get a

chance. And can we mark that as Exhibit 2, please.
MR. GRANT: For identification.
MR. MACKENZIE: Well, of course this week we are not arguing about things, but I will just set out my understanding that archival documents should be marked as exhibits and not for identification. If you have an objection to it then I don't think we have any alternative.
MR. GRANT: Well, I want to review the document. It is a faxed document. It is an excerpt from your larger document which presumably we have or I can get access from you. I want to be satisfied myself as to what this document is.
MR. MACKENZIE: That's fine.
MR. GRANT: I don't have time now.

(EXHIBIT 2 FOR IDENTIFICATION: Public Archives of Canada Document dated 1932)

MR. GRANT: And also of course this document has not been identified by the witness.
MR. MACKENZIE: Yes. I have no further questions.
MR. GRANT: I would like to take five minutes so I can quickly scan some of my material.

(BRIEF ADJOURNMENT)

RE-EXAMINATION BY MR. GRANT:

Q Mr. Wale, you were asked by Mr. Macaulay this morning about the work you had done and you've described your work as a home school co-ordinator for many years, your present work as the cultural co-ordinator with the Wilp Sisatxw Society, and also your work prior to that time in I believe logging -- I'm sorry, trucking. You worked underground and you worked in the hardware business and briefly commercial fished on the coast at the time your father was there. During those other -- the times you did those other jobs, did you continue to -- did you trap on the Gwoimt territory at Tsuwinhl geets?
A Yes.
Q And you've described that you still trap there. When you go out on the territory, do you take anything aside from fur bearing animals that you use or for your mother?
A Medicine that I collect for mom.
Q What kind of medicine?

A Devil's Club, Huu'umst they call it. I pick that every spring and every fall when there is no leaves on the Devil's Club. We use that for medicine.
Q And how often does your mother use it?
A She uses it quite regular.
Q What is it medicine for?
A It is for -- she figures it is helping her with her sugar diabetes, controlling her sugar diabetes. She is not taking as many pills now as when they first detected her, and she has always taken that to help control her blood sugar.
Q Your mother is not very well?
A No, she isn't. This is one thing that I do is preserve fish and smoke fish and bring some smoked moose or beaver meat from my cabin to her. That's her diet and she likes those kind of wild games.
Q Do you use the trees from your territory?
A Yes, we built about five or six cabins there from the reserve timber.
Q Mr. Macaulay showed you the Gwoimt genealogy of January 20, 1988 and asked if Clarence was on there. And, in fact, your brother Clarence should be on there as one of your brothers, as one of your mother's children in the house?
A Yeah.
Q And you had a chance prior to being cross-examined to review this five page genealogy, didn't you?
A Yes.
Q You looked over it?
A I looked over it, yes.
Q And other than the absence of Clarence, does that genealogy show the members of your house and some of the previous deceased members to your knowledge? Does it accurately reflect them?
A The only one missing was Clarence on there. It is just a mistake I guess.
Q Other than that it was correct?
A Yes.

MR. GRANT: Can I have that marked as the next exhibit, please.

(EXHIBIT 3: Genealogy of the House of Gwoimt)

MR. GRANT:
Q You were asked by Mr. Macaulay about the relationship between Gwoimt and Tsabux, Tsabux being Wilmer Johnson. Do you remember him asking you about that?

A Yes.
Q Can you tell me in the feast hall where does Gwoimt, your mother, and Tsabux, Wilmer Johnson, sit in relation to each other?
A Mom sits in the middle of the table.
Q Yes.
A Like so on the other side. She sits in the middle of the table and Wilmer Johnson would be on the right-hand side of mom at the table.
Q Right beside her?
A Yes.
Q And who would sit on her left-hand side?
A My sister Sadie.
Q And would you be sitting -- where do you sit in relation to your mother, on which side of her?
A On the left-hand side maybe -- not maybe, but the fifth seat over to my mom's left.

