VANCOUVER, B.C,
May 2, 1988

THE REGISTRAR: Calling Delgamuukw versus Her Majesty the Queen.
THE COURT: It might be useful for me to inform counsel that Mr. McGillvray, the Registrar in Smithers, tells me that Mr. Sterritt has been notified of the suggested date for the hearing of his application, which I think is tomorrow.
MR. RUSH: I believe it's Wednesday.
THE COURT: Wednesday? But Mr. McGillvray has no indication whether Mr. Sterritt finds that inconvenient or otherwise, so that might be regarded as a tentative or a doubtful date, but we'll see what happens. I think I should also tell counsel that after much agonizing I have declined the invitation of the Attorney General to appear at his conference in Ontario in I think it was around June 20th, and counsel needn't trouble themselves with that matter, we'll sit as scheduled. Do counsel have any agreement about next week?
MR. RUSH: I think I can state it so far as the Provincial defendants go, I talked with Mr. Goldie this morning and he advises that he's available on Monday and Tuesday in the event that the witness moves over to next week, so we are available.
THE COURT: All right. Mr. Macaulay?
MR. MACAULAY: We are available.
THE COURT: Yes, all right. Then we'll sit for at least two days next week if it is necessary so to do. All right.
MR. MACKENZIE: My Lord, reference has been made to Wednesday March -- May 4. As your Lordship recalls, we've been lining up motions to be heard on that day, and as your Lordship indicated, the Sterritt petition was to be heard on that day.
THE COURT: Yes.
MR. MACKENZIE: We have an amendment application -- sorry, a Notice of Motion to amend the Statement of Defence to be heard on that day, and the defendants have also filed a Notice of Motion relating to the production of counsel documents to be heard on that date.
THE COURT: Yes. We'll see how many of those we can dispose of on Wednesday morning. Ready to proceed, Mr. Adams?
MR. ADAMS: My Lord, the next witness is Vernon Smith, and he's present I believe.

VERNON SMITH, a witness called on behalf of the Plaintiffs, having been duly sworn, testifies as follows:

THE REGISTRAR: Would you state your name for the record, please?
A Vernon Smith.
THE REGISTRAR: Thank you.
THE COURT: Thank you, Mr. Smith. Sit down if you wish.
THE REGISTRAR: I caution the interpreter she's still under oath.
THE COURT: Mr. Adams.
MR. ADAMS: My Lord, I have a small volume of materials to distribute, documents relating to Mr. Smith's anticipated evidence.
THE COURT: Thank you.
MR. ADAMS: My Lord, just before I begin my examination of Mr. Smith, I would seek your Lordship's leave to say a few words in explanation of what you are to hear from him to locate him both geographically and in terms of some of the evidence you have heard previously. In his evidence we will be dealing with western territories which show on Exhibit 5, generally in the western area here, and we'll be dealing with the Skeena downstream from Andimaul, A-n-d-i-m-a-u-l, and extending downstream along the Skeena to a place in English called Dorreen, D-o-r-r-e-e-n, which is south of and downstream of Cedarvale. And then as far as who this witness is and where he fits in, it will become apparent through his evidence that he is a member of the Lax skiik or Eagle Clan. And Lax skiik is number 503 on the word list, and that he is both a hereditary chief of his house and clan in Gitwangak and the chief councillor of the Kitwancool Band. And then as one other reference point your Lordship may recall that Art Matthews Jr. gave evidence, part of which is contained in Exhibit 348, which I asked Madam Registrar to pull this morning, not because Mr. Smith will give evidence with respect to it, but because he's identified there, and your Lordship may recall that was a feast seating diagram that showed the Wolf Clan and the Eagle Clan in Gitwangak sitting side by side at the table. And Mr. Matthews gave an explanation of how that came to be, and the point is simply that this is Vernon Smith, the Sakum Higookw identified on that document as seated there.
THE COURT: Is Mr. Smith a plaintiff?

MR. ADAMS: Mr. Smith is a named plaintiff.
THE COURT: Yes.
MR. ADAMS:
Q Mr. Smith, you hold the Gitksan chief's name Sakum Higookw, is that right?
A Yes.
Q And that is number 56 on the plaintiff's list. And could you tell the court what that name means in English?
A It means the person that starts something but -- energetically, but never finishes it off.
Q Okay. Could I ask you to speak as loudly as you're able to so that everyone in the court can hear you, please. And do you hold any other Gitksan chief's name?
A Liginiihla.
MR. ADAMS: And Liginiihla is number 479 on the word list.
THE COURT: What was his chief's name number again, please?
MR. ADAMS: For Sakum Higookw?
THE COURT: Yes.
MR. ADAMS:
Q It is 56 on the plaintiff's list. And you're the head chief of the house of Sakum Higookw?
A Yes.
Q And you are the head chief of the Lax skiik or Eagle Clan of Gitwangak?
A Yes.
MR. ADAMS: And --
THE COURT: Did you say Gitwangak?
MR. ADAMS: That's right.
THE COURT: I think you said earlier that he was the head chief of Kitwancool.
MR. ADAMS: No. He's the chief councillor of the Kitwancool Band, but he's a hereditary chief from Gitwangak.
THE COURT: I see.
MR. ADAMS:
Q And you were born December 27th, 1944 at Gitanmaax?
A Yes.
Q And your mother is Percilla Smith?
A Yes.
Q And her maiden name was Tait, T-a-i-t?
A Yes.
Q And does she hold a chief's name in your house?
A Her chief's name is Sgayaan.
Q And that's number 480 on the word list, my Lord. And your father was Earnest Smith?
A Yes.

Q And he's now deceased?
A Yes.
Q And he died about 1972?
A Yes.
Q And what if any chief's name did he hold?
A Wiixa.
Q And that's number 81 on the plaintiff's list, my Lord. And what does that name mean in English, please?
A The big slave.
THE COURT: The name number again?
MR. ADAMS: Is 81 on the plaintiff's list.
THE COURT: Thank you.
MR. ADAMS:
Q And that's a name in the Kitwancool Lax Gibuu or Wolf Clan, is that right?
A Yes.
Q All right. Now, what I would like to ask you to do in small bites is to take us through the highlights of your life, and I would like to start you back as early as you can remember. How old were you and where were you living?
A Most the time I live in Kitwancool. We travelled back and forth to Gitwangak in the spring and summer and the fall.
Q And how old were you living in Kitwancool in your earliest recollection?
A About two or three years old.
Q Okay. And what seasons of year did you spend in Kitwancool?
A Wintertime, fall, winter and spring.
Q And where did you spend the summertime?
A Gitwangak.
Q Okay. Did you go to school in either place?
A Both places, yes.
Q And what school was that?
A Gitwangak Village and Kitwancool Village.
Q And how old were you when you started going to school?
A Six or seven. They wouldn't allow me to go to school because I was too small for my age, they wouldn't believe my age.
Q You started when you were six or seven?
A Yes.
Q Okay. Now, did you also during that time spend time with your father?
A Yes.
Q And what were you doing with him?
A Went with him trapping by his -- by the south end of

Kitwancool Lake. He's got a sort of a farm there. He used to have cows and stuff, horses there before, but after the -- just there was none.
Q I'm sorry, after the --
A The farm diminished I guess and they had no cows later on, so just the farm there where we stayed to go trapping.
Q And was that on his territory?
A Yes.
Q And that territory then went with his name?
A Yes.
Q Was your father also a fisherman?
A Yes.
Q And did you ever go fishing with him?
A Yes, commercial fishing.
Q Where was that?
A Around by -- we stayed in Old Carlyle Cannery before they tear it down.
Q And where was that exactly?
A Mid Skeena -- mouth of the Skeena River.
Q Um-hum. Now, I want to bring you forward to the late 50's, when I understand you went to Edmonton to go to school?
A Yes.
Q What school was that?
A Edmonton Residential School. We don't exactly go to school there, we just stayed there, and we bussed down about 12 miles to Jasper Place in Edmonton.
Q Jasper Place was the name of the school?
A Jasper Place is the name of a sort of a settlement, like Richmond in Vancouver.
Q Okay. And when you're describing a residential school, you're describing a residence, is that right?
A Yes.
Q Um-hum. And who operated that residential school?
A The federal government.
Q Do you know which branch of the federal government?
A No. I don't know.
Q Okay. Was it Indian Affairs?
A Yes. It was operated by Indian Affairs.
Q Okay. Where was that residence compound in relation to Edmonton city?
A It's about 12 miles outside of Edmonton, due north close to St. Albert.
Q Okay. And if you're in residence at the residential school and going to school elsewhere, how do you get between one and the other?

A School bus.
Q Okay. Were there residential schools, to your knowledge, elsewhere in B.C.?
A Yes.
Q Can you tell me where?
A There's some -- my friends went to Port Alberni, Lytton, and there's one close to Fraser Lake somewhere.
Q Okay. And the people you're saying your friends, were those also people who were living in Kitwancool?
A Yes.
Q Did you have some say in which of those schools you went to?
A No, no.
Q Do you recall how you found out that you were going to Edmonton?
A There's no place in our school for all the students to -- there's only one room school in the village.
Q Yes?
A And there's no place, and they decided to ship us out.
Q But can you say why Edmonton rather than Port Alberni or Lytton, for instance?
A I didn't have any choice.
Q Okay. And you said there was no school in the village, there was no high school, is that right?
A No high school, no.
Q Was there a high school in Gitwangak?
A No.
Q Was there a high school in Hazelton?
A Hazelton -- there was no public road to Hazelton there for a few years in around that time, there's just a ferry operating summertime. There's no transportation all the way to Hazelton in the wintertime except by train.
Q Was there a high school in Terrace, to your knowledge?
A I believe so.
Q And as far as you're aware, was that attended by any Indian students?
A I don't know at that time.
Q Okay. Do you know why you went to Edmonton rather than to Terrace?
A They didn't give me an offer, I was just shipped out.
Q Now, when you first went to Edmonton, that was about what year?
A About '58 or '59.
Q Okay. And how long did you stay there on that occasion?

A From September to Christmas time.
Q And what did -- what happened at Christmas time?
A We stayed home. The councillors kept us home, the people, because of the harassment we had been getting at the residence by other students.
MR. ADAMS: Can you describe that harassment?
MR. MACKENZIE: My Lord, is this relevant to the issues in this lawsuit?
THE COURT: Well, I'm not sure. I doubt it, but I can't say at this moment that it won't be. Surely I'm not going to litigate the issue of whether he was unfairly harassed, am I?
MR. ADAMS: No, my Lord, but it may at the end of the day go to how people who have become chiefs have been treated and what his condition and their experiences were, and one of the issues that the defence has raised or seeks to raise in this case is these same people acquiesced in some sense in the treatment they received, and in my submission it will be relevant to know what treatment they received that led to that alleged acquiescence.
THE COURT: If I'm to pay any attention to this do I not have to hear contrary evidence, if any?
MR. ADAMS: It may be, if there is any.
THE COURT: Well, I suppose the proliferation of issues is not a ground for restricting evidence. I think I have to allow you to proceed, Mr. Adams. I would like to know the effect of the objection just to maintain some reasonable limits on the number of issues we are to litigate, but I'm not in a position at this moment to say whether it might be relevant or might not, so I think we must go ahead, if you wish.
MR. ADAMS:
Q Mr. Smith, I was asking you about the nature of the harassment that you referred to at the Edmonton Residential School?
A The food was -- it was insufficient for us to -- like when you're young you're energetic and there's not enough food there. It's very limited, and sometimes if the -- if there's milk on a table try and grab our share first, and the students that are there way before us think they have that priority to some of the food that's put on the table, and then I got beat up a couple of times by grabbing the milk first, and after we eat, if there's time in the afternoon to -- we had nothing to do we go and snare rabbits and raid the nearby farm for wheat to eat with the rabbit, cook it

in the outdoor fire.
Q Now, to take you back for a moment to the time before you went to Edmonton, while you were living in Kitwancool had you attended church or Sunday School there?
A Yes. I attended Sunday School and went to church in the Pentecostal in Kitwancool.
Q Okay. And then in Edmonton, what happened as far as religious services?
A They bussed us down to United Church or Anglican Church on Sundays.
Q Were those the only choices?
A Yes.
Q Did you have any choices between one and the other?
A No. If there's room in the bus I just get the bus that -- the one that has lots of room.
Q Okay. You said that the first time in Edmonton you left at Christmas time of that first year?
A Yes.
Q Were there people who left sooner than you?
A Yes. There's -- I got about four friends from Gitwangak that took off the first month that they were there and they hitchhiked on a box car, freight train. They never went back since.
Q They never went back to Edmonton?
A No.
MR. ADAMS: Okay. And then when you went back yourself at Christmas what further information did you get about the state of affairs at the school?
THE COURT: I mean when you went back at Christmas? I'm sorry, I don't known what you mean by that? His evidence was he went back from Edmonton to Gitwangak or Kitwancool, I'm sorry.
MR. ADAMS: Kitwancool.
THE COURT: Kitwancool, thank you.
A I stayed home after Christmas and we took correspondence in Gitwangak Valley, and a couple of my friends that stayed behind wrote letters home to the parents, and we found out that they had a riot about a couple of months later.
MR. MACKENZIE: That's hearsay, my Lord.
THE COURT: I'm not --
MR. ADAMS: My Lord, I'm not trying to prove what happened in the school in Mr. Smith's absence, I'm only trying to illustrate the condition of his further activities.
THE COURT: And is the sum point did you make a decision to go back to Edmonton?

