March 2, 1988
Vancouver, B.C.

(PROCEEDINGS CONVENED AT 10:00)
(OTHER MATTERS SPOKEN TO)

THE REGISTRAR: Calling Delgamuukw versus Her Majesty the Queen at bar, please.

MR. PLANT: My Lord, before my friend continues there's one matter which I would like to draw the court's attention to. It arises out of the witness' evidence yesterday. I'm concerned that the affidavit which has been marked as an exhibit has not been satisfactorily proven. It's Exhibit 307. It's the affidavit of Mrs. Layton. The reason for my concern is that Mrs. Layton has given evidence that she can neither read nor write English and she has identified her signature, but the furthest that she has been able to go beyond that is that she was asked whether the affidavit was read to her and whether what was read to her was correct, and she agreed that what was read to her was correct, but if she can't read or write then it's -- there's nothing on the record that can connect the affidavit to the witness' evidence, at least that's my view of the matter after considering it yesterday afternoon.

I have an interest in ensuring that the record in the trial is as useful as possible for all parties. I'm not taking objection to anything to do with the affidavit. I considered it appropriate in the circumstances, however, to advise the court that I -- of my present state of mind with respect to whether the affidavit has been proven. I think the problem can be dealt with fairly easily and in that regard, without making any suggestions, I would note that in the case of other witnesses who have tendered affidavits where they have been unable to read or write the plaintiffs have also tendered an affidavit of the interpreter, Mr. Holland, who has by way of affidavit given evidence that he read the contents of the affidavit and translated it for the witness.

MR. ADAMS: My Lord, I'm prepared to do that in this case as well.

THE COURT: All right. Well, you'll look after that then sometime in the near future will you, Mr. Adams?

MR. ADAMS: Yes.

THE COURT: All right. Does that satisfy you, Mr. Plant?

MR. PLANT: That's all I wish to say, My Lord.

THE COURT: Miss Koenigsberg?
MS. KOENIGSBERG: I agree with my friend and I think it would be helpful to this court.
THE COURT: Thank you, Mr. Adams.
THE REGISTRAR: I caution both the witness and the interpreter you're still under oath.

EXAMINATION IN CHIEF CONT. BY MR. ADAMS:
Q Mrs. Layton, when we broke yesterday afternoon you had -- we were talking about Christine Holland's headstone feast in 1981, and you among other things talked about the blanket that was made for you to wear at that feast, and when I asked you where that blanket is now you explained to the court that it was kept in a trunk at your home in Prince George.
Could you tell the court, first of all, apart from your blanket, what is it that you keep in that trunk?
THE COURT: I was told what's in that trunk yesterday, Mr. Adams. She said that she has in that trunk other things that she has received as gifts at feasts. Are you expecting something more than that from the witness?
MR. ADAMS: Only possibly some detail as to what those things were and their significance.
THE COURT: Well, I'll leave it with you. I have a little difficulty seeing what significance it will have, but you go ahead if you wish.
THE WITNESS: I have articles of clothing which are used to belong to deceased which were given to me at the stone feast of other deceased people, and them are the articles that I keep in the trunk as momentos and that's also one of the instructions my grandmother had given me to do.
MR. ADAMS:
Q And are there times when you take your blanket out and wear it?
A I don't always use a blanket from day-to-day, but I take it out whenever there is big business to be taken care of at a feast which would be hosted by us.
Q And where did the trunk itself come from?
A I went to a potlatch in Burns Lake at one time and it was given to me there in the feast. That's where I got it from. I was one of the father clan who was hired to conduct or undertake, and then when I was paid back my money this trunk was part of the interest that was paid back to me.
Q And do you recall who that feast was for, the feast at

which you received the trunk?
A It was one of the Isaac boys from Burns Lake. It was a fella who committed suicide.
Q Now, back at Christine Holland's headstone feast, was your husband there?
A Yes.
MR. ADAMS: And did he have some part in the activities in the feast?
THE COURT: I'm sorry, who was it?
MR. ADAMS: The witness' husband.
THE COURT: Thank you.
THE WITNESS: Yes. Whenever my clan hosts he would be Andumenuk and that -- he helps out in that way by sometimes he makes soup and he passes it around.
MR. ADAMS: Do we have a number for Andumenuk?
THE TRANSLATOR: 200.
MR. ADAMS:
Q 200. Thank you. And did your husband also make an entrance of some kind into the feast?
A He would dance into the feast house as Andumenuk and he would come in with a blanket or material or something like that.
Q Was he wearing a blanket?
A Yes, this blanket that comes in to help with is just a store bought blanket.
Q And was he alone or were there other people with him?
A Yes. All the spouses of the members of the Yex T'sa wil k'us would dance in as Andumenuk and they would all contribute something and blankets or material, and then after that the children would come in.
MR. ADAMS: Could we have a number for Yex T'sa wil k'us?
THE TRANSLATOR: 650.
MR. ADAMS:
Q 650. Thank you.
And was there a collection of money as part of this feast?
A Sometimes Andumenuk or the children would dance in with money and then there's a dish put out in the centre for the collection also.
Q And was that done at this feast?
A Yes.
Q And who is it who made the contributions?
A Are you speaking of the ones that dance in?
Q I'm speaking now of the collection of money?
A Some members from the Yex T'sa wil k'us would help out by contributing and then after anybody that's within the Gilseyhu clan would contribute also.

1 Q And did you personally contribute money at that feast?
2 A I put in more than $500 myself and then all the clan
3 members, Helen, and they all contributed to help me
4 out, and then after that all the children and
5 everybody who was able to contributed.
6 Q And was an announcement made of those contributions?
7 A The money that is contributed is announced and then
8 the total is announced after.
9 Q And when that collection of money was completed, what
10 happens to the money?
11 A After the collection and then we paid back the people
12 that made the blanket and then also the people that --
13 that bought the headstone, gave the money back, plus
14 interest, gave them other gifts besides money. And
15 the people that paid for the headstones were the
16 father -- the father clan was Gitdumden, that's who we
17 hired. Mary George was the one we hired. I'm not
18 sure if they're Gitdumden or not. I'm not sure
19 whether it's Tsayu or -- because they were the father
20 clan. The people that we hired would be my
21 grandmother's father's clan.
22 Q Do you recall Sylvester William speaking at this
23 feast?
24 A Yes. He spoke at the feast. He announce that he had
25 acquired the beaver meat within our territory which he
26 had brought into the feast for distribution.
27 Q And did he speak about Knedebeas' territory?
28 A Yes, when he spoke of Knedebeas' territory he
29 mentioned that he had acquired the meat from
30 Knedebeas' territory and that he had permission to go
31 there and also that grandmother also let him look
32 after the area for them.
33 THE COURT: Mr. Adams, I want to make sure that I've not -- I've
34 got this in the right context. I haven't got a note
35 that suggests that this is anything except the feast
36 for the Isaac boy from Burns Lake that we're talking
37 about. Are we --
38 MR. ADAMS: No, my understanding is that we're back at Christine
39 Holland's headstone feast. The last --
40 THE COURT: I was beginning to wonder.
41 MR. ADAMS: The last reference to Burns Lake, in my
42 understanding, was that that's where the trunk came
43 from.
44 THE COURT: Yes, that's right. Well, I haven't got anything to
45 suggest we ever left that feast and go to another one,
46 but you say that everything after the trunk was at
47 Knedebeas' headstone feast?

MR. ADAMS: Yes. My recollection, My Lord, is that I asked the witness something like back at Christine Holland's headstone feast, did your husband have a part to play there, and we went on from there.

THE COURT: Well, I guess I must have missed it.

MR. ADAMS:

Q The contribution that we've been talking about and the remarks that Sylvester William made, those were at Christine Holland's headstone feast were they?

A Yes. That is when he got up and announce that he had gotten the meat from -- the beaver meat from Knedebeas' territory.

Q And that was also where you have said that you contributed money and your house and clan contributed money?

A After they finish eating is -- that when he got up and announce the meat from the territory and that's when the contribution and collection takes place after they finish eating.

Q Did Sylvester William have anything to say at Christine Holland's headstone feast about the arrangements she wanted to see for the territory after she died?

A Like I was pretty small. He was married into our family and he's always been there with the family, the grandfather, my father, my Uncle Ben and Joe and he's always been in the territory with them and he's also trapped with them out there in the territory and is taking care of the territory for us after everybody was deceased.

Q And was there, according to Sylvester William, to be a girl's trap line in the territory and a boy's territory?

A Yes, he looked after both areas, the area where the boys were trapping and also the area where the girls were trapping. He took care of and overlooked both areas.

