In the Supreme Court of British Columbia

(BEFORE THE HONOURABLE THE CHIEF JUSTICE)

No. 0843
Smithers Registry

Victoria, B.C.
November 18, 1988

BETWEEN:

DELGAMUUKW, also known 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.

(CONTINUATION OF)

COMMISSION EVIDENCE OF JEFFERAY VINCENT BOYS

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COMMISSION EVIDENCE OF JEFFERAY VINCENT BOYS

APPEARANCES:

STUART RUSH, Esq;	Appearing for the Plaintiffs;
MS. MARVYN KOENIGSBERG and MURRAY WOLF, Esq;	Appearing for the Attorney-General of Canada

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Victoria, B.C.
November 18, 1988

JEFFERAY VINCENT BOYS, Previously sworn:

CROSS-EXAMINATION CONT. BY MR. RUSH:

Q All right. We can begin the continuation of the cross-examination of Mr. Boys, and today's the 18th of November.

Mr. Boys, I want to refer you again to the Walter Blackwater trapping file, as it's been referred to here, and in particular I'd like to ask you about the application for registration of the trapline which is Exhibit 18, and I see that you have it in your hand?

A Uh-huh.

Q And I would particularly direct your attention to the second page of that which indicates that it was dated on June 4th --

A Yes.

Q -- of 1951; do you see that?

A Yes.

MS. KOENIGSBERG: When you say the second page, Mr. Rush --

MR. RUSH: The back page.

MS. KOENIGSBERG: You mean on the back?

MR. RUSH:

Q Yes, I'm sorry, for my copy it's the second page because they were separated, but on the back side of that you'll see the date of June the 4th, 1951?

A Yes.

Q Now, the description that's on the face page of that, was that description provided to you by the game department?

A Well, I couldn't say for sure whether it was or not. We would make a description and on some occasions the game department would amend it on the application that was accepted.

Q Right.

A And this is stamped as having been accepted.

Q The reason that I thought this to be the case was that you indicated that you had made a description and forwarded it to the game department and they returned it to you and it was adjusted to include a larger land area in the trapline area?

A Yes.

Q And it -- because this was dated in Smithers June the 4th, 1951, I thought this to be the description of the

1 game department?
2 A Yes. It seems most probable that it was.
3 Q All right. There's another indicator on the face of
4 this. If you look underneath the portion that is
5 taped onto the top, you'll see that there is a date
6 again on the face of it, June 4th, 1951?
7 A Right.
8 Q And it's dated in Smithers?
9 A Right.
10 Q And this is signed by Walter Blackwater, which would
11 suggest to me that Mr. Blackwater had to go to
12 Smithers to do this; is that right?
13 A Well, it would indicate -- it would seem that that's
14 highly probable.
15 Q All right. Do you have an independent recollection of
16 this, Mr. Boys? Do you remember?
17 A No, because actually it appears that Mr. Appleby, my
18 assistant, was responsible for accompanying Walter to
19 Smithers, if that is the way that the application was
20 made.
21 Q All right.
22 A If it was made in the game warden's office, I would
23 suggest that Mr. Appleby took or accompanied Walter to
24 Smithers and that the thing was -- the matter was
25 processed in the game warden's office.
26 Q All right. It looks to me by the predominance of Mr.
27 Appleby's signature on this, and I thought other
28 documents, that he was mainly responsible for handling
29 this; is that your recollection?
30 A He handled a lot of trapline applications. Yes.
31 Q Okay. And, in particular, did he handle the Walter
32 Blackwater application?
33 A Well, he appears to have done so because I recognize
34 his signature on this.
35 Q All right. And it appears from this that this was
36 witnessed in Smithers and it's likely that the
37 description there is the game department's?
38 A Yes.
39 Q Okay. Let me now refer you to the next document in
40 this sequence, it's the sketch which is Exhibit 19,
41 and I'm going to be referring you to each one of the
42 three sketches, but first to Exhibit 19, if you'll
43 look at that, please?
44 A Yes.
45 Q Now, this is the tracing of the Gelly trapline; is
46 that right?
47 A Yes.

Q And I understand your evidence to be that you cannot say from which map this tracing was taken?
A No, I can't. I can't be sure which edition of the map of that area that this particular tracing was taken from.
Q Okay. And you had never been to this area yourself?
A No.
Q Now, I want to show you the next one which is Exhibit 21?
A Yes.
Q Now, this is a sketch of the trapline for which Mr. Walter Blackwater was registered?
A Right.
Q And I think it was your evidence that it was likely that this sketch was done by Mr. Appleby at the time of the application?
A No, I think that the other one that -- the one that I've just identified was Mr. Appleby's. This I think was done by the game department.
Q I see.
A To include all of the waters of the -- of the creeks right to the headwaters of those creeks.
Q Okay.
A Which was their custom.
Q All right. And this would have been done after you had submitted Mr. Blackwater's application?
A Right.
Q Okay. And presumably this was the sketch to be attached to the application form of June the 4th, 1951?
A Yes, this.
MS. KOENIGSBERG: "This" being Exhibit 21.
MR. RUSH:
Q Yes.
A Yes. I don't know whether this actual sketch was, but a sketch of this area was. This is the area described I think in the -- on the application for the trapline.
Q Right. A sketch like this should have been attached --
A Yes.
Q -- to the application form which was Exhibit 19?
A Yes.
Q All right. Now, I think it was your evidence that the area that's shown in Exhibit 21 was expanded it appears considerably?
A Uh-huh.
Q By the game department?

A Yes.
Q All right. Now, I think you also indicated that it was common for the game department to make adjustments in the boundaries of the trapping areas?
A Right.
Q And does that mean that they would have not only expanded them, as they did in the Walter Blackwater situation, but also reduced them?
A That's a possibility. I'm not sure. I can't tell you conclusively that they did do so, but they certainly adjusted them so if they -- the tendency was to expand them so that they took in all of the -- all of a creek right to the headwaters to the height of land.
Q Right. But I take it that the corollary of that would be that if another trapping area had to be reduced, they would do that in order to conform to the heights of land?
A There may have been some minor reductions in order to fit it in. I don't think they would -- I don't think they would substantially take away any land from another trapline without some consultation with the owner of the other trapline.
Q Okay. Well, that's what I was coming to, Mr. Boys. Isn't it the case that these adjustments were made without consultation with the trappers?
A Well, I would suggest that this area that's included in here was not included in anybody else's trapline at the time.
Q Well, leave that question aside. It may or may not have been, but my suggestion to you is that, from your knowledge, the game department did not consult with the trappers when they made the adjustments to the trapline?
A I -- I can't answer that. I wasn't there.
Q Okay. Just if you'll just keep that sketch in front of you?
A Uh-huh.
Q This is Exhibit 21. I want to ask you if you'll also place before you Exhibit 20 and if you'll just have the two side by side, and if you'll just compare them for a moment?
A Yes.
Q You'll agree with me, won't you, that there are considerable -- there is a considerable number of differences between the content of the two sketches?
A You mean the detail?
Q Yes.

A Yes, I can see some differences.
Q The Exhibit 20 sketch -- the Exhibit 20 sketch is dated in 1954?
A Yes.
Q It seems to be in the bottom right-hand corner. Do you see that?
A Yes.
Q And if we make the assumption that the -- because of the later date that the sketch was in fact drawn or prepared at a later time, between the time of the first sketch, which is Exhibit 21, and the second one later in time dated 1954, Exhibit 20, a number of geographic features have been added to the later sketch; isn't that right?
A Yes. Uh-huh.
Q Now, I just want to ask you, if you will, to agree with me, if you can, about some of these changes, and I'd ask you to just look at the bottom of the sketch. You'll notice that in the Exhibit 20 sketch dated '54 there is a feature indicated as "canyon" in the middle of the page in the bottom half of the page. Do you see it?
A Uh-huh.
Q It appears to be a mountain with an elevation registration of 5702 feet; do you see that?
A Right. Yes.
Q And that's not present on the Exhibit 20 or earlier sketch is it?
A No.
Q If you just go north on the main river feature, which appears to be the Skeena, you'll see that there is a creek above fourth cabin called Glide Creek; do you see that?
A Yes.
Q That's not present on Exhibit 21?
A Well, the creek is there, but it's not marked Glide Creek.
Q That's right. It's not marked at all on Exhibit 21?
A The name is not marked, but the --
Q The creek is shown?
A The creek is defined.
Q Yes, I think that's a fair observation.
A Uh-huh.
Q Now, if you'll just go farther up the Skeena above the half-way divider on the map you'll see Babiche Hill, B-a-b-i-c-h-e, Hill, appears on the Exhibit 20 --
A Yes.

Q -- sketch, and it's not present on the Exhibit 21 sketch?
A Right. Uh-huh.
Q Similarily, I want you to, if you will, carry on up the Skeena and there is a -- you see where 17-Mile Cabin is --
A Yes.
Q -- indicated? Above that and to the left of that on the west side of the Skeena appears to be a mountain geographic feature called fifth, with an elevation of 5428; do you see that?
A Yes.
Q That's not present on the Exhibit 21 map?
A No.
Q And if you'll just carry on farther north on the Skeena just above quarter cabin, which appears on Exhibit 21 but not on Exhibit 20, to the east of the Skeena there's a feature called Stephan, S-t-e-p-h-a-n, which appears to be a mountain feature?
A Yes.
Q And that's not present on the Exhibit --
A No.
Q -- 21 map?
A No.
Q All right. And if you'll just carry on farther along the Skeena and to the left or west side of the Skeena on Exhibit 20 you'll see a mountain designation of Blackwater with an elevation of 6134. Do you see that on Exhibit 20?
A Oh, yes.
Q And it's not present on Exhibit 21?
A No.
Q All right. Now, it's clear is it not to you, and it was your experience, Mr. Boys, that geographic features such as the ones that I've addressed and I've directed your attention to here were added to later maps?
A Yes. I think I can explain why because in the early 1950's a survey was undertaken of that area and all of these mountains that you've shown that are designated as little triangles were the triangulation stations that the surveyor used. And I explained earlier in our last session that there were subsequent editions of the maps of the area that were updated and more accurate and so the earlier map would not show these triangulation stations and wouldn't show perhaps some of the -- some of the other names that were added such

as Glide Creek.
Q All right. It would be the case, as time moved on, more knowledge was obtained about the features?
A Yes.
Q All right. But you'll see even in Exhibit 20 there are a number of creeks such as the one that appears to the left of the mountain feature "canyon"?
A Uh-huh.
Q That still has no name to it?
A Yes.
MR. RUSH: Okay. You'll agree with me that a number of the creeks that appeared on the later trapline maps were not named?
MS. KOENIGSBERG: Just so I'm not confused, Mr. Rush, if you're referring to the creek on map 20 which is above the designation "canyon" with the elevation, on the earlier map, if I'm looking at the correct creek, it does have a name.
MR. RUSH:
Q On the earlier map, Exhibit 20, to the right of "canyon" is the name Canyon Creek, but I'd ask you to go left to the -- what appears to be the lake that is to the left of that which is unnamed on Exhibit 20?
A Uh-huh.
Q And further to the left of that on Exhibit 20, again we're keeping in mind this is in 1954, there is a creek that flows south, appears to be a major creek, that flows south which is unnamed?
A Yes.
Q All right.
A Or a continuation of Canyon Creek.
Q Well, it could be one or the other couldn't it?
A Yes.
Q Okay. Now, you'll also agree with me when you look at Exhibit 20, Mr. Boys, that there are names on some of the geographic features which are clearly names of -- which are Indian names or Gitksan names?
A Yes. Uh-huh.
Q And I refer you to Damdochax Lake. You see that in the north part of Exhibit 20?
A Yes. Yes.
Q And Wiminisik, W-i-m-i-n-i-s-i-k, Lake?
A Yes. Uh-huh.
Q Okay. Now, will you also agree with me, Mr. Boys, that despite the efforts of the game department to follow heights of land, in many cases the geographic descriptions on these traplines did not follow any

1 geographic feature?
2 A Well, certainly there are -- in the descriptions there
3 are such things as to, let us say, third cabin thence
4 westerly 14 miles.
5 Q Uh-huh.
6 A That might be a typical description in some cases.
7 Yes.
8 Q Okay. But I'd just like to ask you to look at the
9 northern part of the Blackwater -- the Walter
10 Blackwater trapline sketch here?
11 A Uh-huh.
12 Q And if you look at the north-westerly point of this
13 sketch, and I'm pointing now to Exhibit 20, and that's
14 directly above sixth cabin, the designation of sixth
15 cabin, there is no geographic or topographic feature
16 at the corner of that description is there?
17 A No, unless it be the headwaters of that unnamed creek.
18 Q Okay. Well, we could go back to the description and
19 look at that, and if you look at the description,
20 Exhibit 18, in the third line, at the end of the third
21 line you'll see what it says at the end, and if you
22 can follow me, Mr. Boys, the end of the third line in
23 the description "thence northerly" --
24 A North-easterly.
25 Q Sorry, "north-easterly two miles to sixth cabin"?
26 A Yes.
27 Q ",YTL". Then it says "thence north two and a quarter
28 miles"?
29 A Yes.
30 Q Do you agree with me that this is at that point?
31 A That point, yes.
32 Q There's no reference to the headwaters there?
33 A No.
34 Q And then it says "thence south-easterly six and a
35 quarter miles"?
36 A Yes.
37 Q "To a point on Slow Maldo Creek approximately two
38 miles from the confluence with Damdochax Creek"?
39 A Yes.
40 Q And that is -- there's no geographic reference with
41 respect to that?
42 A No. No.
43 Q And the other point that I want to draw to your
44 attention is that you'll agree with me will you that
45 the description that's shown here crosses over Slow
46 Maldo Creek?
47 A Right.

Q And apparently crosses over Sansixmor Creek or in Exhibit 20 is parenthetically called Cottonwood Creek?
A Yes.
Q All right.
A That's right.
Q And I'd just like to suggest to you, Mr. Boys, at this time it was common for trapline descriptions that you were aware of not necessarily to follow topographic features, that what I directed your attention to --
A Not all of them had been amended to conform to topographic features. Uh-huh.
MR. RUSH: Okay.
MS. KOENIGSBERG: Are we finished with the maps?
MR. RUSH:
Q Just a moment. Oh, just one other point, Mr. Boys, while you have Exhibit 20 in front of you, will you agree with me that it is likely that the topographical features that I referred to you as a difference between Exhibit 21 and Exhibit 20, that those features were added by the game department?
A I would suggest that this was probably amended after the game department got a revised map following the survey of the -- I can't remember exactly what year, but it was the latter 40's, and then I think the map was produced subsequent to that in Victoria and then the game maps were amended according to the new -- the new edition of the map, and this was part of our problem that we were not provided with the new maps as quickly as the game department were.
Q Wasn't it also the case that topographic knowledge came to the game warden and he added them by hand on to the maps, even ones that had been corrected by the provincial chief geographer?
A Well, I can't answer for that. I certainly didn't witness that.
Q Okay. Well, I suggested that to you only because it appears that on Exhibit 20 there is what appears to be a typed form of printing and as well a handwritten form of printing on other parts of the map. Now, maybe you can agree with that or not. I don't know.
A No, I think I would suggest that possibly somebody who made this tracing -- or that two people were involved in making this tracing.
Q I see.
A Two different --
Q Two different hands?
A Two different hands I would suggest.