A Yes. Most of us went back later -- back in September.
MR. ADAMS:
Q Of what year?
A About early '70's, '70 or '71 maybe -- about '71, I guess.
THE COURT: Do you mean the 60's? You were there previously in the 50's you told me?
A No, no. I was there in -- oh, yes, yes. In 60's, yeah, ten years I think.
MR. ADAMS:
Q So you're talking about your going back in '61 or '62?
A Yes.
Q And how long did you stay that time?
A Until '67, when I graduated.
Q And what level had you attained when you graduated?
A Twelve.
Q Grade 12?
A Yes.
Q Okay. And were you in Edmonton all-year round through those years when you were attending the residential school?
A No. I stayed at the residential school until I was grade 11, and I got boarded out to one of the private homes in grade 12.
Q What about in the summertime, did you stay in Edmonton?
A No. I go all the way to Rupert to go commercial fishing in the summertime.
Q And then your longer stay in Edmonton, the years from '61 or '2 to '67, were there other Gitksan students there in Edmonton with you?
A Yes. There's some from Gitwangak, Kispiox, Hazelton and some from Nass Valley and some from Haida, north of Edmonton.
Q Okay. And there were other people from Kitwancool, were there?
A Yes.
Q Okay. Now, quite apart from how you found out about conditions in the school, when you went back were things better?
A Yes. After the riot the newsmen arrived and they made everything public, and the conditions were improved after the riot.
Q Okay. Thinking of both your experiences in Edmonton, was there a rule in place at that school regarding language?
A Yes. We can't speak our own native tongue, we have to

speak English all the time.
Q And why was that?
A I really don't know why they wanted us to speak English. You get penalized if you speak in our tongue.
Q Was the rule ever explained to you?
A No.
THE COURT: I'm not sure what the rule was. Was the rule that you spoke English, or was the rule that you must not speak your native tongue, or was it a combination of both?
A The rule was you must not speak the native tongue.
MR. ADAMS:
Q When were you first exposed to English?
A When I went to school, first started going to school.
Q And you said that was when you were six or seven?
A Yes.
Q Okay. And before and after that time what was the language used in your home?
A Gitksan language.
Q Um-hum. And in your present dealings today with your mother and your sisters what language do you use?
A Gitksan language.
Q And what were the consequences of breaching that rule in Edmonton about using Indian languages?
A Our privileges were taken away, and if it's in the public school we stay during lunch-hour or we miss the bus, stay in after school and we missed the bus and have to walk 12 miles to get back to the residence. If it's in the residence we are -- our privileges are taken away.
Q What kind of privileges would those be?
A Like weekends we can't leave the premises to go to St. Albert or go downtown if we have spending money. If that's not taken away, we are confined to our dormitory or give us extra chores like washing dishes or scrubbing and washing the floor, different kinds of stuff.
Q Can you say roughly when there was a high school available as near as Gitwangak?
A Around '70, I guess.
Q Around 1970?
A Yes. I'm not too sure what year.
Q And at that point did people stop going to the Edmonton Residential School?
A Yes.
Q And to what grade did the school in Gitwangak go?

A Grade 11, but then they moved it down to grade 10 for the last two years now.
Q Is it only to 10 now?
A Yes.
Q Where do people go for grade 11 and grade 12?
A Most of them go to Hazelton.
Q And are there other places?
A If the parents could afford it they sent there students to Terrace or wherever they choose.
Q When you finish -- graduated in Edmonton did you come back to Kitwancool?
A Yes.
Q And what did you do then as far as schooling?
A I -- I went logging for one or two years and I went back to Victoria to go to college in Camosun College.
Q And what did you study there?
A Math, english, physics and social studies, history.
Q Okay. And did you have some purpose in mind in beginning those studies?
A When I was young I usually watch the jet planes that go by, and I figured there's something to get up there, so that's what keeps driving me to go to school. Nobody -- I didn't have anybody pushing me from behind to tell me to stay in school, and that was one of my objectives, is to be one of the jet pilots.
Q Did you come back from Victoria after that year at Camosun College?
A Yes.
Q And did you then take some part in the Band Council activities at Kitwancool?
A Yes. I go to some of their meetings and happened to be an election year when I came back and I got nominated as councillor, and I won the election as one of the councillors.
Q And you were elected?
A Yes.
Q And how long did you serve as a councillor in Kitwancool?
A About four years as a councillor, and then it's two terms, then I got nominated as a chief, chief for the next term, the third term I was in, and then I've been elected as chief councillor.
Q And are you presently the chief councillor of Kitwancool?
A Yes. I'm still the chief councillor for Kitwancool.
Q Okay. Now, you mentioned a moment ago that you had spent some time logging. Can you tell the court about

1 your time in the logging industry?
2 A I logged for an outfit called Bojack Logging, and they
3 had their outfit at Mile 32, their camp.
4 Q And just to interrupt you for a moment, where do you
5 count Mile 32 from, what is it 32 miles from?
6 A From Gitwangak.
7 Q And on which road?
8 A 37.
9 Q Highway 37?
10 A Yes. Right -- right from Highway 16, I believe, and
11 it goes onto Highway 37.
12 Q And at what mile on that highway is Kitwancool
13 Village?
14 A In those days they say it's mile 14 and a half or 15,
15 Kitwancool.
16 Q So where -- the place you're talking about logging is
17 north of Kitwancool Village?
18 A Yes.
19 Q Okay. And how long did you work for Bojack?
20 A About three or four years, just in the wintertime.
21 Q And what were you doing?
22 A I was setting chokers or bucking.
23 Q And did you -- when that finished did you carry on
24 doing logging work?
25 A I went -- I got a job in -- down in the village in
26 Gitwangak, and for one winter and then the other
27 winter I got a job for a sawmill in Hobenshield
28 Brothers in Kitwanga Valley.
29 Q Do you recall what years those were, first for the
30 Gitwangak Village and then for Hobenshield?
31 A '73-'74 winter in Gitwangak Village, and the Kitwanga
32 is in the winter of '74-'75.
33 Q When you started working with Bojack, was that a new
34 area for logging?
35 A Yes.
36 Q And were you party to meetings before that logging
37 started that concerned when and whether and how that
38 would take place?
39 A I was in some of the villages in the later part of the
40 negotiation with the Province or CANCEL.
41 Q Who was at those meetings, to your recollection?
42 A There's hereditary chiefs with their elected
43 councillors.
44 Q Both hereditary chiefs and elected councillors?
45 A Yes.
46 Q And who else?
47 A The CANCEL, the representatives from Canadian

Cellulose.
Q Okay. And were there as well representatives of the provincial government?
A I can't recall.
Q Okay. And around what years are you talking about those meetings beginning?
A Late part of the 60's.
MR. ADAMS: And what do you -- do you recall the discussions -- what do you recall of the discussions taking place between hereditary chiefs and band councillors and representatives of Canadian Cellulose.
THE COURT: I'm sorry, Mr. Adams, are you saying that these meetings you're talking about now took place before you went back to Edmonton?
A After I came back from Edmonton. I came back in '67.
THE COURT: I'm wondering about that, because I don't think you went back to Edmonton until the early '70's, did you?
A No. I graduated in '67.
THE COURT: Oh, yes, I'm sorry. I made the same mistake you did. Late 60's after you came back from school?
A Yes.
THE COURT: Thank you.
MR. ADAMS:
Q And after you came back from Victoria, is that right?
A Yes.
Q Okay. I'm sorry, what do you recall of the content of those meetings?
A The hereditary chiefs don't really want any activities on their -- on their territory, so the series of meetings I guess they convinced them that it's going to be lots of jobs for the local people, and through the convention they let the logging go through.
Q Were there people already based in Kitwancool Village doing logging at that time before these meetings took place?
A Yes. Kitwancool people, almost each one of them were subcontracting for Bell Pole Company, and there's -- I think there's over 20 subcontractors, different little outfits.
Q Based in Kitwancool Village?
A Yes.
Q And did that change after Canadian Cellulose got permission to log?
A Yes.
Q North of Kitwancool?
A Yes.
Q How did it change?

A Our own ones, the logging started in Kitwancool territory, they -- the subcontractors logged -- all of them lost their quotas, and right now after a few years has passed there's nobody working there.
Q And where were the companies that you ended up working for based, where was Bojack based?
A Mile 32.
Q Where were its operations, not its logging there, but where was that company from?
A Bojack, the main man that spearheaded Bojack Company was Dr. Bondley in Smithers.
Q What was his name, please?
A Dr. Bondley. I don't know how to spell his last name.
Q Is it like Bondley?
A Bondley, B-o-n-d-l-e-y, I think.
Q Okay. And apart from your time spent logging, have you been involved in the fishing industry in B.C.?
A Yes.
Q And in what way have you been involved in fishing?
A Commercial fishing.
Q When did you first start commercial fishing?
A About '64 or '65.
Q Um-hum. Was that in the summertime while you were otherwise going to school in Edmonton?
A Yes.
Q Okay. And where did you fish?
A The mouth of Skeena River.
Q Okay. Were you on a boat that you owned or one that you rented?
A I rented a boat from Canadian Fish.
Q And is that still the case today?
A No. We -- the B.C. Packers buy out Canadian Fish a few years ago, and I'm still fishing for B.C. Packers.
Q Do you not have a boat of your own?
A Yes. B.C. Packers sold all the gill-netters to Northern Native Corporation, and I in turn bought a boat from Northern Native Corporation.
Q And is that the boat you fish on now?
A Yes.
Q Okay. Are you also involved in the herring fishery at the coast?
A Yes.
Q What season of the year is that?
A Spring, and we just finished last week of March.
Q And do you also have work that involves driving the school bus?
A Yes.

Q Can you describe that, please?
A Just a part-time bus driver driving between Kitwancool and Kitwanga Valley.
Q And who are -- who's in the school bus, who are you moving?
A Our students from Kitwancool.
Q To where?
A To Kitwanga Valley Elementary Secondary School.
Q And have you also had occasion to pick mushrooms?
A Yes.
Q Can you explain the circumstances of that?
A My first experience was last September, picking mushrooms.
Q September of 1987?
A '87, yes. I've never picked mushrooms before that time.
Q What got you started?
A There's quite a few mushroom pickers, and they made it so interesting sounding, so interesting, so I went out and started picking mushrooms.
Q Now, my Lord, in the blue folder that I handed up this morning the -- this is not tabbed because there are so few items here, but the first pocket is a genealogy dated May 2nd, '88. And I will be referring to that shortly. Mr. Smith, did you have an opportunity to look over a genealogy that was dated the 21st of January, 1988?
A Yes.
Q And that was something that you made some additions and corrections to?
A Yes. With Chief D'ewelasxw.
MR. ADAMS: D'ewelasxw, my Lord, is on the plaintiff's list. I'm not sure what number.
THE TRANSLATOR: 63.
MR. ADAMS:
Q 63 on the plaintiff's list, thank you. And have those additions and corrections been incorporated into a revised genealogy?
A Yes.
Q Could the witness be shown the first pocket in that blue folder, please. Mr. Smith, have you had an opportunity to look over that revised genealogy?
A Yes.
Q And by all means take a few moments to be sure of that. Now, to the best of your knowledge, does that revised genealogy dated May 2nd, 1988 correctly show the members of your house and your clan, their

spouses, and the relationships among them?
A Yes.
MR. ADAMS: My Lord, I would ask that that be marked as the next exhibit, please.
THE COURT: Yes.
THE REGISTRAR: Exhibit 425.
THE COURT: Thank you.

EXHIBIT 425 - Genealogy of Sakum Higookw - Vernon Smith

MR. MACAULAY: So I know, my Lord, there is -- I take it the evidence is this is a house genealogy, one house in the clan, is that right?
THE COURT: Ask Mr. Adams if that was his question.
MR. ADAMS: The question was house and clan, and I think I will be able to clarify for my friend exactly how those fit together for this witness as his evidence proceeds.
MR. MACAULAY: Well, we have -- in every case we have a house and the clan is also identified.
THE COURT: Yes.
MR. MACAULAY: But the way the question was put in this case it sounded as if it was more than a house in one of the clans, but house and clan. That's the reason for my question.
THE COURT: Well, as in all these genealogies of course I see that, if I've read it correctly, the witness was fortunate to marry Jackie Bratten, and she would not be in the same house, but the genealogy shows --
MR. MACAULAY: She wouldn't be in the same clan either.
THE COURT: No. So it's more than just the house and clan.
MR. MACAULAY: And their wives, yes. Well --
THE COURT: It's part family, part house included in the clan, I suppose.
MR. MACAULAY: That's not quite what I was getting at, but --
THE COURT: All right. Well, I'll be glad to hear you further, Mr. Macaulay, if your friend's questions do not satisfy your query in this regard.
MR. ADAMS: My Lord, I think that it will be clear in the evidence, but for the court's advice and my friend, it will be clear that in this case the clan and the house are coterminous.
THE COURT: There are more than just the members of the house and clan members in the genealogy.
MR. ADAMS: There are spouses as well, and that was the witness' evidence.
THE COURT: And children I gather?