Q Mrs. Layton, I'm asking you in particular about what Sylvester William may have said at Christine Holland's headstone feast about these arrangements. Did he have anything to say about a girl's territory and a boy's territory?

A Yes, my grandmother before he passed on had given him instructions because he had been married into the family since we were small. Grandmother instructed him to look after the children after she had passed on and also to lock after the territory for them, and I

myself also had instructed him the same way as my grandmother had done, that he would be the one to look after the territory for us because he'd been within the family for a long time.

Q And did he speak at the feast about your grandmother's instructions?

A Yes. He announce this at that stone -- headstone feast where he announce that he was instructed to look after both areas, Taal biits kwe and Tac'ets'ol'een ben, Xel ben and Gg'iis le ben area for them.

MR. ADAMS: Can we get some numbers for those, please?

THE TRANSLATOR: Taal biits kwe, 357.

THE COURT: 357.

MR. ADAMS: 357.

THE TRANSLATOR: 357. And Tac'ets'ol'een ben, 618.

MR. ADAMS: 618.

THE TRANSLATOR: Xel ben 6 -- oh, I'm sorry, 363. Gg'iis le ben is 661.

MR. ADAMS: My Lord, on your word list do you have 661? It was a hand addition yesterday.

THE COURT: Is that Newcomb Lake, 661?

MR. ADAMS: That's right.

THE COURT: Yes.

MR. ADAMS: Okay.

THE COURT: I wrote it in yesterday. It wasn't in the typed list.

MR. ADAMS:

Q That's correct. Mrs. Layton, you've mentioned two areas. Does Knedebeas have two territories?

A Yes. Taal biits kwe and Tac'etsol'een ben, that's all under Knedebeas. That is all Knedebeas' territory.

Q But are there two separate territories?

A It's all one territory but two different areas. The Morice River area and Xel ben and Tac'ets'ol'een ben, the one where I mention the three lakes, that is all one area, and the Morice River is the area -- is the same as the Taal biits kwe area.

Q Does Taal biits kwe have an English name that you know?

A I'm just wondering if they call it Morice West. I don't know. All I know is my grandmother called it Taal biits kwe.

Q Is the territory that you're calling Taal biits kwe the same as the area that you're saying is in the area of the Morice River?

A That is the same area but I -- I never been out there trapping myself so I don't know about that area at

all.
THE COURT: Are the two areas the Morice River area and the three lakes area?
MR. ADAMS:
Q That's what I'm trying to establish. Maybe one more question. The three lakes, Xel ben, that is Pack Lake?
A Yes.
Q And Tac'ets'ol'een ben is Poplar Lake?
A Yes.
Q And Gg'iis le ben which is Newcomb Lake?
A Yes.
Q Those all belong to the same one territory?
A Yes.
THE COURT: And which is the one you've never been too, the Morice River area?
THE WITNESS: Yeah, I didn't -- never went that far because we drive by and grandma point where her territory is.
THE COURT: Thank you.
MR. ADAMS:
Q Now, to come back once again to Christine Holland's headstone feast, after Sylvester William had spoken were there other people who spoke?
A Yes. One of the first person to get up and speak was Paddy Leon, the chief from Topley Landing, and all the invited chiefs all got up and spoke at -- towards the end of the feast. They all got up and thanked me and that they were satisfied and agreeing with me taking my grandmother's name. One of the other speakers was Lucy Bazil who lives in Terrace. She emphasized her gratitude. She knew how I had felt, and that she was happy that I had taken the name, and the strain that I had gone through in preparation and the cost of taking the name that she understood that, and then now that I had received the name and finished it, that I would be able to go home and rest and be able to sleep. That is the words that she had said to me.
Q And to what clan does Lucy Bazil belong?
A Laksilyu. Laksilyu clan.
MR. PLANT: Before my friend proceeds, I just missed something in the last answer. The question was after Sylvester William spoke did others speak, and the answer was something to the effect Paddy Leon from Topley Landing. All the "something" chiefs got up and spoke and I didn't get --
THE COURT: Invited chiefs.
MR. PLANT: Thank you.

THE COURT: And is Leon, L-e-o-n?
MR. ADAMS: I believe it's Paddy, P-a-d-d-y, Leon, L-e-o-n.
THE COURT: Thank you.
THE WITNESS: There was another chief from Hagwilget, Charlie Austin, also got up and also spoke in the same manner and thanked me for everything that had taken place. He also expressed his -- expressed himself with kind words.
MR. ADAMS:
Q And what clan is Charlie Austin from?
A Laksilyu. He's also Laksilyu too.
Q And do you recall Dan Michell speaking at that feast?
A I can't remember the name.
Q And Johnny David?
A When Johnny David spoke he also expressed himself with kind words, words of encouragement, and he also spoke about the name Knedebeas, how it had been passed on from generation to generation from way back. He remembers the name Knedebeas when he was just a child himself. The name had been always been passed on when he can remember as a child.
Q And do you recall how old Johnny David is now?
A I couldn't say.
Q Is he an old man?
A He's pretty old.
THE COURT: I'm sorry?
THE WITNESS: I couldn't say how old is he. He's pretty old.
THE COURT: Fairly old?
THE WITNESS: Yeah.
MR. ADAMS:
Q And do you recall Andrew George speaking at that feast?
A Yes, he also expressed his gratitude and thanked me and he also said that how hard it is when you are preparing to receive a name and it's not easy, you go through a lot of worries, and then he thanked me after that for doing a fine job.
Q And to what clan does Andrew George belong?
A I'm not whether he's Tsayu or Gitdumden. It could be Laksamshu or Tsayu.
Q Mrs. Layton, I wanted to go on now to ask you some questions about how you live most of the time in Prince George but apparently preserve your connection to your territory and to your house, and I want to ask you, first of all, whether you continue to attend and contribute to feasts?
A Whenever there's going to be a feast conducted Helen

or Doris always phoned me and they let me know and then I always attend and I'm always around.

Q And what was the most recent feast you recall attending and where was it?

A In Moricetown.

Q And what was that?

A Whether he's Gitdumden, Laksilyu --

THE COURT: I'm sorry, Mr. Holland, somebody was speaking louder than you were. Can you start again, please?

THE WITNESS: Whether it's Laksilyu or Gitdumden or Tsayu putting up a feast, they notify me and then I decide whether I will be able to attend or not. But most times I do go and always present there to witness the feast.

MR. ADAMS:

Q How do you decide whether you should go to any particular feast?

A My grandmother had told me that any time that I'm invited that I'm to attend, that I should never miss any of these feasts when I'm invited, and that is instructions that she had given me and that is why I do this.

Q And when was the last time you recall going to Moricetown for a feast?

A That was the last September when -- my Uncle Sylvester's funeral feast.

Q That was Sylvester William?

A Yes.

Q And how did you find out that that feast was to be held?

A As soon as my uncle passed away they phone me, so I was right down and I been with them since the funeral is over.

Q And whose it that phone you?

A Doris or Catherine. I couldn't remember. One of them.

Q And Doris is Doris Michell?

A Yes.

Q Your cousin?

A Yeah.

Q And Catherine is Catherine Michell, your cousin?

A Yes.

Q And do you recall attending a Gitdumden wolf clan feast in Moricetown the year before in 1986?

A Yes.

Q And what was that for?

A It was a headstone feast for Sarah Pierre, Connie

Tiljoe, and Matt Michell.
Q And how did you get the invitation to that feast?
A Rita George, who was of Gitdumden clan, had notified me when I was in Smithers and then I knew when the time and date were and I attended.
THE COURT: I didn't get the three names of the persons who were being honoured at this feast.
MR. ADAMS: They were Connie Tiljoe, T-i-l-j-o-e, Matt, short for Matthew, Michell, M-i-c-h-e-l-l, and Sarah, I don't know whether her name has a "h" at the end or not, Pierre.
THE COURT: Thank you.
MR. ADAMS:
Q And apart from going and attending that feast, did you have some part in it?
A Yes, I was invited so I went there to sit in and witness as one of the guests.
Q And were you paid for witnessing?
A No. Oh, yes I received I think it was $20 to help with the travel expenses and I also received an abundance of sugar, material, anything that was being passed around I also received, the same as everybody else.
MR. ADAMS: My Lord, that might be an appropriate point to break.
THE COURT: Not for me it's not.
MR. ADAMS: Fine, I'm happy to go on.
THE COURT: Well, I'm happy to break, but I wouldn't be able to come back to 11:30.
MR. ADAMS:
Q I'm happy to go ahead then.
During the time since you got the name Knedebeas, are you aware of times when the Gilseyhu, your clan, has put up feasts?
A Yes. I'm always aware of the Gilseyhu's feast activities and I help whenever -- wherever I can with making soup, bread, material. I help wherever I can.
Q Do you recall a funeral feast for Moses David?
A Yes. I was in the hospital at the time. I was sick in the hospital so I -- my sister Elsie, who was attending, I sent money along with her and I had bought two blankets which I sent down with her.
Q And what name do you recall that Moses David had? What was his chief's name?
A I'm not sure, but I think it's Samooh.
MR. ADAMS: Do we have that on our list?
THE TRANSLATOR: 655.