Q Okay. All right. We can set that aside, Mr. Boys. Oh, by the way, you wouldn't know one way or the other as to whether or not Exhibit 20 was given to Mr. Walter Blackwater, would you?
A No, I wouldn't.
Q All right. Mr. Boys, I'd like to now direct your attention please to Exhibit 22 in this commission, which is a letter from yourself to Mr. Blackwater dated January 31st, 1951. It was the case, wasn't it, that you were -- you took the initiative to obtain Mr. Walter Blackwater's agreement to purchase this trapline?
A Uh-huh.
Q This was something that you wanted to do and Mr. Walter Blackwater was somebody that you contacted to do it?
A Uh-huh.
Q Right. Okay. Now, you had contacted Mr. Blackwater the previous year in order to discuss with him the purchase of this trapline and you can confirm for me that this letter that I'm showing to you dated January 22nd, 1950, is a letter that was sent out on your behalf to Mr. Walter Blackwater?
A It appears to be Mr. Appleby's signature. Yes.
Q Right. This was sent with your authority though?
A Yes.
Q And if you look at Exhibit 22 it's a year later that you once again make the same request of him?
A Yes. Right. Uh-huh.
Q All right. Can that be an exhibit, please?
A This?
MR. RUSH: Yes.

(EXHIBIT 51: Letter dated January 22, 1950)

MR. RUSH:
Q Now, Mr. Boys, it was your understanding at the time of your letters of January 22nd, 1950, which is now Exhibit 51?
A Uh-huh.
Q And your subsequent letter of January 31st, 1951, which is Exhibit 22, that Mr. Walter Blackwater was trapping on his father's trapping area?
A Uh-huh. James Blackwater's.
Q Right. And you understood that Mr. James Blackwater's trapping area was to the north and to the west of the area of the Gelley trapline?

A Yes. Just about due north of it.
Q Okay. And this was an area that Mr. James Blackwater had passed through and visited on several occasions; is that not correct?
A I couldn't be sure of that, but it's logical to suppose that he did because the trail was up the Yukon telegraph line.
Q Okay.
A And he would probably have used that trail.
Q Okay. Maybe if I can just show you this letter of February the 26th, 1951. This is over your name and apparently dictated by you and addressed to W.S. Arneil, Indian Commissioner?
A Uh-huh.
Q And if you look at the fourth line it says:

"The trapline has been visited annually since then by James Blackwater, father of Walter Blackwater for whom we are making application to purchase the Gelley trapline, and with Mr. Gelley's permission,"

A Uh-huh.
Q I'll just finish the line out,

"this Jimmy Blackwater has made use of some of the cabins, equipment and traps on the line, in other words if it is found that some of the equipment is not where it was left by Mr. Gelley when he last trapped then it is in the possession of James Blackwater."

Now, my -- in terms of the visitation by Mr. James Blackwater to that area, this letter sets out what your understanding was at the time?
A Yes.
MR. RUSH: All right. Can that be the next exhibit, please?

(EXHIBIT 52: Letter dated February 26, 1951)

MR. RUSH:
Q Okay. Now, I'd just ask you to look please, Mr. Boys, at Exhibit 23 which is the next exhibit in sequence?
A Uh-huh.
Q And can you agree with me that the description of the trapline here is in general terms?

A Very general. Yes.
Q All right. It certainly does not describe the trapline as is contained in the sketch Exhibit 19?
A No.
Q Nor does it describe the trapline that was shown in the sketch Exhibit 21?
A No.
Q And I take it that this agreement was one that was prepared by you for Mr. Blackwater's signature?
A It was prepared probably by Mr. Appleby. He signed it as a witness.
Q Very good. Thank you. Now, if you'll look at Exhibit 24 please, Exhibit 24 is a letter over your name to Mr. Arneil, A-r-n-e-i-l, on February 12th, 1951. And I direct your attention please to paragraph 1 and the last line which says, and I'm quoting:

> "This and two or three similar traplines to the north of it were formerly Indian trapping grounds as the local names indicate."

A Right. Uh-huh.
Q Now, when you referred to the "local names", you were referring to the names that were the Gitksan names were you not?
A Right. Yes.
Q And when you referred to the Gitksan names, were you referring to names like the ones that I directed your attention to on Exhibit 20, Wiminisik Lake?
A Yes.
Q And Damdochax Lake?
A Yes.
Q And there were other names like that that were there?
A Oh, lots of them. Yes.
Q Now, the situation with Mr. Walter Blackwater in the -- and by this I mean the purchase of the Gelley trapline between I think it was third and sixth cabins?
A Uh-huh.
Q For Mr. Blackwater, this was a unique situation in your experience at the Babine Agency?
A You mean in respect to the purchase of a trapline?
Q By the department, by the agency, on behalf of a Gitksan person?
A I can't recall any others.
Q Okay.

1 A But it was the -- it was our intent to try and secure
2 those traplines that had been -- that had been
3 abandoned by the linemen to try and secure them for
4 one or another of the Indians of the agency.
5 Q Yes. I appreciate that. But, as I understand your
6 evidence, the purchase of the trapline from Mr. Gelley
7 and the agreement reached with Mr. Walter Blackwater
8 was -- is the only one that you recall?
9 A That's the only one I recall.
10 MR. RUSH: All right. And do you recall any purchases like
11 this on behalf of any Carrier people or Wet'suwet'en
12 people, as they are called, and do you recall any
13 similar purchases in respect of that geographic area
14 of the Babine Agency?
15 MS. KOENIGSBERG: Far from me, Mr. Rush, to suggest that
16 somebody break down their questions.
17 MR. RUSH:
18 Q No, I appreciate it. I'm always glad to have help in
19 further and better articulating my questions. Let me
20 ask -- let me try to make it more clear.
21 I suggest, Mr. Boys, that in respect of your
22 tenure as the Indian Superintendent of the Babine
23 Agency, the Walter Blackwater agreement is the only
24 one that occurred that you have knowledge of?
25 A I can't recollect any other, but you have to bear in
26 mind that you are asking me to recollect over a period
27 of more than 40 years and --
28 Q Yes, I appreciate that.
29 A And I don't recollect any similar one.
30 Q Okay. Very good. Now, I want to ask you about
31 another matter that was touched upon in your direct
32 examination and that pertains to estates, and I will
33 be returning to the question of traplines in a moment,
34 but I first want to ask you about some estates that
35 were administered while you were the Indian
36 Superintendent, and if you would please look at
37 Exhibit 10 for identification. This pertains to the
38 Alexander White estate. Now, I want to direct your
39 attention in particular -- the whole thing is Exhibit
40 10.
41 MS. KOENIGSBERG: Sorry.
42 MR. RUSH: But I only wish to direct Mr. Boys' attention at this
43 point to Exhibit 10 C, which is the handwritten will.
44 MS. KOENIGSBERG: Has it been marked?
45 MR. RUSH: Yes, it should have been marked as --
46 MS. KOENIGSBERG: As 10 C.
47 MR. RUSH: As 10 C. I -- maybe I can tell you that 10 A was the

1 Application for Administration or Probate.
2 MS. KOENIGSBERG: Yes, here it is. Here it is.
3 MR. RUSH:
4 Q Yes. All right. Now, this document is a two-paged
5 document, Mr. Boys, and I want to be sure that you
6 have both pages in front of you. Okay. Now, you'll
7 note Mr. Boys -- I want to be sure we're both looking
8 at the same document. If I could just have a look at
9 your copy. Yes, we are. Thank you. This will is
10 apparently dated April the 18th, 1946?
11 A Uh-huh.
12 Q You see that?
13 A Uh-huh.
14 Q And at the bottom of the page, which is really the
15 first page of this will, are the signatures of two
16 witnesses apparently?
17 A Uh-huh.
18 Q One Fritz Harris by his mark, an "X"?
19 A Yes.
20 Q And the other the signature of Joseph C. Neale,
21 N-e-a-l-e; do you see that?
22 A Yes.
23 Q Who's Joseph Neale?
24 A I really don't know.
25 Q Okay.
26 A I might say that I was not at the agency at this
27 particular time.
28 Q Yes. Okay. I understand that, but this will came to
29 your attention in order for the probate --
30 A Yes.
31 Q -- to occur?
32 A Uh-huh.
33 Q Isn't that right?
34 A Yes.
35 Q All right. I want to -- I want to ask you about the
36 will. The will is dated April the 18th, 1946?
37 A Uh-huh.
38 Q And Mr. White died on April the 22nd, 1946?
39 A Uh-huh.
40 Q Was there a practise of the Indian Agent to obtain
41 wills from ailing Indian people?
42 A No, there was a -- there was a practise to try to
43 encourage Indians to make a will at the soonest
44 possible time, but I suppose that it perhaps became
45 more urgent in the view of a family if somebody was
46 thought to be likely to pass away.
47 Q Uh-huh. Did you know -- did you know Alexander White

1 had a hereditary chief's name?
2 A No.
3 Q Did you know the chief's name of Wiigyet, and I'll
4 spell it W-i-i-g-y-e-t?
5 A I remember the Wiigyets; at least I remember the
6 names. Wiigyets, yes.
7 Q All right. Let me just direct your attention to the
8 first page of this will at the bottom. It says: "I,
9 Alexander White, hereby request that Joseph Star be
10 appointed chief.", and then it's got in brackets,
11 "(Weget)", W-e-g-e-t, closed brackets, "in my stead."
12 A Uh-huh.
13 Q Did you know that Alexander White held the name of
14 Wiigyet before he passed on?
15 A I -- you know, I can't remember anything about this
16 particular estate.
17 Q Okay.
18 A And I never met Alexander White.
19 Q All right.
20 A So --
21 Q You did meet Joseph Star though?
22 A Oh, yes. Uh-huh.
23 Q All right. And did you know that Joseph Star held the
24 name of Wiigyet?
25 A Well, not that I can recall. No.
26 Q Okay. Now, look at the top of the page as well. It
27 says: "I, Alexander White, hereby bequeath to Joseph
28 Star my trapping ground on the Babine River which is
29 registered in my name."
30 A Yes.
31 Q That trapping ground was in fact passed to Joseph
32 Star, wasn't it, under the period of time that you
33 were the Indian Agent in the Babine Agency?
34 A Well, I would have to consult the estate documents to
35 confirm that because I don't recollect it.
36 Q All right. Well, it certainly would have been your
37 obligation --
38 A Yes.
39 Q -- to follow the direction in a will such as that?
40 A Right.
41 Q All right. Now, Mr. Boys, will you agree with me that
42 if I am correct that Alexander White held the name of
43 Wiigyet before he passed on, and if Mr. Joseph Star
44 took the name of Wiigyet after Mr. White's death, that
45 this is a bequeath of a trapline in accordance with
46 the successorship of the clan and hereditary system?
47 A Yes, he would be -- he would be quite free to bequeath

his trapline to whomsoever he pleased if he left a will.

Q But you would understand this, would you not, as a direction in accordance with the hereditary system? I'm here talking about your own knowledge of this will at the time that you were involved in its administration.

A But, you know, I really don't recall this particular administration. I'm --

Q All right.

A It's a long time ago and I don't recall what my thoughts were, only that it was something that was -- had to be administered.

Q All right. And that's what you did, you administered this will as it would appear to be the case from the Exhibit 10 A, which is the Application for Administration or Probate?

A Yes.

Q And you would give effect to the terms of this will wouldn't you?

A Yes. Uh-huh.

Q Did you know Joe Star personally, Mr. Boys?

A Yes. I certainly met Joe Star, but if you were to ask me to identify him now I'm afraid I couldn't do it.

Q Okay. Did you know that he took the name Wiigyet at a feast?

A No, I didn't.

Q You knew Mr. Star to be a person who trapped?

A Yes.

Q Did you know his trapping area?

A I couldn't tell you where it was.

Q Okay.

A At this stage.

Q The reference in the will by Mr. Alexander White to appointing Mr. Joseph Star as the chief in his stead, as shown in Exhibit 10 C?

A Uh-huh.

Q That, of course, was not something that you could give effect to?

A No.

Q But you'll agree with me that it was a direction to be given effect to in some way?

A It certainly was an expression of his wish.

MR. RUSH: All right. Now, Mr. Boys, I'm advised that the Babine Agency often transferred property of a deceased Gitksan or Carrier person, as you knew it -- as you knew the name then, to his or her clan successors and

not necessarily to family descendants. Can you agree with that?

MS. KOENIGSBERG: Can you put a time period on that?

MR. RUSH:

Q During the period of time of Mr. Boys' tenure in the Babine Agency.

A There may have been cases where a deceased left a will and so directed and then the terms of the will, if the will was validated, would be carried out.

Q I suggest to you more than that, Mr. Boys, that in fact in the absence of a will, but upon the direction of the family, that there were transfers of property in accordance with the inheritance succession, not in accordance with the Indian Act?

A Not to my knowledge.

Q I want to show you a document and I'll ask you if you can recognize this. This is a document from the federal government's document list numbered 10807. I'm finished with Mr. Alexander White's estate file. And this document is a letter from Mr. Harold Sinclair on the stationery of the Native Brotherhood of British Columbia and it's dated February the 24th, 1950, and I'd ask you to turn to the last page, and if you can agree with me that the faint photocopy of the stamp in the bottom left-hand corner is the stamp of the Babine Agency?

A Yes, it appears to be.

Q All right. And do you remember this letter from Mr. Harold Sinclair?

A No, I don't. I had a fair amount of correspondence from Mr. Harold Sinclair.

Q And you'd recognize his handwriting? It's pretty distinctive, isn't it? It's certainly better than mine.

A Yes, I've read that letter.

Q All right. Thank you. It's likely that you received this letter in the offices of the Babine Agency?

A Yes.

Q I direct you to page 3, second paragraph, and I'm quoting:

> "Chief Wilitzqu is the definite owner of Meziadin Lake Trapline. After Chief Wilitzqu died then Lazarous Wilitzqu Grey, being a nephew of Chief Wilitzqu, then takes over as a successor. And when Lazarous Wilitzqu Grey died his nephew Mr. John

Robinson is now a successor. All three Chieftainship mentioned are of the same clan, Wolf. In the first place Chief Wilitzqu, father of the three sons, as mentioned above, is the owner of the Meziadin Lake Trapline. Then comes the successors. That is the true story of the Meziadin Lake Trapline, which the new generations and the successors of the Kitwancool Band cannot change."

Now, you understood that to be a statement that the successorship of the Meziadin Lake trapline was to follow the clan successorship; is that not correct?

A Yes, it appears to be.

MR. RUSH: All right. And I'd like that to be marked as the next exhibit.

(EXHIBIT 53: Letter dated February 24th, 1950, to Mr. Boys from H. Sinclair)

MR. RUSH:

Q All right. Now, you penned a letter back to him, Mr. Boys, and this is dated February 27th, 1950, over your name?

A Uh-huh.

Q And you would agree with me that it's likely that this letter was dispatched by you?

A Yes.

Q I'd like you to refer to the first paragraph if you will?

A Yes.

Q It says:

"I am in receipt of your letter of February 24th, and thank you for your information about the Wilitzque Trapline. I am writing today to Mr. John Robinson to offer him the trapline as he is apparently the rightful successor."

A Uh-huh.

Q You see that?

A Yes.

