Vancouver B.C.
March 15, 1988.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE REGISTRAR: Calling Delgamuukw versus her Majesty the Queen.

ARTHUR IRA MATHEWS, previously sworn:

THE REGISTRAR: I caution both the witness and the interpreter you are still under oath.
THE COURT: Counsel may be interested to know there are 60 cases between now and the end of June that are estimated to last more than 15 days and there are six cases of this or like kind going on at the present time.
MR. GRANT: I take it this is one of the 60?
THE COURT: No, this is not one of the 60. They are in addition to this one.
MR. GRANT: This one was last year's.
THE COURT: Mr. Grant, are you ready?
MR. GRANT: I believe I have my name on the trial record of some of those others, my lord.
THE COURT: I am sure you do.
MR. GRANT: But I am not anxious to get them started.

EXAMINATION IN CHIEF BY MR. GRANT, Continued:
Q Yesterday when we broke off, Mr. Mathews, at the end of the day, you were describing this adaawk of the two brothers, you recall, and is there a name for that adaawk?
A We -- in our language we call it Ts'uu wijix.
MR. GRANT: Do you have a number for that, Miss Stevens? I put a numerical order listing as well.
THE COURT: Thank you.
MR. GRANT: Of the Gitksan.
THE TRANSLATOR: No, it's not in there.
THE COURT: The number again?
THE TRANSLATOR: It's not in the word list. It T-s-'-u-u space w-i-j-i-x.
MR. GRANT:
Q And what does that mean?
A It's -- it means that they fought over the kill of the caribou.
Q In the description of this adaawk, is there a description of any laws of the Gitksan that were broken or were not followed by these?
A Yes. The laws that were broken was the respect, the

sharing and the spiritual part of it was broken in our language. We have a word for what they did. It's siyen, curse.

MR. GRANT: Do you have that?

THE TRANSLATOR: Siyen is s-i-y-e-n?

A This brought curse to their house is what it means. Siyenhl widiit. I only said it in our language.

MR. GRANT:

Q Now, yesterday you described as part of the hunting practice of your house the importance of I believe the raven --

A Yes.

Q -- when you were going on a hunt? And you describe how you hear the raven going silently. Is there any reference to that in this adaawk?

A Yes. After 'Wii Hloots was killed by his brother, Gaalaa'uu.

MR. GRANT: Those are the two names of the brothers, my lord. Do you have them?

THE COURT: Yes, I have them.

MR. GRANT:

Q Go ahead.

A He was trying to hide the body of his brother.

THE COURT: I am sorry, was it 'Wii Hloots that was killed?

A Yes.

THE COURT: So it was his brother Gaalaa'uu who was hiding the body?

A Yes. He was trying to hide the body.

THE COURT: I am sorry, Madam Reporter. W-i-i space H-o-o-t-s-'.

MR. GRANT: H-l-o-o-t-s.

THE COURT: H-l-o-o-t-s. And G-a-a-l-a-a-'-u-u.

MR. GRANT: Miss Stevens had them too, I think.

THE COURT: Oh, all right.

A So he was trying to decide to hide the body of his brother when this raven flew over and sat beside him and started cawing, told of his kill like. That's when he got grief, really grieved, and composed the song, the Limx oo'y we call it in our language.

MR. GRANT: Do you have that word?

THE TRANSLATOR: Limx oo'y is L-i-m-x space o-o-'-y.

MR. GRANT: It's a number, is it?

THE TRANSLATOR: I don't think so, no.

A And like I said yesterday, cremated his brother at that swamp just above Sand Lake. He did that, he quickly went home. When he went home he went back to An gol hon.

MR. GRANT: That's -- you have that. That's the name of that place on Exhibit 349.
Q This Limx oo'y, is it a Limx oo'y in your House or in any House of the Gitksan now?
A No. Belongs to us, the House of Tenimgyet.
Q Now, I'd like to refer you to --. Oh, before referring to it, you mentioned that this was the killing of a caribou. In your adaawk, does it describe where the caribou are and have been --
A Yes.
Q -- on your territories?
A Yes. At the place we call Tsimaakhl gan k'ok'.
Q That's referred to on the map. It's at tab five of the book, Exhibit 349.
THE TRANSLATOR: It's number 398 on your word list.
THE COURT: 398. Thank you.
THE TRANSLATOR: Yes.
MR. GRANT:
Q And that is the place that is on the lower left-hand side of the map within the boundary of your territory?
A Yes.
Q Okay. You have that, my lord?
THE COURT: No. But it doesn't matter because I have the number and I can find it later.
MR. GRANT: Yes. The name is actually written there along the boundary.
THE COURT: How is it spelled or pronounced, rather?
A Ts'imaakhl gan k'ok'.
THE COURT: Yes. Thank you. We had that yesterday.
MR. GRANT:
Q Now, is there an adaawk of your House which describes the location of places on your two territories and resource places such as bear dens?
A Yes. It's -- it stems from the adaawk that is killing and it connects with the curse I have just mentioned, siyen. That law was broken and it caused a famine on the House of 'Wii Hloots. His brother, like I said, went home quickly to An gol hon and found that his T'in was empty.
THE COURT: I am sorry, what was?
A T'in. I mentioned that yesterday.
THE COURT: What was empty?
A T'in, the fish trap.
MR. GRANT: That is the fish trap. That's T-'-i-n.
THE COURT: Oh, all right.
MR. GRANT:
Q And that was the T'in at An gol hon?