MR. ADAMS:
Q 655. And do you recall the funeral feast for David Dennis?
A I was in the same situation at that time also as I was pretty sick and I -- there again I wasn't able to attend and I just sent money and material and food stuff down to help out with.
Q Can you say approximately how long ago those funeral feasts, the one for Moses David and the one for David Dennis were held?
A Moses David was about five or six years, I couldn't remember exactly.
Q And David Dennis?
A Approximately a year and a half ago.
Q And do you recall the chief's name that David Dennis had?
A Sats'aan.
THE TRANSLATOR: 195.
MR. ADAMS:
Q 195. And when you're unable to be at a feast, does someone speak for you?
A Sometimes Warner does.
Q That's Warner William?
A Yeah, Warner William or either Doris if Warner's not there, so it's Warner do the speech for me.
Q And is Doris Michell a chief in your house?
A Yes.
Q And what name does she hold?
A L t'at'en.
THE TRANSLATOR: 651.
MR. ADAMS:
Q 651. Apart from feasts, are there meetings of the chiefs in your house?
A Yes. Sometimes we would gather at Warner's place and have supper and then we would decide the best way to go and have a planning session.
Q And what would you talk about and what would you plan?
A One of the things we would talk about is what material and things that we would bring to the feast.
Q Would you talk about Knedebeas's territory?
A Yes, we always talk about the territory and we always discuss what has been said by my grandmother and how the territory belongs to Knedebeas, and then we also discuss how it had belonged to her uncle and her grandparents before her and that's the way it's going to remain with us also and into the future how it is going to be for us in the future as it has been in the

futures of our ancestors in the past.
Q And apart from the feasts and apart from the kinds of meetings you've described with Warner William's house, are you in other contact with the chiefs in your house?
A Are you just talking about the discussions between Warner, Catherine and Helen and Percy and us?
Q How do you keep in touch with those people?
A I sometimes go on my own and I visit them for a couple of days and we discuss our future plans and it is carefully thought out. We don't have feasts every day, sometimes maybe once in a year or something like that, so we always try to be ready for these feasts.
Q Do the chiefs in your -- I'm sorry.
A And when I go to visit them to discuss plans, I always make the suggestions and more often they agree with what I have to say.
Q And do they visit you in Prince George?
A Yes, they always come to Prince George and they stay overnight with me.
Q And do you talk to them on the phone?
A Oh, yes.
Q Can you say how often?
A Well, we talk on the phone maybe once a week, maybe once a month, but it's just phone, we don't talk about, you know, territory or anything, unless there's something happened or you know, and they phone me and we talk about it.
Q And what kind of thing might happen that they would phone you about?
A We don't always discuss our territory on the phone, but sometimes when my uncle used to be out on the territory they would let me know what he had caught on there and that is about the extent of our conversation about the territory on the phone, but all the discussions would take place when I go down and visit them or they would come and visit me.
Q When you speak of your uncle you're talking about Sylvester William?
A Yes.
THE COURT: Shall we take the morning break now Mr. Adams? Thank you.
THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED AT 11:14)

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

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Tanita S. French
Official Reporter

(PROCEEDINGS RECONVENED AT 11:35 a.m.)

THE REGISTRAR: Order in court. Ready to proceed, Your Honour.
THE COURT: Mr. Adams.
MR. ADAMS:
Q My Lord, before I continue with the series of questions I was asking the witness, could the -- her exhibit binder, the black book that was handed up yesterday, be put in front of her, please, tab 5.
Mrs. Layton, can you say where that picture was taken?
A Moricetown hall.
Q In the Moricetown hall?
A (WITNESS NODS HEAD IN RESPONSE)
Q And who is that?
A Me.
Q And what is it there beside you in the picture?
A Sugar bags.
Q And what's it doing there?
A That's what I have to use. That sugar there is to be distributed out to the chiefs who I had invited.
Q And when would the picture have been taken?
A '82.
Q And was that just ahead of Christine Holland's stone feast?
A Yes.
Q And is that --
THE COURT: Sorry, when you say ahead, you mean sometime before or at the time?
MR. ADAMS:
Q Is this before the feast?
A The stuff you see there is what I bought myself, and that picture was taken just before we started eating at the feast.
Q So it was taken just before people started eating at Christine Holland's stone feast?
A Yes.
MR. ADAMS: Could that be marked as the next exhibit, please.
THE COURT: Yes.
THE REGISTRAR: Exhibit 312, My Lord, tab 5.
THE COURT: 312?
THE REGISTRAR: 312.
THE COURT: Thank you.

(EXHIBIT 312 - Tab 5 of the Sarah Layton Book of Documents)

MR. ADAMS:

Q Now just before the break, Mrs. Layton, you had begun to talk about information you were receiving from Sylvester William about what he was taking off the territory; is that right?

A He was informing me of the meat that came out of the territory that he had smoked which he helped me out with.

Q And was that from the Tac'ets'ol'een ben, Poplar Lake area?

A Yeah, yes.

Q And are there times when Sylvester William has shown you things that have come from the territory, apart from that meat?

A When I go down to put up salmon and someone wants -- sometimes he shows me some of the meat that he had prepared, and then he gives me some to take home with me, because he knows I like eating that. And he also advises me that it comes from the territory.

Q And would he show you fur that came from your territory?

A Sometimes he shows me pictures which have been taken of mink and any -- and marten and beaver, muskrat. And sometimes because of my health I don't travel down there in the winter months that often, but I do go in the summer months.

THE COURT: "Down there" is where, please?

MR. ADAMS:

Q Where was Sylvester William living?

A Moricetown.

Q In Moricetown?

A Yeah.

Q And is that where you would see him?

A Yeah.

Q And is that where he would give you meat?

A Yeah.

Q And show you furs?

A Yes.

Q Now you've described Sylvester William as the caretaker of that Poplar Lake territory?

A Yes.

Q Were there other people who also used that territory?

A Sometimes Warner or Helen, they go out in the territory because I instruct them to go out there and to look after the place, to make sure nobody else goes out there.

Q What about Alfred Mitchell?

MR. PLANT: Well perhaps before the witness answers that, My Lord, we could have a statement of the source of the information. I'm a little concerned that we are now hearing what's happening on the territory by people who are, so far as I'm aware, alive and able to testify, including in the case of Alfred Mitchell, someone who has testified. If the evidence is being tendered simply for the purpose of illustrating a decision making process or something like that, then I don't have any objection. But if the evidence is being tendered for the purpose of showing what use is being made of the territory, then I do have an objection.

MR. ADAMS: My Lord, I have no difficulty with that. The purpose of leading the evidence is not to show through absent declaration what was going on on this territory, but to show on what information the witness was acting.

THE COURT: All right. I must say that I've still lost track of the hearsay rule, that I am not reacting as perhaps I should or might. For example, we heard about the communication of information about where certain meat came from, and that sort of thing. It seems to me all to be hearsay.

MR. PLANT: Well if I might just speak to that, My Lord. I don't accept that that evidence is inadmissible either, however, that evidence has the peculiar feature that the person who gave the information is dead, and I understand that the plaintiff's position in this action is that that gives the evidence some special character that it might not otherwise have. I don't accept that proposition. However, that kind of evidence has been led in the trial --

THE COURT: Yes.

MR. PLANT: -- at some length. We have gone over the ground of whether that is objectionable or not, and my sense from Your Lordship's direction last summer was that to a certain extent the best way to proceed was to hear evidence subject to objection, and I have been governing myself on that basis.

THE COURT: Well I'm not looking for difficulty, I just know that at some point along the way we are going to have a problem here. But I'll be glad to hear what counsel have to say about it in due course. Thank you.

MR. ADAMS: What I asked you, Mrs. Layton, was whether Alfred Mitchell was one who used the Poplar Lake territory?

MR. PLANT: Well that question is, in its form, objectionable.

I -- perhaps if my friend is seeking to establish what this witness did as a result of the information given to her, then at least the question could be put in that form, "Were you advised by Alfred Mitchell that he had made use of the territory?"

THE COURT: Wouldn't that be leading?