MR. ADAMS: The children who are shown on the genealogy, my Lord, will be members of the house and the clan.
THE COURT: All right.
MR. ADAMS: Those who are children that aren't members of the house and clan aren't shown.
THE COURT: All right, thank you.
MR. ADAMS:
Q Mr. Smith, could I draw your attention to that first page of that genealogy, please, and in the centre towards the right-hand side we find Percilla Tait.
A Yes.
Q Okay. And that's your mother, is it?
A Yes.
Q Okay. And you've testified earlier this morning that she held the name Sgayaan in the House of Sakum Higookw?
A Yes.
Q And do you recall who held that name before she did?
A I believe David Well's mother, Sakum Higookw's mother.
Q Do you recall what her name was.
A Yes -- no.
Q Would that have been Maggie Wells?
A I think so, yes.
Q Could I turn your attention to page 8 of that genealogy. Maybe first to 7 and then to 8, because on 7 at the top you will see David Wells?
A Yes.
Q And then on 8, near the top on the left is shown Maggie Wells?
A Yes.
Q That's the person you're referring to, is it?
A Yes.
Q Okay. And is Sgayaan, your mother's name, an important chief's name in your house?
A Yes.
Q And are there other principal chiefs in that house?
A D'ewelasxw, Giila'wa and Simadiiks.
MR. ADAMS: Okay. Giila'wa, my Lord, is number 9 on the plaintiff's list, and Simadiiks is number 58 on the plaintiff's list. And I think we already have D'ewelasxw as well, but I don't recall the number, I'm sorry.
THE TRANSLATOR: 63.
MR. ADAMS:
Q 63 on the plaintiff's list. Mr. Smith, who currently holds the name D'ewelasxw?
A Allen Johnson.

Q Can I direct your attention to page 14 of the genealogy, please.
A And beginning 13 and 14 I think you see the relationship. The person who's shown there as the son of Elsie Mulwain and Ambrose Harris as Allen Johnson, is that the person you're referring to?
A Yes.
Q Okay. And who currently holds the name Giila'wa in your house?
A Peter Turley.
Q Okay. And if you look at page 14 of the genealogy, on the right-hand side the son of Charlie Turley and Kate Brown is identified as Peter Turley. Is that the person you're speaking of?
A Yes.
Q Okay. And who currently holds the name Simadiiks in your house?
A Calvin Hyzimes.
Q And if you look at the page at page 3 of the genealogy, on the far left centre of that page the person who's shown as the son of Earnest Hyzims and Esther Brown, is that the person you're referring to?
A Yes.
Q Okay. And to come back to the name Giila'wa, as you've given evidence, is presently held by Peter Turley. What does Giila'wa mean in English?
A It means a person that sits alone in the feast house. He's separated from the rest of the clan.
Q And do you know where that name comes from?
A Well, in the old history the name generated from one of the persons that he married, one of his own relatives, and through that he was -- he was ashamed of what he did, so he sat alone in the feast. That's what Giila'wa means.
Q Why was it a matter of shame to marry his own relative?
A Because it's not a tradition to marry your own relative.
Q Is it against the law?
A Yes.
Q And where does the present holder of the name Giila'wa sit in the feast?
A He's -- he's at around the fifth from the end.
Q So he no longer sits alone?
A No, no.
Q And your wife is Jackie Smith, and her name before she was married was Jackie Bratten?

A Yes.
Q What house is she from?
A Luus, from Kispiox.
MR. ADAMS: May I have the number for Luus on the plaintiff's list, please.
THE TRANSLATOR: 42.
MR. ADAMS:
Q 42 on the plaintiff's list? And what clan is that?
A Wolf.
Q That's Lax Gibuu?
A Yes.
Q And do you have children?
A Yes.
Q How many living now?
A Three.
Q And who are they?
A Vernon Jr., Joey, and I forgot my daughter's name.
Q Suzette?
A Suzette, yes.
Q And did you at one time have other children?
A Yes.
Q And what happened to them?
A They had an accident in 1974, February 20th, Rubin and Marie plus two of my nephews in a fire accident.
Q And they were killed?
A Yes.
Q We've identified David Wells from this genealogy. Did he at one time hold the name Sakum Higookw?
A Yes.
Q And while he was still living did you have a discussion with him about the succession to that name and others in your house?
A Yes.
Q And what did he tell you?
A He was -- we were having one of our dinners at Ritchie when he talked to my mother about we were sitting around the fire, and he was saying that he was going to take Liginiihla in one of the feast, and --
THE COURT: I'm sorry, I didn't get that. He was going to take?
A Liginiihla.
MR. ADAMS: That's 479 on the word list, my Lord.
THE COURT: Yes.
A And that he was going to give Sakum Higookw to Alfred Mulwain or myself. That is just before he passed on. We never did go back there that year.
MR. ADAMS:
Q You said that that meeting was at Ritchie. Where is

Ritchie?
A At Gway tseelixit, about 20 miles downstream from Gitwangak.
Q On the Skeena?
A Yes.
MR. ADAMS: Gway tseelixit, my Lord, is number 1103 on the word list.
THE COURT: That's Ritchie, is it?
A Yes.
THE COURT: Thank you.
MR. ADAMS:
Q When did David Wells die?
A About '72, '70. I think '71, I'm not too sure.
Q Around 1970?
A Yes. Early '70's, yes.
Q And what happened to the names that he had discussed with you or with your mother?
A Alfred Mulwain and I, we went from village to village after we got his remains back from Seattle and we went on what you call teets, that's going from one village to another village to invite different leading chiefs from each village.
MR. ADAMS: Can I just stop you there for one moment and get a spelling for that. I'm sure we've had it before.
THE COURT: I don't think we've had it since the evidence of Mary Mackenzie.
THE TRANSLATOR: It's T-e-e-t-s.
THE COURT: T-e-e-t-s, thank you.
MR. ADAMS:
Q And as a consequence of you and Alfred Mulwain giving invitations to those chiefs what happened?
A We had a feast right after the burial and then we -- I took Liginiihla and Alfred Mulwain took Sakum Higookw in front of all the chiefs that we invited.
Q That was at a feast?
A Yes.
Q And were you obliged to contribute money to that feast?
A Yes. We both -- both of us spent about between 7, $8,000 each on that feast.
Q Each of you spent between 7 and $8,000?
A Yes.
Q And did you have help in raising that money?
A Just from our wilksiwitxw, we call wilksiwitxw, our father's side of the family.
MR. ADAMS: And that's 377 on the word list, my Lord.
THE COURT: Um-hum.

A It's not really help. They call it -- it's like a loan, we have to pay them back later on.

MR. ADAMS:

Q Yes?

A Our wilksiwitxw that give us money here we have to pay out. Later on in the future feast we try and pay it back.

Q Okay. And have you done that?

A No. My book, I keep asking them who gave me some money but they never said anything, but my book that I had all my help from burn in 1974 with the kids.

Q Why was it necessary to bring David Wells' body back from Seattle, where I gather he died?

A Because he's a -- it's -- he's our leading chief and we have to -- it's our tradition to bring the remains back to the original hometown.

Q Was that part of your obligation, to arrange for that?

A Yes.

Q Now, you've said that after David Wells' death you took Liginiihla and Alfred Mulwain took Sakum Higookw?

A Yes.

Q What became of Alfred Mulwain?

A He only stayed alive for a couple of years after that.

Q And what happened to him?

A He went missing in Gwax tseelixit, in Ritchie, with both son-in-laws.

Q Okay. And has his body been found?

A No.

Q And has there, to your knowledge, been a feast in connection with his death?

A No. We've had different deaths in the time span that he disappeared, like my father died and then the -- the accident in '74 and then my brother died. Everything happened all at once and never did have formal feast for him.

Q And the name Sakum Higookw that Alfred Mulwain was holding when he disappeared, what happened to it?

A Through the time that we have in a feast the -- everytime I host a feast the other chiefs from different villages endorsed me as Sakum Higookw.

Q And what form did that endorsation take?

A Well, when -- after each feast is over the host usually stands up to thank the other chiefs for being there, thank them for the support. The chiefs in turn stood up. The first chief that speaks is usually from the same village as the host, and it goes outside the village, and they keep coming back saying Sakum

Higookw, the chief Sakum Higookw, and then it goes down to chief, their second chief, and so on. From the top it goes down, like they make a response.

Q When you go to a feast today are you seated in Sakum Higookw's seat?

A Yes.

Q And for how long has that been true; when's the first time you were seated in Sakum Higookw's place?

A Not very long after Alfred disappeared.

Q And you've talked about being addressed by other chiefs as Sakum Higookw in speeches in the feast. When's the first time you remember that taking place?

A Around '74, when my children died.

Q And was that at the funeral feast for your children?

A Yes.

Q And who hosted that feast?

A Lax skiik combined with Lax Gibuu of Gitwangak.

Q Lax skiik are the Eagles?

A Yes.

Q And do you recall your mother speaking at that feast?

A Yes. After the late Wallace Morgan speaks she spoke up after him, because Wallace Morgan is Axta Hiikw, Chief Axta Hiikw at that time. Kitwangak -- Kitwangak, Lax Gibuu, and Lax skiik are the same -- almost the same tribe, but they were -- in the old days both Lax Gibuu and Lax skiik, they were taken by some kind of disease, they were almost wiped out, so both of them stood together.

Q Okay.

A And it's still the same today, they stay together in the feast.

Q After your mother spoke were there other chiefs who replied to what she had to say?

A Yes. The host chiefs, like we had the -- the feast in Kitwancool at that time, and the first person that stood up to respond was Chief Wiixa of Lax Gibuu.

Q Wiixa is 81 on the plaintiff's list. And what was the English name of the person holding Wiixa at that time?

A Walter Derrick. And then there -- the other tribe, the Liginiihla, the leading chief, stood up, and it was Xamlaxyeltxw. After Wiixa spoke Xamlaxyeltxw stood up and made a speech.

Q You say the leading chief?

A Yes, of the Frog Clan, Solomon Marsden.

MR. ADAMS: And Solomon Marsden's chief's name is 85 on the plaintiff's list.

THE COURT: Thank you.

MR. ADAMS:
Q Do you recall other chiefs who spoke?
A I know Lelt was Fred Johnson of Gitwangak.
Q And from what clan is Fred Johnson?
A Ganada.
MR. ADAMS: Lelt, my Lord, is 40 on the plaintiff's list.
THE COURT: Thank you.
MR. ADAMS:
Q And when those chiefs spoke did they address you as Sakum Higookw?
A Yes.
Q Is there more required for you to fullfill that name?
A Yes.
Q And what's required of you still?
A I have to put up a stone, a head stone, or put up a totem pole to endorse my name.
Q Who will the stone be for?
A Sakum Higookw, Alfred Mulwain.
Q And what is the state of that process?
A Well, in -- it takes lots of -- now it takes a lot of dollars to move anything in our tradition. As soon as you decide to -- as soon as you make a decision you call -- you call your relatives and then you call your own chief from your own clan, and you feed them, you welcome them into your home and you tell them of your plan, and that takes a few dollars to do that. And then after you tell them your plan, then you go out and invite the other chiefs from the other clan, and we use public building for that, and you tell the public of your -- of your future plans, what you're going to do, and then we -- I -- I point out my wilksiwitxw who's going to carve the pole or who's going to restore the pole that's on the ground. In this case I'm going to use a pole to endorse my name as Sakum Higookw to strengthen it.
Q Is that a pole that's in existence now?
A Yes.
Q And where is that?
A In Gitwangak. It fell down last spring -- last fall, I think close to beside the river there, beside the road.
Q And will that be put up in the same form as it fell down, or is there work to be done on it?
A There's a little bit of work to be done on it. That's why I -- I elected one of my wilksiwitxw, Axmiinmukw to look at it to see what needs to be done before the -- before we raise the pole.

MR. ADAMS: May I just stop you for a second. Can we get a spelling for Axmiinmukw.
THE TRANSLATOR: A-x, underlined, m-i-i-n-m-u-k-w.
THE COURT: Thank you.
MR. ADAMS:
Q And what's the English name of that person?
A Lawson Grey.
THE COURT: Lawson Grey?
A Yes.
THE COURT: All right. Shall we take the morning adjournment, Mr. Adams, please?
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AT 11:15)

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

Graham D. Parker
Official Reporter
United Reporting Service Ltd.