A An gol hon.
Q And that's shown on the map with the triangle just near Woodcock, my lord. And that was the place where --
A We 'Wii Hloots' House.
Q -- 'Wii Hloots House was?
A Yes.
Q What happened then?
A It caused a curse on his House for what the laws they are broken of killing over this caribou. So when he went back all his T'in was empty. He couldn't catch any fish. He couldn't hunt for anything. It caused a famine on his House. He was a proud man. He went by his brother's house at Xsi gwin ixst'aat at Wilson Creek if you see it there.
Q That's the name that's just downstream from An gol hon?
A Yes?
Q On Exhibit 349. And who was his brother that was there?
A Tenimgyet. There is a reason why Tenimgyet lived at Xsi gwin ixst'aat. In all fishing sites there is a reason why you see fishing sites are placed at strategic points as a first line of defence if there is a war coming up from down on the coast. They always placed watchmen looking down the river. They had no fear from upriver because that was their friends and relatives lived up. But they had fear from people coming from the coast to invade them. That's why the very word Xsi gwin ixst'aat is a description of this watchman, the first line of defence they had. That's why it's called Xsi gwin ixst'aat. And the fishing site is never hidden as a bait for enemies that would come up the river and they would have it standing right in the open as the first line of defence they had. And if we had good photos of Xsi gwin ixst'aat you would see there is a big rock and there is whirlpools and the only other place they can get access to go up the river is to go right close to where the village of Tenimgyet was. That is why we call it Xsi gwin ixst'aat. Nevertheless, Gaalaa'uu went up, left Xsi gwin ixst'aat, went along the river and came to a place we call Tsim tsitixs. It's a little creek, a little river.
Q It's also marked on Exhibit 349 with the black triangle, is that right?
A Yes. Just past Cedarvale station today.

Q Yes.
A He took this route, went up around the height of land, and the first -- there is two or three, came to the height of the land here, the first lump of the height of land, and came to a creek we call Xsi gwin biyoosxw.
Q Can I just interject. Who was it that was travelling on this trip?
A Gaalaa'uu.
Q Just alone?
A Alone with his grandmother.
Q The witness is indicating when he is describing this, my lord, he is following along a dotted line that goes along Tsim tsitixs and then goes up from there on the map.
Go ahead.
A They left --
MR. PLANT: Well, before he does, he mentioned the name of a creek.
A Xsi gwin biyoosxw. I think I spelled it.
THE TRANSLATOR: 182 on the word list.
A Because he knew, and this is traditional and these bear dens still exist on the territory today. The first on our territory he knew there was a bear den at a place we call Xsi gan ts'elhlxwit.
MR. GRANT:
Q That's also marked on Exhibit 349, that place name, in black and it's the triangle going -- when you go up the mountain?
A That's the first camp today. It's even the first camp on our territory access to the Tsihl Gwellii territory, the first one marked by a bear den on the Xsi gan ts'elhlxwit.
THE COURT: What is the name of the bear den?
A Xsi gan ts'elhlxwit. We call that the bear den.
THE COURT: I don't see that -- see it marked on the map, Mr. Grant.
MR. GRANT: Okay. If you follow -- you had the place Tsim tsitixs --
THE COURT: Yes.
MR. GRANT: -- on Exhibit 349. You follow the light dotted line which is like a trail.
THE COURT: Yes.
MR. GRANT: And it goes up away from the Skeena River and then you can see another black triangle there.
THE COURT: Oh, yes.
MR. GRANT: And a name there. That is the name, the place the

1 witness is referring to.
2 THE COURT: A-m-s-a-g-a-m?
3 MR. GRANT: Yes.
4 Q And you can see that on Exhibit 349. Is that the
5 location of that --
6 A Bear den, yes.
7 Q Okay. Go ahead.
8 A When he got there it was empty, no bear. Then he told
9 his grandmother, 'oo-gaa-ha-deed' (phonetic Gitksan)
10 in the language, he said in the language, he said,
11 "There is another one at Gisak loot."
12 Q That's also marked on the map Exhibit 349.
13 A When they got here there was still nothing. At this
14 Gisak loot there is a marker today indicating they mix
15 their own paint in red mes we call it. Mes.
16 MR. GRANT: Can you spell that?
17 THE TRANSLATOR: Mes, M-e-s.
18 A And it's a red paint with a hand pointing to the
19 direction of this bear den at Gisak loot.
20 MR. GRANT:
21 Q Is Gisak loot well within Tenimgyet's territory?
22 A Well within our territory. When they got there it was
23 empty, and he said to his mother, "nit dim ax dii l--"
24 (speaking Gitksan). That just says -- do you want
25 to -- do you want me to interpret it?
26 THE TRANSLATOR: I just got as far as nit dim ax dii l.
27 A (Speaking Gitskan). You don't have to write. I can
28 interpret it.
29 MR. GRANT:
30 Q Can you translate that?
31 A Yes.
32 Q What does it mean?
33 A He says to his mother, "It is never empty, our bear
34 den that's situated at luu lax saaxsit."
35 MR. GRANT: Luu lax saaxsit is also on the map, my lord. It's
36 along the line, if you are looking at the map in this
37 way where that -- there is a sharp point going up to
38 the north and it's like a creek going up there and
39 along that is the name luu lax saaxsit. Do you see
40 that?
41 THE COURT: No, I don't. I am at Gisak loot, l-o-o-t.
42 MR. GRANT: Yes.
43 A Yes, Gisak loot.
44 THE COURT: Is that what you're talking about?
45 A Yeah.
46 MR. GRANT: Then he was referring to a name and that name is on
47 the map which is further to the northwest of Gisak

loot and it's along a dark black line which is like a creek and it's luu lax saaxsit, l-u-u l-a-x s-a-a-x-s-i-t.

THE COURT: Yes, I see that. I just don't know what the witness is talking about, though, when he says it's never empty. What is never empty?

A The bear is always there. That's what he's saying.

THE COURT: Yes. But where at Gisak loot?

A At luu lax saaxsit where wilp dagan is. Where you see that word wilp dagan.

THE COURT: All right.

A That's where another bear den is at wilp dagan.

MR. GRANT:

Q That name is on the map as well.

A When they got there the bear dens were empty. The curse --

Q Where is that?

A At wilp dagan. They camped there for about two or three days, because he had to go up luu lax saaxsit and there there were plenty of ax we call it in our language.

MR. GRANT: How is that spelled?

THE TRANSLATOR: A-x underlined?

A And it's simply root from a fern that's like a potato to them. They could roast it. And there was an abundance of them along this luu lax saaxsit. That's where you get a real plentiful amount there. And this is where he camped, his mother and he went to get some of this ax. Got back, they dig a pit, lined it with rocks to roast this the ax. It's like a potato to them. And they had -- now they are running out of their provisions and the only thing they had left was just a tiny piece of dried salmon eggs. We call am sk'iik'.

THE COURT: Mr. Grant, is it necessary that I have all these names? I am getting the narrative, but it seems to me that it isn't necessary to have all these names, is it?