MR. ADAMS: My Lord, in my submission, the question is proper in any case, because depending on the source of the information, if, as it comes to appear, that Christine Holland is the source of the reputation evidence that Alfred Mitchell was using the territory, in my submission that would be inadmissible in any case.

THE COURT: Well I don't think your friend is seeking to do anything more than alert you to the fact that he doesn't agree that that's admissible, but I don't think he is asking me to make specific rulings on anything except the last question --

MR. PLANT: No, My Lord, I'm not.

THE COURT: -- which did have a leading component to it. But put the question again, I'm sure the witness has forgotten what the question was as I have, and see how we get along.

MR. ADAMS:

Q What I asked you, Mrs. Layton, was whether to your knowledge, Alfred Mitchell made use of the Poplar Lake territory in Knedebeas?

A Since I can remember about 12 years, I was about 12 years old, my grandmother had instructed Alfred to go out and trap with my uncle Ben and my brother Sam, and to go out in the territory with them. And also to help Sylvester look after the territory along with him, and he had -- he didn't always go out to there every year, but he always let us know whenever he was going to go out there.

Q Were you present when your grandmother gave those instructions to Alfred Mitchell?

A Yes, I was present when the instructions were given. And I also would give permission for Alfred to go out with Warner or Jerry whenever they go out there.

Q And where and when do you recall Christine Holland giving instructions to Alfred Mitchell, regarding the use of Knedebeas' territory?

A I'm not sure. I think it could have been Houston, because my grandmother had also told me about this.

Q Do you recall your grandmother or someone on her behalf ever speaking at a feast about her instructions to Alfred Mitchell?

A Yes. Warner spoke on that in the feast, reiterating what my grandmother had said, instructions that she had left for Alfred to come help go trapping.
Q Was that at one feast or more than one feast that Warner spoke about that?
A No, he didn't always get up and speak on her territory in the feast. It was just that one time that -- at my grandmother's stone feast.
Q Mrs. Layton, are you aware of who, if anyone is using the Morice River territory?
THE COURT: Now?
MR. ADAMS:
Q Now?
A Yes. Warner goes out into Taal biits Kwe area, and they've also built a cabin out there and he has taken a picture of the cabin which he has shown me.
Q And would it be right to describe Warner as the caretaker for that territory?
A Yes. That was one of the instructions that my grandmother had left behind. And Catherine is also over at Tac'ets'ol'een ben and Xel ben area, and up to the boundaries around Tl'ok wa C'oo.
Q And speaking now about the Morice River territory, is it right to say that Warner is the caretaker for that territory?
A Yes. That is also in Knedebeas' territory.
THE COURT: And is Catherine in the same area?
A That's probably Poplar Lake and Pack Lake.
MR. ADAMS:
Q And does Warner keep you advised about his activities on the territory?
A We don't talk about it every day, but Warner always advises me of the times when he goes out there to check on the area itself.
Q And does he tell you if other people are using that area with him?
A Yes. He doesn't like to go out there by himself, so he always asks somebody, Jerry, Alfred, or my late uncle Sylvester to go along with him.
Q And are Jerry and Alfred two different people?
A Jerry is Warner's brother.
Q That's Jerry William?
A Yeah.
Q And who is Alfred?
A Alfred Michell.
Q Alfred Mitchell who I have been asking you about?
A Yeah, Mitchell. I get mixed up over Mitchell and

Michell.

Q I want to turn and ask you some questions about how, if at all, you tell your children about your name and your house and your clan?

A Yes, I explained everything to them about the house and the clan and my name and the territory, so they are -- they know about it. And they've also helped me out in the feast, they save money for it and buy things to help me out.

Q Do your children attend feasts?

A Yes. If -- they've attended when my grandmother passed away and also at grandmother's stone feast and Connie Tiljoe, and my uncle. They don't always come with me because they are busy doing other things at times.

Q And have you taken your children onto Knedebeas' territory?

A Two years ago. It's about two years ago we went out there and we camped overnight and we set up tent, but we got rained out. And when we were out there, I showed them and explained where I had been trapping before, so they know where the territory is, what activities I was involved with out there.

Q And where exactly was it that you went out and set up a tent, and so on?

A At the shores of Tac'ets'ol'een ben.

Q And that's Poplar Lake?

A Yeah.

Q And is that something you've done with them on other occasions, visiting that territory?

A Yes. We went out there with all of Elsie's children and my children, and we took them out there and we explained everything to them, and how I was raised out there in the territory myself, and they were glad to hear about these -- this information. And now they, as a result, they know about the area, the territory.

Q Do any of your children have chiefs' names in your house?

A No.

Q And is there any prospect that they will have, one day?

A We are thinking and monitoring any prospects of giving them names. Possibly Thelma, because she is the oldest. It won't be right away, but later on when -- when we make our decision.

Q And who is it that will make that decision?

A Myself. Yes, I will -- I will think on this and then

I will decide who would be the one to get a name. And because they do ask me occasionally, and then I explain to them that it -- it sometimes takes a year, two years to get ready for a name to be taken, and that's just what I explained to them.

Q In making your decision whether to put names on any of them, will you have advice?

A They just ask me on this once and I haven't really given it any deep thoughts yet.

Q Mrs. Layton, you've talked about going to Moricetown in the summer times. Do you do that -- how often do you do that?

A Go to Moricetown?

Q Yes?

A I go every summer.

Q Every summer?

A Yeah.

Q And what do you do while you are there?

A Make salmon, smoke salmon for myself for the winter.

Q And how did you learn to do that?

A My grandmother taught me, my Grandma Holland, Christine Holland.

Q Yes?

A Ever since I was a little girl I used to go to Grandma's to Moricetown or to Hagwilget to make our salmon for the winter, and that's how I learn. I raise that way so I am staying that way and I'm not going to change anything to back off. I'm going to still go doing that till I get old, so my kids they grow up behind me, they will do the same way what I'm doing.

Q And when you go now, where do you get your salmon from?

A Moricetown, either Jerry Williams or Pat Namox -- no, not Pat Namox. Art Namox and Jerry Williams. But they get the salmon for me, though.

Q And why those people, why do those people give you salmon?

A Because it's Gilseyhu clan.

THE COURT: I didn't get the third. Art and Pat Namox, and the third one?

A I was mistake. I was going to say Art Namox.

THE COURT: Art Namox?

A Art Namox and Jerry William, that's my cousin.

THE COURT: What was that name?

A Jerry William.

THE COURT: Thank you.

MR. ADAMS:
Q And that's Warner's brother, is it?
A Yeah.
Q And Art Namox is Pat Namox's son?
A They is Gilseyhu clan.
Q And do you pay them for that fish?
A No. Because we Gilseyhu clan, we don't pay, you know, for our salmon.
Q Have you, yourself, in the time since -- that you've been living mainly in Prince George, have you visited the Morice River territory?
A Not very often. Like whenever I'm going to Moricetown maybe I'll stay overnight and with Elsie Tiljoe, like my sister, then we just stay out -- drive out there for Sunday, Sunday drive. We don't stay overnight, we just, you know, we don't talk about our territory, we just go drive around there.
Q And how many times would you say you've done that?
A Oh, that was two years ago when we went into Poplar Lake where we camped out. Or some of the other times, just me and Elsie will drive up the Morice River Road, and I tell her where grandmother's land is, and she knows that, she agree what I'm talking about.
THE COURT: Mr. Adams, I have a note made earlier this morning that I thought the witness said, "I have never been to the Morice River area."
MR. ADAMS: I think what she said was that she had never trapped on that territory and that's why I wanted to come back to that.
MR. PLANT: That's not what my note is. She said that -- my note is that she had never gone that far.
THE COURT: Yes.
MR. PLANT: "We drive by, Grandma pointed it out," is the rest of my note in response of that.
THE COURT: Perhaps you can clear it up, Mr. Adams.
MR. ADAMS:
Q Have you ever trapped on the Morice River territory?
A No.
Q Have you ever been on Knedebeas' Morice River territory?
A When they went out to Tall biits Kwe area, they didn't take us along with them when they were trapping out there. But later on, later on when they -- when the road was put in there, that is when we drove out there and that is when my grandmother pointed out the different areas and landmarks, and that's all I knew then.