Q Do you agree with me that you accept Mr. Sinclair's statement that the successorship of the Wilitzque trapline passed to Mr. John Robinson according to the

1 clan inheritance?
2 A Yes, this appears to accept that. I think the problem
3 was that we had to accept the people in possession of
4 the trapline because we simply could not go back and
5 administer several estates back maybe two or three
6 generations to determine who might have been the
7 logical or the rightful owner of it, so we accepted
8 whoever was in possession at the time that we started
9 administering according to the requirements of the
10 Indian Act. And this evidently was one of those
11 situations. Mr. Robinson was in possession of it and
12 so he was accepted.
13 Q Well, the letter of Mr. Sinclair of February the 24th
14 indicates that he, Mr. Robinson, was the rightful
15 successor, and it certainly doesn't appear from the
16 letter that he was the rightful successor because he
17 was in possession; you'll agree with that, won't you?
18 A Oh, yes, but I don't -- I would like to see the
19 trapline as of 1950 to determine who was shown as in
20 possession of the trapline at that time.
21 Q Well --
22 A I would suggest that it was probably Mr. Robinson and
23 that Mr. Robinson's heir would be the next registered
24 owner of the trapline.
25 Q Okay. Well, we can certainly check that.
26 A Yes.
27 Q We know what happened after Mr. Robinson passed on,
28 and you'll agree with me, Mr. Boys, that in respect of
29 the first paragraph of your letter of February the
30 27th, 1950, it makes no reference to the fact of Mr.
31 Robinson being in possession of the trapline?
32 A No, it doesn't.
33 MR. RUSH: Okay. Can that -- that will be the next exhibit,
34 please.
35
36 (EXHIBIT 54: Letter dated February 27, 1950 to H.
37 Sinclair from Mr. Boys)
38
39 MR. RUSH:
40 Q All right. And I just want to show you another letter
41 from Mr. Harold Sinclair which is dated March the 6th,
42 1950, and it is confirming receipt of your letter of
43 February the 27th, 1950, and you'll see in the first
44 paragraph, which is really the paragraph to which I
45 wish to make reference, he says:
46
47 "I have your letter of February 27th, '50 and

1 have learned that you are now writing to Mr.
2 John Robinson who is now the rightful
3 successor of Wilitzque Trapline."
4
5 A Uh-huh.
6 MR. RUSH: All right. Can that be the next exhibit, please?
7
8 (EXHIBIT 55: Letter dated March 6, 1950, from H.
9 Sinclair to Mr. Boys)
10
11 MR. RUSH:
12 Q Now, it's your understanding, Mr. Boys, that Mr.
13 Sinclair was a person who I think wrote to you on
14 several occasions concerning the people at Kitwanga?
15 A Yes.
16 Q And he was the person who made the statements to you
17 that the trapping area should be devolved in
18 accordance with the hereditary system of
19 successorship?
20 A That was the -- that was contained in that letter that
21 you've shown me. Yes.
22 Q That's right. But in addition to that wasn't Mr.
23 Sinclair someone who wanted to make it clear to you
24 that the people of Kitwanga sought to have the
25 trapline areas passed to the successors in accordance
26 with the hereditary clan system?
27 A Well, I wouldn't say that Mr. Sinclair spoke for all
28 of the people or in many cases not even for the
29 majority of the people in Kitwanga, but he spoke for
30 some of them.
31 Q All right. Well, let me show you a letter for --
32 which I think was received in your office for some of
33 the people that he probably spoke for. This is also
34 taken from the federal document list document number
35 10807. Now, I just direct your attention to the first
36 page?
37 A Yes.
38 Q And I quote:
39
40 "As a secretary for the villagers here in
41 Kitwanga, I have been adviced", he says, "by
42 Village Councillor to write into your office
43 for explanations. Whereas you are realized
44 by our villagers that you are our new Indian
45 Agent of our department and that you may not
46 have the understanding of our Kitwanga
47 Band's individual trapping ground title

1 rights surrounding our Kitwanga vicinity.
2 Since of the very ancient times that
3 there are only a certain number of clans
4 here in Kitwanga that has any title rights
5 of trapping grounds as ownerships. And
6 there never was any false claim or any
7 dispute over their own known trapping ground
8 properties. But now, since the last few
9 years after the deaths of those head chiefs
10 and title holders there seem to be some
11 people here who are strongly trying to
12 deprive such properties by false claims
13 because as at first of course they knew
14 definitely that they had no grounds or
15 anything to prove their claim."
16
17 You'll agree with me that he is advocating that
18 the title rights of the trapping grounds are
19 associated with and belong to the clan chiefs of
20 Kitwanga?
21 A That's what he's advocating. Yes.
22 MR. RUSH: Now, there's no doubt on your part is there, Mr.
23 Boys, as you look at this letter, that Mr. Sinclair
24 was advancing the aboriginal claim of the Kitwanga
25 hereditary chiefs in this letter?
26 MS. KOENIGSBERG: Are you quoting from the letter --
27 MR. RUSH: No.
28 MS. KOENIGSBERG: -- with your description?
29 MR. RUSH: No, I'm summarizing from what Mr. Boys' state of mind
30 would have been had he -- when he received this
31 letter.
32 MS. KOENIGSBERG: If he understood this to be the aboriginal
33 claim of the Kitwanga?
34 MR. RUSH: Yes. Yes. My question to you is that, having read
35 this letter, when you received it back on November the
36 9th, 1946, that there wasn't any doubt that Mr.
37 Sinclair was expressing to you and advocating the
38 claim of the Kitwanga hereditary chiefs as to their
39 aboriginal lands.
40 MS. KOENIGSBERG: I'm going to object to the question because I
41 think what you're asking is for Mr. Boys to have
42 understood a particular state of mind as opposed to
43 the meaning of the words used of Mr. Sinclair and I
44 don't think that he can answer that question.
45 MR. RUSH:
46 Q Go ahead, Mr. Boys. Your counsel's objection is
47 noted.

1 A Well, I can't tell you exactly what my thoughts were,
2 but he was advancing claims on behalf of certain --
3 certain people of who were crest members in Kitwanga.
4 Yes.
5 Q Okay. Now, you understood at the time that there
6 was -- that the claims that he was advancing were
7 claims in accordance with the Gitksan system of laws?
8 A System of?
9 Q Of laws or rules. That there were rules that the
10 Gitksan people conformed to upon the death of a
11 person, a Gitksan person, and this is what he was
12 addressing?
13 A Yes.
14 Q And you understood these to be laws or rules by which
15 the Gitksan people themselves followed?
16 A Yes, I would -- I would accept that.
17 MR. RUSH: All right. Can that be an exhibit, please? Exhibit
18 56.
19
20 (EXHIBIT 56: Letter dated November 7, 1946 from H.
21 Sinclair to Mr. Boys)
22
23 MR. RUSH:
24 Q Mr. Boys, the administration of estates in the Babine
25 Agency was a matter that continued on for many
26 decades; that certain estates required that they be
27 administered over a long period of time?
28 A That --
29 Q It took a long time to administer certain estates?
30 A Oh, yes. Uh-huh.
31 Q And is it not the case that as a general matter that
32 the administration of the estates in the agency was
33 never up-to-date?
34 A No. It was not finished when I left the agency.
35 Q It's my instructions that there were a number of
36 outstanding issues that arose because of the Gitksan
37 and Carrier peoples' insistence on following the crest
38 system for successorship of property; that these led
39 to a number of outstanding matters with regard to the
40 administration of estates in the agency?
41 A You mean that they influenced the administration of
42 estates?
43 Q That the fact of their insistence that the hereditary
44 system be followed led to investigations and inquiries
45 that had to be made by the department as to the
46 rightful successors following the administration of
47 estates in the agency?

1 A Well, there was no question if a person died intestate
2 as to what was the right of descent of property. If
3 there was a will and the property was left to somebody
4 who was a crest member, then the wills -- the requests
5 of the will would be recognized and accepted.
6 Q In the absence of a will, was it not your experience
7 that clan members of a deceased chief or deceased
8 Gitksan or Carrier or Wet'suwet'en person insisted
9 that property follow the clan's successorship rules?
10 A There was -- representations were made to that end,
11 but they didn't influence the administration of the
12 estate.
13 Q I suggest that they did, Mr. Boys, that --
14 A No.
15 Q That in fact --
16 A I don't accept that they did.
17 Q All right.
18 A In fact, I recollect that there are -- there are
19 exhibits here, and one of them a letter I think
20 written to somebody that we do not -- explaining that
21 we do not accept that type of succession; that the
22 Indian Act states that the succession goes to the --
23 directly to the heir of the deceased.
24 Q Yes. That was a letter I think to Mr. Ray Morgan that
25 you raised on the last occasion, but I want to suggest
26 to you that that was the formal position that was
27 taken by you, but informally throughout your tenure
28 you did give preference to succession of property to
29 the clan or crest successors --
30 A No.
31 Q -- on an intestate --
32 A No, I don't think that a -- I don't think that an
33 estate would have been accepted, an intestate's estate
34 would have been accepted, had it been administered in
35 that way contrary to the provisions of the Indian Act.
36 Q Well, it didn't have to be contrary to the provisions
37 of the Indian Act, did it, in order for you to give
38 preference to the crest or clan system?
39 A Not if they -- not if the crest devisee was also the
40 heir of the deceased, but otherwise it would.
41 Q It's my instructions that in fact in the Babine Agency
42 preference was given in the administration of
43 intestate succession to successors who were clan or
44 crest members?
45 A No, I -- certainly not.
46 MR. RUSH: All right. Do you want to take a break? It's
47 11:15. Take a ten minute break.

MS. KOENIGSBERG: Sure.
MR. RUSH: All right.

(PROCEEDINGS ADJOURNED FOR A BRIEF RECESS)

MR. RUSH:

Q All right. We can continue now, Mr. Boys, with a few more questions about the administration by the Babine Agency of traplines, and it's my understanding that there was, at the time that you were the Indian Agent, a requirement under the B.C. Game Act to register trapping areas?

A Uh-huh. Yes.

Q Right. And trappers registered their traplines because they were required to under law?

A Yes. There was -- there was a possibility that if they didn't have them registered that that area might be applied for somebody else and it might be registered in somebody else's name.

Q So despite that though I think we went over this before and you agreed that there were some areas that were not registered?

A Right.

Q Okay. And the -- you sought as part of the administration of traplines to protect hereditary trapping areas as a matter of policy during your tenure as Indian Agent?

A I attempted to have any area that was not covered by a registered trapline registered for security of one of the Indians of the agency.

Q Okay. And would you agree that the Indian people, the Gitksan and Carrier people with whom you dealt, believed that the registration system would protect their trapping areas?

A Yes.

Q And was it the case that many of the Gitksan and Carrier trappers that you had dealings with only spoke their native tongue?

A Yes, a number of the older people.

Q And in some cases there were a number of people who had difficulty, if they spoke English they had difficulty in speaking with you; that their --

A Some were certainly much less fluent than others.

Q And when you dealt with the trappers, the Gitksan and Carrier trappers, you dealt with them either through your use of English and their attempt at fluency in English or with a translator?

A Yes.
Q And would you agree that there were many problems in accurately determining the trapping boundaries in trapping areas?
A Yes.
Q And I think you've already agreed with this, but certainly one of the major problems was determining the topographic features being referred to by an Indian trapper on the ground?
A Yes. That's correct.
Q Okay. And as I understand it from your previous evidence, that you never went to a trapping area yourself with a trapper in order to determine the exact boundaries of his or her territory?
A No. I have been on one or two traplines with an Indian, but not for the purpose of determining exactly the boundaries of his trapline.
Q Okay. And in terms of the two, you said one or two occasions of being on a trapping area, do you recall who it was that you were with at the time?
A Well, I was with Ben McKenzie on one occasion and I was with somebody from the Babine Band on another occasion, and I can't recollect exactly the name of the person that it was, but --
Q Okay.
A -- his trapping area was not very far to the north of the Babine, Fort Babine Band.
Q All right. And that would be on the eastern extremity of the agency or was it -- was it even in the agency?
A Yes, it was in the agency.
Q Okay. So it must have been right on the eastern extremity?
A The north-eastern extremity. Yes.
Q Okay. Now, in answer to a question that you were asked by Mr. Mackenzie you agreed with him that the Gitksan and Carrier people, as you knew them then, accepted the boundary lines as redrafted by the game department, that is to say, when they came back from the game department, and my question to you is did they really have any choice in it?
A Well, they had an opportunity of making a protest if they felt that they had been deprived of some part of their -- of the area that had been registered to them or of an area that should be registered to them. If they felt that a revised registration encroached upon an area that they had formerly held, then they had a right of protest, and I vaguely recollect that we did

1 have one or two protests, but I couldn't tell you
2 specifically by whom or where.
3 Q But the game department was the final arbiter of the
4 descriptions; isn't that right?
5 A They held the master maps, yes.
6 Q And -- but under the legislation they were the
7 legislative --
8 A Yes.
9 Q -- body that made the determination about what these
10 descriptions were going to be?
11 A They were the people who registered the traplines,
12 yes.
13 Q And it had to be registered by both a map and a
14 description?
15 A Right.
16 Q Now, mention was made of an inquiry by an Arthur
17 Seymour to sell his trapline, and I think you --
18 A Uh-huh.
19 Q -- identified an item of correspondence to that
20 effect?
21 A Yes.
22 Q It was not the case though that it was common that the
23 native people in the Babine Agency wanted to sell
24 their traplines?
25 A Not very often.
26 Q In fact, that's the only case you remember, isn't it?
27 A Well, I don't recollect any others, but --
28 Q Now, the descriptions that were prepared by you or Mr.
29 Appleby, that is to say, descriptions of trapping
30 areas and their boundaries, these were descriptions
31 that were written by you; is that right?
32 A The initial application on behalf of an Indian. Yes.
33 We would assist the Indian in formulating a
34 description of the area that he wished to apply for.
35 Q All right. This was in your handwriting or your
36 typing, whatever the case?
37 A Yes.
38 Q And your words were used?
39 A Yes.
40 Q And is it not the case that in fact many of the Indian
41 Gitksan and Carrier native people who applied for a
42 registration could neither read nor write?
43 A Yeah, there may have been some who could neither read
44 nor write at all.
45 Q In many of the cases that you have been referred to
46 there are X's that mark the place of the signature for
47 the applicant?

A Yes. Yes.
Q And is it not the case that many of the applications that were made were made on behalf of a company or a group?
A Yes.
Q Are there people, Mr. Boys, that you recall who didn't come to you to register a trapline, but who instead went directly to Mr. Cox?
A Yes, there were some, and some who went directly to Mr. Martin in Prince Rupert.
Q Right. These -- would those people have been from the Babine Agency?
A Yes.
Q So it is the case, is it not, that you wouldn't have handled every application that was made in the Babine Agency?
A Yes. If the initial application was made directly to the game department, the game department would have sent them back to us.
Q At some point you get a copy of them?
A Well, at some point we get some consultation on them. Yes.
Q All right. Are you able to recall what number of these applications during your tenure as the Indian Agent were made directly with Mr. Cox?
A No. Very few.
Q Okay. Okay. I want to direct your attention to an exhibit for identification in the proceedings at the trial and this is Exhibit 719. It doesn't appear to be for identification, but my memory is that it was for identification and I just wonder if you would look at this exhibit, please, and it is a linen trapline map --
A Uh-huh.
Q -- which is -- should say what the number is in the bottom left-hand corner --
A 38 C.
MR. RUSH: -- on the other side. It may not necessarily be the same underneath there. Does it indicate there?
MS. KOENIGSBERG: There's an "8" in the bottom. It could be -- oh, it's a 38 C.
MR. RUSH: Very good.
MS. KOENIGSBERG: In pencil with a "2" under it.
MR. RUSH:
Q All right. Now, as you look at this map, Mr. Boys, is this -- firstly, do you recognize any of the writing on this map?