MR. GRANT: Well, the shortening regarding this, my lord, is that the witness is translating in his own mind the adaawk as he is telling it.

THE COURT: Doesn't he understand that every time he uses a word we have to stop and get the spelling?

MR. GRANT: Well, with respect, my lord, some of these are referred to, these -- these resources that he's referring to are referred to by other witnesses and they will be referred to by expert witnesses.

THE COURT: But this witness can give them to me in English.
MR. GRANT: Well --
THE COURT: He just did. He said called them ax and he said they are like a root, they are like a potato. And he is going to tell us about a piece of dried salmon and then he stops and tells us how we say the piece of salmon in his dialogue, we have to stop and get the spelling, and it seems to me we have been at this narrative for quite a long time and I don't see at the moment any sign of it ever ending. Maybe you know better that it will end.
MR. GRANT: Well, yes. My lord, first of all, it will end and as the witness indicated yesterday it's a shortened narrative and as I indicated --
THE COURT: It took all yesterday afternoon.
MR. GRANT: That was a different narrative.
THE COURT: Well, on narratives of this kind.
MR. GRANT: Yes.
THE COURT: When I agreed reluctantly to hear this evidence I was told there was very little of it.
MR. GRANT: As I indicated to you yesterday morning, that's why I wished to refer to the matter on the opening, my lord, is that this -- as I indicated this witness will be -- this is the first witness that has -- or this witness is tying the adaawk to his territory. We are dealing here, my lord, with the boundary --
THE COURT: Mr. Grant, I don't want to get into --
MR. GRANT: Okay.
THE COURT: -- anything prolonged. I am just saying it seems to me this narrative can be given to me in English so I will understand it and have a meaningful understanding of what his evidence is. I am just getting a jumble at the moment, because it's so interspersed with the two languages which seems to me in this sense to be unnecessary. But I have to leave it to you to adduce your case as you think best, but I do think with the greatest respect that it's taking far too long.
MR. GRANT: Well, with respect to the place names, my lord, I think it is important, because those place names refer to different meanings as to the -- it's the knowledge of those place names.
THE COURT: I appreciate it's difficult. I appreciate it's very difficult, but I have to be -- especially after the experience this morning, I have to be a little bit conscious of the length of time we are taking for evidence that is of a particular kind which I was assured there wasn't very much of. And as I say, we

have been now more than half a day on it, and I don't want to be -- I don't want to be impatient, but I have to make sure that it doesn't get out of control and that's why I am raising it now. Go ahead, please.

MR. GRANT: Yes.

Q If you can, just with regard to the narrative, go ahead with it and where it -- if you can give the English words, that's fine.

A Sure.

Q But the place names, just -- you have heard the judge's comments and you can just continue with your evidence.

A Well, I appreciate that I know the knowledge rather than my friend here would go in later and say oh, he doesn't know what he is talking about -- he is talking about in English.

THE COURT: Don't worry about that, Mr. Mathews.

A Okay. Thank you.

MR. GRANT:

Q Okay. Go ahead with your --

A Anyway, they had this fish egg, dried fish eggs and this root from the fern. Then they left after, they left wilp dagan and they came to a place Yagaxa Loobit.

Q That's also referred to on the map, my lord. There is a triangle there, and a creek with that name.

THE COURT: Yes.

MR. GRANT:

Q Is the camp -- where is the camp in relation to it?

A Right at the junction there where that's another bear den.

Q Okay.

A And they came here and the bear den was empty. Nothing. And he knew his mother was near death. He had packed her some distance to get her just to this camp. So he made a good camp here, left her mother and continued down this Tsihl Gwellii.

THE COURT: What was it, his mother or his grandmother?

A His grandmother. To the place I had mentioned yesterday about the other adaawk, he was heading to this mountain haahl daax, just above Sand Lake, Dam Git axsol. That's where he was heading.

MR. GRANT:

Q That's the one you marked as number two yesterday?

A Number two, yes. They knew there was a bear den there, so he went there and he did found the bear there in the den. He knew his mother was dyeing, so

he quickly peel dressed the bear. Just took the liver and the heart. And hurried back. And get back to their camp at Yagaxa Loobit. Her mother was dead. She was still holding a roasting stick in her hand. He then cremated her mother there, her grandmother.

Q Right there?

A Right there at Yagaxa Loobit.

Q And is that where the location of that camp where the triangle is at the base of that camp?

A Yes.

Q Yes.

A He cremated his grantmother with the heart and the liver. As I mentioned the rules and the laws of the bear yesterday on the previous adaawk. He fulfilled that. Dried the rest of the bear and went back to Xsi gwin ixst'aat, the same route, and then told his brother Tenimgyet of what happened and what he did to his brother. And then now they amalgamated and there is only the head chief then was Tenimgyet and because of what happened the name Gaalaa 'uu even today must have curse of that -- that curse that nobody wants to use, and it seems to just left, but it still belongs to us. And the name 'Wii Hloots has been moved down. It lost power you might say of what they did.

Q When you say it's been moved down, you mean that the holder of that name now sits below -- it doesn't sit next to Tenimgyet, but sits past Tenimgyet --

A Yes.

Q -- as shown on Exhibit 348?

A Yes. That's what happened, because that curse that he brought on famine to his House, that's why Tenimgyet is now head of the --

THE COURT: The name that is not used is the name of --

A Gaalaa 'uu.

THE COURT: I am sorry?

A Gaalaa 'uu.

THE COURT: Yes.

A It seemed to carry that curse. Even when we give names we seem to leave it out. It's sitting in the wings on ice.

MR. GRANT:

Q I am referring you to Exhibit 348. Does that reflect what you mean when you say 'Wii Hloots' has moved down?

A Yeah. It's moved way down, yes.

Q That's the name of Horace Tait?

A Yes. Whereas before he was the head of the House.