Q And how old would you have been when your grandmother did that?
A Be about '56. Would have been about '56?
Q 1956?
A Yes.
Q And have you been back to the same places since?
A Not all time. We drive out like Sunday drive, something like that, but not all time. Maybe once in two years.
Q Yes?
A Yeah.
Q And are your Sunday drives to the same places that your grandmother showed you?
A Yeah.
Q And are those on the Morice River territory?
A Yeah.
Q When was the last time that you were on the Tac'ets'ol'een ben, Poplar Lake territory?
A Two years ago. It's about two years ago when we took our children out there camping, that's the same time when we got rained out. And that is when I explain the areas where I had been trapping and where I was raised as a child, and I explained everything to them. And I pointed out the different places and area around to them, and they are aware of -- that Knedebeas territory now, and they are quite happy with it.
Q Mrs. Layton, what, if anything, do people in your house and your clan have to say to you about the fact that you live in Prince George and not on your territory and not even in Wet'suwet'en territory?
A Even though I would move away from the territory, I would still be Wet'suwet'en. And my name will never change and I'll always be -- be Wet'suwet'en, regardless of where I live. And just because I move away does not mean that I will lose the territory or lose site of it, and no matter where I am at, it always be ours.
Q Mrs. Layton, why did you decide to come to court and to be a plaintiff in this court case?
A As in the past, Knedebeas, the name Knedebeas goes on like my grandmother's brothers and uncles before her, and my uncles and brothers before me. We are not here to lose the territory, but to let you know that we are -- we are still here, we are not going to lose it, and that is why I am here.
Q Mrs. Layton, what do you think the court can do to make sure that you don't lose the territory?

A This territory has always belonged to us, and when we travelled in our territories, we were happy when we travelled through our territories. And nobody block our ways, stop us and block us and try and give us permits, and things like that when we travelled within our territories. And that is one of the reasons why I am here, so is that you -- they might find a way to let us use the territory without anybody blocking our way.

Q And do you want the court to stop people from blocking your way?

A I am here to let my feelings be known that our feelings are with the territory, and we want to see justice being done, and the way our ancestors had used the territory. And we -- we don't seem like we mean anything to anybody now, the way the logging takes place, clear-cut the place, make money on it, and then they move out leaving us with nothing. Just like our ancestors who had been living there in the past and lived off the land, now there is nothing to live off in there.

Q Mrs. Layton, do you want money from the government to pay for your territory?

A I don't want no money from anybody and I still maintain that. I want it back the way -- the way the territory was in the past for our future children's use, our grandchildren, and our great-great grandchildren, so they will be able to use it the way our ancestors have in the past.

MR. ADAMS: My Lord, I think that substantially completes my examination. I wonder if I might have the lunch hour to go through my notes?

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

THE REGISTRAR: Order in court. Court will adjourn until 2:00 p.m..

(PROCEEDINGS ADJOURNED AT 12:30 p.m.)

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

Toni Kerekes, O.R., R.P.R.
United Reporting Service Ltd.

(PROCEEDINGS RECONVENED AT 2:00)

THE REGISTRAR: Order in court. Calling Delgamuukw versus Her Majesty the Queen at bar, My Lord.
THE COURT: Adams.
MR. ADAMS: My Lord, I've completed my examination of the witness.
THE COURT: Thank you. Mr. Plant?

CROSS-EXAMINATION BY MR. PLANT:
Q Mrs. Layton, you told us yesterday that Knedebeas is the night hawk; is that correct?
A Yes.
Q Is that Knedebeas' crest?
A Yeah, that's the crest.
Q Does Knedebeas have any other crests?
A Big frog.
Q Is the big frog the crest that belongs to the Gilseyhu clan?
A Yes, that's the clan crest.
THE COURT: The grand crest?
THE WITNESS: Clan crest.
THE COURT: Oh, clan crest.
MR. PLANT:
Q Do you know how Knedebeas got the night hawk crest?
A Knedebeas the name has been in existence long before our time, even my grand mother's and her uncle's time. It's always been handed down along with every time there was a death it was handed down with the successor, same as the territory goes with the name.
Q Were you ever told a story about how Knedebeas received the crest of the night hawk?
A I only heard what my grandmother had told me that even when as far as she could remember the name Knedebeas was in existence and the territory always went with the name.
Q Did your grandmother ever tell you where the Wet'suwet'en people came from?
A The name Wet'suwet'en was always -- had always been there and even before the white man came into existence and as long as there has been Wet'suwet'en in the past there will always be Wet'suwet'en in the future.
Q Can you tell me why a button blanket is important?
A The button blanket always, same as the territory, goes with the name, and whenever the name's passed on the blanket goes along with it. Same as we received the

blanket along with the name it will be passed on to successors after us.

Q Mrs. Layton, you were born in Houston?

A Yes.

Q And as I understand your evidence yesterday, you were born in 1931?

A Yes, because it was a mistake, so I was a year younger again. It was a mistake. My mom mistake that I was born in 1931, not 1930.

Q So your mom told you you were born in 1931?

A Yes.

Q And were you your mother's first child?

A No, I got brothers and sisters before me.

Q There was a brother and sister before you?

A Yes.

Q Who were they?

A I was pretty small. I was told about two brothers before me that are buried at Xel ben, and I was still pretty small when I remember I had a sister Maggie who passed away at that time and she's also buried at Xel ben.

Q And you have some six or seven younger brothers and sisters, that is to say, brothers and sisters who came after you?

A Sam, who's older, a brother older than myself, and then there's myself and then Irene and Elsie and Lucy.

Q Now, you've told us that while you were growing up you spent most of the year living at a place called Xel ben?

A Yes.

Q And you've also referred to that place as Pack Lake; is that another name for Xel ben?

A Pack Lake, that is Xel ben.

Q Have you ever heard Xel ben called Park Lake?

A No, we call it Xel ben.

Q So far as you know Xel ben is known as Pack Lake, not Park Lake?

A No. Xel ben, that's Pack Lake, can't change that name.

Q Now, as I understand it, in the summertime your family would spend a few weeks in Hagwilget or Moricetown fishing and attending the feasts and this is when you were a little girl?

A Yes.

Q In those days were the feasts held in the summer?

A Yes.

Q And nowadays the feasts are held at any time of year?

A Yeah, any time of year.
Q And as I understand it, you would also spend several months of the year in Houston, I guess on your way back from Hagwilget or Moricetown you'd stop off in Houston for some period of time before you went out to the cabin at Pack Lake; is that right?
A Yes.
Q Now, you've told us that your mother died in 1948 when you were 16 years old?
A Yes.
Q After your mother died, did you ever go back to Pack Lake?
A Went back with my grandma and grandpa Jim Holland and Christine Holland.
Q You went back with those people --
A Yes.
Q -- or they went back?
A No, I went back with them.
Q Did you go back to Poplar Lake also after your mother died?
A Yes. I just only went to Xel ben with my grandmother.
Q I'm sorry, I didn't hear that?
A I only went to Xel ben with my grandmother and my grandpa.
Q You told us earlier this morning or rather before lunch that you had been back in the territory a couple of years ago on a camping trip with your children?
A Yes.
Q Is that the first time that you have been back to Poplar Lake since your mother died?
A No. Sometimes when I on my way back to Moricetown I would stop off for a day at Elsie's place and then we would take a car and go out, take a trip out there.
Q Elsie is who?
A My sister.
Q And where does she live?
A Houston.
Q Mrs. Layton, do you remember my examining you for discovery in Smithers in April last year?
A Yes.
Q I want to read to you some questions and -- that I asked you then, and the answers that you gave to me, and My Lord, if I might ask you to refer first to the questions beginning at question 55 on page 8, and I'm going to read you some of the questions that I asked you then and some of the answers that you gave and I want you to tell me whether or not the answers you

gave then were true.

The first question, 55:

Q If I were to be able to show you the map, would you be able to show me?

A Well, Francois Lake, grandma owned the place and they had log houses in there and grandma got to go in that Pack Lake and I got two brothers and two sisters buried in there when they were living out in the trap line.

Q And they're buried near Pack Lake?

A Yeah, Pack Lake."

I asked you those questions and those were your answers, remember that?

A Yes.

Q Carrying on:

"Q And is it close to Francois Lake -- "

And I'll just pause there for a moment. Francois Lake is sometimes called Francis Lake?

A Yes.

Q Your answer -- I'll repeat my question, question 57:

"Q And is it close to Francois Lake?

A Yeah.

Q Which --

A Close, but Pack Lake you go west to Pack Lake. You go to Pack Lake is about a couple of hours, three hours' walk them days. Now they got horse road all over the place and you drive there in ten minutes.

Q You drive there in ten minutes from Francois Lake?

A Yes.

Q It is west from Francois Lake?

A Yeah, there is a log house still there what my dad built when we were small."

And I asked you those questions and those were your answers?

A Yes.

Q And they were true?

A That was true.