(PROCEEDINGS RESUMED PURSUANT TO MORNING RECESS)

THE REGISTRAR: Order in court.
THE COURT: Mr. Adams.
EXAMINATION IN CHIEF BY MR. ADAMS:

Q Mr. Smith, I wanted to go back for a second and clear one thing up. When you were talking about the funeral feast for your children and your nephew in 1974, I think you said that that feast was hosted by the Lax skiik, by the Eagles?
A Yes.
Q But your children were from Lax Gibuu?
A Yes.
Q Wolf Clan?
A Yes.
Q Why was the feast hosted by the Eagles?
A We have the funeral on the same day as my nephew, my nephew is Lax skiik. In that fire accident we lost everything that we ever had and I still owe quite a bit of dollars in what I put into the house. And without going into any more expenses, we decided to host the feast with the Lax Gibuu because Lax Gibuu and Lax skiik help each other in Gitwangak. And my wife happens to be a Lax Gibuu, so it didn't really make much difference us hosting the feast with the Lax Gibuu.
Q Now, at the break you were in the midst of describing what was involved in completing your name Sakum Higookw?
A Yes.
Q And you have begun to talk about making arrangements with your father's side, with Wilksiwitxw for the restoration of Sakum Higookw's pole which was on the ground in Gitwangak?
A Yes.
Q Those arrangements on your father's side, were those made in a feast?
A Yes.
Q And when was that?
A That was just before Christmas in '87.
Q Just this past winter?
A Yes.
Q And where was that?
A In Gitwangak church army hall.
Q And what decisions were made coming out of that feast?
A After we give the -- like in a tradition we supposed

to give an axe to Wilksiwitxw to carve the totem pole out to use. And today we use dollars as a gift for Wilksiwitxw to buy whatever he needs to carve the pole to get him started.

Q And is it your expectation that Lawson Grey himself would do the carving or the restoration work or that he would arrange to have someone do that?

A It is up to him to arrange for somebody to do that if he can't carve the pole himself.

Q Now, did you have to make a choice between restoring the pole that had fallen and starting a new one?

A Yes.

Q And what series of events is involved if you had made the decision to start a new one?

A It is going to run into a few grand if I start a new one because if my Wilksiwitw go out into the forest and look for a pole that would fit the size of the totem pole that I would like him to carve, it would take him a few days to look for one particular pole, a cedar pole. And once he found the cedar pole and reports back -- reports back to me, then we have to set up another feast celebrating the tree that went down. And then after he -- when you move that pole out of its present location, every time the pole moves there is a gathering. And we feed the people every time we move the pole until it gets to its location. And it takes a series of feasts in order to do that and it runs into a few grand by the time it's over.

Q The feast that was held in late 1987, according to your evidence that involved giving directions to Lawson Grey, did you have to contribute to that feast?

A Yes.

Q And what did you contribute?

A I put in -- I spent about $1,000 on that one.

Q And where, in your experience, both in the past and today, do the resource's money come from to make those contributions in the feast?

A Right now I am unemployed. I went herring fishing last month and then I will be going commercial fishing this summer. And there is hardly any job in -- on our own resources. It is very limited now. Hardly anybody gets a job.

Q Has that always been the case that people did commercial fishing or something else for pay or wages to get the money to make feast contributions?

A Yes. And in the old days you live off your own resources, live off -- inside your own territory's

1 resources. And there is hardly any money involved
2 before the clear-cut logging came in. And with the
3 clear-cut logging, there is nothing out there for us
4 to live on so we have to rely on other sources to do
5 what we traditionally do. That's why I go out and be
6 a commercial fisherman or bus driver or grab whatever
7 job I can get.
8 Q And do you say that you don't have the use of your
9 territories now?
10 A No, we are restricted because of the laws of the
11 province. We can't go out and do what we usually do.
12 And if we do go out, we get charged. So we are very
13 limited to whatever we do even if there is space left
14 to do our traditional lifestyle.
15 Q Have you ever been charged with an offence against a
16 provincial law?
17 A Yes.
18 Q When was that?
19 A In late sixties, I guess, '69 or '70 I got charged
20 for -- they charged me for killing wildlife out of
21 season and that was with a moose. They found some
22 moose on my truck.
23 Q Was that the only time you've been charged?
24 A I believe so.
25 Q How many feasts would you say that you go to in a
26 year?
27 A It averages about three -- two to four, about three
28 feasts average.
29 Q What does that depend on?
30 A It depends whether there is a death or if some
31 family puts up a stone to mark the grave and that
32 takes a feast. And the witnesses are invited -- the
33 other chiefs are invited to witness the headstone
34 being put up.
35 Q And what was the most recent feast that you
36 attended?
37 A The last one I attended was Wiigyet's funeral feast.
38 MR. ADAMS: Wiigyet, My Lord, is 75 on the plaintiff's list. It
39 is the W-I-I-G-Y-E-T, Wiigyet.
40 THE COURT: Thank you.
41 MR. ADAMS:
42 Q And when was that?
43 A That was right on Christmas -- around Christmas
44 week. I don't know if it was on Christmas day or
45 Christmas eve.
46 Q Of which year?
47 A '87.

Q And where was it?
A Gitwangak Village Hall.
Q And who hosted that feast?
A Gisgaast.
Q And apart from the funeral business, what was the business of that feast?
A The passing of Wiigyet's name.
Q And what was the English name of the person who had held the name?
A Had held the name, Magnus Turner.
Q And what was the English name of the person who was receiving the name?
A Roy Wesley.
THE COURT: I'm sorry?
THE WITNESS: Roy Wesley.
THE COURT: Roy?
THE WITNESS: Wesley.
MR. ADAMS: I have W-E-S-L-E-Y, My Lord.
THE COURT: Thank you.
MR. ADAMS:
Q And did you speak at that feast?
A Yes.
Q And do you recall what you had to say?
A Recognizing them for doing -- doing their feast through the traditional manner and thanking them for the food and wishing that our father will restore everything that they spent and double their blessings later on.
Q And were you speaking as Sakum Higookw?
A Yes.
Q What's the most recent Lax skiik, Eagle hosted feast that you recall attending? I'm Sorry, you've talked about one in late '87 already?
A Yes.
Q Before that?
A When Carl Washburn died. It was a couple years ago now.
Q Do you recall what his Indian name was?
A Ax dii haapxw, I believe.
MR. ADAMS: We may need a spelling for that.
THE COURT: Why do we need a spelling for it, Mr. Adams?
MR. ADAMS: Only for the reporter.
THE COURT: He hasn't used the name.
MR. ADAMS: He used the name Ax dii haapxw.
THE COURT: Oh, he did, sorry.
THE TRANSLATOR: A-X, underlined, space, D-I-I, space, H-A-A-P-X-W.

THE COURT: Thank you.
MR. ADAMS:
Q And was that name passed at that feast?
A Yes.
Q And who was it passed to?
A Andrew Derrick.
Q And if I can refer you for a moment back to the genealogy, on page 16 in the center of the page, there is an Andrew Derrick who is shown as deceased and then there is a Sonny Derrick?
A Yes.
Q Is it Sonny Derrick that you are referring to?
A Yes.
Q And is his name also Andrew?
A Yes.
Q When we first talked about the genealogy this morning in court, you described it as showing the members of your house and your clan. Was there a time when the Lax skiik consisted -- or do the Lax skiik now consist of a number of units like houses?
A Not now, no.
Q Did they at one time?
A Yes.
Q Okay. And what were those units?
A There is Sakum Higookw and D'ewelasxw, Giila'wa and Simadiiks.
Q And are those no longer distinct houses?
A No, we all one now.
Q And what's the reason for that?
A Because of the distinguishment -- just about the distinguishment of the whole clan.
Q What happened?
A Through the disease quite a few years ago. There is some kind of disease that swept through the territory. The same thing happened with Lax Gibuu of Gitwangak. They were almost wiped out too. And after both clans almost got wiped out, they put the two clans together to help each other. That is one of the reasons why my mother was brought up through the Frog Clan when she was small. Her mom was diseased too when she was still a baby.
Q So the time of the disease you are describing was around the time when your mother was an infant?
A Yes.
Q And your mother's mother died as a result of that disease?
A Yes.

1 Q And what happened to your mother?
2 A She was brought up with her -- by her grandmother
3 and then her grandmother died. She was pretty old
4 already. She was brought up by her grandmother until
5 she was about three, two or three years old. And then
6 my grandmother Sarah Benson took over and raised her,
7 Chief Tooxensxw.
8 Q And Tooxensxw, My Lord, is 64 on the plaintiff's
9 list. And what clan was Sarah Benson from?
10 A Frog.
11 Q Ganada?
12 A Ganada, yes.
13 Q And from Kitwancool?
14 A Yes.
15 Q Was your mother also adopted into that house at some
16 point?
17 A Yes.
18 Q And when was that?
19 A When she was fairly young, I guess, they adopted
20 her.
21 MR. MACKENZIE: Excuse me, I don't think a house was mentioned,
22 was it?
23 THE COURT: No, just a clan.
24 MR. ADAMS:
25 Q I think the question was what house Sarah Benson
26 belonged to. What house did Sarah Benson belong to?
27 A Xamlaxyeltxw, I believe. I'm not too sure of which
28 house she belongs to.
29 Q Did Sarah Benson have the name Tooxensxw?
30 A Yes.
31 Q And did your mother remain in that house, Sarah
32 Benson's house?
33 A Yes, until David Wells seen that she start to have
34 children and seeing that she was producing children.
35 And that meant that the clan is going to be strong
36 again if he got my mother back into Lax skiik where
37 her original tribe is. Her clan is Lax skiik.
38 Q Was it necessary for her to be re-adopted?
39 A Yes, to explain to the other chiefs what is
40 happening they had to have a feast at that particular
41 time that she went back to Lax skiik.
42 Q Is that a common thing under Gitksan law for a
43 person to be adopted and raised in one house and then
44 returned to their original house?
45 A Yes.
46 Q And is the reason commonly the one you've given for
47 your mother's case of replenishing the house?

A Yes.
Q The disease you've described, do you know what disease that was?
A I don't know what they call it, chicken pox or small pox at that time. I'm not too sure.
Q Does Sakum Higookw own territory?
A Yes.
Q And can you describe for the court very generally the location of Sakum Higookw's territory, all of them?
A All of them?
Q Which piece of map are we dealing with?
A The Lax Behlit. Lax Behlit is on the west side of K'san, Skeena. That starts around Andimaul by Xsu wii Hlabit and goes up to Lax Behlit that is going toward the west or northwest. And it goes down Lax Behlit, it turns down Lax Behlit and goes down south to Xsi an skyok.
MR. ADAMS: Let me stop you for a moment because there is quite a string of words. My lord, Lax Behlit is 823.
THE COURT: That's the name of the territory?
MR. ADAMS: That's the general name of the territory.
THE COURT: 823?
MR. ADAMS: Yes.
THE COURT: I have got it on the west side of the Skeena starting at Andimaul and goes up the northwest, but I don't think a name was given as we go south. And then we have a name I haven't picked up.
MR. ADAMS:
Q What's the south boundary, the Lax Behlit's territory?
A The corner boundary on the south is Lax wila oo. That's where my mother was raised at Lax wila oo. And it goes on the ridge of the mountain on the south side of Xsi an skyok. And it ends down on top of that tunnel on the other side of Xsi an skyok.
Q If you draw a line across the south side of the Lax Behlit territory, is that generally the Skeena?
A Yes.
Q And what is the meaning in English of Lax Behlit?
A It is a flat ground.
Q And does it refer to a feature on that territory?
A Yes.
Q What was that and where was it?
A It is on top of Andimaul towards due north, northwest.
Q And is the Village of Gitwangak included in that

1 territory?
2 A Yes, it is right in the mid-territory where
3 Gitwangak is, the present settlement.
4 Q And is Gitwangak Village itself part of Sakum
5 Higookw's territory?
6 A Yes.
7 Q Now, from whom did you learn about the location and
8 the boundaries of that Lax Behlit territory?
9 A When I was fairly young, a young boy, we used to
10 catch the train from Gitwangak early in the morning.
11 Around 4:30 we used to catch the train just before
12 daybreak and then usually we get off at Andimaul
13 with -- usually with Jimmie Tait or George Moore at
14 that time and we pick soap berries there. That was in
15 July sometime. Sometime in July pick soap berries
16 there and they told me that's Lax skiik's territory
17 that we are on.
18 Q Who told you that?
19 A George Moore and Jimmie Tait.
20 MR. ADAMS: Could I have the map which is the third pocket in
21 that blue folder.
22 MR. MACKENZIE: My Lord, the genealogy has a Jimmie Tait on it.
23 It doesn't show whether he is deceased or not. I
24 wonder if my friend can inform the court whether this
25 informant is deceased.
26 MR. ADAMS: I can and he is, My Lord.
27 Q Mr. Smith, have you had an opportunity to look
28 before at this map that says at the top the letter V
29 in a circle and then Lax Behlit and after that Sakum
30 Higookw?
31 A Yes.
32 Q And does that show correctly the location and the
33 boundaries of Sakum Higookw's Lax Behlit territory?
34 A Yes.
35 MR. ADAMS: My lord, I would ask that this be marked as the next
36 exhibit, but there is a procedural complication here
37 in that this map, and others like it which we will be
38 coming to in the course of the day, are exhibits in
39 the commission evidence of Stanley Williams. And what
40 I propose is that we reserve a number and put those of
41 the maps that Mr. Smith will be identifying in their
42 appropriate places in that sequence. And when Stanley
43 Williams' commission evidence is completed and those
44 exhibits come in, there will be a logical place for
45 them all. I think Mr. Rush handed to the registrar
46 this morning a full binder that includes the maps that
47 I am presently referring to.