A No, I can't say I do.
Q This map was like the linen trapline maps kept by you and the agency?
A Yes.
Q Okay. I'll just roll it out this way.
A Yes.
Q All right. I just want to show you on the back it's identified as Nass River, Skeena River; do you see that?
A Uh-huh.
Q Okay. Is it probable that a map like this was kept in your agency?
A Yes.
Q All right. Thank you. I'm now showing you a second map which is Exhibit 720 in the proceedings. I just ask you if you would review this map. It's also a 38 C.
A Yes.
MS. KOENIGSBERG: And on the back side it has a "B 17" over "38 C" and a "3".
MR. RUSH:
Q Thank you. Now, do you recognize any of the writing on this map, Mr. Boys?
A I think there is a fair amount of Mr. Mallinson's writing on this map. I think this writing is probably Mr. Mallinson's.
MR. RUSH: Okay. Mr. Boys has referred to the bottom centre --
MS. KOENIGSBERG: Williams, Alice, and company.
MR. RUSH:
Q All right. Do you recognize the writing which is just south and west of the Thutade Lake?
A I think that probably is Mr. Mallinson's.
Q All right. Okay.
A And I think Simon Morrison's trapline is in Mr. Mallinson's writing and some notes here: "According to Simon, this..." I can't tell you what that says.
MS. KOENIGSBERG: "According to Simon"?
THE WITNESS: "This particular".
MS. KOENIGSBERG: Or "pasture"? No?
THE WITNESS: I don't know. "According to Simon, this part only belongs to James."
MR. RUSH:
Q Okay. And that's just to the right of the word "river" showing the Skeena River?
A Skeena River. I think that's Mr. Mallinson's.
Q Mr. Mallinson was the --
A He was my immediate predecessor.

Q As the Indian Agent in the Babine Agency?
A Yes.
Q Okay. It's probable then that this exhibit was kept by the Babine Agency in your offices?
A Yes.
Q Okay. All right. Thank you. I don't think there's any other identifying features on it. Thank you very much. I have one more for you. Now, this one is also marked 38 C and is Exhibit 718. Now, is there any -- if you'll just look right over to the right-hand corner here, can you identify any of the writing on this map?
A No, I can't say I can.
Q All right. Can you confirm for me that a map like this or maps like this one were kept by you in the Babine Agency?
A Yes. Uh-huh.
Q Okay. All right then. Very good. Thank you. Okay. Thank you very much. Now, I want to ask you about another subject, Mr. Boys, and this pertains to the evidence which you gave about fishing. And you gave evidence that a number of the Gitksan people each summer went to the coast in order to participate in the commercial fishery?
A Right. Uh-huh.
Q It's my understanding that the time that people went down to the coast was for the opening of the sockeye salmon run on June the 15th?
A Yes. Well, they -- the families usually went down or a large number of people went down in advance of that.
Q Yes?
A And they were -- many of them were employed at the cannery to, oh, get -- help them to get the boats in order and the nets in order and the cannery lines set up, and so on.
Q Now, is it your understanding that the sockeye season ran to about August the 15th?
A I'm not just sure how, you know -- I think sometimes the run was delayed and I'm not quite sure how long it would run, but it ran for two or two and a half or three months. Yes.
Q The period of time that I understand that most of the people were at the coast fishing in the commercial fishery was between June 15th and August 15th or thereabouts in order to fish for the sockeye runs?
A Uh-huh.
Q And that some of the people stayed on for the end of

the August and into September in order to fish coho and chum?
A Yes.
Q All right. Now, when you said that there was a number of families that went to the coast from among the Gitksan villages, you were certainly not suggesting that all of the people in these villages went to the coast to participate in the commercial fishery?
A No.
Q Okay. And it is your recollection, is it not, that during the summer there was, from among the Gitksan people, fishing done on the -- that is inland fishing done on the Skeena and the Bulkley and Babine Rivers?
A Yes.
Q Now, I just want to ask you about the Carrier people, and you understood, did you not, that Hagwilget and Moricetown were both villages of Carrier people?
A Right.
Q Or Wet'suwet'en people?
A Yes.
Q And both the Carrier -- both people from Hagwilget and from Moricetown fished in the inland fishery?
A Right. Uh-huh.
Q The Moricetown people fishing at the Moricetown Canyon?
A Uh-huh.
Q And the Hagwilget people fishing in parts of the Hagwilget Canyon?
A Right. Uh-huh.
Q Now, there were -- there was a considerable amount of fishing farther upstream on the Bulkley River as well, was there not, by Carrier or Wet'suwet'en people? Now, I mean upstream from Moricetown.
A On the Bulkley?
Q Yes, upstream from Moricetown up from the canyon up to as far as where the Morice River meets the Bulkley.
A Oh, I don't recollect seeing any. The major place for inland fishing was at Moricetown and there were a number of --
Q Right.
A -- smokehouses or fish-drying racks built at Moricetown and a large number of people participated there.
Q All right. Was it also your understanding that there were Wet'suwet'en people or Carrier people who, from Moricetown and Hagwilget, who went to the coast to fish --

A There were --
Q -- in the commercial fishery?
A -- a few I think. Yes.
Q Okay. Will you agree with me that among the Wet'suwet'en or Carrier people from the villages of Hagwilget and Moricetown there was considerable reliance and importance placed upon the summer inland fishery?
A Yes.
Q The Moricetown and Hagwilget people were concerned, extremely concerned, about the strength of the runs and the availability of fish at the Hagwilget Canyon and at the Moricetown Canyon?
A Well, I'm sure they would be.
Q Well, you had occasion to receive complaints registered to you by the Moricetown people concerning the building of the fishway --
A Yes.
Q -- at Moricetown?
A Uh-huh.
Q And in fact was there not considerable displeasure expressed by the Moricetown people concerning the fishway?
A I think they were very apprehensive when it was first discussed that they might not in future get the numbers of fish that they felt they had got in the past and that they would need.
Q Okay. I'm going to come to that because I think that you were involved there at two different periods of time with regard to the Moricetown fishery. I just want to show you a letter which you wrote from federal -- the federal government's document list number 2921 from yourself to W.S. Arneil dated November 14th, 1950 concerning the fishery at Moricetown.
A Uh-huh.
Q It was your understanding that there was some threat to the peace that was exhibited by the Moricetown people over the fishway at Moricetown?
A Yes, they were very apprehensive about it.
MR. RUSH: All right. Can that be marked as an exhibit, please?

(EXHIBIT 57: Letter dated November 14, 1950 from Mr. Boys to Mr. Arneil)

MR. RUSH:

Q And you met Mr. Boys with chiefs and other people from Moricetown who expressed their apprehension to you during that period of time?

A Well, it wasn't -- it wasn't only to me. I arranged a meeting of the people of Moricetown and -- to be attended by representatives of the Department of Fisheries and I attended and this was to be a meeting where the fisheries would explain what their intent and purpose was and where questions could be asked about the -- about the fishery.

Q Was Mr. Giraud -- do you remember a Vic Giraud? Was he present at that meeting?

A Well, I remember the name, but I can't remember whether he was present at the meeting or not.

Q Okay. All right. I want to ask you if in fact it wasn't the case that the Moricetown and Hagwilget Carrier people continued to express their apprehension about the strength of the runs up the Bulkley River to you when you were the Indian Commissioner in British Columbia, if you recall that?

A I don't recall it.

Q Okay. In fact, is it not the case, and I'd ask you if you recall, that you received a petition or a number of petitions from the Moricetown and Hagwilget people concerning their fish runs?

A Well, I have to admit that I don't recall it, but I certainly wouldn't deny it.

Q All right. Let me show you this memorandum. This is a memorandum to the Indian Commissioner for British Columbia dated May 10th, 1962?

A Uh-huh.

Q Over your name as Indian Commissioner for British Columbia with a copy going to the Superintendent from the Babine Indian Agency. Can you confirm that this was written on your behalf?

A Yes. That's -- that's Mr. Kendall's signature.

Q I see.

A He was our officer in charge of game and fishery in the office.

Q All right. And can you confirm that this was your understanding at the time, and I in particular direct you to paragraph 2 where it says in part, and I quote:

> "It is thought that you should know of petitions which were sent to the Regional Office in October, 1961 by the Moricetown Band who feel precisely the same about the

1 situation as do the people at Tsitsk."
2
3 A Tsitsk.
4 Q Tsitsk. Yes. You understood that to be the --
5 A Hagwilget.
6 Q Hagwilget?
7 A Uh-huh.
8 Q And you'll also notice that there is -- you say then,
9 and I quote: "I also enclose my reply to Mr. David
10 Dennis at that time."
11 A Uh-huh.
12 Q And I take it that Mr. David Dennis had written to you
13 concerning the situation of the strengths of the
14 salmon runs at the Moricetown Canyon?
15 A Yes, certainly that's the implication. I don't -- I
16 don't specifically recall this one letter, but --
17 Q All right. Now, as -- can you confirm, as you read
18 paragraph 2, that that was your understanding at the
19 time?
20 A Yes. Uh-huh.
21 Q Okay. And can you confirm at the bottom of the page
22 that it was your view, and I quote:
23
24 "It is just another case of fish versus power
25 and should the latter one win out, the
26 Indian people would certainly suffer to a
27 greater extent than they are now."
28
29 A Well, I can't say that I recollect specifically this
30 correspondence which was -- but I do recollect that
31 there was a -- that there was a problem involved with
32 the diversion of water from the -- to Kemano.
33 Q Resulting in a concern of the reduction in water flows
34 at the Moricetown Canyon?
35 A Well, resulting in -- yes, resulting in a smaller fish
36 run, annual fish run at Moricetown.
37 Q Okay. Now, this memorandum --
38 A Is this to be --
39 Q Yes, I just wanted to confirm with you that this
40 memorandum was sent out over your name as it appears?
41 A Yes.
42 Q And with your authority?
43 A Yes. Uh-huh.
44 MR. RUSH: All right. Can this be an exhibit, please?
45
46 (EXHIBIT 58: Memorandum dated May 10, 1962 from Mr.
47 Boys to Supt. Fry)

MR. RUSH:
Q All right. Thank you. All right. Mr. Boys, I want to refer you to another letter which you penned or at least it appears that it was written over your name in August of 1947 and I wonder if you can confirm that this was either written by you or on your behalf?
A Yes. That was my letter and it sums up the situation as it existed at that time.
Q Thank you. And the Babine River was in the Babine Agency?
A Right. Uh-huh.
MR. RUSH: Thank you. Can that be an exhibit, please?

(EXHIBIT 59: Letter dated August 22, 1947 from Mr. Boys to the Indian Commissioner for B.C.)

MR. RUSH:
Q All right. I now would like to ask you, Mr. Boys, if you would please turn to Exhibit 31, and Mr. Mackenzie asked you some questions pertaining to certain declarations of a chief or a councillor, and I'm going to ask you some questions about this.
A Yes.
Q The Gitksan and Wet'suwet'en or Carrier people that you dealt with on the Band Councils while you were the Indian Agent were for the most part hereditary chiefs, were they not?
A When I got there to the agency there were chiefs in place, chiefs and councillors acting on behalf of the band there.
Q All right. My question to you is that were the chiefs and councillors that you had dealings with while you were the Indian Agent hereditary chiefs, hereditary under the successorship laws or rules of the clan and crest system?
A Well, I don't know how some of these came to be -- came to be appointed or -- but during my term of office some bands elected to change to an elective system.
Q Okay.
A And we supervised the elections.
Q Okay. Prior to those elections occurring, there were appointed chiefs; is that right?
A Uh-huh.
Q Did you understand some of those chiefs to be hereditary chiefs?

A Well, I suppose they were hereditary chiefs. Yes. I mean they were -- they were in place. I didn't -- I didn't do any research to find out how they became --
Q All right. If you'll look at -- if you'll look at the first document under Exhibit 31?
A Uh-huh.
Q It refers to Christopher Harris?
A Right.
Q Did you know Christopher Harris?
A Yes.
Q Did you know him to have the name and hold the name of Luus, L-u-u-s?
A No.
Q Okay. You'll notice that in respect of this declaration that the declaration was read to the -- Mr. Harris in both Gitksan and English? It's the second full paragraph of the main paragraph?
A Yes.
Q All right. Just turn to the next page, please, Moses Morrison?
A Yes.
Q Did you know that Moses Morrison at that time held the name of Gitludahl?
A No, because you're referring to a time when I was not yet in the agency.
Q All right. But presumably the -- you knew Moses Morrison?
A Yes. Uh-huh.
Q And I'm asking --
A Well, I didn't know him by any other name.
Q All right. Just let me turn -- ask you to turn to the next page.
A Uh-huh.
Q And I want to ask you if you knew that Wallace Morgan, David Wells, and Edward Benson, held Gitksan hereditary chief's names?
A No, I didn't.
Q All right.
A I just knew them by these names.
Q All right. I'd just ask you to carry on please to the declaration in respect of Glen Vowell, Johnathon Brown, Thomas Brown and James Woods. Did you know them?
A Oh, I'm sure I knew them.
Q Did you know them by their hereditary chief's names?
A I knew them by -- by these names. No, I didn't know them by any other name.

Q All right. Joseph George, this is with respect to Hagwilget or Tsitsk, Joseph George, Charles Austin and Phillip Austin?
A Uh-huh.
Q Did you know that Joseph George holds the name of Hoogit, H-o-o-g-i-t?
A No, I didn't.
Q Or that Charlie Austin held the name of Gax?
A No, I didn't.
Q All right. I want to ask you if -- I want to show you a document which is from the plaintiff's document list. We can set that aside now, Mr. Boys. Thank you. I'm showing you a document over your name dated March 31st, 1947, to the Indian Commissioner for B.C., Vancouver, and I direct your attention in particular to the second -- I'm sorry, the third paragraph, in the middle portion of the third paragraph where it reads in part, and I quote:

> "A meeting was held at the Kitanmax Hall on February the 11th, but it transpired that because the matter of restoration of graves affects their old potlach customs no decision could be made until a fully representative meeting could be called. I was not asked to be present at this meeting."

Do you recollect that?
A No, I don't recollect it, but --
Q Can you confirm that you sent that letter?
A Well, it's -- it's over my name and it hasn't my signature on it, but yes.
Q It's likely yours?
A Most certainly, but I just don't recollect the exact circumstances of the content of the letter.

MR. RUSH: Thank you. Can that be marked the next exhibit, please, Exhibit 60?

(EXHIBIT 60: Letter dated March 31, 1947, from Mr. Boys to the Indian Commissioner for B.C.)

MR. RUSH:
Q All right. Mr. Boys, you indicated that you visited the villages in the Babine Agency during the course of your tenure as the Indian Agent?
A Yes.