Q Question 61:

"Q Is that the log house that you think the Americans are living in?
A Yes, and they got trespass -- no trespass. Long days ago when we trap we didn't see no sign of trespass. We do whatever we want, you know. We had a good time, but you know, we have to do what people tell us what to do. What can you do?
Q Have you done that?
A What can you do? In them days I was young yet. I know all the country up there. Grandma -- used to trap with her."

I think that should be:

"A "...Grandma -- used to trap with her. We never see people come in and tell us what to do but now you can't even go there. You can't do nothing. You have to have permit to do anything."

You remember those questions and those answers were true?
A Yes, that was true.
Q And the next question:

"Q You used to go there with your grandmother?
A Uh-huh. My last trip up there was when I was 15 and now I'm 56 so I still remember. Day I come out of that bush my mom was sick. That year after when we come out of that trap line my mom and dad never went back, but grandma, my sisters, they all went back and trapped."

And that answer was true was it?
A Yes.
Q Now, Mrs. Layton, your oldest daughter is Thelma?
A Yes.
Q And she was born in Smithers in 1952?
A Yes.
Q When were you married to your first husband?
A Oh, 19 -- I wasn't married to him, it was just common law, 1951 or -- yeah, '51.
Q It was 1951 when you began living with your common law husband or your first husband Frank?
A Yes.

Q Where did you live with him?
A We stayed in Houston.
Q And when your first husband passed away where were you living then?
A In Prince George.
Q Did you move to Prince George with your first husband?
A No.
Q So after he passed away you moved?
A No, he -- him and I were broke up at the time so --
Q And you went off to live in Prince George?
A Oh, I been married for about -- I got married with my new husband '58 so we moved to Prince George in '70, 1970.
Q Where did you marry your second husband?
A Smithers.
Q And where did you live with your second husband between 1958 and 1970?
A Houston.
Q And then in 1970 you moved to Prince George with your second husband?
A Yes.
Q And did your children go with you?
A Yes.
Q Mrs. Layton, I suggest that after your common law marriage to your first husband in about 1951 that you have only been back to the Pack Lake and Poplar Lake area once and that was on a camping trip with your children a few years ago; is that true?
A That was my second husband. That's just two years ago. My husband died about ten years ago, my first husband, so I can't be -- go to Poplar Lake with him because he's dead, so with the husband I got now with all my kids went with me and we rained out.
Q In all the time that your daughter Thelma has been alive you've been to Pack Lake once on a camping trip and I suggest that's the only time that you've been there?
A It was two years ago that Elsie and the children and my children went out to -- that's when I explained everything to them and showed them the area. That's when they were -- they found out about the territory and they are aware of it now and that's when we took them out there.
Q That's the first time you've been back there yourself since all the time since your daughter Thelma was born, isn't it?
A Since Thelma and Shirley were born we went out there

quite often on a day trip on Sundays. And these kids are learning more about it every time they go out.

MR. PLANT: Well, I want to read you another question, couple of questions from the examination for discovery, and My Lord, reading from question 70 on page 10:

"Q I am sorry, when was the last time that you were up in Popular Lake?"

And My Lord that should be "Poplar Lake".

THE COURT: Yes.

MR. PLANT:

Q I'll read it again.

"Q I am sorry, when was the last time that you were up in Poplar Lake? Was it when you were 15 or --

A Yes. Yeah.

Q And --

A That's 1945."

Mrs. Layton, as of the day that I examined you for discovery April, 1987, the last time you had been at Poplar Lake was when you were 15 in 1945, is that true?

A In 1945 my mother was still alive yet. We went out there with my grandparents and my parents and Irene. At the time when I gave you them answers I was under medication and at that time I had problems because I did not take my medication at the time.

Q Well, Mrs. Layton, let me read you some more questions and answers from the discovery, and I'm referring now, My Lord, to page 3 of the transcript beginning with question 8.

"Q Miss Mandell says that you are under some medication; is that correct?

A Yeah, I do.

Q What is it?

A For me, you know, I've been in the hospital for the last -- in the last hospital for two, three years, and I have doctor prescribe some kind of nerve pills.

Q Nerve pills?

A Uh-huh.

Q Do the pills make you tired?

A Sometimes, but I didn't take any.

Q I'm sorry, I did not hear?
A I didn't take the pills, so I don't have it today.
Q So how do you feel today?
A Okay."

So on the day that you were examined for discovery were the answers that you gave to those questions true?
A The answers I gave you may not be right in some parts because of my health at that time.
Q The camping trip that you told us about, did that take place last summer?
A It's been two years ago about July, I can't remember, sometime in July or --
Q You think it might have been last July?
A Yes.
Q Now, Mrs. Layton, do you remember answering some questions in an affidavit called interrogatories? They were delivered to you and we marked this document that I've now put in front of you when I examined you for discovery. Do you remember this document and the questions I asked you about it?
A Yes.
Q And that's your signature there on the second page?
A Yes.
Q When you answered those questions did someone read them for you or read them to you and translate them for you?
A No.
Q How did you answer them?
A I can't answer that now. I have to try and remember.
Q When you signed that document, Mrs. Layton, did you know that you were giving information and did you know that the information that you were giving was true to the best of your knowledge?
A Yes. If documents are referring to the territory then it would be true to the best of my knowledge and --
MR. PLANT: Do you remember Peter Grant coming to see you or you going to see Peter Grant and signing that document?
MR. GRANT: Well, My Lord, the question is misleading. It may be a compliment to my signature, but that document is not my signature as the commissioner of --
MR. PLANT: I'm sorry.
MR. GRANT: My friend may be on a wild goose chase.
MR. PLANT:

1 Q I should have recognized the signature. It's not Mr.
2 Grant's signature, I think it's Louise Mandell's
3 signature. Do you remember if Louise Mandell came to
4 see you or if you went to see Louise Mandell and you
5 signed a document that contained information that had
6 been asked of you by the provincial government in this
7 court case?
8 A Yes, I just remember it now. Louise came to see me at
9 Prince George and she read that over for me and then I
10 signed it.
11 Q And what she read to you was true so far as you were
12 concerned?
13 A It's been quite a while now and I can't remember if it
14 was all true or not.
15 MR. PLANT: My Lord, I propose to tender a substantial number
16 of the interrogatories in the form of -- not in any
17 particular form, but I've stapled them together and --
18 MR. GRANT: Can we see that?
19 MR. PLANT: Yes, I have a copy for you, and I'm going to be
20 asking the witness some questions about some of her
21 answers.
22 THE COURT: Thank you.
23 MR. PLANT: And perhaps it would be convenient to mark that as
24 the next exhibit now, My Lord. There are one or two
25 areas where the photocopying hasn't been done the way
26 I hoped it would be, and I will draw Your Lordship's
27 attention to it as we go through it. I'd ask that
28 this be marked as the next exhibit.
29 THE REGISTRAR: Exhibit 213.
30 THE COURT: Thank you.
31
32 (EXHIBIT 213: Affidavit with interrogatories of S.
33 Layton)
34
35 MR. PLANT:
36 Q Mrs. Layton, you've told us you don't read or write
37 English other than signing your name; is that correct?
38 A Yes.
39 Q Now, in the first question you were asked "When were
40 you born?", and you said "January 10th, 1930", and I
41 think you've told me that that's wrong?
42 A Yes.
43 Q In the second question you were asked where you were
44 born and you said "Houston, B.C.". Is there a
45 Wet'suwet'en name for Houston?
46 A Elsie, Lucy and myself were born in Houston. I can't
47 recall any Wet'suwet'en name, but I know it's within

the Wet'suwet'en territory.

Q In the third question you've said that the places that you had lived in since you were born were "Houston, Park Lake, Hagwilget and Prince George", and as I understand your evidence earlier when you said "Park Lake" you meant "Pack Lake" because that is a place where you have lived is Pack Lake; correct?

A Yes.

Q And in the fourth question we asked "What schools, if any, have you attended?", and you said "Hagwilget Day School and Houston." Did you go to school in Houston, Mrs. Layton?

A No, my sister Elsie and Lucy did.

Q In question number seven I asked -- or we asked "What is your principal occupation?", and you said "I fish, trap, attend the feasts, and supervise the business of our house."

Now, Mrs. Layton, since you moved to Prince George in 1970 have you personally done any trapping?

A I never went trapping myself, but my Uncle Sylvester William done the trapping and hunting for us and in the wintertime we would go for marten and beaver and muskrats and also weasel and squirrel and also mink.

Q And Mrs. Layton since you moved to Prince George have you personally done any fishing?

A I've gone every summer to prepare fish at Moricetown, but I did miss one season when I was sick.