Q I would just like to refer you back to Exhibit 349 for a moment, and you see the line, the dotted line, black dotted line which goes through these places and these bear dens that you have described, and I am referring to the one that starts at An gol hon but goes through Tsim tsitixs and then up and over all the way down to Yagaxa Loobit.
A Uh-huh.
Q Is that the trail or the route that your -- that Gaalaa' uu?
A That's what he used, yes.
Q Is that trail still used today?
A Yes.
Q Okay. Now, I would like you to refer to tab ten for a moment, which is a series of photographs. There are 50 photographs there, my lord, and I may say this, that some of them you will note don't have numbered stickers on them. I am not going to make reference to those ones because they are illegible and so I'll only make reference to those with numbers, and there is 50 numbered photographs. Now, you have had an opportunity to look at these photographs?
A Yes.
Q And do they show places on your territory and in the area you have described?
A Yes.
Q And you recognize those photos?
A Yes.
MR. GRANT: Okay. I don't know if my friend has any objection. I'd ask that -- this witness will be referring to specific ones. I'd ask that these photographs be collectively marked as the next exhibit. And then I will be referring to them.
THE COURT: Mr. Plant?
MR. PLANT: Well, my lord I didn't see -- I have never seen these photographs until yesterday.
THE COURT: But what difference does it make if the witness doesn't identify them, then they won't mean anything.
MR. PLANT: Well, that's --
THE COURT: So why not accede to your friend's suggestion.
MR. PLANT: I am happy to do that, my lord.
THE COURT: Mr. Macaulay?
MR. PLANT: Let me rephrase that. I will do that.
THE COURT: Thank you. Mr. Macaulay?
MR. MACAULAY: So will I, my lord.
THE COURT: Thank you.
THE REGISTRAR: Exhibit 351, tab ten of the black book of

1 documents.
2 THE COURT: 351?
3 THE REGISTRAR: Yes, my lord.
4
5 (EXHIBIT 351: Tab ten of black book of documents)
6
7 MR. GRANT:
8 Q Now, I'd like you to refer to photograph number 10.
9 Just one moment. We will start with photograph number
10 eight. Now, can you indicate to the court on
11 photograph number eight if there is any part of this
12 trail that is shown on that and what is the photograph
13 of generally? It appears to be a river or a lake in
14 the foreground?
15 A Yes. This is the Skeena River, Xsan. One of our
16 fishing sites could be identified on this photo. And
17 our trail could be identified.
18 Q Okay. Can you just mark -- could you just mark on
19 photo eight, with a number one, your -- the trail,
20 where the trail is shown.
21 THE COURT: Are we looking up the river or down the river?
22 A Down the river.
23 THE COURT: Looking down the river?
24 A Yes.
25 THE COURT: Yes.
26 A It would start here and go in that height of land and
27 over.
28 MR. GRANT:
29 Q Just a moment. I will give you a better pen.
30 A It would start here, my lord. It is that river, that
31 little creek I am talking about Tsim tsitixs comes
32 down. Starts here and goes there.
33 Q Just put an arrow the way it goes. Marked with a blue
34 arrow.
35 THE COURT: Yes.
36 MR. GRANT:
37 Q On photo eight. I'll return to the fishing site later
38 in your evidence. Now, photo number nine, does that
39 show it, part of the trail, nine and -- photo nine and
40 ten?
41 A Yes. It will -- this is a closer up of it. It starts
42 lower here and goes to the height of land over --
43 Q Okay. And I will take that out and you can just mark
44 with an arrow again what you've marked right on the
45 photograph itself. Here, you can use this if you
46 like. It's a bit better pen.
47 A It would start on the opposite side on the -- the

Skeena going here. You got to remember that the Skeena -- this is taken on the highway side. This is the river here, but across the river on this Tsim tsitixs, it starts here and goes over.

Q Okay. You are moving from the bottom left up.

A Yes.

Q Now, photo -- this in the foreground of photo number nine, is that Cedarvale?

A Yes.

Q Okay. From the highway --

A Yes.

Q -- the southwesterly end of Cedarvale. And does photo --

A Ten.

Q -- ten show any of this trail?

A Yes. From -- if you connect this picture together it would go here.

Q So you are going off the left side of photo nine and onto the right side of photo ten?

A Yes.

Q And you indicate an arrow. Okay. Just one moment. Photo 13, which is this photograph here?

A Yes.

Q Can you tell the court what that is and if that shows any part of the trail?

A Yes. This is what I referred to as Xsi gwin biyoosxw.

Q You are pointing to the just below what appears to be a bridge there?

A Yes.

Q And it would be the Skeena River in the foreground?

A Yes. That's the Skeena. That's Xsi gwin biyoosxw.

THE COURT: Which bridge is that?

MR. GRANT: It's on --

THE COURT: Yes. On 13. It's a railway bridge, is it?

A Yes.

MR. GRANT: Okay.

Q And there appears to be a valley behind that bridge, is that -- or a draw between two hills?

A Yes.

Q Is that where Xsi gwin biyoosxw is?

A This is Xsi gwin biyoosxw.

THE COURT: What is the name again?

THE TRANSLATOR: Xsi gwin biyoosxw is number 182 on the word list.

THE COURT: Thank you.

MR. GRANT:

Q Now, on photograph number 17 and 18 can you see where

the trail goes or where the camp would be? And I'm referring here to An sagan tseltxwit?
A Yes. Just the very tip of Lo'oba sagan tseltxwit.
Q Just a moment. I'll pull that out for you here.
THE COURT: What is 17 again, please?
MR. GRANT: He was pointing to 19, photograph 19, which should be beside 17.
THE COURT: Yes, it is, yes.
MR. GRANT:
Q And you are indicating there is just the tip?
A Yes. Little tip at the mountain here we call Lo'oba sagan tseltxwit.
Q Do you want to put a one on that? That's the -- if you look on the draw there, there is a very small mountain.
THE COURT: Yes. What is that?
A Lo'oba sagan tseltxwit.
MR. GRANT: Do you have a number for that?
THE TRANSLATOR: 419.
MR. GRANT:
Q And that's in photo 19 you are referring to and can you see the same place in photo 17?
A Yes. It's a little bigger, a little more here.
Q Can you just put a one on that. Now, is that mountain within your Tsihl Gwellii territory?
A Yes. That's the beginning. This other one where we gain access is Wii hlengwax territory.
MR. GRANT: Do you have a plaintiffs' number for that? It's on the plaintiffs' list, I think.
THE TRANSLATOR: 76.
MR. GRANT:
Q Okay. There is a large mountain on the right-hand side in the background of photo 17 and 19. Whose territory is that mountain on?
A Wii hlengwax.
Q Okay. Can you just put a two on that mountain just for the record, please.
THE COURT: Number two is in the territory of whom?
MR. GRANT: Wii hlengwax.
THE TRANSLATOR: That's number 76 on the plaintiffs' list.
THE COURT: Thank you.
A Put it here, too?
MR. GRANT:
Q Yes. Put it two, and the witness has marked number two. Now, on the map, Exhibit 349, can you see the mountain that you have referred to in photo 17 and 19 as being in your territory?