1 Q You didn't visit all of the villages every week?
2 A Oh, no.
3 Q You couldn't possibly do that could you?
4 A No. No.
5 Q Okay. In fact, in terms of the village of Kitwanga
6 there were often transportation difficulties getting
7 to the Kitwanga village, were there not? You had to
8 cross by ferry?
9 A Yes, and there were periods when the river was in
10 flood in the spring when the ferry was not working.
11 Q Okay. Would you agree with me that there would be up
12 to as many as two months go by between your visits to
13 some of the villages?
14 A I would agree with that so far as the villages on
15 Babine Lake are concerned. That's true. But I think
16 that the frequency of my visits to the other more
17 accessible villages were more frequent than that.
18 Q All right. I understand that, at least I'm advised,
19 that conditions such as the spring breakup and the
20 muddy conditions of roads would have made it more
21 difficult to transport yourself in a vehicle to some
22 of the villages?
23 A Yes, some of them. Uh-huh.
24 Q Would you agree with me that the frequency of your
25 visits to the villages, and I'm speaking generally
26 here, would be between one to two months that you
27 would have visited the villages?
28 A There wasn't any set pattern. It would depend upon
29 the amount of business or the request that we might
30 have from a given village for a visit and a visit
31 would be made either by myself or later, when I had an
32 assistant, by Mr. Appleby.
33 MR. RUSH: All right. Okay. Do you -- I have a major area that
34 I'm going to move into next. I think that we can
35 comfortably finish this afternoon.
36 MS. KOENIGSBERG: What are you thinking of?
37 MR. RUSH: Breaking now. Either breaking now or my starting --
38 I'd prefer not to start and just break and we can
39 carry on. I'd like us just to have our lunch and come
40 back.
41 MS. KOENIGSBERG: Maybe we can just go off the record.
42
43 (OFF THE RECORD DISCUSSION)
44 (PROCEEDINGS ADJOURNED FOR LUNCH RECESS)
45
46 MR. RUSH:
47 Q All right. We can recommence this cross-examination

then, Mr. Boys.
I think you said last day that you knew the Gitksan people to be people who had feasts as part of their cultural system?
A Feasts?
Q Yes.
A Yes.
Q And did you understand the Carrier people to have feasts as part of their system or potlatches? You might know them as potlatches.
A No, I didn't.
Q Did you understand there to be any difference between a feast and a potlatch?
A Well, I think that a feast was always a potlatch. I mean, a potlatch was always a feast. But I'm not sure that the reverse was always true.
Q Okay. You understood there to be some difference between the two did you?
A Yes.
Q Can you explain what you thought the difference to be?
A Well, not exactly, but a potlatch I understood was usually -- it usually involved the giving of gifts or a feast put on by a chief, whereas I think -- I was under the impression that a feast might be simply the same -- might have just the same implication as a feast among non-Indian people.
Q Meaning what?
A Well, just a celebration of any event.
Q Okay. Had you ever attended a Gitksan feast?
A No.
Q Okay. Did you ever attend a Gitksan potlatch?
A No.
Q Did you ever attend a Carrier or Wet'suwet'en feast?
A No.
Q Did you ever attend a Carrier or Wet'suwet'en potlatch?
A No.
Q How did you know about them?
A Well, I didn't know about any potlatches.
Q How did you know about any feasts?
A Oh, some member of a village might speak of having had a feast to mark some event.
Q Okay. I'd like to use the term feast in the sense of -- in the sense that you used the term potlatch.
A Uh-huh.
Q All right. And in particular connoting the passing of gifts as witnessing for events that take place at the

feast or the potlatch?
A Uh-huh.
MR. RUSH: Now, how did you -- how did you come by the knowledge that a feast, in the sense that I've used the word, was a place or an event where gifts were conveyed to people who were in attendance?
MS. KOENIGSBERG: I'm just going to stop you there just to clarify something, Mr. Rush. I'm not objecting to the question, but I believe you had Mr. Boys giving you the evidence that his understanding of gift -- that there was gift giving in a potlatch, but I believe you then, in adopting the word "feast" to stand for "potlatch", added your understanding of witnessing events being part of that. But I don't believe Mr. Boys has given the evidence that that was his understanding. It may be, but he hasn't given that evidence.
MR. RUSH:
Q Let's use your terminology, Mr. Boys. A potlatch in your understanding involved the giving of gifts?
A Yes.
Q How did you come by that knowledge?
A Oh, I suppose somebody told me.
Q Do you recall who or when?
A No, I don't.
Q How did you come by your knowledge of the feast as being -- as having the same implication as a celebration?
A Well, that's implied in our own language too.
Q Yes, I understand that that would be the implication that might be carried in our language, but I'm asking you about your knowledge of the Gitksan or Carrier cultural system and the application of the word to that system, and my question is in terms of its reference to that system. How did you come by the knowledge that a feast meant for that system an implication of celebration absent the giving of gifts as I took it?
A I don't -- I don't feel that I received any significant information regarding feasts as such in the -- in the Indian sense being any different than a feast in our sense except where it was a potlatch.
Q All right. Can you place Exhibit 27 before Mr. Boys, please? I'd ask you to look at this extract from a quarterly report of J.V. Boys, Exhibit 27, Mr. Boys, and I particularly ask you to look at about a third of the way down where it is said here:

"During his life a chief might enhance his importance by erecting a totem pole. This became an occasion for extensive feasting and potlaching and to pay for it the chief would often beggar himself and his family."

And my question to you is: How did you know that the erecting of a totem pole was an occasion for extensive feasting and potlatching?

A Well, again I'm -- I gather that I was told about this by people in the agency, Indian people.

Q And you can't do any better on your recollection than that?

A No, I can't.

Q All right. You said that you had attended one pole raising and the pole raising, was that hosted by Charlie Clifford?

A Yes. A pole was erected, as I recollect it, on the recreation grounds up the hill above the village of Hazelton.

Q And you were asked to come were you or did you just happen by?

A All of the Indian and non-Indian people were up there on that occasion. There was no -- no special invitation from anybody.

Q All right. Well, I'm -- I guess I need to -- I should ask you if you were invited to come?

A No.

Q Okay. Did you understand that other people were there to witness the pole going up?

A Yes. It wasn't -- the people weren't there just for the pole going up. It was erected, as I recollect it, on some day when there was some recreational programme and this was part of the programme of that day.

Q I see. And did you know if Charlie Clifford held a Gitksan hereditary chief's name?

A I don't know the name, no. I only knew him as Charlie Clifford.

Q Did you know that he held a Gitksan hereditary chief's name?

A No.

Q Okay. Just to refer you back to Exhibit 27, you said in the next line, Mr. Boys, "Similar orgies took place at the time of a chief's death." I'm just going to stop there. What did you mean by "similar orgies" took place at the time of the chief's death?

A Well, I suppose extensive feasting, and perhaps it was a not too well chosen word. I'm not -- I'm afraid I can't pin it down exactly at this time.
Q You'll agree with me, won't you, Mr. Boys, that the use of the word "orgies" even on your own definition of a feast, was inappropriate?
A Yes. A feast isn't necessarily an orgy certainly.
Q That's right. And even on your definition there was no implication that the feasts, as you had been informed to the extent that you were, were in any sense an orgy?
A No. Okay.
Q And that certainly had -- that word was most inappropriate in the reference to a potlatch?
A Well, I don't know. I never attended one.
Q Were there other poles raised during the course of your tenure as Indian Agent at the Babine Agency?
A I don't think so.
Q Did you know about the poles that were raised in Kitsegukla in -- just before your arrival there in the summer of 1945?
A No.
Q You knew --
A I've seen the poles at Kitsegukla.
Q Yes?
A Yes. I've seen all the poles I think in the villages around Hazelton.
Q And there were quite a number of them standing weren't there?
A Yes.
Q There were poles in the village of Kitsegukla, I think you've agreed with that?
A Uh-huh.
Q And there were poles in the village of Kispiox?
A Yes, and a number of them down in the village of Kispiox.
Q But a number of them standing?
A Right. And a number of them in Kitwancool and Kitwanga.
Q Right. If I told you that at the time you were in Kispiox there were ten poles standing would you disagree with that?
A No.
Q If I suggested to you that in Kitsegukla there were 16 poles standing while you were in the Babine Agency you wouldn't disagree with that?
A No, I really wouldn't know just how many there were.

Q Okay. And there were 14 poles in Kitwanga that were standing during the course of your --
A Quite probably.
Q And there were seven in Hazelton?
A Yes, I would think that's probably correct.
Q And you wouldn't disagree, would you, with the -- if I said to you that the totem poles among the Gitksan people played an important part in the cultural life of the people?
A Yes. True.
Q Now, were you familiar, Mr. Boys, with the old Kispiox Hall in Kispiox?
A Yes.
Q And did you know that to be a place where feasts occurred or potlatches?
A Well, I didn't know that. I didn't know of a potlatch taking place in that hall.
Q You never heard of one potlatch taking place in that hall?
A Not during my tenure in office, no.
Q All right. Alexander White was the estate that you administered during the time of your tenure?
A It was one of them. Yes.
Q Mr. White died in April of 1946, April the 22nd I think?
A Uh-huh.
Q And I think you will agree that if you didn't know the name of Wiigyet, it was certainly referred to in his handwritten will?
A I knew of the name Wiigyet. Yes.
Q Yes. Did you know that Mr. Joe Star succeeded to the name at a funeral feast at the old Kispiox Hall?
A No.
Q In the summer of 1946?
A No.
Q Did you --
A I wasn't there in the summer of 1946.
Q Okay. All right. Did you know Andrew Crosby?
A Oh, the name is vaguely familiar, but I can't place Andrew Crosby.
Q Did you know Alvin Weget?
A Yes.
Q Did you know that Alvin Weget held a chief's name of Neesquimanew?
A No, I don't.
Q And that Alvin took the name of Neesquimanew at a funeral feast in the summer of 1946?

A No.
Q Upon the death of Mr. Crosby?
A No, I don't.
Q You knew Abel Tait?
A Yes.
Q Abel held the chief's name of Luus; did you know that?
A No.
Q You knew Chris Harris?
A Yes.
Q Because you did a -- you handled a trapline application?
A Well, I knew Chris Harris quite well.
Q Did you know that he took the name of Luus --
A No.
Q -- at a funeral feast at the old Kispiox Hall --
A No.
Q -- in Kispiox?
A No.
Q Did you know Thomas George?
A Well, I -- I couldn't tell you who Thomas George was.
Q Let me show you a photograph of him. I'm producing to you Exhibit 62-10. The man that is sitting on the -- as you face the photograph on the right is Thomas George. If I tell you that that's Thomas George, do you recognize him?
A No, I can't say I do.
Q Do you recognize anyone in that photograph?
A No, I don't.
Q You don't recognize Father Paull?
A No.
Q Or Mr. Bill Nye?
A No, I don't know -- where did Father Paull --
Q At Moricetown.
A Did he?
Q He attended the church at Moricetown.
A No, I --
Q This was during the time that you were the --
A Uh-huh.
Q -- Indian Agent.
A Well, I'm sorry, I don't -- I don't recognize anybody there.
Q Okay. Do you recognize, Mr. Boys, that the people -- that the two people, not the priest, are wearing ceremonial robes?
A Yes.
Q Do you recognize those as robes?
A Yes.

1 Q Had you seen those before?
2 A Well, I've seen -- I've seen robes like them, yes.
3 Q All right. Did you know those to be blankets that
4 they called blankets, button blankets or ceremonial
5 blankets?
6 A Yes.
7 Q All right. Now, if I tell you that that photograph
8 was taken in Moricetown and that the two individuals
9 are Carrier-Wet'suwet'en people, does that help you in
10 your recollection as to whether or not there were
11 potlatches among the Carrier or Wet'suwet'en people at
12 Moriceton?
13 A No, I don't recollect any potlatches among them.
14 Q All right. This photograph, Mr. Boys, was taken at a
15 potlatch or a feast of Mr. -- of the name Sat San when
16 the name Sat San was passed on. Are you familiar at
17 all with the name Sat San?
18 A No.
19 Q Do you know Mr. David -- or did you know Mr. David
20 Dennis?
21 A I remember the name Dennis as a family name in the
22 agency.
23 MR. RUSH: Okay. I want to ask you if you've ever seen this
24 totem pole before. This is exhibit -- what is it
25 marked there?
26 MS. KOENIGSBERG: 62-9 or 62-A, I can't --
27 MR. RUSH:
28 Q Thank you. I think it's 62-9.
29 A Nine I think.
30 Q Yes. Thank you.
31 A Well, I don't remember it specifically.
32 Q All right. My instructions are, Mr. Boys, that that
33 pole was raised after the headstone feast of Sat San
34 and this pole was standing in 1948 in Moricetown. Did
35 you ever see the pole?
36 A Well, I don't recollect seeing it, but possibly I did.
37 Q All right. I started this sequence of questions
38 asking you about Thomas George. You'll recall that I
39 referred you to a name on one of the linen trapline
40 maps which was the name of Joseph Nachlachs. Do you
41 recall that on the last session? I think the name was
42 spelled N-a-c-h-l-a-c-h-s on that map. Do you
43 remember that?
44 A I don't specifically. No.
45 Q All right. My question to you is do you recall
46 whether the person, Thomas George, held the name of
47 Gisdaywa?

A No, I don't.
Q All right. I think you've told us that you knew Pete Muldoe?
A Yes.
Q And did you know William Jackson before he passed on?
A I can't recollect him.
Q All right. Did you know that Pete Muldoe took the name of Wii seeks, that's W-i-i s-e-e-k-s, at a funeral feast for William Jackson in 1947?
A No.
Q You knew Steve Morrison?
A Yes.
Q Did you know William Dick?
A I can't recollect.
Q All right.
A I remember the family name Dick, but I can't recollect these people.
Q Steve Morrison took the name of Wii Elaast, that's W-i-i E-l-a-a-s-t, at the funeral feast for William Dick in 1947. Did you have any knowledge of that?
A No.
Q I want to ask you about the name of Geel, G-e-e-l, is that a name that you were familiar with?
A G-e-e-l?
Q Yes, pronounced Geel?
A No, I don't recollect it.
Q All right. Did you know Silas Johnson?
A Yes.
Q Did you know that Silas Johnson succeeded to the name of Geel at a funeral feast held at the old Kispiox Hall in 1948?
A No. No.
Q And I think you've said that you knew Chris Skulsh?
A Chris Skulsh. Well, I can recollect the name, but I can't place Chris Skulsh.
MR. RUSH: Okay. If you have Exhibit 40 you could place that before Mr. Boys. It's the trapline application of cancellation form for Isaac Skulsh.
MS. KOENIGSBERG: Exhibit stamps are on the inside.
MR. RUSH:
Q I'm sorry, it should be Exhibit 39. You'll see that Mr. Chris Skulsh's signature appears on Exhibit 39?
A Right. Uh-huh.
Q Along with that of Isaac Skulsh; do you see that?
A Yes.
Q And then do you also have Exhibit 40?
A Yes.

Q And this is the application for cancellation handled by Mr. Appleby?
A Uh-huh.
Q And this is pursuant to the estate of Isaac Skulsh?
A Uh-huh.
Q I think it was your evidence that Chris Skulsh was heir to the estate, in fact it says so on the application?
A Uh-huh. Right.
Q And he became the successor to the trapline; is that your understanding?
A Yes. Uh-huh.
Q Now, did you know that there was a funeral feast upon the passing of Isaac Skulsh in which Mr. Chris Skulsh took the name of Gwiiyeehl in late 1950?
A No.
Q Now, you knew Donald Gray, did you not?
A Yes, at Hagwilget.
Q Right.
A Yeah.
Q And Donald Gray had a large hall that was used for feasts at Hagwilget didn't he?
A Yes. There was a hall at Hagwilget and it I think belonged to Donald Gray.
Q Did you know this hall to be called Owl, O-w-l, Hall?
A No.
Q Okay. Did you know that there were feasts or potlatches, as you've called them, that were held at Owl Hall at Hagwilget during the time that you were the Indian Agent?
A No. I knew that there were celebrations held at the hall, but not potlatches.
Q Well, how did you know they weren't potlatches?
A Well, I mean, I did not know any feast to be a potlatch that was held at that hall.
Q All right. You're saying to me that there were celebrations, but you didn't know that they were potlatches?
A No, there were feasts when usually there was a wake or a feast or some sort of mark on the passing of the head of a family or a person in the village, but I would term that a feast.
Q All right. Isn't it the case, Mr. Boys, that your understanding was that on the occasion of the passing of any member of a family there was an event that was held and we're dealing here with Hagwilget, which you've called a feast, but which may have been a

1 potlatch?
2 A I only know that there were -- that there were events
3 that took place, yes, on the passing of somebody in
4 most of these -- in most bands. Yes.
5 Q All right. And was this -- were these events events
6 that you understood to be places or occasions on which
7 names were passed?
8 A No, I never.
9 Q You didn't understand that to be the case?
10 A No. No, that's not my understanding.
11 Q All right. Did you -- I'm now directing your
12 attention to your understanding of these events,
13 celebrations as you've called them or feasts as you've
14 called them, in Hagwilget, and I want to ask you if
15 you knew Lucy Joseph to be a resident of Hagwilget?
16 A I don't remember Lucy.
17 Q All right. Did you know Annie Gagnon?
18 A I remember the name, but --
19 Q Did you know that on March the 20th, Mr. Boys, March
20 the 20th, 1949, the name of Hag Wil Ganuu was passed
21 at a feast from Lucy Joseph to Annie Gagnon?
22 A No.
23 Q Would it be fair to say, Mr. Boys, that -- well, let
24 me rephrase this: Were you aware of any feasts or
25 potlatches occurring in the village of Moricetown?
26 A I was aware of feasts, but not potlatches.
27 Q All right. And were you aware that there was a feast
28 in Moricetown in July of 1952 -- well, I guess that's
29 after you'd left wasn't it?
30 A Yes.
31 Q All right. Were you aware that the name that Houston
32 Tommy held in 1948 was passed at a headstone feast in
33 Moricetown?
34 A No.
35 Q You knew Houston Tommy?
36 A Yeah, I vaguely remember Houston Tommy.
37 MR. RUSH: All right. Now, I'd like still for you to refer to
38 Exhibit 27, Mr. Boys.
39 MS. KOENIGSBERG: Exhibit?
40 MR. RUSH: 27.
41 MS. KOENIGSBERG: Have we had that out before?
42 MR. RUSH:
43 Q Yes.
44 A Oh, yes. Uh-huh.
45 Q Now, if you look at the -- about the middle of the
46 document where it says, and I'm quoting:
47

"Thus the family of the dead man lose not only their breadwinner, but their home and properties at the same time."