Q Question number 13 we asked you "What are the Wet'suwet'en names you have held since birth?" And you said "I have held the name Knedebeas which I received at Christine Holland's headstone feast."

And my question is, did you have any Wet'suwet'en names before you acquired the name Knedebeas?

A I didn't have any chief name before until my grandmother announced at the feast and I had passed out money and material to designate me as her successor, and when she passed on I conducted the headstone feast and that is when I took the name and then I in turn after moved back into the seat that she used to sit on.

Q In question 18 we asked you to state the names of your children to the extent that your recollection permitted. You said "I have seven children.", and the seven children you named were "Thelma, Shirley, Milton, Corveen, Clifford, Freddy, and Darlene".

As I understand it you have another child, a daughter named Rose?

A Yes.
Q Now, in question 32 you told us in the answer to question 32 you said that there were other chiefs in your house and that the other chiefs in your house were, and there were three names, "Noostel", and Noostel is Warner William?
A Yes.
Q And then "L t'at'en", which is a name I am reluctant to try to pronounce, but I have pronounced it anyway. Do you know who holds that name, Mrs. Layton?
A Warner William.
MR. PLANT: And if you would like Mr. Mitchell -- in fact, I ask Mr. Mitchell to pronounce that name -- well, I'll try and dig out the number. It's 651.
THE COURT: What is 651, please?
THE TRANSLATOR: L t'at'en.
MR. PLANT: Pardon?
THE TRANSLATOR: L t'at'en.
MR. PLANT:
Q The name that Mr. Mitchell has just said Mrs. Layton, is that the name that Doris Michell holds?
A Yes.
THE COURT: I'm sorry, it can't be 691.
MR. PLANT: 651.
THE COURT: 51. Thank you.
MR. PLANT: Now, there's a third name given in the answer to question 32 which I would pronounce as Ya halt'a, but I -- don't think I better rely on my pronunciation.
THE TRANSLATOR: Ya halt'a.
MR. PLANT: Perhaps I could impose on Mr. Holland to read the third name and see if he can make any sense of it.
MR. GRANT: Just for the record, My Lord, Mr. Holland appeared to shake his head as no, he could not pronounce it either.
THE COURT: Well, Mr. Mitchell was able to pronounce it.
MR. PLANT: I beg your pardon?
THE COURT: Mr. Mitchell was able to pronounce it.
THE TRANSLATOR: It's just the way it was written.
MR. PLANT: And as I understand it, Mr. Mitchell's attempt at pronouncing it didn't evoke any signal --
THE COURT: All right.
MR. PLANT: -- or response from the witness, but perhaps we could try one more time.
Could you try again to say that word and see if Mrs. Layton recognizes it?
THE TRANSLATOR: Ya halt'a.
MR. PLANT: I should say, My Lord, that we went through this

exercise on discovery without success, but I didn't have Mr. Mitchell's assistance on the discovery.

THE TRANSLATOR: Ya halt'a.

MR. GRANT: The similar problem arose in the discovery which was resolved, My Lord.

MR. PLANT: My friend Mr. Grant has referred me to a passage I had forgotten about where Mr. Holland, who was the interpreter at the discovery, said "You have got it spelled Ya hult'a", and that's Y-a-h-u-l-t-'-a, "but it is K-a-h-a-o-a-k.", and that may be Mr. Holland's spelling.

THE COURT: Can you just not ask the witness if there's a third chief in her house?

MR. PLANT:

Q Well, there are other chiefs in her house, and I -- perhaps I could ask, is Percy Michell a chief in your house, Mrs. Layton?

A Yes.

Q What is his chief's name?

A G'wa hoo'. G'wa hoo'.

MR. PLANT: I think that may be the answer.

THE COURT: His name is Percy Michell.

MR. PLANT: Percy Michell.

THE TRANSLATOR: 653.

THE COURT: Thank you.

MR. PLANT:

Q Now, is Helen Mitchell a chief in the dark house?

A Yes.

Q And what is her chief's name?

A Muskii boo.

MR. PLANT: 652.

THE TRANSLATOR: Right.

MR. PLANT:

Q And being your cousin, Catherine Michell, is she also a chief in the house of -- the dark house?

A Yes.

Q And what is her chief's name?

A Weeliih.

THE TRANSLATOR: 483.

MR. PLANT:

Q Thank you. Now, it appears to me that none of your brothers or sisters have chief's names. Firstly, do you agree with that?

A They don't have names at all.

Q And why is that?

A We were all pretty young when Sam passed away and my grandmother never mentioned anything about that, so I

wouldn't know why.
MR. PLANT: Now, I'm going to leave the interrogatories for a minute and ask you some questions on another subject.
THE COURT: Shall we take the afternoon --
MR. PLANT: But I'll be coming back to the interrogatories again.
THE COURT: Shall we take the afternoon adjournment now then?
MR. PLANT: If that would be convenient, My Lord.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

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

_____
Tanita S. French
Official Reporter

(PROCEEDINGS RECONVENED AT 3:15 p.m.)

THE REGISTRAR: Order in court.
MR. PLANT:
Q Mrs. Layton, did you ever know or hear of someone named Peter Alec?
A I was pretty young when he passed away. I just heard my grandmother speaking about him.
Q Did your grandmother tell you which clan Peter Alec was from?
A Gilseyhu.
Q Did your grandmother tell you that or did you know that Peter -- Peter Alec owned some land just about a mile north of Pack Lake?
A All I knew is I am not too far away from there, they had a house.
Q Did they have a barn beside the house?
A I was pretty young when we used to go by their place, but all I can remember is they had a cabin or a log house there.
Q Do you remember if that place where the log house or cabin was, was in Knedebeas' territory?
A I don't know.
Q When you were young and living at Pack Lake, were there white ranchers or farmers in that general area?
A No.
THE COURT: No?
A No.
MR. PLANT:
Q Did you ever travel down to Francois Lake to the place Tl'ok wa C'oo, 486 or 648? There was some confusion about what number that was.
THE TRANSLATOR: 486.
MR. PLANT:
Q Perhaps with Mr. Mitchell's assistance, I could ask you again, Mrs. Layton, did you ever go to -- did you yourself ever go to the cabin at the place called Tl'ok wa C'oo?
A Yes, I remember. I was pretty young when my father and my grandfather they built a log cabin there at Tl'ok wa C'oo, and then we would go from there to Xel ben in the wintertime.
THE COURT: Sorry, you went from there to where?
A Xel ben.
MR. PLANT:
Q Pack Lake.
And when you were young, there were other cabins

at the west end of Francois Lake?
A Matthew Sam and Amelia Sam, they had -- they had a house at Tatl'aat.
MR. PLANT: Do you have the spelling for that, Mr. Mitchell?
THE TRANSLATOR: 647.
THE COURT: Is that on Francois Lake?
A Yes, it's at the end of Francois Lake.
THE COURT: Okay.
MR. PLANT:
Q Is it close to Tl'ok wa C'oo?
A It's almost directly across and it's not too far.
Q When you say "across," do you mean across the lake?
A I was pretty young and I just remember that it wasn't across the lake but all I remember is there was houses not too far apart.
Q Were there white people who had houses in that area? And I'm speaking of the west end of Francois or Francois Lake?
A All I knew is there was a place called Noralee where some white man had a post-office.
Q And that's on the north shore of the lake?
A I was pretty young then, I didn't go there myself, just my parents and my grandfather went to the store there.
MR. PLANT: My Lord, I should pause to say that Noralee is N-O-R-A-L-E-E.
THE COURT: One word?
MR. PLANT: All one word.
THE COURT: Thank you.
MR. PLANT:
Q Was there a little village at the west end of the lake, Francois Lake, called Nadina?
A I never seen no village there when we travelled through there with our parents. I was pretty young then.
Q Did you ever see a store there?
A I don't know, because there was no store there then.
Q Are you able to say if the post-office at Noralee is in Knedebeas' territory?
A All I know is that the Tatl'aat area where Matthew Sam and his wife Amelia who was Gilseyhu were living there, and my -- and which was in Knedebeas' territory, and my grandmother let Amelia and her husband use that part of the territory, because Matthew Sam's wife was Gilseyhu.
Q Okay.
A And when Matthew Sam was using that territory, that

part of the territory, my grandmother let him use it as Neg'edeld'es.

MR. PLANT: Is there a number for Neg'edeld'es?

THE TRANSLATOR: 192.

MR. PLANT: 192.

THE COURT: Thank you.

MR. PLANT:

Q Is that because Matthew Sam's mother was Gilseyhu?

A Matthew Sam's father was Gilseyhu who was related to my grandmother. And she never -- I wouldn't know his name because she never mentioned it to me.