A Yes. If we are standing where this photo was taken.
Q Here. Just a second. I will give you the --
A If you are standing right where the photo was taken, you would be here.
Q You are pointing to right where the N is of Xsan?
A Yes. A little below that.
Q Okay. Just a --
A Yeah.
Q Just west of the first line on the N. Yes.
A And you go straight up which we are doing on this photo.
Q Photo 17?
A There is Lo'oba sagan tseltxwit.
Q And that's the one you have marked as number one?
A Yes.
Q Can you put an L where that is on the underlay of the --
A L?
Q L. And is the mountain in your territory?
A Yes.
Q Do you know the name of the mountain, the large mountain on the --
A Right next to it?
Q Right next?
A Where I put number two.
Q Yes. The Wii hlengwax mountain?
A Yeah. Genim wildigit.
Q Okay. Can you put a G on that where that mountain is on the map?
A This one.
Q Okay.
A What did you want me to put?
Q Just put a G for the initial of the first name. So the L refers to the mountain on number one on 17 and 19 and the G refers to the mountain you put number two on on 17 and 19?
A Yeah.
Q And you have indicated that's in Wii hlengwax territory?
A Yes.
Q You indicated at the time of Gaalaa uu's grandmother, a song of -- at her death he created a song of her?
A Yes.
Q And that is a song of your House today?
A Yes. It's a very used song. My mother sings it all the time.
Q Now, regarding this adaawk of the famine, were there

any laws that are taught through this adaawk of the Gitksan?

A Yes. What he did when he killed his brother and what happened was he brought famine to his House. That's the law that was taught on the previous adaawk I told you about, the Biis hoon, this Biis hoon on the wall. This is one of the secret things we have in our House is what to do and what not to do and one of them is killing each other within the House.

Q Now, I would like to refer you to tab four of the document book and the last page of that tab which is page 7. Is that your or your father's signature there?

A That's mine, yes. My dad's signature.

Q Have you had an opportunity to read over this affidavit and in particular paragraph five, paragraph seven, paragraph 12 and paragraph 14 of that affidavit?

A Yes.

Q Do you agree with what is stated there as to the boundaries of your territory?

A Yes. They are all -- they are all ours and within our territory.

Q And are these the same boundaries as were taught to you by your grandfathers?

A Yes.

Q And are these the same boundaries as were described in the adaawk?

A Yes.

Q And you agree with the names of the geographical features?

A Yes.

Q And in paragraph 13 he refers -- your father refers to other chiefs with boundaries on the border of your territory?

A Yes.

Q Do you agree with what he says there?

A Yes.

Q And in paragraph -- and in paragraph six he refers to the boundaries -- chiefs who have boundaries on the border of your Wilson Creek or Xsa gwin goohl territory. Do you agree with those boundaries -- with those neighbours?

A Yes.

MR. GRANT: I would ask that that affidavit be marked as an exhibit, my lord. It's an affidavit of Art Mathews Sr. dated March 3, 1988.

MR. PLANT: Well, my lord, my understanding of the procedure for affidavits was that my friends would be delivering affidavits of territories and that as and when those affidavits were delivered they could be filed and if my friend is tendering this as the affidavit of Art Mathews Sr., I take no objection to that. I have some concern with the proposition that my friend can put before this witness a statement of another witness and ask this witness if it's correct. It seems to me that that is not the procedure contemplated by your lordship's ruling on affidavits. It has the additional element of difficulty in that I had not anticipated that -- well, my understanding was from a review of the affidavit that Art Mathews Sr. was going to have filed on his behalf an affidavit describing the territories and the witness would be giving evidence of his territory -- of his territory, same territories, no doubt, but mixing and matching these procedures creates many difficulties. I'm not certain at the moment without giving it further thought whether what has been done right by my friends up to this point is within the scope of your lordship's ruling on affidavit evidence. And to that extent I would urge your lordship to consider that issue and I am afraid that I can't be of more assistance than that at this point.

THE COURT: Mr. Macaulay?

MR. MACAULAY: I have no submission to make. It is my friend who will be dealing with the affidavit.

THE COURT: Well, Mr. Grant, this purports to be an affidavit relating to or sworn by Mr. Art Mathews Sr. as a member of the House of Luuxoon.

MR. GRANT: Luuxoon.

THE COURT: Luuxoon. That's not the House of this witness?

MR. GRANT: No. He's the father of this witness and this witness has already described how he was born and raised on the territory and taught about it. And the only reason why it's the affidavit of his father is because if you refer to paragraph four it refers -- it refers to who taught his father.

THE COURT: Yes.

MR. GRANT: And basically his father is a generation older. So what he was taught about the territory I was concerned my friends will say, well, this is something new, but whatever, it is a depth question. This witness has identified and what it is, my lord, quite simply is I wanted to expedite rather than having this witness