And then you say:

"This system persisted unchecked at the time the writer came to Babine five years ago. But today it is virtually nonexistent through insistence on the provisions of the Indian Act as to descent of property and rigid opposition to the potlach."

A Uh-huh.

Q Mr. Boys, if those events at Donald Gray's hall were potlatches, and if those potlatches, as I've suggested to you where names passed, occurred in the way and at the time that I indicated, you would agree with me that your conclusion about the system being virtually nonexistent at that time was wrong?

A It would depend, wouldn't it, upon what was my interpretation of a potlatch and what somebody else's interpretation may be.

Q Well, yes, it would. It would precisely depend on that.

A Uh-huh.

Q But if your interpretation was wrong, your conclusion was wrong?

A Right.

Q I want to ask you when you used the language, and I quote, "rigid opposition to the potlatch", was this some opposition which you say that you mounted?

A No, not particularly, but there was rigid opposition to --

Q What was it?

A -- open potlatching by the police.

Q Well, tell me about that. What did they do to rigidly oppose the potlatch?

A They made it known that it couldn't be. There were -- if it came to the knowledge of the police that there was a proposed potlatch, the police let it be known to the proponents of the potlatch it couldn't take place.

Q Did you -- do you have any other mean for that? Is there any other so-called rigid opposition to the potlatch that you're aware of apart from the police?

A No.

Q Okay. Now, what's your direct knowledge about what

1 the police did? Did the police attend any -- at any
2 place where they thought there might be a potlatch and
3 try to prevent it from happening, to your direct
4 knowledge? I just want to know what you know from
5 what you saw or what you participated in.
6 A I was not with the police on a great many occasions,
7 but only through hearsay did I know the opposition of
8 the police.
9 Q All right. And when you refer in this passage, Mr.
10 Boys, to the fact that the system was virtually
11 nonexistent as to descent of property, were you here
12 referring to the fact that you were insisting, as a
13 matter of your own practise, to the compliance of the
14 Indian Act rules regarding the descent of property?
15 A Yes, that's correct.
16 Q And that's all you were referring to?
17 A Yes.
18 Q Did you know Wilson Duff?
19 A Yes.
20 Q You knew him to be an anthropologist?
21 A Uh-huh.
22 Q And did you know that Wilson Duff visited your agency
23 during the period of time of your tenure as the Indian
24 Agent?
25 A I can't recollect where I first met him, but -- no, I
26 don't recollect meeting him in Hazelton. He may have
27 been there, but not for any length of time.
28 Q Okay. You understood Mr. Duff to be a person who made
29 observations of the Gitksan people?
30 A Of all of the people of -- all of the Indian people of
31 British Columbia.
32 Q And would you agree that Mr. Duff, that his knowledge
33 of the Gitksan people and their culture would be
34 greater than your own?
35 A Probably.
36 MR. RUSH: Would you agree with the statement that Mr. Duff
37 wrote in 1952 that:
38
39 "Potlatch gatherings still mark important
40 social events. At these events the old
41 patrons of reciprocal functions among the
42 phratries still operate."
43
44 MS. KOENIGSBERG: I object to the form of your question. I
45 don't think he can agree with it in the face of his
46 evidence. He -- if you put it to him that Wilson Duff
47 wrote that, I don't think we can do much more with it

than how far you've gone.

MR. RUSH:

Q He can disagree or not agree. I note your objection. I'm going to put the question again.

A Uh-huh.

Q All right. Do you agree with the statement written in 1952 that:

> "Potlatch gatherings still mark important social events. At these events the old patrons of reciprocal functions among the phratries still operate."

A Well, again I have to say that I -- it would depend upon the interpretation of what is a potlatch. You know, Wilson Duff's interpretation of a potlatch may be more accurate than my own, but -- but if that was his observation, well --

Q You said that the Babine Lake was in the Stuart Lake Agency; is that right?

A No, it isn't.

Q It isn't?

A The southern part of Babine Lake was in the Stuart Lake Agency, that is to say, Pendleton Bay and the part just north of Burns Lake, but the line of demarcation between Stuart Lake and the Babine Agency was approximately half-way up Babine Lake so that Topley Landing, Old Fort and Fort Babine, were in the -- were in the Hazelton Agency.

Q All right. You would not have had much contact with the Carrier people in the Stuart Lake Agency?

A No.

Q All right. Now, your -- would you agree with me that the most contact that you had with Carrier people was with the people at Hagwilget and in the village of Moricetown?

A And in those villages at the upper end of Babine Lake.

Q Yes. I'm saying that even in relation to the villages at the upper end of the Babine Lake that you had more contact --

A Yes.

Q -- and were more familiar with the people in Moricetown than Hagwilget?

A I was more frequently at those villages, yes.

Q I think it refers to something you said earlier today that they're closer and you would have visited them more often?

A Yes. Right.
Q Now, what language did you understand the people at Moricetown and Hagwilget to speak?
A I can't recollect what the name of it was.
Q Okay. What tribe did you understand them to belong to?
A Well, I understood them to be Carriers.
Q When you talked of the differences between the Skeena River people, that is to say, the Gitksan and the Carrier people, you said, and I think I'm quoting correctly: "It was a historical fact that the Carriers did not live in long houses."
A That was my understanding.
Q How did you come by that knowledge?
A Well, either through reading or hearsay.
Q Would you agree, Mr. Boys, that that understanding of what you considered to be the differences between the Gitksan and the Carrier people, was the major difference that you understood -- let me rephrase it. The fact that you considered it a difference between the Gitksan and Carrier people -- it was a physical historical fact that the Carriers did not live in long houses was the major difference between the two people?
A No, my understanding was that the -- the Carrier people did not have a crest system. That was a major difference, to my understanding.
Q How did you come by that knowledge?
A Well, I couldn't tell you specifically where I came by that knowledge.
Q Okay. Will you agree with me that the poles among the Gitksan contained carved on them representations that were the crests of the clans?
A Yes.
Q If I told you that Exhibit 62-9, which is the pole of Sat San, in 1948 --
A Uh-huh.
Q -- contained representations on the pole, would that assist you at all in determining whether there were clans among the Carrier?
A Well, it -- it has representations of animals or it may or may not have been. This pole is not anything like as intricate as the poles of the Gitksan people.
Q I appreciate that. There were differences in quality of poles?
A Yes.
Q Even among the Gitksan that was so, was it not?

A Oh, yes.
Q As with any artistic ability?
A Uh-huh.
Q There are differences in skills and ability?
A Uh-huh.
Q If I -- would you agree with me when I'm showing you Exhibit 62-10, Mr. Boys, that blankets such as the one that is shown in Exhibit 62-10 were worn by Gitksan people?
A Yes.
Q And that when worn by Gitksan people that they represented crests which they belonged to?
A Well, they were ceremonial attire.
Q Did you understand -- I'm sorry, did you have anything more to say?
A Exactly whether they -- whether a particular blanket represented a crest I am not sure about.
MR. RUSH: Okay. Thank you. I want to ask you, Mr. Boys, I'm going to show you a photograph. I've got an extra one.
MS. KOENIGSBERG: Has this been produced before?
MR. RUSH:
Q Oh, probably. I can't really recall. This is a photograph -- do you recognize the gentleman in this photograph?
A No, I can't say I do.
Q Do you know Johnny David?
A I don't remember him.
Q All right.
A I'm sure that this is a much later picture than -- it wasn't taken during my era. I don't think there were any --
Q You're quite right.
A I don't think there were any TV aerials at that time.
Q That's very observant of you. You're quite right. It was taken quite a bit later, and I can tell you that the man with the hat is Johnny David, who's a Wet'suwet'en or Carrier chief, and behind him is his house, and in front of him are two poles, one of which -- the one behind him directly or on your right was raised during the time of the currency of your -- when you were the Indian Agent, and I wanted to ask you if you recognized that pole?
A No, I don't. Where is this?
Q It's in Moricetown; close to the church in Moricetown.
A This could be the same pole as the other one that you showed me.

Q If you look closely you'll see that they're different.
A Oh, I see. Well, this one -- this one is painted and the other one -- and this one has "48" on the top.
Q Right. I'm just asking you to look at the pole on the right-hand side --
A Uh-huh.
Q -- of the colour photograph --
A Yes.
Q -- because that's really -- the other pole was erected at a later time.
A Uh-huh.
Q And I wondered if you had seen this pole in Moricetown standing at the time that you were the Indian Agent?
A Not to my recollection, no.
Q All right. Thank you. Mr. Boys, I just want to come back to one point to pick up a stitch if I can. Houston Tommy's name I understand was Sat San; did you know that?
A No.
Q And that David Dennis succeeded to the name of Sat San in 1948 at a headstone feast in Moricetown; did you know that?
A No.
MS. KOENIGSBERG: I think you already asked him that.
MR. RUSH:
Q Yes. I didn't connect it with the previous one.
Now, I want to ask you, Mr. Boys, if you saw any poles at Hagwilget, standing at Hagwilget, during the time that you were the Indian Agent?
A Yes, I seem to recollect seeing a few poles at Hagwilget.
Q All right. And they were carved poles in the manner of the Gitksan poles that were carved at Hazelton, were they not?
A I can't remember the details.
Q All right. All right. Do you recall who owned the poles?
A Oh, probably David Grey had one.
Q Donald Grey?
A Donald Grey I mean, yes.
Q Do you recall anyone else owning one of those two poles?
A No, I can't. I can't remember.
Q All right.
A I probably would have known at the time, but at this stage of the game I can't recollect who owned the other one.

Q All right. There were on those poles, as best you can recall, representations of animals, a frog or a bear or a wolf or a beaver?
A Yes, almost certainly.
Q And you knew, did you not, at that time that those animals were associated with crests?
A Yes.
Q So you would have known that, at least from the poles that were at Hagwilget, that crests were associated with Carrier people at Hagwilget?
A It certainly would have appeared so. Yes.
Q I want to ask you about something different now and that is the evidence which you gave concerning a surrender of minerals at the Kisgegas Indian Reserve.
A Uh-huh.
Q And I think you gave some evidence to the effect that there was a surrender that was taken of the subsurface mineral rights; is that right?
A Uh-huh.
Q Now, it's your understanding isn't it that that -- that surrender was never acted on and hasn't been acted on to the present day?
A Well, what do you mean by "acted on"?
Q Well, pursuant to that surrender under the mining rights on Indian reserves in British Columbia procedures there could be no prospecting or placer mining that occurred without the permission both of the Indian Agent and the band council; isn't that right?
A Uh-huh.
Q And you know as a matter of fact that neither was obtained in respect of the Kisgegas minerals?
A That nobody applied to --
Q Nobody obtained permission to do any prospecting on the Kisgegas Indian Reserve?
A I don't recollect any being done in my time.
Q All right. I want to ask you as well, Mr. Boys, that the -- an impetus for the surrender came from four non-Indian people who wanted to prospect on the reserve; isn't that right?
A Not to my recollection.
MR. RUSH: All right. I want to show you a document -- yes, the first document I want to show you is one -- it appears to be November 27, 1954 or '64. I can't make it out unfortunately and I would ask you if you can identify this document.
MS. KOENIGSBERG: It's 1964.

1 MR. RUSH: Is it '64?
2 MS. KOENIGSBERG: If you look at the third page of the pages
3 that you have clipped together.
4 MR. RUSH: All right. Thank you.
5 MS. KOENIGSBERG: Is this part of the file that we've provided
6 here?
7 MR. RUSH: Yes, it is. Did you want that file back? I took
8 copies from it and I wasn't sure whether you were
9 giving me the file or whether this was your file and
10 you wanted it returned because if you do I have it
11 here and I can return it to you.
12 MS. KOENIGSBERG: Perhaps you should return it to us because I'm
13 not certain when we gave it to you, and if we gave it
14 to you here it may have been the only one we had.
15 MR. RUSH: Okay. I think --
16 MS. KOENIGSBERG: The only copy that we took that is.
17 MR. RUSH: Just let me take off my little notes and special
18 little comments to myself.
19 MS. KOENIGSBERG: I won't pay attention to them. I have far too
20 many of those little yellow stickies to pay attention
21 to.
22 MR. RUSH:
23 Q I'm asking you about this document mainly, Mr. Boys,
24 to see if you can identify for me the mining rights
25 and Indian reserves in British Columbia procedures I
26 guess that are attached to this letter of 1964?
27 A Yes.
28 Q And was Mr. H.R. Conn someone who worked under your
29 direction?
30 A No. Mr. Conn was at headquarters in Ottawa.
31 Q I see.
32 A And he was in the Department of Resources.
33 Q All right. Can you confirm for me your understanding
34 of the application of these procedures as set out in
35 Mr. Conn's letter of November 27th, '64?
36 A Well, this is -- this is something sort of out of
37 context, isn't it? There's a reference to a
38 memorandum from our office of November the 3rd and
39 also some direction that had been given to Mr. Cooper
40 who was then the superintendent at Babine Agency.
41 Q Yes?
42 A I don't know exactly what that refers to.
43 Q All right. I appreciate that. Subject to that
44 limitation, can you confirm for me your understanding
45 of the procedures as set out in Mr. Conn's letter?
46 A Yes.
47 MS. KOENIGSBERG: You mean -- I'm sorry.

MR. RUSH: From his knowledge can he confirm that it's accurately set out by Mr. Conn.
MS. KOENIGSBERG: That the --
THE WITNESS: That is the procedure that's normally required by somebody --
MR. RUSH:
Q All right.
A -- mining or prospecting on a reserve. Yes.
MR. RUSH: Okay. All right. I'm going to ask that this be marked as the next exhibit.

(EXHIBIT 61: Letter dated November 27, 1964 from Mr. H.R. Conn to Indian Commissioner for B.C.)