MR. MACKENZIE: How many seats over?
MR. GRANT: Fifth seat over.
MR. MACKENZIE: I'm sorry.
MR. GRANT:

Q Who was your sister Sadie married to?
A Walter Harris.
Q And what chief's name does he hold?
A I can't pronounce it.
Q Okay. Do you recall -- you recall it but you just can't pronounce it?
A I can't pronounce it.
Q Okay. Do you know the name Geel?
A Yes.
Q Who holds that name?
A Walter Harris, Sadie's husband.
Q Now, Mr. Macaulay asked you about the area around Gitan gwalxw and you indicated that the Kitwancool claimed part of that area. Mr. Mackenzie filed as an Exhibit 2 here an 18 paged document which includes a transcript of a dispute between Amos Williams and Phillip Johnson. And for the record, although we did have a break, you have not looked at this -- you have never seen this before?
A No.
Q Now, what I want to ask you is when your mother talked to you about the Gitan gwalxw area, did she ever talk to you about a Xsiisxw or a settlement for a killing that occurred up there?
A She just told me that they went into court on account of Gitan gwalxw and that they won a case on

account of the court case, but she never really told me.

Q Okay. Did your mother -- you have heard -- when I refer to the concept of Xsiisxw or settlement, do you know what I'm referring to?

A Yes.

MR. GRANT: Does your mother mention anything about a Xsiisxw or settlement with respect to that territory.

MR. MACKENZIE: I object to that question. That is the second time you have asked it.

MR. GRANT:

Q Go ahead. You can translate it.

A I remember that she told me about a man being murdered there and that was why they came in possession of Gitan gwalxw.

Q Do you remember if the person who was murdered was from Gwoimt's house or another house from what your mother told you?

A All I heard or was told is that there was a man murdered there, but they didn't say if it was a member of the house of Gwoimt but it might have been a relative of Gwoimt. My mother would be the person that would know all about it.

Q Is your mother too unwell to give evidence here and to be examined by the lawyers in the court case?

A She is 81 years old and she is pretty weak. She can't travel, otherwise I would have brought her this morning.

Q She is too ill to travel?

A She knows more than -- she's a knowledgeable person concerning what you people are asking me today.

Q You described that your sister Sadie and your brother-in-law Walter Harris' children hunt in the territory up around Anlaagaasim deex.

A Not at Anlaagaasim deex.

Q Let me clarify it. My note might be wrong. Does Walter Harris' children -- I am talking now about the Tsuwinhl geets territory.

A Yes.

Q Does Walter's children hunt in the Tsuwinhl geets territory of Gwoimt?

A Very seldom. They go up towards Kispiox Valley closer I should say.

Q What house are Walter's children in?

A Gibuu.

Q And which house?

A Mom's house, Gwoimt.

Q You described in answer to some questions from Mr. Macaulay the destruction of your territory at Tsuwinhl geets including the logging and other destruction. I think at one point you even said you have to go up there to see it to believe what I am describing to you or words to that effect. Have you taken photographs of some of the destruction of your territory through logging over the past few years?
A I have taken a few shots here and there.
Q Okay. You don't have those photographs with you today?
A No, I forgot to bring the photographs.
Q That's okay. You were asked by Mr. Macaulay about smokehouses and the smokehouses that you and others -- that your family has had. Before you built your smokehouse up near your cabin, where did your mother get her fish for her winter fish supply, and where did you get your fish?
A Well, we get most of our fish from the coast. My brother Bernard, he has got a commercial boat. I go down and pick up quite a number of sockeye. We have to have a permit to do that, and he supplies mom and some of the families with fish that I brought in.
Q You were taught about the Tsuwinhl geets territory you've described -- you said in your affidavit by the former Gwoimt, Austin Mathews?
A Yes.
Q As well as others that you have described. Did Austin Mathews ever tell you that he described the Gwoimt territories to an officer, to a Mr. Mortimer or Mr. Muirhead?
A No, I am not aware of that.
Q Mr. Macaulay or Mr. Mackenzie has provided me with a file which appear to relate to the trapline. In that map is a trapline -- is a sketch of a trapline. Have you ever seen a map like that before?
A No, this is the first time. I have never seen a map like that before.
Q And I'm showing you, it appears, although I haven't taken the file apart that there is a letter dated June 10, 1935 from C.D. Muirhead to Mr. Mortimer, the Indian agent. Have you ever seen a copy of that letter before?
A No, I didn't.
Q And there is a letter of July 16, 1935 that's unsigned, but it appeared to be from Mr. Mortimer to Mr. Muirhead in response. Have you ever seen that?