1 describe in detail the boundaries for the court in
2 oral evidence, that this is exactly the kind of thing
3 that I understood that you suggested would shorten
4 some trial time and it would expedite the matter. My
5 friends have -- in a way it gives them a double
6 advantage if they wish. They can cross-examine Art
7 Mathews Sr. as contemplated by your ruling. They also
8 have the affidavit to cross-examine Mr. Tenimgyet, the
9 chief of the House. So rather than being prejudice
10 they are in some ways assisted. But in any event, I
11 didn't want to have to go round the boundary place by
12 place and spend some considerable time on that. I
13 thought it would be expeditious to do it this way.
14 The witness will refer to certain places on the
15 boundary in his evidence, but he's not -- I thought
16 that by doing it this way, that then you would have
17 this before you and you would see the boundary.
18 MR. PLANT: I would just make this observation. The expeditious
19 way of proceeding is that my friend tenders the
20 affidavit of Art Mathews Sr. in accordance with your
21 lordship's ruling. I am then given the opportunity or
22 the election to cross-examine Mr. Mathews Sr. and
23 that's the extent of the matter. What is not
24 expeditious is complicating it by adding Mr. Mathews
25 Jr., whose information comes in part from his father
26 and in part from his uncles. There is a very
27 expeditious way of proceeding here and that is for my
28 friend to tender this affidavit and that's it. He
29 doesn't need to ask Art Mathews Jr., the present
30 witness, to go over the same material and particularly
31 given that Mr. Mathews Jr. is unlikely to be of any
32 more assistance to your lordship than Mr. Mathews Sr.
33 on this point. The expert is undoubtedly Mr. Mathews
34 Sr., the expert if that's right term, so my friend
35 doesn't need to cover this area at all with this
36 witness.
37 THE COURT: Well, there is an insoluble problem here. The
38 evidence of Mr. Art Mathews Sr. seems clearly to be in
39 accordance with the cri de coeur that I made to save
40 time in proving these boundaries and I have heard no
41 objection to its admissibility. Mr. Plant and Mr.
42 Macaulay will observe the right if they wish to call
43 Mr. Art Mathews Sr. to be brought to court for
44 cross-examination. Whether that happens or not
45 remains to be seen. So there is no difficulty in my
46 view to the admission of this affidavit as proof of
47 whatever it proves. I have some misgivings about its

1 admissibility at all, but I have exhausted myself on
2 that subject in my written reasons and I say no more
3 about that and that is why I phrased my comment a
4 moment ago in the terms I did. The question that
5 arises is whether or not Mr. Grant is in view of the
6 information going to be entitled to lead evidence on
7 this question from the witness. I am not sure that we
8 have ever discussed this specific question in previous
9 exchanges that I have shared with counsel in this
10 regard, but I do not think that I have at any time
11 precluded the plaintiffs upon filing an affidavit to
12 confine themselves to the evidence of that affidavit
13 on the subject matter of the affidavit. If I have
14 made a ruling in that regard that I have overlooked, I
15 am sure counsel will remind me. But subject to that
16 it's my view that the plaintiff is not precluded from
17 adducing evidence on the subject matter of these
18 affidavits and that being so my view is that this
19 affidavit of Art Mathews Sr. should be marked as the
20 next exhibit, which I believe will be Exhibit 352, and
21 Mr. Grant is at liberty to pursue specific matters in
22 evidence with this witness in chief that are covered
23 by the affidavit, but I will rely on his
24 professionalism and good sense not to trouble me with
25 unnecessary duplication. There must always be some,
26 and I think no proper objection can be made to that.
27 It is, however, and I say this with no criticism
28 intended or expected, bad advocacy to have several
29 witnesses say what one witness has already proven.
30 But Mr. Grant knows what to expect in
31 cross-examination and it may -- he may feel it proper
32 to have the efforts of this witness on a particular
33 matter falling within the purview of the affidavit and
34 I would not stop him from doing that. You may
35 proceed, Mr. Grant.
36 MR. GRANT: Thank you, my lord.
37 THE REGISTRAR: Exhibit 352, tab four.
38
39 (EXHIBIT 352: Affidavit of Art Mathews Sr.)
40
41 MR. GRANT:
42 Q Can you tell the court on what --
43 THE COURT: I am sorry, Mr. Grant, there is one other matter
44 that I did intend to mention and that is that I do
45 think there is a problem with having one witness in
46 chief adopt parts of someone else's evidence. It's
47 leading, for one thing. It's both helping, for

another, which the Supreme Court of Canada have recently frowned upon, and I think that there may well be some proper objection to that. It's perfectly proper in cross-examination to put something to a witness and ask him if he agrees with it, but in chief it seems to fall afoul of the ruling. It's leading and is therefore possibly objectionable on that narrow ground. I add that merely to confirm that I have not overlooked the difficulty that arises out of the form of the question you put to the witness a moment ago. But perhaps your friends won't require strict compliance with that rule. We will see how we get along.

MR. GRANT: Yes. Well, my lord, that's one reason why I try to focus this witness on these specific paragraphs rather than having him reiterate them.

THE COURT: Yes. Well --

MR. GRANT: Is that a description of the boundaries that he knows. And maybe my next few questions will elucidate that. And I concur -- I am certainly not wishing to avoid the duplication of evidence where it's not necessary.

Q Mr. Mathews, have you heard these adaawk, particularly the starvation adaawk and other adaawk relating to your territories described in Feast Hall's or stated in Feast Hall's of chiefs of other Houses?

A Yes.

Q Can you give the court some example -- which Feasts you have heard those described in?

A The first one I told yesterday is always presented at a Feast at a stone raising Feast, not any other Feast, but the serious Feast we -- what I call serious Feast, the first Feast -- these Feast etc. have been all described. But the third one and the fourth one are the most important where all these, especially the last Feast we call Yukxw, what all of them are out, not just one, but the whole works are spilled out in front of everybody. All your Nax Nok, Ayuks and everything is out at the last Feast. You put up --

Q And that is -- the last Feast is called the Yukxw?

A Yukxw.

THE COURT: How is that spelled, please?

THE TRANSLATOR: Yukxw, Y-u-k-x-w.

THE COURT: Thank you.

MR. GRANT:

Q And that's where -- and you said that is where the Nax Nok and the Ayuks are performed?