MR. RUSH: Thank you. Now, Mr. Boys, the other document that I wanted to show you, taken also from the same federal government document file, which by the way is numbered what?
MR. WOLF: 11318.
MR. RUSH: Thank you. I wanted to show you a document entitled "Surrender of Minerals", if you would look at that, please, and I'm particularly interested in your looking at the document that is attached to it.
MS. KOENIGSBERG: Do you have an extra copy?
MR. RUSH: Yes. Sorry. Here we are. If you can direct your attention to the second document.
MS. KOENIGSBERG: That begins "The purpose of this agreement..."
MR. RUSH:
Q Yes. And if you look at the last document, which is a letter from Mr. McRae, Gold Commissioner, to Mr. Norman E. Kerr of Vanderhoof, and also received in the Babine Agency office on December the 19th, 1947.
A Yes.
Q Now, firstly, beginning with the last document first, the one dated December 17th, '47, you can confirm can you that that was received into the Babine Agency office?
A Yes.
Q And of the purpose of the agreement document, can you identify that document as one having been received into your agency's office?
A This is -- this is the application from the --
Q No, it's just the three-page agreement beginning "The purpose of this agreement" and ending with the signature "Mr. Maynard G. Kerr".
A I can't see any --
Q If you'll just look -- yes. There's the last page.

A I don't see any mark on this that indicates that it was received, but it probably was.
Q All right. I wonder now that you've read this, Mr. Boys, if you can recollect if the impetus for the surrender of the subsurface mineral rights at the Kisgegas Reserve did not -- or did come about as a result of Mr. Kerr's interest in the minerals at that place?
A It seems probable that it was initiated that way. Yes.
MR. RUSH: All right. I'm going to ask that the whole bundle of documents be marked as one. Do you have an objection?
MS. KOENIGSBERG: I have no objection.
MR. RUSH: All right. Thank you.

(EXHIBIT 62: Document entitled "Surrender of Minerals"; three-paged agreement; and letter dated December 17, 1947)

MR. RUSH:
Q All right. Just to complete this, Mr. Boys, from your knowledge of the -- of what occurred after the surrender was taken, it is the case that no exploration or prospecting was done pursuant to the surrender, so far as you are aware?
A Not in my time.
Q All right. Thank you. Now, I want to ask you about the surrender by the Gitanmaax Band at Hazelton of the land for the joint school --
A Uh-huh.
Q -- in the Hazelton Village. I think you confirmed for us last day that land was surrendered from the Gitanmaax Reserve for the school?
A Right.
Q And that was in fact used for the construction of a school there?
A Right. Uh-huh.
Q And it was the case that the Gitanmaax people, the people living on the reserve, wanted a school in their community for the education of their young people?
A No, they wanted a bigger and better school. There was a school of sorts, but it wasn't -- it wasn't a very good one and it wasn't adequate.
Q And they wanted --
A They wanted a joint school with Indian and non-Indian children attending the same school.

Q Okay. And the desire for this joint school with a bigger and better facility was the reason for the surrender of the land?
A Uh-huh. Yes.
Q Now, as I understand it, they -- the councillors and the chief and the people of the Gitanmaax Reserve worked together with the Babine Agency and the department in order to bring about this joint school; is that right?
A Uh-huh. There has to be a meeting, a surrender meeting, in which the whole matter is discussed and then a vote of the voting members of the band is taken. As a result of the vote, the surrender is consummated or not.
Q All right. Now, as I understand it, in this case there were two surrenders; one that occurred prior to your time in 1946, which contained certain conditions on the surrender; do you recall that?
A No, I don't frankly.
Q Okay. But there was a -- let me suggest to you that there was a second surrender meeting during the time that you were the --
A There was a surrender meeting during my time.
Q And that was in 1948?
A Well, I can't tell you exactly when, but --
Q Okay. Can you tell me if at that surrender that you attended if there was -- if there were minutes kept at that surrender meeting?
A Yes.
Q Okay. That would have been something that you would do as a normal part of your activities as an Indian Agent?
A Yes.
Q And would you have maintained these minutes in the files of the agency?
A Yes.
Q Okay.
A And a copy of the minutes would have been sent with the surrender documents.
MR. RUSH: Right. Now, I've been unable to find in the material relating to the surrender any minutes of that meeting, which I understand took place in 1948, and I would very much like it if you would search your voluminous files and try to determine for me if you can obtain these minutes.
(REQUEST FOR ADDITIONAL INFORMATION)
MS. KOENIGSBERG: We certainly will put in a request

1 specifically for those minutes, but if they were with
2 the file that we received we would have produced them.
3 MR. RUSH:
4 Q Okay. I can advise you that in May of 1948 the
5 official surrender took place.
6 Now, Mr. Boys, I want to show you a document of
7 May of 1949 which is a summary I believe of what
8 occurred and you needn't read the whole of the letter,
9 but what I would like you to do is to at least confirm
10 your signature on it?
11 A Uh-huh.
12 MR. RUSH: It's dated May 30th, 1949, and it is from yourself
13 to the Indian Commissioner for B.C..
14 MS. KOENIGSBERG: Unless you choose to you don't have to read it
15 all. If you look at the third page there's a
16 signature. If you can identify that's yours --
17 THE WITNESS: That's my signature.
18 MR. RUSH:
19 Q Okay. I'd like that marked as an exhibit, please.
20 I'm not going to question you on it, Mr. Boys. I
21 simply want -- I presume that what is set out here was
22 set out in the course of your duties as the Indian
23 Agent?
24 A Yes.
25 MR. RUSH: All right. Could that be marked as the next exhibit
26 which --
27 MS. KOENIGSBERG: 63.
28 MR. RUSH: -- should be 63. Thank you.
29
30 (EXHIBIT 63: Letter dated May 30, 1949 from Mr. Boys
31 to the Indian Commissioner for B.C.)
32
33 MR. RUSH:
34 Q All right. Mr. Boys, I want to show you another
35 document which is dated January the 5th, 1973. It's
36 from Mr. Larry Wight to all district supervisors, and
37 it contains a memorandum with your signature on it,
38 and I wonder if you'd look at that, and I'm
39 particularly interested in your confirming that it's
40 your signature on the memorandum that's attached to
41 this --
42 A Uh-huh.
43 Q -- letter dated January 22nd, '64.
44 A Yes. Right.
45 Q All right. And if you'll just read your memorandum.
46 A Uh-huh. Yes.
47 Q And can you agree with me that it was the policy of

1 the department in 1964 to create district councils
2 among Indian bands in the province of British
3 Columbia?
4 A Yes.
5 Q And in this letter you apparently were encouraging the
6 superintendents in your agencies to foster the
7 development or creation of such district councils?
8 A Yes.
9 Q Is that right?
10 A That's right.
11 Q All right. And the district councils were to be -- to
12 contain groups of bands that were related by either
13 their -- the tribal relations or some relationship
14 that had to do with the bands' language or
15 nationality, if I can put it that way?
16 A Yeah, well, the fundamental rationale behind the band
17 councils was that each agency had to submit a budget
18 for its -- the estimated funds required for the
19 following fiscal year, and it had been the practise
20 before this time to submit a budget on behalf of each
21 band without reference to the needs of other bands in
22 the same agency, and we would often get a great many
23 requests quite naturally for the expenditure of funds
24 for a variety of purposes and it was difficult to make
25 the funds that were provided to us go around. So we
26 felt that if the various band representatives meeting
27 together had an understanding of the needs of all of
28 the bands of an area, that perhaps they could arrange
29 a programme of priorities for the expenditure of some
30 of these funds.
31 Q On a district basis?
32 A On a district basis because funds were voted on a
33 district basis on an agency basis, therefore it was
34 felt -- that was the fundamental thought behind -- I
35 initiated this and that was my thinking.
36 Q All right. Now, the district council was a district
37 council of bands which were grouped together; is that
38 right?
39 A In the agency?
40 Q In the agency.
41 A Yes.
42 Q All right. And subsequent to this, tribal councils
43 were the successors to these district councils; is
44 that right?
45 A Well, that may or may not be so. I'm not sure. There
46 were organizations that were tribal councils that were
47 initiated by the Indians themselves. They were

1 associations of Indians, but they were not necessarily
2 for the same purpose as was envisaged in setting up
3 the district councils.
4 Q Before the associations were created by the native
5 people themselves --
6 A Uh-huh.
7 Q -- the district council was a structure designed to
8 group the bands together?
9 A Right.
10 Q Within the agency?
11 A Yes.
12 Q Now, my question is to your knowledge was there a
13 successor organization that developed after 1964,
14 successor to the district councils, that became known
15 as the tribal councils?
16 A I could only remember two major organizations in B.C.,
17 the Native Brotherhood and the -- there was an
18 Interior Brotherhood and I can't recollect the exact
19 name of it. These were two major organizations that
20 spoke on behalf of the Indians of the province.
21 Q All right. Now, the -- just so that I understand it,
22 the districts that were contemplated here were the
23 agencies?
24 A They were the administrative districts of the
25 department, yes.
26 Q Within the -- but they were -- the administrative
27 district was an agency, one of the agencies?
28 A Yes.
29 MR. RUSH: All right. All right. I'd like that to be marked
30 as an exhibit.
31
32 (EXHIBIT 64: Letter dated January 5, 1973 from Larry
33 Wight to "All District Supervisors")
34
35 MR. RUSH:
36 Q All right. Mr. Boys, I just want you to confirm, if
37 you will, your -- that this was sent by you. There's
38 a copy for you.
39 A Uh-huh.
40 Q It is a letter from yourself as Indian Agent to Mrs.
41 Mabel Clifford and Mr. James Angus, dated October
42 18th, 1947, and you will agree that this letter was
43 written over your name?
44 A Yes.
45 MR. RUSH: Thank you. That can be Exhibit 65.
46
47 (EXHIBIT 65: Letter dated October 18, 1947 from Mr.

Boys to Mabel Clifford and James Angus)

MR. RUSH:
Q And I want to show you this letter. This is plaintiffs' document number 835, and it is a letter over your name, Mr. Boys, to the chief geographer, August 28th, 1950, and I'd just like you to confirm for me that this letter was sent by you?
A Yes, it certainly appears to be. I can't recollect the letter --
Q All right.
A -- specifically.
MR. RUSH: Okay. I'd like that to be marked as the next exhibit.
MS. KOENIGSBERG: 66.

(EXHIBIT 66: Letter dated August 28, 1950 from Mr. Boys to the Chief Geographer)

MR. RUSH:
Q All right. Now, if you don't mind, Mr. Boys, I think we can complete by 3:30 if we continue on, if you don't want to take a break?
A No, I'm all right for another half an hour.
Q Very good. All right. I want to ask you now about another area that was canvassed by Mr. Mackenzie that pertained to the B.C. Special Vote, and I want to ask you your knowledge about the B.C. Special Vote. I'm going to show you a number of documents pertaining to this, but before I do that I just want you to -- to ask you, you were involved in the administration in British Columbia of the B.C. Special Vote funds?
A Yes.
Q And in that capacity and in doing that job you familiarized yourself with the history of the B.C. Special Vote?
A Yes.
Q And did you also familiarize yourself with the correspondence in the province that pertained to the B.C. Special Vote? The correspondence -- there was correspondence that your predecessor had --
A Yes.
Q -- sent about?
A Some of it.
Q And I presume that when you came to your position as the Indian Commissioner of B.C. in 1961 you had to familiarize yourself of what your predecessor had

1 done?
2 A Uh-huh.
3 Q Right. Now, I think you told us about the
4 establishment of the B.C. Indian Advisory Committee
5 and your role as the Indian Commissioner of B.C. on
6 that committee?
7 A Yes.
8 Q And would you agree that there was dissatisfaction
9 about how the B.C. Special Vote money was being spent?
10 A Yes.
11 Q And that the coastal Indian communities did not
12 consider that they were getting an appropriate share
13 of the funds that were being allocated for that
14 purpose?
15 A That's correct.
16 Q All right. And was it also the case that
17 dissatisfaction was being expressed on the basis that
18 there were native people in the province who did not
19 feel that all of the appropriation was being spent,
20 that only a portion of it was spent?
21 A That only a portion of the total was spent?
22 Q Correct.
23 A Well, I don't recollect that, but --
24 Q Okay.
25 A -- there was a change in the objectives for which the
26 money was voted.
27 Q Uh-huh. All right. I'm going to show you some
28 correspondence now. This is a document taken from the
29 Public Archives and I believe it appears on the
30 federal government's document list. It's from W.S.
31 Arneil, whom I believe was your predecessor, to
32 Colonel H.M. Jones, Director of Indian Affairs Branch?
33 A Uh-huh.
34 Q On November the 2nd, 1956?
35 A Yes.
36 Q You can recognize Mr. Arneil's signature there?
37 A Yes.
38 MR. RUSH: And I wonder if you'd just peruse this and confirm
39 for me that this sets out your understanding at
40 that -- when you became the Indian Affairs
41 Commissioner in '61?
42 MS. KOENIGSBERG: If it matters, these documents are listed on
43 the provincial government's document list I'm advised.
44 MR. RUSH:
45 Q Yes. I wasn't sure just where it was listed.
46 A Yes.
47 Q Okay. You can confirm that to be your understanding

1 at the time that you became Indian Affairs
2 Commissioner in reference to your administration of
3 the B.C. Special Vote?
4 A Yes. Well, at the time I became commissioner there
5 was a committee in place.
6 MR. RUSH: Already in place. I appreciate that, and I'm going
7 to just come to that. Can that be the next exhibit,
8 please?
9 MS. KOENIGSBERG: Exhibit 67.
10
11 (EXHIBIT 67: Letter dated November 2, 1956 from W.S.
12 Arneil to Col. H.M. Jones)
13
14 MR. RUSH:
15 Q Thank you.
16 Now, when you became the Indian Commissioner for
17 B.C. and you initiated or began to participate in the
18 Indian Advisory Committee, you understood, did you
19 not, that the Indian participation on the committee
20 was not to be taken as an admission of the acceptance
21 of the hundred thousand dollar B.C. Special Vote
22 allocation?
23 A I don't quite follow.
24 Q Well, there were native participants on the committee?
25 A Yes.
26 Q And those participants had indicated that their
27 participation on the committee was not to be taken as
28 an acceptance or an admission that their -- that they
29 were accepting a hundred thousand dollars allocated to
30 them as a result of the B.C. Special Vote?
31 A Well, they were -- they were engaged in recommending
32 the assignment of a hundred thousand dollars, so I can
33 only conclude that they did accept.
34 Q All right. Let me show you this document, Mr. Boys.
35 These are minutes of the first meeting of the Indian
36 Advisory Committee to the Indian Commissioner of B.C..
37 A Uh-huh.
38 Q You might have one that's marked there, do you? I'm
39 not sure. Maybe I have it. Somebody has it. Okay.
40 This is dated April 8th, 1959, the chairman is W.S.
41 Arneil, and Mr. A. Paull, F. Calder, and G.R. Williams
42 are there. And I'd just like you to review at the top
43 of page 2 where it says "To Whom it May Concern:"?
44 A Yes, I see that now. Uh-huh.
45 Q And it says:
46
47 "My appearance before this advisory board

called here today by the Indian Department, is not to be taken as an admission of the acceptance of $100,000 or any part thereof as a waiver by me for myself, or the Indians of British Columbia of their rights to the lands of British Columbia, or other aboriginal rights which they have."

And it's signed "Guy R. Williams".

MS. KOENIGSBERG: Just for the record, Mr. Rush, you didn't ask --

THE WITNESS: Your question to me didn't mention the word "waiver of rights".

MR. RUSH:

Q I'm sorry, I should have read it more clearly.

A Yes.

Q You now understand the import?

A I understand what you were getting at. Yes.

Q And if you'd just look at the last page in this bundle of pages you'll see a statement dated April the 8th 1959 signed by Guy R. Williams. Do you see that?

A Yes, I see that. Uh-huh.

Q Now, you had knowledge of this statement, did you not?