THE COURT: Well, does it matter if we waste a number and later duplicate it with the same thing? I am agreeable to the suggestion you are making if that is the convenient way to do it.
MR. ADAMS: It is just that they would all be in one place and easily findable and we wouldn't --
THE COURT: Not findable in relation to this evidence if they are not given a number in this sequence.
MR. ADAMS: No, at the end of the day it may cause some complications because some of the maps are in twice, that's all.
THE COURT: I don't think it matters. That can be noted at the time that it is already in at some other number and it can be given another number at the same sequence then. There is no absolute prohibition against an exhibit being in twice.
MR. ADAMS: Okay. Then I ask that map V be marked as the next exhibit.
THE COURT: This is map V?
MR. ADAMS: That's right, that's the first pocket in.
THE REGISTRAR: Exhibit 426.
THE COURT: 426.

(EXHIBIT 426: Map V, Lax Behlit Territory (also in commission evidence of S. Williams, Package Exhibit 4)

MR. ADAMS: And just for future reference, My Lord, that series of maps was Exhibit 4 in Stanley Williams' commission.
THE COURT: All right.
MR. ADAMS:
Q Now, Mr. Smith, you started to tell me about going by train to Lax Behlit territory. Can you say when you first went there how old were you?
A About seven, eight years old.
Q And did you go back there in more than one year?
A Yes.
Q And for how many years?
A About three or four years. One time the other summer George Moore and I, we used the canoe to go up there with a net, a drift net. We got as far as Lax wii Luu Hlabit near Andimaul and he said, This is as far as we go. This is as far as our territory. And we set up a net and then we drift down. At the same time he pointed out that there is another piece of land that belongs to Lax skiik which is across from Andimaul at Sigagit, and it is just a small piece of

land. And while he was explaining that, we were drifting down with the net in the canoe. And we picked up the net about three times during the time we drift from Andimaul to Gitwangak.

MR. ADAMS: My Lord, Sigagit which is the territory across the river that the witness described is 1056 on the word list.

THE COURT: Yes.

MR. ADAMS:

Q And you talked a few minutes ago about picking soap berries back on the Lax Behlit territory. What did you do with those?

A We bring it back to Gitwangak. We walk back after we pick them. We walk back to Gitwangak and we preserve the soap berries. We put it in jars and cook it.

Q Were you involved in that work?

A My mother does all the work. I just go down the river and pack water or chop wood for her to use.

Q What time of year was it when you went picking soap berries at Lax Behlit?

A Early, early July.

Q And were there other kinds of berries that could be picked on the Lax Behlit territory?

A That was the only kind of berries that we picked was soap berries. And in late August we go across Gitwangak at a place we call Ant K'ydax wit, that's right across Gitwangak.

MR. ADAMS: Can I stop you for a second. Can we get a spelling for Ant K'ydax wit, please.

THE TRANSLATOR: A-N-T, space, K, stop, Y-D-A-X, space W-I-T.

THE COURT: I'm sorry, D-A-Y-D-A-X-W?

THE TRANSLATOR: K, stop, Y-D-A-X, space, W-I-T.

THE COURT: Was it A-N-T or A-M-T?

THE TRANSLATOR: A-N-T.

MR. ADAMS: My Lord, I might point out that there is another version of this spelling on map X in this series that I understand the second spelling, the one on the map, is the one that has been used in Stanley Williams' commission. So there may be later confusion, but we are apparently talking about the same place.

THE COURT: All right. And where is this location that I just had spelled for me?

MR. ADAMS:

Q Can you say again where Ant K'ydax wit is?

A Ant K'ydax wit is right across from Gitwangak Village above Xsi gwin yookhl. Xsi gwin yookhl is

Price Creek, it is within that valley.
Q That is a different territory than the Lax Behlit one?
A Yes.
MR. ADAMS: Xsi gwin yookhl is 213 on the word list.
THE COURT: Thank you. I am having a little trouble with this map. It shows the territories names Lax Bihlet and then on the right-hand side there appears that name, an arrow one pointing within that appears to be the boundary and one outside the boundary. What am I to take from that?
MR. ADAMS:
Q Mr. Smith, you said that Lax Behlit made a flat?
A Yes.
Q Is the entire flat that is called Lax Behlit inside Sakum Higookw's territory or does it --
A The whole area is flat. And it goes right up by Andimaul and Lax Behlit is Sakum Higookw's territory throughout the whole territory.
Q Some of Lax Behlit is outside Sakum Higookw's territory?
A Yes.
THE COURT: I see. All right.
MR. ADAMS:
Q Do you recall fishing with your father in the vicinity of the Lax Behlit territory?
A Yes, we walk on the track towards Xsan skyok. That's where we have our net is Xsan skyok in summertime. That is about one kilometer upstream from Xsan skyok.
Q Xsan skyok, My Lord, is 833 on the word list. Do you know the English name for Xsan skyok?
A I think it is called Mill Creek.
THE COURT: That's where you had your net?
THE WITNESS: Yes.
THE COURT: And you said it was one mile upstream from where?
THE WITNESS: Xsan skyok.
THE COURT: And Xsan skyok is what again?
THE WITNESS: That is Mill Creek.
MR. ADAMS: That is 833 and it is Mill Creek the witness said.
THE COURT: That is one mile up from Mill Creek?
MR. ADAMS:
Q From Xsan skyok?
A Yes.
Q From where Xsan skyok flows into the Skeena?
A Yes.
Q And at the time you were fishing there with your

father, how old would you have been?
A About eight, nine years old.
Q And did you do that in more than one year?
A Yes.
Q For how many years?
A About three years, two or three years.
Q And in what season of the year?
A Around July until pinks come in. And then we pull our net when the pinks come in.
THE COURT: So that fishing site would be west of the Village of Gitwangak?
THE WITNESS: Yes.
MR. ADAMS:
Q Downstream?
A Downstream from Gitwangak.
Q Now, you've mentioned already another territory belonging to Sakum Higookw called Sigagit. And can you describe generally where that territory is?
A Right across Xsi wii Luu Hlabit, across Andimaul.
Q Can I stop you just for one second? Xsi wii Luu Hlabit, My Lord, is 826 on the word list. And is that a creek?
A Yes.
Q Does it have an English name that you know?
A No.
THE COURT: And that's Sigagit, is it?
THE WITNESS: Yes.
THE COURT: Thank you.
MR. ADAMS:
Q Sorry, you were in the midst of a description of where Sigagit is?
A That's right across Andimaul. I have never been on that territory when I was small. This one piece of land that I have never walked around on.
Q It is across the Skeena from Andimaul?
A Across the Skeena from Andimaul.
THE COURT: I'm sorry, did you say you were never on it or you were never on it when you were small?
THE WITNESS: I was never on it when I was small.
THE COURT: But you have been on it since?
THE WITNESS: No.
MR. ADAMS:
Q What does Sigagit mean in English?
A Sigagit means you are pointing out something.
Q Does that refer to something that is on that territory?
A Probably. I am not too familiar with that part of

the territory.
Q And who was it that told you about the location and the boundaries of the Sigagit territory?
A George Moore when we used his canoe upstream.
Q Is there anybody else that you can say pointed out that territory to you?
A At one time we went up Staax k'aa'yt, a mountain called Staax k'aa'yt beside Shindilla.
MR. ADAMS: Let me stop you for one second. Staax k'aa'yt is 875 on the word list. And Shindilla, at least in English, is S-H-I-N-D-I-L-L-A.
THE COURT: Yes.
THE WITNESS: And in Staax k'aa'yt there is no creek nearby so we have to carry water up there to pick blueberries. And when we were up there we were having lunch. And Jimmie Tait was one of the people that went up there with us and my mother. And all the Mathews, Art Mathews and his mother were all up there. There is quite a few Gitwangak went up there. The Ryans went up there and we were having lunch. And Jimmie was pointing up where Sigagit is, that was the second time that I was told about that one particular area.
MR. ADAMS:
Q And did Jimmie Tait identify that to you at that time as Sakum Higookw's territory?
A Yes.
Q I have opened in front of you a map that says at the top there is a circle letter W and then it says "Sigagit" and after that it says "Sakum Higookw". Have you had an opportunity to look at that map?
A Yes.
Q And to your knowledge, does it accurately show the boundaries of Sakum Higookw's Sigagit territory?
A Yes.
MR. ADAMS: My lord, I would ask that that be marked as the next exhibit.
THE COURT: 427.
THE REGISTRAR: 427.

(EXHIBIT 427: Map W, Sigagit Territory, also in commission evidence of S. Williams, Package Exhibit 4)

MR. ADAMS: Mr. Smith, I want to come to another territory that you mentioned briefly already this morning and that is Xwi gwin yookhl and that is 312 on the word list, My Lord.

THE COURT: What number again?
MR. ADAMS: 312.
THE COURT: Yes.
MR. ADAMS:
Q Are you familiar with a territory by that name?
A Yes.
Q And is that Sakum Higookw's territory?
A Yes.
Q And does Xsi gwin yookhl have an English name that you know?
A Price Creek.
THE COURT: Price Creek?
THE WITNESS: Yes.
THE COURT: Thank you.
MR. ADAMS:
Q And can you describe generally for the court where the Xsi gwin yookhl territory is in relation to the Skeena and in relation to Gitwangak?
A It is -- the territory runs down from the west side of Xsi gwin yookhl going up to Winsa geets, and goes over Winsa geets to way back towards the height of the land. And I only went as far as -- when I went up inside the territory, I went as far as Ant K'ydaxw to pick blueberries. And the first trip that I went up there we went up with quite a few hunters to hunt goat. At that time my mother and Jimmie stayed behind where we pick blueberries at Ant K'ydaxw. And when we were having supper they were pointing out Winsa geets for me. And they were saying that -- they asked me if I see the chin and I couldn't see the chin. They were laughing at me because I couldn't see the chin. That's what Winsa geets means, it is the chin for the water coming out of the chin.
MR. ADAMS: Can I stop you for one second. We need a spelling for Winsa geets and for Ant K'ydaxw which we have had already this morning.
THE TRANSLATOR: Winsa geets.
THE COURT: Which one is this?
THE TRANSLATOR: It is a creek.
THE COURT: Is this the one you only went as far as this creek?
THE WITNESS: Across from Ant K'ydaxw.
THE COURT: You told me you only went as far as something.
THE WITNESS: As far as Ant K'ydaxw across from Winsa geets.
MR. ADAMS:
Q What kind of a place is Winsa geets, first of all?
A It is a mountain that is sharp. It is like a sharp mountain beside the Seven Sisters there.

THE COURT: All right. Well, I have got Winsa geets and it is on the map, W-I-N-X-S-I-I G-E-E-T-S. That's as far as you went?
THE WITNESS: Yes, across from it. I never really got to Winsa geets.
THE COURT: Right.
MR. ADAMS:
Q Where were you when you could see Winsa geets?
A I was at Ant K'ydaxw.
Q And is that also a mountain?
A Yes, beside the mountain on a side hill.
THE COURT: All right. Just a minute now.
THE WITNESS: Ant K'ydaxw my mother explained to me that in the old days the people that went up picking berries they usually -- there is a side of the mountain where you have to cross. They put the Indian rope around the kids' waist and hold onto them. If you slide down from there you go all the way down to the bottom, so they tie rope onto the kids to cross Ant K'ydaxw to get on the other side. That's why they call it Ant K'ydaxw is to hold on to the children.
THE COURT: All right. Well, now I'm hoping to get out of this confusion. You were across from Winsa geets. And where were you when you across from Winsa geets?
THE WITNESS: The Ant K'ydaxw.
THE COURT: Can I have a spelling? Is that A-N-T-G-I-D-E-E-K-W-I-T?
THE TRANSLATOR: That is how it is spelled on the map.
THE COURT: That's not how you would spell it?
THE TRANSLATOR: No.
THE COURT: How would you spell it?
THE TRANSLATOR: A-N-T, space, K, stop, Y-D-A-X-W-I-T.
THE COURT: Thank you. All right. Now, the name of the mountain they pointed out to you which was thought to resemble a chin, is that Winsa geets?
THE WITNESS: Yes.
THE COURT: I see. I think I have got it now, thank you.
MR. ADAMS:
Q And what does Winsa geets mean in English?
A It is where the creek flows from the chin.
Q You've talked about hearing about that territory from Jimmie Tait. Is there anyone else who told you about that territory?
A My mother was there.
Q Did David Wells ever tell you anything about that territory?
A I believe he was up there too at that time.