A Yes. Everything. There is nothing left behind. You present everything before.
Q Okay. Can you tell the court at what Feasts, specific Feasts you have heard this adaawk described?
THE COURT: When you say this adaawk, you mean the adaawk of his House?
MR. GRANT:
Q Yes. Actually I think -- I appreciate the point, my lord, because you have given a number of adaawk. I am referring to the adaawk of the starvation and the adaawk of the caribou kill. Those two adaawk.
A Yes. I have heard it when I had a Feast about 1949, the Feast of Biilaxha, and the exchanging of the name when Charlie Smith returned the name to Jack Morgan.
Q That was the name Biilaxha?
A Biilaxha was given back to the rightful --.
Q Okay. Have you heard it at others Feasts?
A Yes. I have heard it again at my grandfather's stone raising. That's when Jeffery put up the stone for this which was mentioned again.
Q That's when you took the name?
A Yes.
Q Have you heard it again?
A And I have heard a lot of times, but I mean publicly.
Q In the Feast, yes.
A Yes. And various -- when I say various, I mean whenever that important comes up, important Feasts we do tell them.
Q Okay.
THE COURT: Can I have a number, please, for the name of the chief.
MR. GRANT: Biilaxha.
THE COURT: Yes.
THE TRANSLATOR: 446.
THE COURT: Pardon?
THE TRANSLATOR: 446.
THE COURT: Thank you. Thank you.
MR. GRANT:
Q Was there a headstone Feast for your other grandfather Jeffery Morgan?
A Yes.
Q And was this adaawk described there?
A When Jeffery's Feast, when we took Baax, we just told told the generality of it, and we are going to put all these adaawk together when we put up the Hawaaw' plan in the next year or so.
MR. GRANT: What's the number for Hawaaw'?

THE TRANSLATOR: 359.
MR. GRANT:
Q And that is a crest or a pole --
A Yes.
Q -- of your House? When the adaawk was told at these different occasions in public, with these territorial place names that you have given the court today, were they announced at the Feast?
A Yes. They were announced in various ways. They were announced as an adaawk and they were announced when you bring your soup, your tea, your bread, whatever, they are announced and said this so and so, this meat comes from, and they specify each mountain or its territory where it comes from. Each creek is mentioned. So in our rule and laws we say that if you eat and digest the words, it's within your very soul. That's why they do these things.
Q And at these Feasts were the other chiefs of Gtwangax present?
A Yes.
Q And chiefs of other villages?
A All the other villages, yes.
Q And have any of those chiefs at any of these Feasts ever disputed or challenged Tenimgyet's claim --
A No.
Q -- to these territories --
A No.
Q -- that you have described? And did this starvation or famine adaawk that you told us, did this happen before or after contact with white men according to how you've heard the adaawk?
A Before.
Q Did it happen before or after the arrival of guns amongst your people?
A It happened before the arrival of any.
MR. GRANT: This may be an appropriate point to break, my lord.
THE COURT: Thank you.

(PROCEEDINGS ADJOURNED PURSUANT TO MORNING BREAK)

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

Laara Yardley, Official Reporter,
United Reporting Service Ltd.

(PROCEEDINGS RESUMED PURSUANT TO A MORNING ADJOURNMENT AT 11:35 A.M.)

THE REGISTRAR: Order in court. Ready to proceed, my lord.
MR. GRANT: Yes.
THE COURT: Yes. Mr. Grant, please.

EXAMINATION IN CHIEF CONTINUED BY MR. GRANT:

Q Move to another area. You referred in your evidence to Nax Nok as being performed as one part of the feast. Have you -- why is the Nax Nok performed at the feast with the other chiefs?

Q The spiritual relation you have with your territory is what we call it. You relate yourself spiritually to the territories you own in various Nax Nok, like was taught so the Biis hoon --

Q Have you seen Nax Nok performed at the time that Charles Smith returned the name Bii Lax ha?

A Yes.

Q To Jack Morgan?

A Yes. That was an event that had to take place for transferring of name, raising of poles, but this occasion when I seen witnessed, I was there, was to transfer of name back to our house from Charles Smith as amnigwootxw. Put it on to Jack to transfer what we call Dax gyet, power, spiritually.

MR. GRANT: Do you have a number for Dax gyet?
THE SPELLER: I am not sure if it is in the list.
MR. GRANT: The spelling?
THE SPELLER: No. D-a-x-underline --
THE COURT: B-a-x?
THE SPELLER: D. Space g-y-e-t.
THE COURT: Thank you.
MR. GRANT:

Q Now, can you tell the court what happened when this Nax Nok of your house was performed?

A Yes.

Q What you saw?

A The actual name of sewing your Nax Nok is in our language, Luu hetxw halayt, Luu hetxw halayt which means you're going to sew the power which I described as Dax gyet, is going to be transferred to another person to exact its rightful line of that name, so therefore this had to take place. I remember very well that when people were -- this happened before, a day ahead of a feast, a Yukxw that these things were sewn and I remember very well that my grandfather was

1 walking back and forth at a back of a feast house.
2 Q Who was that?
3 A Charles Smith.
4 Q Yes?
5 A And he had a rattle and they were singing a song, a
6 welcome song that there was there. They were doing
7 this, a show of great respect. That's why they sing
8 these welcome song in our language. We call it Limx
9 laamjax, and spell that or keep --
10 MR. GRANT: It is okay. Do you wish a spelling, my lord?
11 THE COURT: No.
12 MR. GRANT:
13 Q The reporter has it, I am watching Ms. Stevens.
14 A These songs were -- and every time the chief, a
15 chief would come through the door, they would announce
16 the name of the chief coming in and one person was in
17 charge of seating him, and there might be two or three
18 people in charge of escorting him to his proper place
19 in seating arrangements. So as each chief came in,
20 they would announce his name and then with four, five
21 or sometimes up to eight people, all telling this
22 chief where to seat. It was a chant on its own.
23 Gi'ii simoogit and the other guy out in the back,
24 would say if you mixed the voices together --
25 THE COURT: I don't think there is any way the reporter can be
26 expected to take that down, Mr. Grant.
27 MR. GRANT:
28 Q Okay.
29 A And this went on until the feast. The seating was
30 all arranged for the sew, the sewing power taking
31 place, and this went on and the last chief came in,
32 they were going to seat him. Instead he went directly
33 to where my grandfather sing, grabbed him and throw
34 him out of the hall.
35 Q Charles Smith?
36 A Charles Smith was thrown out of the hall by this
37 last person that came in. And there is just a hush,
38 not -- you could hear a pin drop with the house low
39 like that when they hear this thing happened, grab him
40 and throw him out. And once he get up and say, why
41 did you do that, big chief. In any event, they were
42 still talking and there is a big knock on the door,
43 loud knocks at the door, and only one person came in
44 and announced what he seen outside and like they will
45 say the earth quakes outside, the mountains are
46 shaking, the earth is turning over. And he would say
47 this, another one came behind him and objected. He

said, no, I don't see anything; you're lying; there is nothing going outside.