Q Well let me see if I can stir your memory. Do you know if Matthew Sam's father was named Willie Sam or Sam Willie?

A No, I don't know, because my grandmother never told me that name.

Q Did you know that the land that Matthew and Amelia Sam lived on was set aside as an Indian reserve?

A Yes. My grandmother did mention that it was a reserve, and that's all she told me.

Q I want to ask you about a place called Ts'eel K'ez, number 646. Is that place familiar to you, Mrs. Layton?

A I think it's in Taal biits Kwe, in my grandmother's territory.

MR. PLANT: May I have the number for Taal biits Kwe?

THE TRANSLATOR: 357.

MR. PLANT:

Q Have you ever been to that lake?

A No.

Q Did you ever know or hear of someone named Tommy Namox or Namox?

A That's one of my grandmother's uncle who passed away when my grandmother was pretty young.

Q Was he one of the people that your grandmother told you had held the name Knedebeas?

A Yes.

Q Now I understand Tommy Namox had a place on Nadina River just two or three miles downstream from Pack Lake; do you recall that?

A I don't know about that.

Q And when I refer to the Nadina River, do you know what I'm talking about?

A Yes.

Q That's the place known in Wet'suwet'en as Neet'anlii Ts'anlii, number 624?

THE TRANSLATOR: Neet'anlii Ts'anlii.

MR. PLANT:
Q The name that Mr. Mitchell has just read, is that the same place in your mind as Nadina River?
A Yes, that's the same area.
Q I'm sorry, I missed the last answer?
A That's the same area.
Q Now when you lived at Pack Lake as a little girl, there were two houses; is that correct?
A All I know is there was one log house at Pack Lake.
Q Did your family have a little garden there?
A I don't know. We didn't have no potatoes there. We had no potatoes to plant.
Q Did your family have any horses at Pack Lake?
A Yes, we had horses at Pack Lake. And after my mother died I remember we went out there two, three years later with horses and went as far as Pack Lake where the horses stayed, because when we went to Tac'ets'ol'een ben, the trail was too narrow for horses to travel in there. We had dogs who had done the packing for us.
Q Did your grandmother ever tell you that her brother Alex, or Alexander, had made an application to have the land at Pack Lake set aside as an Indian reserve?
A Yes, my grandmother told me that it was reserve and that is one of the reasons why that my brothers and sister are buried there.
Q And to your knowledge, is that area still a reserve today?
A I can't answer that.
Q Why can't you answer that, because you don't know?
A Because my grandmother had told me that it was a reserve and I believe it should stay like that.
Q Mrs. Layton, would you agree with me that there are white farmers and ranchers that live on Knedebeas' territory in the Pack Lake area today?
A Yes, I know, but not in the immediate Pack Lake area. But I know there was some living at Tl'ok wa C'oo.
MR. PLANT: 486. Now, I would like to ask you some more questions about your interrogatories again, Mrs. Layton. And turning to question number 60 which is on the page numbered 13 at the bottom page.
THE COURT: Sorry, the number?
MR. PLANT: Do you have that, My Lord, number 60.
THE COURT: Thank you.
MR. PLANT:
Q Mrs. Layton, the question here was:

Q "Are there any persons not members of your House occupying part of the territory which you say is owned by your House or over which your House exercises jurisdiction?"

Your answer was:

A "No, there are not."

And I take it from what you just told me, that there are -- to your knowledge, there are some white people who live in the area near Francois Lake?

A Some people that lived at Tl'ok wa C'oo were the ones that fix the roof and lived there for a while, and then they moved out and I don't know who they are or where they moved to.

Q My Lord, I would ask you to disregard question 62 and 63, they are not -- they were included by mistake.

Question 69, did your grandmother, Christine Holland also speak Gitksan?

A Excuse me.

Q Would you like some water?

A There is no water. No, I've never heard her speak Gitksan. Just heard her speaking Wet'suwet'en.

Q Did she tell you that she could speak Gitksan?

A No. She's never told me anything like that.

Q In your answer to question 69, you said:

A "My grandmother Christine Holland also spoke Gitksan."

Can you remember why you said that?

A That's because my grandmother spoke the odd word.

Q The odd word in Gitksan?

A Yes.

Q Now, Mrs. Layton, in the answer to question 70 (b), you said:

A "My predecessors of my House lived at Xel ben until 1936. They lived at this location for many years prior to this date. We lived there all year round. The only time we left was during the feasts and the fishing season."

Mrs. Layton, after 1936, did your grandmother and your

mother and father move to Houston?
A Yes. My grandfather and my father they built a log house in Houston, but we travelled back and forth out to Tac'ets'ol'een ben where -- where we went there for the winter.
Q Why did your family move to Houston?
A The -- they built a house in Houston because Elsie and Lucy were going to go to school. Me and Irene were raised out in the territory, that is why we can't read or write.
Q Now in the answer to question 71, you said:

A "We also had a log cabin on Topley Lake."

T-O-P-L-E-Y. Mrs. Layton, do you know of a place called Topley Lake?
A I don't think there is any Topley Lake. You are probably referring to Poplar Lake which is Tac'ets'ol'een ben, that's where my grandmother or grandfather and uncle built the cabin, though.
Q That's 618?
THE TRANSLATOR: Yes.
MR. PLANT: Yes. Now, in interrogatory number 82, you were asked about what you knew about how the members of your house and their ancestors had exercised their spiritual beliefs and practices within the territory of your house, and you said, your mother, "Mary Seymour, was Kaluluhm." I'm sure my pronunciation of that is wrong.
THE TRANSLATOR: Ggxlulem, number 290.
MR. PLANT:
Q Is that true?
A Yes.
Q Now this is what you also said:

A "She passed it on to my Grandmother Christine Holland who in time passed it on to my cousin Catherine Michell. When you become Kaluluhm you have the power to heal people who are sick. When I used to get terrible headaches my Grandmother used her powers to make me better, my headaches disappeared."

Now stopping there. That's true?
A Yes.
Q

"My Grandmother explained to me why I was getting headaches. There was a dispute over land and another Indian doctor was wishing evil on my family. This caused my headaches. This problem was resolved amongst ourselves and I have never had anymore headaches."

Is that true?
A Yes.
Q

"Ever since my Grandmother died and I got sick, I think about seeing one of our own Indian doctors to find out why I am sick."

And that's true also?
A Yes.
Q What was the "dispute over land" that you referred to in that answer?
A I was pretty young when we were travelling by -- by C'el tay toostaan Kwe where Sats'aan was living there.
THE COURT: Sorry?
A Sats'aan was living there, and there was no argument but there was a disagreement, and that's when after we left, two days later, I took sick and then Sats'aan came down and he massaged my face and he said he was sorry, he didn't mean to wish any illness on me, and the problem was resolved.
Q Which land was the subject of this dispute?
A There was no dispute over land. I was pretty young then and I don't know what the cause of the problem was. All I knew is that he came down and I -- and told me that I would not be getting sick any longer, and that he was sorry for thinking that way.
THE COURT: There was a name that starts with "S"?
MR. PLANT: Yes, I don't have them either.
THE TRANSLATOR: C'el tay toostaan Kwe, 184.
THE COURT: 184.
THE TRANSLATOR: Um-hmm.
THE COURT: All right. And the spelling of the person Sats'aan?
THE TRANSLATOR: Sats'aan, 195.
THE COURT: 195. All right. Is it convenient to adjourn, Mr. Plant?
MR. PLANT: Yes, My Lord.
THE COURT: Do you wish to finish anything?
MR. PLANT: No, I'm still going to be some few minutes before I

finish this whole area.
THE COURT: All right.
MR. GRANT: My Lord, is it possible, so we can arrange in terms of our own planning, to ask my friend if he has some idea now of when he will finish? I think -- I believe he thought he would finish tomorrow morning.
MR. PLANT: I'm sorry?
MR. GRANT: I just wondered if my friend could give some idea so we can arrange in terms of the next witness.
THE COURT: Yes. What do you think, Mr. Plant?
MR. PLANT: Oh, I'm moving along, My Lord, I don't think I'll be much past -- in fact, I'll be surprised if I can stretch it out to the morning adjournment tomorrow.
THE COURT: All right. Miss Koenigsberg?
MS. KOENIGSBERG: I'll be admirably brief.
MR. PLANT: I thought I had been so far.
THE COURT: That helps a lot. All right.
THE REGISTRAR: Order in court. This court stands adjourned until tomorrow morning.

(PROCEEDINGS ADJOURNED AT 4:00 p.m.)

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

Toni Kerekes,
O.R., R.P.R.
United Reporting Service Ltd.