Q And have you hunted on that territory?
A Just picking mountain berries.
Q When was that?
A I was about ten years old, I guess.
Q Have you ever been on that territory with your father?
A On that territory, yes.
Q Was that the same time you were describing as picking mountain berries or a different time?
A A different time.
Q And what were you doing there with your father?
A We were going to go up and hunt mountain goat, but when we got up there he gave me an axe to bring up to use to build fires. Apparently, after we had lunch at the bottom of the mountain before we start hiking up, I left the axe where we had lunch so we didn't get to hunt goat. We just stayed overnight and went back home.
Q How old would you have been at that time?
A Well, ten or eleven, the same year or the year after.
Q I have opened the series of maps in front of you at a map that is marked X in a circle and then it says "Xsi gwin yookhl" and beneath that it says "Sakum Higookw"? Have you had an opportunity to look at that map?
A Yes.
Q And to your knowledge does it show Xsi gwin yookhl as Sakum Higookw's territory?
A Yes.
MR. ADAMS: Can I have that marked the next exhibit?
THE COURT: Yes, 428.
THE REGISTRAR: 428.

(EXHIBIT 428: Map X, Xsi gwin yookhl Territory, also in commission evidence of S. Williams, Package Exhibit 4)

THE COURT: Are you going to start a new territory, Mr. Adams?
MR. ADAMS: No, I am still in the midst of this one.
THE COURT: All right.
MR. ADAMS:
Q Mr. Smith, what was your family connection, if any, to Jimmie Tait who you've mentioned a number of times as telling you about these territories?
A He is in the Eagle Clan. He is, I guess, one of the last -- he is the only one left alive in his family,

so he is a loner, and his Indian name is Luuginaxhait.
MR. ADAMS: Can I have the spelling for it?
THE TRANSLATOR: I spelled it.
MR. ADAMS: The spelling I have for that, My Lord, is L-U-U-G-I-N-A-X-H-A-I-T.
THE COURT: What does that mean?
MR. ADAMS:
Q That was the chief's name for Jimmie Tait; is that right?
A Yes.
THE COURT: Yes.
MR. ADAMS:
Q And if you look at the genealogy on page one, dead in the center of the page, that shows Jimmie Tait?
A Yes.
Q Now, he had the same name as your mother's name before she was married. Were they related, to your knowledge?
A Probably. It could be -- their mothers could be sisters, I am not too certain about it.
Q They weren't brother and sister?
A No.
Q But were they something like cousins?
A Yes.
Q Okay. Do you know who raised Jimmie Tait?
A Edward Tait. I know he stayed with Edward Tait while Edward Tait was still alive.
Q And is that the same Edward Tait who was your mother's father?
A Yes.
MR. ADAMS: That might be a good place to stop, My Lord.
THE COURT: Yes, thank you, we will adjourn until 2 o'clock.

THE REGISTRAR: Order in court, court will adjourn until 2:00.

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

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40 (PROCEEDINGS RESUMED AT 2:00)
41
42 THE REGISTRAR: Order in court.
43 THE COURT: Perhaps we should adjourn for a moment. Here's Mr.
44 Adams, there we are, we're in business. Mr. Adams.
45 MR. ADAMS:
46 Q Thank you, my Lord. Mr. Smith, before we go on to
47 talk further about this Xsi gwin yookhl territory,

there was something you said about Sigagit, which is the territory that appears on map W, and you said this morning to his Lordship that you hadn't been on that territory. Now it appears from the map as if the highway runs along one side of that territory. Is it correct to say that your comment about not having been on that territory was with the exception of trips along the highway?

A Yes.

Q You have been on the highway there?

A Yes.

Q Okay. Now, I would like to go back to Xsi gwin yookhl, which is in English Christ Creek and is on map X, and I would like to ask you if you start out from Gitwangak, what's the route that takes you onto the Xsi gwin yookhl territory?

A When I went up from Gitwangak we used to have a ferry to go across. From the ferry we used to go up about half a kilometre from the ferry towards the east, and that's where the trail is placed from there going up to Ant k'ydaxw, and it takes -- somebody had a subcontract around there, that was Leonard Bright, I think. He is still alive. I don't know his Indian name, but he had a whole contract across there, and we used the skid road straight in to the bottom of Ant k'ydaxw, and we had to leave the skid road and head west a little bit to the bottom of the ridge towards the Xsi gwin yookhl, Christ Creek. There's a little creek coming from -- coming down from towards Skeena on the east side of the ridge, that's where we usually have our lunch before we start hiking up the mountain, and we go up along the ridge, we go jigjag because it's pretty steep until we hit about half ways up, and then we go along the side of the mountain to Ant k'ydaxw.

Q Is the trail blazed all the way up?

A Yes.

Q Are those old blazes or new blazes?

A Old blazes.

MR. ADAMS: Can you say how old?

MR. CLARK: How can he say that, my Lord.

MR. ADAMS: He might have made them.

THE COURT: Well, I suppose man-made or by appearance you might be able to tell how old. Go ahead.

A It's fairly old I guess, because in some places we had to replace some trails, the ones if we can't find a blaze -- when you follow the blaze, as long as you

leave one, if you can't see the next one you block on the other side of the tree, and the other side of the tree indicates which way to go, that's how you find the other blaze, and if the blaze is too far apart for us to follow we blaze another trail ourselves.

Q Was the trail already blazed when you first got there, first time you went?

A Yes.

Q And the blazes that you saw at that time, were those -- did those appear old?

A Yes.

MR. ADAMS: All right.

THE COURT: This trail is from where? Is this the trail that takes you up from the creek bed to it looks like --

A Ant k'ydeex.

THE COURT: What's it called?

MR. ADAMS: Ant k'ydeex.

THE COURT: That's A-n-t-k-y-d-e-e-x-w-k? Is that the second name down the legend on the right-hand side?

MR. ADAMS: On map X?

THE COURT: yes.

A Yes.

THE COURT: All right. So that trail takes you up to that ridge?

A Yes.

THE COURT: Yes, All right.

MR. ADAMS:

Q And it starts on the south bank of the Skeena, does it?

A Yes.

Q Opposite Gitwangak?

A Opposite Gitwangak.

Q I see. Now, I think you referred this morning to an occasion when you were up in the area of Ant k'ydeex with other people from Gitwangak, including Henry Tait?

A Yes.

Q Can you tell me what you were doing there on that occasion?

A We were going to pick berries on that occasion when in the morning we heard a bunch of gun shots above us. Henry Tait was one day ahead of us at that time, and in the morning when we were still in bed we heard a bunch of gun shots, and then about two hours later a couple of them came down to where we are because they seen the smoke coming out from where we were staying. Here they told us that they shot a grizzly that

1 morning.
2 Q Are you familiar with a fishing site on the Skeena on
3 this territory by the name of Antkii iss?
4 A Yes.
5 Q And where is that?
6 A Right across Gitwangak Village on the east side.
7 Q And is that Sakum Higookw's fishing site?
8 A Yes.
9 Q And what use do you make or allow to be made of that
10 fishing site?
11 A Can you rephrase the question, I didn't --
12 Q Do you use that fishing site yourself today?
13 A No. We have used it, and around this time of year
14 Kathleen Matthews usually phones us and asks our
15 permission to fish at Antkii iss, because it's easier
16 for them to go across and it's right below the
17 village.
18 Q Is that Art Matthews Jr.'s mother?
19 A Yes. And last -- three years ago I guess that the
20 chiefs got together and they were expressing the
21 hardship they were receiving from the federal
22 fisheries, and they instructed their chief councillor
23 to call me to ask permission to use the place for a
24 protest site.
25 Q Are you one of the chiefs who was experiencing
26 hardship from the federal fisheries?
27 A Yes.
28 Q And what was the hardship that you were experiencing?
29 A In especially in July we usually have our nets out in
30 July, and we work it so that we put our net in and if
31 we have enough fish to put on the what we call w'it,
32 there's little -- they're little skinny trees to go
33 across, we built the smokehouse. Inside the
34 smokehouse, built logs on each side of the smokehouse
35 and we put the w'it, we call w'it pole alongside
36 enough for fish to hang. If that's full -- if that's
37 half full and we know we've caught enough to fill it
38 up we pull our net, and once we strip those fish we
39 put it up on top of the w'it where we really dried,
40 and then leave enough and then we have enough room and
41 we put our net in, and with the restrictions we can't
42 do that, it's -- it's wasting time on our side because
43 there's a limited time for us to fish, and we operate
44 along those lines the past few years where we pull our
45 net and put it in, pull it out, put it in, and it's
46 very difficult for us to get enough fish for the
47 winter consumption, so we objected to this time frame

the federal fisheries imposed on us.
Q And how did you make your objection?
A I endorsed the -- my colleagues to put up a protest camp at Antkii iss, and I came home on the weekend when they were going to open it, and I was one of the -- I was one of the chiefs -- there was two of us there -- that opened the official opening at Antkii iss.
Q And was that an action that involved the chiefs exclusively or other people as well?
A The chiefs exclusively.
Q So as far as who was present at Antkii iss at the fishing site --
A Yes.
Q Were there people other than the chiefs there?
A Yeah. There were supporters from Gitksan-Wet'suwet'en hereditary chiefs. There was quite a few chiefs at that opening.
Q And why was Antkii iss a good site for that action?
A We figured it's a good site because it's within the reserve of Gitwangak Village.
THE COURT: I'm not sure if I have the spelling of this location, Mr. Adams.
MR. ADAMS: Antkii iss?
THE COURT: Yes.
THE TRANSLATOR: It's 1168 on the new list I gave you.
THE COURT: 1168? Thank you very much. Which reserve is that, please?
MR. ADAMS:
Q Do you know which reserve Antkii iss is on?
A It's right across Gitwangak Village -- I don't know what number it's on.
THE COURT: Is that the name of the reserve, Antkii iss?
A That's what we call it. I don't know what the Province calls it.
MR. ADAMS:
Q I would like to change territories and ask you about a territory by the name of Xsi gallii gadsit, and the area is also known as Ritchie.
Q Does Sakum Higookw have territory in that area?
A Yes.
Q Can you describe generally where that is in relation to the Skeena and in relation to any other place that you can identify on the Skeena?
A It's about ten miles downstream from Cedarvale, on the west side of the river, on the track side.
Q What does Xsi gallii gadsit mean in English?

A Xsi gallii gadsit, it means water, like a water puddle along the creek. It's a slow running water, it's like a spilled water when you're walking with a pale and if your pale has a hole in it, that's what it looks like.
Q And is that the name of a creek?
A Yes.
Q All right. And do you know the name of that creek in English?
A No.
Q Okay. My understanding, my Lord, is that in English it's Sallysout, S-a-l-l-y-s-o-u-t, Creek. And can you say where that creek is in relation to the boundary of that territory?
A It's on the west boundary downstream on the track side.
Q And who was it who told you about the Xsi gallii gadsit territory belonging to Sakum Higookw?
A I stayed with David Wells and Jimmy Tait on the territory, and they told me.
Q They told you that it was Sakum Higookw's territory?
A Yes.
Q Okay. Now, I want to take you briefly to another territory, which as it will appear it shows on the same map, and can you identify a territory as Gwax tseelixit?
A Yes.
MR. ADAMS: That's number 1103 on the word list, my Lord.
THE COURT: Number 1103.
MR. ADAMS:
Q Right. And is that territory also known as Hells Bells Creek?
A Yes.
Q And is that the English name for Gwax tseelixit or not?
A No, it's not. That's a different meaning, but that's where Gwax tseelixit is located at, is Hells Bells Creek.
Q Could you describe generally where that territory is in relation to the Skeena?
A It's on the east side, on the highway side, about half a kilometre, one kilometre from Ritchie Station.
Q Is it downstream from Ritchie?
A Yes.
Q And what does Gwax tseelixit mean?
A Gwax tseelixit means the Skeena itself. There's a narrow part of the Skeena in the territory where the water -- whirlpool, and this back eddies, it's fairly

rough when it's -- when the tied is pretty high, it's a riptide, like up the coast it's called riptides, Gwax tseelixit.
Q That refers to the current?
A Yes. To the current, the river.
Q And who was it who told you about the location and boundary of that territory?
A David Wells and Jimmy Tait.
Q Okay. Now, I want to show you the final pocket in this series of maps in the blue folder, and this is a map marked Y in a circle, and next to that is Xsi gallii gadsity and a Z in the circle, and next to that Gwax tseelixit, and underneath those it says Sakum Higookw. Have you had a moment to look at that map?
A Yes.
Q Does that map accurately show, to your knowledge, the location of the boundaries and the Xsi gallii gadsit and Gwax tseelixit territories that you've just described?
A Yes.
MR. ADAMS: My Lord, can that be marked as the next exhibit.
THE COURT: Yes, 429.
THE REGISTRAR: 429.