A I had read the minutes of the meetings of the committee. Yes.

Q All right. And in particular you had read these minutes?

A I had read all of the minutes. Yes.

Q And it was your -- the statement of Mr. Williams was a statement that you understood to be operative at the time of your meetings with the committee in 1961?

A Yes.

Q All right.

A Is this to be --

MR. RUSH: Yes, I'd like to mark that as an exhibit. Thank you.

MR. WOLF: Sixty-eight.

MR. RUSH: Thank you.

(EXHIBIT 68: Minutes of the first meeting of Indian Advisory Committee dated April 8, 1959)

MR. RUSH: Now, in this period, Mr. Boys, or I should say -- yes, just prior to this period, who was the Minister --

MS. KOENIGSBERG: I'm sorry --

MR. RUSH: -- of the Department, I guess at that time it was the

1 Department of Citizenship and Immigration, at the time
2 that you --
3 MS. KOENIGSBERG: Are we talking about 1959 or 1961?
4 MR. RUSH:
5 Q We're going to talk about 1961 first.
6 A 1961?
7 Q Yes.
8 A The Minister was Mrs. Ellen Fairclough.
9 Q Okay. She was also the Minister in 1959 was she?
10 A Yeah, I think so.
11 Q Okay. Now, were you aware that the government took
12 the position that Indian participation in discussions
13 about the allocation of the $100,000 B.C. Special Vote
14 money would not prejudice any of their land rights in
15 British Columbia?
16 A I didn't know that the government had specifically
17 discussed it, but that was my -- that was my general
18 understanding.
19 Q Okay.
20 A That it wouldn't prejudice those rights.
21 Q Okay. I understand that it's your understanding, but
22 I want to suggest to you that it was also the
23 understanding at the ministerial level?
24 A I can't recollect any ministerial statement to that
25 effect.
26 MR. RUSH: All right. I want to show you a series of letters,
27 correspondence, between Maisie Hurley of The Native
28 Voice and Ellen Fairclough, the -- well, firstly The
29 Right Honourable John G. Diefenbaker, Q.C..
30 MS. KOENIGSBERG: J. Diefenbaker?
31 MR. RUSH: And the Honourable Ellen Fairclough.
32 MS. KOENIGSBERG: We are still talking about the same John
33 Diefenbaker that is G. and not J.?
34 MR. RUSH: Yes, we are. John George.
35 And if you'll just flip through these, you'll see
36 that it's an exchange of correspondence between
37 firstly Mrs. Hurley and the Prime Minister in 1959 and
38 then Ellen Fairclough, the Minister responsible for
39 Indian Affairs in Canada, and I particularly want to
40 refer you to the last in the series of correspondence
41 which is a letter from the Minister of Citizenship and
42 Immigration to Mrs. Hurley dated February the 3rd,
43 1959, and at the top it indicates copy for Indian
44 Affairs Branch, and on the second page the last
45 paragraph, Mrs. Fairclough.
46 MS. KOENIGSBERG: Sorry, what page are you on?
47 MR. RUSH:

1 Q It's -- the very last page states:
2
3 "Quite naturally, some of the Indians may
4 believe that if they advise the Department
5 on how the money is to be used, it might be
6 taken to mean that they accept the $100,000
7 as settlement of their land claim. I am
8 told that, as a matter of fact, this matter
9 was raised by Indian delegates last April,
10 and they proceeded to discuss the special
11 grant on the assumption it would not
12 prejudice any rights they may have. The
13 Advisory Committee would only be involved in
14 the administration of the grant now voted
15 annually by Parliament and, personally, I do
16 not see how participation in administration
17 would prejudice any rights the Indians may
18 have with respect to what is commonly known
19 as the Indian Land Question."
20
21 A Yes.
22 Q That was your understanding as well at the time that
23 you became Indian Affairs Commissioner, was it not?
24 A Yes. Oh, yes.
25 MR. RUSH: All right. I'm going to ask that this bundle be
26 marked as one exhibit.
27 MR. WOLF: Sixty-nine.
28 MS. KOENIGSBERG: I think we better -- just better describe it.
29 MR. RUSH: What I'll do is just -- I'll indicate what the
30 letters are that are contained within the bundle.
31 MS. KOENIGSBERG: Okay.
32 MR. RUSH: The first letter is a letter from Maisie,
33 M-a-i-s-i-e, Hurley, H-u-r-l-e-y, to The Right
34 Honourable John J. Diefenbaker Q.C.; and the next is a
35 letter from Ellen L. Fairclough. Did I give the date
36 for that? January 16th, '59. The next is a letter
37 from Ellen L. Fairclough to Maisie A. Hurley, January
38 21st, 1959; and then a letter from Maisie A.C. Hurley
39 to the Honourable Ellen L. Fairclough on January 24th,
40 1959; and then another letter from Maisie Hurley to
41 the Honourable Ellen L. Fairclough, February 20th,
42 1959; and then a letter of Ellen L. Fairclough to
43 Maisie A.C. Hurley, March 11th, 1959; and finally, the
44 letter to which I just made reference, Mr. Boys, the
45 letter of Ellen L. Fairclough to Mrs. Maisie A.C.
46 Hurley, Ottawa, February 3rd, 1959. That will all
47 constitute Exhibit 69.

(EXHIBIT 69: Group of six letters between the Honourable John G. Diefenbaker, Q.C., Maisie A. Hurley, and the Honourable Ellen Fairclough)

MR. RUSH: Now, when you became the Indian Commissioner for B.C. there had been set up and was operating a special Joint Committee of the Senate and House of Commons to investigate Indian matters in Canada; isn't that correct?

MS. KOENIGSBERG: Which one are you referring to?

MR. RUSH:

Q Well, there was only one at that time.

A This is in 1961?

MR. RUSH: '61.

MS. KOENIGSBERG: 1961. Okay.

THE WITNESS: I can't -- I can't recollect just when they started and when they finished, but I recollect that there was a Joint Commission for quite sometime and I just don't recollect the dates.

MR. RUSH:

Q All right. You in fact participated from a departmental side, did you not --

A Yes.

Q -- on this?

A Yes.

Q On these committee hearings. And there were hearings throughout British Columbia, were there not?

A Yes.

Q And the committee rendered a report and made a number of recommendations?

A Yes.

Q Okay. And one of the recommendations made by the committee was that an Indian claims commission should be established to hear the British Columbia Indian land questions?

A Yes.

Q Now, was it not the case that it was thought that this recommendation would dispose of Indian claims in B.C. to non-reserve lands?

A Well, I really don't know. I mean, was it thought by whom?

Q By you?

A I don't -- I don't recollect "dispose" of claims.

Q Or deal with claims --

A Yes.

Q -- of Indian people in the province of British

Columbia as to non-reserve lands?
A Yes. Yes, I would agree with that.
Q It is the case, isn't it, it was your understanding in 1961, as the Indian Commissioner for B.C., that the government did not consider the -- that is, the federal government did not consider the Indian land question in B.C. to be settled?
A That's true.
Q Now, I want to show you a letter that you directed to Mr. R. Williston, Minister of the Department of Lands and Forests of the province of British Columbia dated November 29th, 1961, and I just want you to confirm your signature on it, if you will. I'm sorry.
A Thank you.
Q I just direct your attention to the second paragraph and to the recommendation for consideration by the government that you quote there, and I'm quoting:

> "An Indian claims commission should be established to hear the British Columbia and Oka Indian land questions and other matters, and that the cost of Counsel to Indians for the two land questions specified above be borne by the Federal Treasury."

And then you said:

> "If this recommendation is accepted, such a commission, if set up, would appear to provide the means of disposing, once and for all, of the long standing claims of British Columbia's Indians on non-Indian lands."

A Yes. Uh-huh.
Q Now, this was referring to the claim by British Columbia Indians of what has -- what we now know to be the aboriginal land claim; is that not correct?
A Yes, a variety of claims.
MR. RUSH: Yes. All right. Can that be the next exhibit?
MR. WOLF: 70.

(EXHIBIT 70: Letter dated November 29, 1961 to Mr. R. Williston from Mr. Boys)

MR. RUSH:
Q Now, I want to -- I also want to ask you, Mr. Boys, it was clear in the department at the time that you were

1 Indian Commissioner for British Columbia that the 1927
2 Joint Committee findings pertaining to the Indian land
3 question were not final; is that not correct?
4 A Yes. Uh-huh.
5 Q And that matter was under active consideration by the
6 department, that is, the matter of the resolution of
7 the Indian land question, as it was called?
8 A Yes.
9 Q You had dealings with a Mr. Jules D'Astous?
10 A D'Astous, yes.
11 Q D'Astous, who was Director of Support Services in the
12 Indian Affairs Branch?
13 A Yes.
14 MR. RUSH: All right. And I want to show you a document on the
15 federal government's document list numbered 12261. I
16 just ask you to peruse the document. It looks like
17 I've given you two copies of the same letter.
18 MS. KOENIGSBERG: One looks like it's a copy of the signed copy.
19 MR. RUSH:
20 Q Right. Right. Mr. Boys, can you confirm Mr.
21 D'Astous' signature for me?
22 A No, I really can't. I'm not that familiar with his
23 signature.
24 Q All right. Do you have a recollection of receiving
25 this document?
26 A Not a specific recollection, I don't, no. I'm not
27 sure whether a copy was sent to us, but it would be
28 logical.
29 Q All right. The attached document appears to be -- I
30 cannot make it out, but it is a -- it looks like it is
31 the precis referred to in the covering memo prepared
32 by Miss Gilchrist in 1941 and the third paragraph is
33 expunged. And I wrote to you today, and you won't
34 have received this letter yet, but I wrote to you
35 earlier today asking for you to provide me with a
36 basis for which this claim for solicitor-client
37 privilege is made, that is to say, in respect of that
38 paragraph that's expunged from this document, and
39 there is also another one of your documents under
40 12261 which is a memo dated March 5th, 1965, where
41 there is a similar paragraph expunged from the
42 document, and I similarily ask for you to give me an
43 explanation for that, and I am simply repeating that
44 now.
45 (REQUEST FOR ADDITIONAL INFORMATION)
46 All right. Mr. Boys, if you can't identify that
47 document, I'll just take it back from you.

A Uh-huh.
Q Thank you. Now, I want to ask you if you can identify -- you worked with a Mr. Peter Clark during the time of your -- during the time that you were the Indian Commissioner for B.C.?
A Peter Clark?
Q Peter Clark. He was the Director of Reserves and Trusts in the B.C. region?
A Director of Reserves -- may I have a look?
MR. RUSH: Yes.
MS. KOENIGSBERG: Is this 1982?
MR. RUSH: Uh-huh.
MS. KOENIGSBERG: Oh, you think he was still there. Oh, staying power.
MR. RUSH:
Q Some people outlast others.
A Huh?
Q We were just kibbitzing here.
A I don't recollect Peter Clark frankly.
Q All right. This memo or letter is from Mr. Clark to Mr. Leask and in the letter there is contained a memorandum outlining the background of the British Columbia Special Vote, and I would like you to look at the -- there are a number of memoranda attached to this and I would like you to review the memoranda to determine whether or not you can identify any of them?
A Well, I've read these.
Q Can you identify any of those memoranda as ones that you received during the course of your tenure?
A Well, I can't I'm afraid. No. This is a memorandum to the Minister, the second one.
Q Yes. Are you able to tell me who the -- what name that is over the Deputy Minister?
A The Deputy Minister at that time was a Mr. S. Isbister.
Q Oh, yes.
A But I wouldn't recognize his signature.
Q No. And what about the memorandum of the Deputy Minister dated February 9th, 1965, from Mr. Battle it looks like?
A Yes, R.F. Battle.
Q Yes.
A Well, I can't recollect that a copy of this ever came to my attention.
Q All right. Very well. Thank you. Thank you very much. Now, Mr. Boys, if you would please turn your attention to Exhibit 35. All right. Just before I

1 refer you to that, during the time that you were the
2 Indian Agent in the Babine Agency from '41 to --
3 excuse me, '46 to 1951?
4 A Yes, that's correct.
5 Q You can confirm, I think you gave this evidence
6 earlier, but I want to be sure that I understand it,
7 that income from trapping was a major source of income
8 for the Gitksan and Carrier people in your agency?
9 A Yes.
10 Q All right. Now, the letter that's at Exhibit 35, a
11 letter from yourself to a Mr. McRae, the Government
12 Agent, pertains to Mrs. Lucy Joe Nass?
13 A Uh-huh.
14 Q Did you know Joe Nass?
15 A No. I -- but I remember talking to an elderly lady, I
16 can't remember her name, in Telkwa, having a
17 conversation with her about her fears of not having a
18 place to live in Telkwa, but my recollection of this
19 is pretty vague.
20 Q All right. I wonder if it's sufficient if you can
21 tell me whether or not Mrs. Lucy Joe Nass was living
22 on land that was not registered under the
23 government -- the provincial government registry
24 system?
25 A Well, I'm not sure what the --
26 Q Okay. Can you recollect from this letter whether or
27 not she was being --
28 A She was not living on a reserve, an Indian reserve.
29 Q Correct. That's my understanding as well, but --
30 A But I think there was a subdivision in Telkwa.
31 Q Which resulted in her being removed from the land in
32 which she was living; is that not right?
33 A Well, I think somebody applied to buy the land. My
34 vague recollection is that somebody applied to buy the
35 lot on which she was living and that would entail her
36 movement away from that particular lot.
37 Q Because she had no evidence of ownership of that lot;
38 isn't that right?
39 A Yes. That's right.
40 Q And this letter is a letter in which you make
41 representations on her behalf to assist for her to
42 find a replacement parcel of land with the help of
43 some people in Telkwa?
44 A Right. Uh-huh.
45 Q And do you know -- do you have any knowledge at all
46 concerning the parcel of land on which she was
47 residing prior to the time that the subdivision was

1 created? Do you know where that parcel of land was
2 located?
3 A No, I don't.
4 Q Do you recall if it was located close to the river,
5 that is, the Bulkley River?
6 A I think when I went to see her that it was when the
7 whole of Telkwa was -- you know, it's a very small
8 community. It's fairly close to the river.
9 MR. RUSH: Yes. Okay. All right. I'll just take a few
10 moments to determine if I have any further questions,
11 Mr. Boys. It looks like I'm just about through, and
12 if you give me a moment I can tell you if I can
13 confirm that. Maybe we'll just take a few moments
14 break.
15
16 (BRIEF RECESS TAKEN)
17
18 MR. RUSH:
19 Q I guess we can proceed and try to finish off, Mr.
20 Boys.
21 During the time that you were the Indian
22 Commissioner for B.C. the allotment of the B.C.
23 Special Vote funds was changed to be distributed on a
24 per capita basis to the Indian bands in the province;
25 is that right?
26 A Yes. I don't recollect exactly when that took place,
27 but --
28 Q It was sometime during the time that you were Indian
29 Affairs --
30 A It would have been at the end of my term of office I
31 think.
32 Q My instructions are that it occurred in 1965, in March
33 1965. Does that accord with your knowledge?
34 A I think it was proposed, but I don't think that it
35 actually took place until later.
36 Q During the time that you were the Indian Commissioner
37 for B.C., was the amount of the Special Vote allotment
38 increased from the $100,000 amount that it was at that
39 time?
40 A Yes, I think it was increased eventually to 300,000.
41 MR. RUSH: All right. Those are my questions. Thank you very
42 much, Mr. Boys.
43 MS. KOENIGSBERG: I have no questions in re-examination. Thank
44 you.
45
46
47

(PROCEEDINGS ADJOURNED AT 3:40 P.M.)

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

Tanita S. French
Official Reporter