A No.
Q Did your -- I guess Austin Mathews, would it be fair to say your uncle?
A Yes.
Q Did your uncle Austin Mathews ever advise you of whether he was consulted about the boundaries of the trapline by any representatives of Fish and Wildlife, the game warden or DIA?
A No.

MR. GRANT: I would like to mark those three documents as exhibit for identification as they are the three I put to the witness. I have no problem if you wish copies to be made.

MR. MACAULAY: Well, I will provide copies for those who want copies. If you want to mark them as exhibits it's all right with me, and I understand it is all right with Mr. Mackenzie.

MR. GRANT: We will put them in as exhibits proper. I think what you should do is mark the sketch as Exhibit 4, the June 10, 1935 letter from Muirhead to Mortimer as Exhibit 5, and the July 16, 1935 letter from Mortimer to Muirhead as Exhibit 6.

(EXHIBIT 4: Sketch)

(EXHIBIT 5: Letter dated June 10, 1935 from Muirhead to Mortimer)

(EHXIBIT 6: Letter dated July 16, 1935 from Mortimer to Muirhead)

MR. GRANT:

Q You were asked about Arthur Sampson and you said he was close to your mother or related to your mother. Do you know how he is related to your mother?
A No, I don't. She always talks about Arthur Sampson.
Q Now, there is more than one Arthur Sampson, isn't there?
A Yes, the late Arthur Sampson of Glen Vowell.
Q The Arthur Sampson you are talking about is not the late Arthur Sampson who was the father of Abel Sampson, is it?
A That's the person, yeah.
Q He is the father of Abel Sampson?
A Yes.

MR. MACKENZIE: Well, that was a leading question, but I don't object to it. That was shockingly leading, but I

can't object to it. It's too late.
MR. GRANT: Well, if you don't object to it --
MR. MACKENZIE: That's right, don't say anything.
MR. GRANT: The answer wasn't what was lead.
MR. MACKENZIE: Well said.
MR. GRANT: Would you have objected if it was?
MR. MACKENZIE: You're right.
MR. GRANT:

Q Once again respecting the Nangeese territory that you've talked about, you don't know when -- you indicated your mother referred to a murder that took place and that's how you got the territory. Did your mother tell you when that occurred?
A No.
Q I just want to ask you a couple of questions about your father's estate. When did your father -- your father William Wale, he died in 1974?
A 1974, yes.
Q Right. Now, do you know if his estate -- if his will has been finalized by the Department of Indian Affairs yet?
A That I don't know.
Q Okay. Are you aware that in 1977 the Department of Indian Affairs could not locate your father's will?
A No, I wasn't aware of it.

MR. MACAULAY: What was that?
MR. GRANT: They are your clients, Mr. Macaulay and it is in your file. I am only leading, Mr. Macaulay, what I was asking and it wasn't leading. I was asking him if he was aware of something.
MR. MACKENZIE: Okay.
MR. GRANT:

Q Are you aware that in 1976 as late as November 26, 1986 your father's will or estate had not yet been completed by the Department of Indian Affairs?
A I am not aware of it.
Q Some would say several decades. Mr. Macaulay asked you about a fishing site station. Do you know of a fishing station on the Bulkley River directly above the mouth of Mission Creek?
A Yes.
Q And do you know if that's used by any members of your house?
A Not now since the name has been passed onto a different person.
Q And what was the name that was passed on that that fishing site went with?

A Gyetdemgaldou.
Q And is that the house of James White?
A Yes.
MR. GRANT: Those are all my questions, Mr. Wale. Thank you very much for your patience.
(PROCEEDINGS CONCLUDED)

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

Lisa Franko.

LISA FRANKO, OFFICIAL REPORTER
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