EXHIBIT 429 - Pocket 6 - Map "Y" and "Z" Gwax Tseelixit and Xsi gallii gadsit territory

MR. ADAMS:
Q Now, starting on the west side of the river, that is on the Xsi gallii gadsit territory, can you say when you first went to that territory?
A I was about 13.
Q And that would have been about 1957?
A Yes.
Q Okay. And who were you with at that time?
A My family and David Wells and Jimmy Tait.
Q And who is it you mean when you say "your family"?
A Well, my father, and my mother, my brothers, and my sisters.
Q Okay. How did you get there?
A By train.
Q And the train would go from Gitwangak?
A Yes.
Q And where would it stop?
A There's a little station they call Ritchie about in -- right in the centre of the Sakum Higookw territory.
Q And what time of year would you take that train?

A In the first week of July until -- until last week of August -- of August.
Q Where would you stay while you were there?
A David has a little cabin right above one of the fishing sites, the rock up there, about half a kilometre downstream from the Ritchie Station.
Q And that was David Wells who had that cabin?
A Yes.
Q Um-hum. Was that the only building there?
A Yes. Until we built a regular smokehouse there. The one he used was an open-air one, because he comes and goes from that place.
Q So in addition to his log house, David Wells had an open-air smokehouse there?
A Yes.
Q Okay. And that was there when you first arrived about 1957?
A Yes.
Q And what kind of condition was it in then?
A There's -- the cabin itself was in good condition, just the roof had to be repaired.
Q And what about the smokehouse?
A The smokehouse wasn't in good shape, so we built a new one.
Q Okay. Did both of those structures appear to you in 1957 to have been there for some time?
A Yes.
Q All right. And is the log house still there?
A You could see the remains, it's caving in, it caved in. You could still see it from the highway.
Q Who was involved in building the smokehouse that you say you built when you first arrived around 1957?
A My brother, and my mother, Jimmy and David.
Q Jimmy is Jimmy Tait?
A Yes.
Q And David is David Wells?
A Yes.
Q And did you fish at that site?
A Yes.
Q And what did you fish for?
A Sockeye.
Q When would you start doing that, when in the season?
A The month of July. And we pull our net as long as the pink start to arrive, we left our net usually a few days after the pinks arrive and we pull our net for the season.
Q When did the pinks start to arrive, what time of year?

A Around first week of August they start to appear.
Q What kind of a net did you use?
A Commercial net, sockeye net.
Q And what did you or people from your family do about processing the fish at that site?
A We smoke the fish and we jar it or can it, and we salt it and then we also jar or can the half dried.
Q Who was responsible for doing that?
A My mother does most of the work with my brother and I. We carry water from chain to which she's canning. We get the wood for her, keep the fire going for her for the pot to keep boiling, we have to keep the stove hot.
Q When the pinks started coming and you pulled your nets what would you do on that territory then? That's the end of the fishing, what else do you do there?
A We -- after we pulled our net we stayed around for another two or three weeks, and around that time after the pinks show up it's time for us to go up and pick berries to see if they're ready to be picked.
Q What kind of berries?
A Blueberries.
THE COURT: Can I stop you for a minute. You wouldn't use a full commercial sockeye net, would you?
A A full commercial?
THE COURT: Isn't a sockeye net 200 fathoms long?
A Yes.
THE COURT: Twelve hundred feet?
A Yes.
THE COURT: Could you use a net that long in the river?
A No, no.
THE COURT: So you used a portion of a commercial sockeye net?
A Yes. About 10, 12 fathoms long.
THE COURT: I see, thank you.
MR. ADAMS:
Q The berries that you're calling blueberries, what's the Gitksan name for those?
A Maa'y.
MR. ADAMS: Let me stop you for a second and get a spelling.
THE TRANSLATOR: It's M-'-a-a-y.
THE COURT: Thank you.
MR. ADAMS:
Q And where would you go to get those?
A We went east of where we were staying, towards Xsi gwin axwt, and there's a trail going up Xsi gwin axwt.
Q What kind of a place is Xsi gwin axwt?
A Xsi gwin axwt, it's a creek between the two mountains.

Q Do you have a number or spelling for Xsi gwin axwt? I know there's one on the map Y. Do you know an English name for Xsi gwin axwt?
A No.
MR. ADAMS: Okay.
THE COURT: Is that -
THE TRANSLATOR: It's 315 on the list.
THE COURT: 315, thank you.
A Axwt means porcupine, so it must be Porcupine River, Creek.
MR. ADAMS:
Q I have one that shows on the map Y as Quill Creek. Does that ring any bells?
A Might be, porcupine quills.
Q What would you do with the berries picked on the Xsi gwin axwt?
A We carried it back to the camp and we jar it or make jam with it.
Q And how long would it take you to make a trip up onto Xsi gwin axwt and back?
A Takes us about three hours from where we were staying to go up and three hours back, and we were usually back by nightfall.
Q You would do that all in one day?
A Yes.
Q Okay. Now, at the end of the berry picking would you go back to Gitwangak?
A Yes.
Q And were there fall activities on this territory as well?
A Yes. David and Jimmy stayed behind and they go after beaver, beaver pelts, and meet after we were gone.
Q And again that's Jimmy Tait and David Wells?
A Yes. They stayed there most of the year.
Q And do you know from them how long they had been doing that?
A They never -- they never told us how long they've been doing that, but I know they stay there most of their lives, I guess.
Q And to your knowledge did they -- and from then did they continue to do that after 1957 when you first came to that territory?
A Yes.
Q And for how long?
A Until they both deceased.
Q And for David Wells that was around 1970?
A Yes.

Q Do you recall when Jimmy Tait died?
A About three or four years later.
Q Did you ever hunt yourself on the Xsi gallii gadsit territory?
A Yes. There's quite a few deer on the territory.
Q And how old would you have been when you hunted for deer there?
A Since I went there and until today.
Q You still hunt deer on that territory today?
A Yes.
Q Do you hunt anything else there?
A Mostly deer.
Q Um-hum. Now, the summertime routine you've talked about fishing and berry picking. When in your life did that start and finish as a regular routine?
A Until I was 17 as a regular routine going there in the summertime. After that I got into commercial fishing down the coast.
Q Are there still blueberries on that Xsi gallii gadsit territory?
A No.
Q Why not?
A The brush, too many brush for the blueberries to grow there. If there's any it's very few, it's not worth going up there.
Q And can you say about when that brush grew up to the point where you couldn't get those blueberries there?
A Until I was about 16, I guess we couldn't. We almost went up there for nothing that year.
Q So after you were 16 there was no point in doing that?
A Yes.
Q Okay. Is there any way of making that possible again?
A Yes. In our tradition we usually burn the place over again in order for the berries to come back. The berries usually come back about three years later after you burn it, two or three years later after we burn it.
Q And why after you were about 16 did you no longer do that?
A We are restricted by the Province. If they know that we -- know we're burning it we could be charged, so we didn't burn it.
Q Now, I would like to cross over the river to the territory we've already identified, Gwax tseelixit. Is that a good place to fish?
A Yes.
Q Why?

A It's -- the current is fairly strong and there's a back eddie. When there's a strong current there's usually a back eddie, and that's where we set our net. We don't need a pole to hold our net out, it's the back eddie that keeps the net out straight.
Q Did you at some point switch sides from the Xsi gallii gadsit side to the Gwax tseelixit side?
A Gwax tseelixit, to us it's a whole area that goes down. We stayed on the Xsi gallii gadsit side before we were upstream, but then we moved across the other side downstream, but we stayed on the track side where the -- or the good fishing side.
Q When was the move from the track side to the highway side?
A When I was about 13 we moved to -- 13 to 15, I forgot what year, we moved across the highway side.
Q Well, I think your evidence was that you first came there about 1957 when you were about 13?
A Thirteen -- well, we moved there about when I was 15 then.
Q Okay. And why the move?
A It's easier access for us on the highway because some of the local people bought pick-ups at that time and we could hire somebody. It's easier for us to load and unload from the highway.
Q Did you continue to use the smokehouse on the track side?
A No. We built a new one on the highway side.
Q And is that still there?
A Yes.
Q And is it still in use?
A Yes.
Q And who uses that?
A Peter Turley.
Q And Peter Turley is the same person who holds the name Giila'wa?
A Yes.
MR. ADAMS: At the time you arrived at Xsi gallii gadsit around 1957 was there a road connecting the highway with the river side?
THE COURT: The river side?
MR. ADAMS:
Q The bank of the Skeena?
A Yes. There's a road on top of the bank of the Skeena.
THE COURT: On which side?
A On the ease side of the Skeena.
THE COURT: We call the highway side?

A Highway side.
THE COURT: I'm not sure whether Mr. Adams isn't asking you if there's a highway on the other side, but I'm not sure.
MR. ADAMS:
Q No. I'm on the east side of the river at Gwax tseelixit. Was there a road there between the highway and the river bank?
A At Gwax tseelixit, yes.
Q And to your knowledge how did that road come to be there?
A David and Jimmy made a road going down to the smokehouse. They built the road by hand.
Q That was David Wells and Jimmy Tait?
A Yes.
Q Okay. And did you at sometime make efforts to identify that as Sakum Higookw's territory or Lax skiik's territory?
A Yes.
Q What did you do?
A After David told us about that territory after he was deceased we put up signs saying that Indian Reserve, that's on the reserve, the Gwax tseelixit, and if we leave it there's too many tourists going down, too much waste all over the place, so we tried to protect them from going down then to keep -- somebody keep ripping the sign off.
Q Apart from people ripping it down, was the sign effective?
A Not too effective for somebody I guess, somebody knows us that keeps ripping the sign off and the people keep going in there without us being there.
Q Do you recall exactly what the sign said?
A This is Eagle Clan's territory, or this is an Indian reserve.
Q Do you know the name of the reserve that Gwax tseelixit sits on.
A I don't know what number it is, the reserve, Gwax tseelixit.
Q But to your knowledge it's reserve land?
A Yes.
Q And did you take further steps to try to identify that as Eagle territory?
A Yes. Peter Turley and I, we discussed it and then he said he had a friend in Terrace that's a welder and he could help us out, and his friend built a gate for us and he cemented the gate in with a padlock, a swinging gate with a padlock in the centre.

Q Where was the gate in relation to the highway?
A It's about 50 yards from the highway going down to the smokehouse.
Q And has the gate been effective?
A The lock keeps -- somebody keeps busting the lock off.
Q And are there people still going past that gate?
A Yes.
Q With or without your permission?
A Without.
Q And what are they doing there?
A They go sport fishing down there. There's a little beach a little below that, it's a beautiful little place.
Q Have you ever spoken to any of those people?
A Yes. We try to be flexible as much as we can. If they conduct themselves accordingly then we let them stay there for the day, but if they're destructive or just go down there for holiday, then we tell them to keep on going.
Q And have you yourself said that to people?
A Yes.
Q And what's been the result?
A They just left without any hassle.
Q Do you still go yourself today to Gwax tseelixit?
A Yes.
Q What do you do there?
A I go sport fishing myself or set the net out on Xsi gallii gadsit.
THE COURT: On which side?
A Xsi gallii gadsit, across from --
THE COURT: On the other side of the river?
A Yes. On the track side, if I have a boat. If not I set out the net on the -- by the rock bluff there below Gwax tseelixit. They call it -- they call it Wil al algyax miilet.
MR. ADAMS:
Q Is that the name of the rock bluff or the name of the rock in the river?
A The name of the -- there's a bunch of rocks at this rock bluff, or part of it is a bunch of rocks sticking out in the river.
Q And the name applies to both?
A Yes. The rock bluff there's a little spot.
THE TRANSLATOR: W-i-l a-l a-l-g-y-a-x m-i-i-l-e-t.
MR. ADAMS:
Q What time of year do you go yourself to Gwax tseelixit these days?

A I stopped there last week to see what the surveyor's doing there. It looks like they're going to build a bridge across there. I was told that they're going to build a bridge across there, but I was there last year and they pulled their stakes out, and Allen Johnson and Peter Turley told me that they've resurveyed it again, so I went down there last week to check it out, and they did resurvey that.

Q Allen Johnson and Peter Turley are two people you've described as being chiefs in your house?

A Yes.

Q And from now on how frequently during the summer would you expect to be at Gwax tseelixit?

A I go by there almost every day and stopped off if I have -- if I have time to spare. I usually just stop off and it's where I relax if nobody's around. It's a good place to relax.

Q I want to take you to one final territory. Are you familiar with the territory known as Xsu gwin k'aat?

A Yes.

MR. ADAMS: And just get the spelling of that, please.

THE TRANSLATOR: X-s-u g-w-i-n k-'-a-a-t. It's number 868 on your word list.

THE COURT: 868, thank you.

MR. ADAMS:

Q And is Xsu gwin k'aat a creek?

A Yes.

Q And do you know an English name for Xsu gwin k'aat?

A K'aat is cane, a walking cane.

THE COURT: Cane?

A Yes.

MR. ADAMS:

Q Is there an English name for that creek as opposed to a translation of the name?

A I can't remember if Fiddler Creek.

Q Is that Fiddler Creek?

A I think so, yes.

Q And can you describe in relation to the Skeena again where that Xsu gwin k'aat territory is?

A It's about five miles -- five to seven miles from Ritchie Station downstream, on the west side of the river, on the track side.

Q Is it further downstream from the two places we've just been talking about, Xsi gallii gadsit and Gwax tseelixit?

A Yes.

Q Okay.

Q Who is it, who told you about the location of this territory?
A I went there with Jimmy Tait and David Wells beaver hunting one spring.
Q And did they tell you that territory belonged to Sakum Higookw?
A Yes.
Q Okay. I've opened in front of you map T, which is the second pocket in the blue folder, which has a circle T and then says Xsu gwin k'aat and below that Sakum Higookw. Have you had a chance to look at that map?
A Yes.
Q And does that map show, to the best of your knowledge, the location of the Xsu gwin k'aat territory and its boundaries?
A Yes.

MR. ADAMS: Could that be marked as the next exhibit, my Lord.
THE REGISTRAR: 430.
THE COURT: What is it?
THE REGISTRAR: 430.
THE COURT: Thank you.

EXHIBIT 430 - Pocket 2 - Map T Xsu gwin k'aat territory

MR. ADAMS:
Q Now, I want to change directions, Mr. Smith, and ask you about your position as chief councillor at Kitwancool and your parallel position as a hereditary chief. What is your function as the chief councillor at Kitwancool?
A I'm a mouth piece for the village for the hereditary chiefs and their tribe. I got elected by the people within the village. My function is to make sure that administration is allocated in the perspective like housing and make sure the money is spent within housing, if we got funding for housing, and social welfare, make sure that money is spent within the -- social welfare and different programmes.
Q Anything else that the band council and you as chief councillor is responsible for?
A Yes. We try to seek funding for our work programme within the reserve.
Q And where do you go for funding for that purpose?
A To federal government, local District of Indian Affairs.
Q And what's your relationship with the band manager in

Kitwancool?
A The band manager is the person that does all the book and goes after different programmes for the village, administrates different funding, administrator, and my job is to keep the band management in line by -- my job plus the other councillors'.
Q Now, you described yourself a moment ago in your capacity as chief councillor as a mouth piece for the chiefs. Which chiefs would that be?
A The hereditary chiefs of Kitwancool.
Q From Kitwancool?
A Yes.
Q And what size of a group is that, the hereditary chiefs from Kitwancool?
A It's about 13 different seats in Kitwancool, hereditary chiefs.
Q Do you get instructions from that group?
A Yes.
Q How does that happen, how do you hear about the instructions of the various hereditary chiefs?
A If they see -- if there's a problem within the village they come into the office and express their problem, and if it's -- if it concerns the whole village, then there's a public meeting where all the chiefs gather and discuss that problem, and from out of the meeting we analyse the meeting, then we go after what the hereditary chiefs wanted.
Q Does the band council in Kitwancool deal on its own with questions involving territories?
A Yes. There's a different set. We don't -- as the chief councillor I don't deal with the territory, I deal just inside the reserve itself.
Q Let me ask the question again, because your answer seemed to disagree with the premise of the question.
A Oh.
Q Does the band council on its own deal with matters involving territory?
A I don't understand the question.
Q Can the band council take action on territories without instructions from the hereditary chiefs?
A No.
Q Can the band council deal with feast business without the hereditary chiefs?
A No.
MR. MACKENZIE: My Lord, I think it is time for me to rise and object to this line of questioning dealing with the Kitwancool Band Council and the Kitwancool hereditary

chiefs.
MR. ADAMS: My Lord, that was my last question about the Kitwancool Band Council, in any event.
THE COURT: I don't think that there's any harm in me hearing the answer to those questions. As you say, Mr. Mackenzie, it's probably irrelevant in the view of the pleadings. I see no harm in having the information. Go ahead.
MR. ADAMS:
Q My Lord, my submission after the fact on relevance would be that it's instructive for you to hear in a Gitksan Village what the relationship is between the band council and hereditary chiefs, and the evidence from this point will be what's the mirror image of that situation in Gitwangak?
THE COURT: Well, I can see the relevance of Gitwangak, but I'm not sure that Kitwancool is any different from Winnipeg or any number of other equally attractive Canadian cities, but I'm not going to stop you.
MR. ADAMS:
Q Mr. Smith, where does Sakum higookw come from in the sense of which village does he belong to?
A Gitwangak.
Q And you are a hereditary chief in Gitwangak?
A Yes.
Q Do you give directions to the Gitwangak Band Council in matters involving territory?
A Yes.
Q And in what form do those directions take?
A One of them was just recently where we instructed them to see what they can do in regards to an injunction to the proposed bridge at Gwax tseelixit.
Q And what have you directed the band council to do in that connection?
A See if they could file an injunction and prevent the bridge from going across to Xsi gallii gadsit and Xsu gwin k'aat.
Q And to your knowledge is the Gitwangak Band Council acting on that direction?
A I think they approached the tribal council and -- because the tribal council is more effective than the band council itself.
Q The hereditary chiefs in Gitwangak use the band council in their dealings with governments?
A Yes.
Q Why is that?
A Because the band council is recognized, the hereditary

chiefs are not recognized by the federal or the provincial.

Q What do you mean when you say the hereditary chiefs aren't recognized by the governments?

A Well, if I go in and submit an application for job creation in the village, then they'll ask -- they'll turn my application down because there's no political body within my house.

MR. ADAMS: And in your view is this court case directed in part at changing that recognition or lack of recognition?

MR. MACKENZIE: Well, that's a question that may not be a question of fact, my Lord.

THE COURT: Is it not a --

MR. MACKENZIE: In view of what --

THE COURT: Does the answer not depend on the pleadings? His view may reflect the pleadings and it may not, Mr. Adams.

MR. ADAMS:

Q Are you a member of the Gitksan-Wet'suwet'en Council?

A Yes.

Q And in what capacity, what makes you a member of that tribal council?

A Because I'm from Gitwangak originally, hereditary chief of Gitwangak.

THE COURT: I'm not sure if I understand. I don't know if the witness understands what you meant by member. Council suggests there are members on a council, they probably represent a lot more people. I'm not sure of the sense of what your question was asked or the way it was understood.

MR. ADAMS:

Q In what sense do you understand being a member of the tribal council when you say that you are --

A In the sense that I am the hereditary chief of Gitwangak of the Gitksan.

Q Does being a hereditary chief from Gitwangak automatically in your mind make you a member of the tribal council?

A Yes.

THE COURT: Okay.

MR. ADAMS:

Q And what is the tribal council from the point of view of a Gitwangak hereditary chief?

A It goes after the funding for the hereditary chiefs and hereditary chiefs' concerns, to go after different funding.

Q And what does it seek funding for on behalf of the

hereditary chiefs?
A It's like for health and welfare, for instance, it involves all the different bands. That if there's a common problem to every village where health and welfare is concerned; if the family has a problem, the Province comes in and picks up the children from that problemed family, whereas we don't have any funding for the children to build a home for them, and the Province gets the money from the federals, and we're trying to get that funding back. We're instructed that the tribal council to get that funding back for our children for us to look after the children, that's one of the objectives of the tribal council.
Q And if you get that funding back what will change about the situation for the children?
A It -- the children will know their own culture if we raised children ourselves, whereby if they are raised in a non-native home, then they lose their culture.
Q If they're raised in a non-native home?
A Yes. They don't understand our culture.
THE COURT: Let's take the afternoon adjournment, please, Mr. Adams. Thank you.
THE REGISTRAR: Order in court:

(PROCEEDINGS ADJOURNED AT 3:00)

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

Graham D. Parker
Official Reporter
United Reporting Service Ltd.

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20 ⊥h2 V. Smith (for Plaintiffs)
21 (PROCEEDINGS RESUMED PURSUANT TO AFTERNOON RECESS)
22
23 THE REGISTRAR: Order in court.
24 THE COURT: Mr. Adams.
25 EXAMINATION IN CHIEF BY MR. ADAMS:
26 Q Mr. Smith, does the tribal council have a function
27 in relation to drug and alcohol counsel?
28 A Yes.
29 Q What does it do in that connection?
30 A We have a common problem between the villages
31 between Gitksan-Wet'suwet'en. And we have a lot of
32 problem with our teenagers and the young generation
33 because there is really nothing there within the
34 community for them to do, so they turn to drugs and
35 alcohol. And the hereditary chiefs got together, they
36 got united and expressed their concern to the tribal
37 council whereby the tribal council went after some
38 funding for the different villages and then they sent
39 the -- some of the people that have a problem to
40 different places where they could -- where they could
41 try and solve their problem. It's an expensive ordeal
42 and then we are looking at a center of our own and we
43 had a meeting in Gitwangak. About three or four years
44 ago we had a meeting in Gitwangak where we figure we
45 could have a center of our own within the -- within
46 the Gitksan territory. We suggested that the
47 Simadiiks, Calvin and Allan, the Lax skiik Clan, we

suggested -- offer them our piece of land right in Gitwangak territory in Lax skiik's territory.
Q That was Calvin Hyzimes and Allan Johnson you were talking about?
A Yes. Peter wasn't around at that time, he was still staying in Terrace.
Q That's Peter Turley?
A Yes.
Q Giila'wa?
A Yes. And the tribal council sought some funding to build a place they call Wilp sisatxw, that's a House of Purification and it is still under construction.
Q Is that what Wilp sisatxw means, House of Purification?
A Yes.
THE COURT: Where is it?
THE WITNESS: It is on the south side of Gitwangak River, Xsi T'ax on the west side of Skeena.
MR. ADAMS:
Q Where in relation to the Village of Gitwangak?
A Downstream from Gitwangak.
Q Are you one of the hereditary chiefs who approached the tribal council in connection with drug and alcohol problems?
A Yes.
Q Okay. Is the House of Purity, has that been built?
A Yes, it is under construction.
Q It is under construction now?
A Yes, it is finishing touches right now.
Q And what do you expect it to do once it is finished?
A Well, we will admit some people that have a problem and try and put them under some program where they will purify themselves. There is a sweat tank they have got and stuff like -- it is like a hunter. It will be administered under the chief's direction. It is like a hunter before he goes out to hunt on the territory whereby the hunter purifies themselves before they go out on the hunting ground. If he don't do that, you don't get anything out of it. So that's the way this is going to operate, the House of Purification.
Q And is the Sisatxw in Wilp sisatxw the same word that is applied to the hunter's process of preparation?
A Yes.
Q And who, to your knowledge, is going to staff that House of Purification?

A Gitksan Tribal Council. It is under the supervision of the Gitksan Tribal Council, Gitksan-Wet'suwet'en Tribal Council.
Q Will there be counsellors?
A Yes.
Q And who will train them?
A The Gitksan Tribal Council is funding some people to be trained. I don't know if they are trained yet or not.
Q Who will do the training?
A The drug and alcohol program from the province, I think. I am not too familiar with the whole operation. All I am involved in is when -- for them to build the House of Purification in Gitwangak.
Q Does the tribal council have a function in relation to people who are charged with fisheries and other offences?
A Yes.
Q And what is that function?
A They look -- they look after the legal aid and they have got legal aid people working for them.
Q What can you say in general about the connection between the interests of the hereditary chiefs and the functions of the tribal council?
A The hereditary chiefs meet in a certain village. Most of the time the hereditary chiefs from different bands meet in Gitanmaax. It is sort of a central area from the surrounding villages. Hereditary chiefs unite themselves and they express their concerns to the tribal council. And they expect the tribal council to follow up on the concerns, different concerns.
Q Does the tribal council take direction from those hereditary chiefs?
A Yes.
Q Does it take direction in matters involving territory?
A Yes.
Q And feasts?
A Yes.
Q And what about land claims?
A Yes.
Q And can you give an example of that process of the hereditary chiefs giving direction to the tribal council in relation to territory and land claims?
A A few years back I was in one of the meetings where they were concerned about the logging operations on

their territories and seen that the whole resource is being wiped out. The province keeps saying that the trees will -- they are going to replant the trees. But the hereditary chiefs think that the next generation will grow old and have nothing to do by the time the planted trees are mature, and their children will grow old before the trees mature. So the concern is to try and slow down the logging and save something for our children to live on. And they have instructed the tribal council to follow up on the concerns. And, in turn, the tribal council went and did some research after those few meetings that they have and it all boils down right up to today in this court case.

MR. ADAMS: My Lord, I'm, if not finished, very close to being finished. I wonder if I might have overnight to repair my voice and to review my notes.

THE COURT: Well, yes, I think we should always accomodate counsel who are in extremis. You are asking to adjourn now until tomorrow morning?

MR. ADAMS: If that's agreeable.

THE COURT: Yes, certainly we will adjourn. There is no objection, Mr. Mackenzie?

MR. MACKENZIE: No, My Lord.

THE COURT: Okay, ten o'clock tomorrow morning.

THE REGISTRAR: Order in court, court will adjourn at 10 a.m. tomorrow.

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.

LISA REID, OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.