The significant part of this is what they were doing was one -- the first one represented the spiritual part of the Nax Nok, he seen sort of eyes. The second person that came in behind him represented human eyes that we cannot see, what -- what I cannot see, cannot say, but the first one represented the spiritual, would seen these things. That was their role and, while they were doing this, the actual Nax Nok comes in and so everybody could see. Shall I give the Indian name of these --

Q Of those two people?

A Yes. We call luu lixs.

MR. GRANT: Do you have a number for that or a spelling?

THE SPELLER: Luu lixs is 350 on the word list.

THE COURT: I am sorry?

THE SPELLER: 350.

MR. GRANT:

Q Three five oh.

A And then the first --

THE COURT: I am sorry, is there another number coming? Were there not two names?

MR. GRANT:

Q No. This is the name of the two people that come in?

A Yeah, luu lixs.

MR. GRANT: There was just one name there, my lord. Did you have a note of --

THE COURT: 350, yes.

THE WITNESS: And then the actual Nax Nok and the first Nax Nok that came in was from our 'Nii dil.

MR. GRANT:

Q That's 352 on the word list, my lord.

A And 'Nii dil was -- 'Nii lil (phonetic), I mean Lelt.

Q L-e-l-t, that's a plaintiff's name?

A Fred Johnson is living today, still alive. His Nax Nok came in in the form of monkies or chimpanzees, we call Bek'is, and they saying a song or they speak a song and they went around and, when they were finished, they went out, and all of our Nax Nok were sewn, Xsim gil ax gyoo.

Q This was a Nax Nok of your house?

A Yes.

MR. GRANT: Do you have the number for that or spelling?

THE SPELLER: I don't think it is on there. Xsim gil ax gyoo,

X-s-i-m-space-g-i-l-space-a-x-underline-g-y-o-o.
THE COURT: Thank you. What is that, please?
THE WITNESS: That's just a robin, a female robin, a miss robin.
MR. GRANT:
Q Female robin?
A Female robin.
THE COURT: Thank you.
MR. GRANT:
Q That's one of the Nax Nok of your house?
A Yeah. We had various amounts of them. I don't know if I can be allowed to go in detail all the names. We got lots of them. This is just an example. What I am saying that, this went on the same thing repeated until we have the grand finale, the biggest one. The biggest Nax Nok we have in our house is we call Guxw saagit.
MR. GRANT: Do you have that one, Ms. Stevens?
THE INTERPRETER: 358.
MR. GRANT: Sorry?
THE INTERPRETER: 358.
MR. GRANT:
Q 358.
A And the same thing repeated these two assistants were doing and he came in and the Guxw saagit was done by my Uncle Andrew Derrick, Ax dii Mihl.
Q That was his name?
A That was his name, yeah.
Q At that time?
A Ax dii Mihl. He came in with a large butcher knife in his hand and he would switch it back and forth as he was performing. In the background, how it starts is that the singers behind the curtain were all virgins singing from -- these young girls are singers. In our language, we call them Aalisit.
THE SPELLER: 357.
MR. GRANT:
Q 357?
A They would be the ones singing in the background and it starts off very lightly, the song of Guxw saagit was being sung, and as it got further along the music -- the song got louder and louder and louder and louder until it comes to a crescendo of singing, it is really loud, when I seen my uncle ran up to my grandfather Wallace and looked like the Nax Nok cut -- basically cut his head off, and these luu lixs, it was just momentarily lift their blankets and, when they put it down, their head was on the floor as if it was

rolling around, and the body here laying here and the head here and it moved back and forth as if it was walking around on its own separated from the body, and you could see the blood squirting all over. And after he did this, grabbed the knife and throw it in the side and ran out of the hall. And it was a hush, people -- some people actually fainted to see this performance of Guxw saagit and then people were starting to have confusions and there was another knock and somebody says, the only way we can get him back alive is to go get halayt, get a halayt, which somebody did, somebody did came dressed all in button blankets, the apron, a rattle, a crown on their head, a doctor halayt. 'Wii T'aax halayt, he came in.

Q That's 354?

A He came in and looked at the body and the head and performed a medicine man's performance that he was going to heal but he didn't do it. He went over the body, all he did was pull out a small snake about a foot and a half long and didn't work, so he went out and I guess they call another -- a most powerful halayt 'Wii T'aax haalayt, the biggest one, the most powerful had to be called, which he did came. When he came in the door he had a burning wood, piece of wood in his mouth and a large rattle, big like a beach ball. He had a crown on his head made of grizzly bear claws around the head and he had all this stuff, bells on his feet, and he would walk, take giant steps like that as he came to walk towards the body. When he come to the body, he knelt beside it and looked at it and then he gently hit along the body with this big rattle.

Q You are indicating back and forth motions along the body?

A Yes, in a controlled-like manner. Then it intensified as -- it looked like he was really beating it after, took great big swings. As he was doing this, grabbed the rattle and put it in his mouth and never missed a beat, still shaking it with his head, going -- and it appeared that the body was coming off the floor.

Q Indicating he is stretching out his hands out over the body?

A Yes, over the body, and it appeared like it was coming off the floor. And he'd do this, and then he'd holler loud and a chant of its own, he say hapaa paa, hapaa paa, and then he went down and appeared that he

pulled a great big snake out of the person's mouth, a giant snake, and he pulled his out, and everybody seen the snake. He danced around the hall with it and then the head joined the body again and he got up and sat down.

Q Who got up?

A Wallace. When this was over and out the two halayts came, they had on am halayt, we called a crown filled with down. This is an indication of peace, that nobody was hurt, nobody was killed, no harm was done. That's why they had the 'miix k'aax they call it.

MR. GRANT: Am halayt is 383.

THE COURT: I am sorry?

MR. GRANT: Am halayt is 383.

THE COURT: That's something different from 354?

MR. GRANT: Yes.

THE COURT: Thank you.

THE WITNESS: And this was performed by three people, Andrew Derrick, Charlie Smith and Wallace himself, Wallace Morgan in the middle, and they 'miix k'aax to show peace, the down was filled inside the am halayt.

MR. GRANT:

Q Just if I could interject for a moment and show you tab 6 of the document book. Do you recognize that photograph?

A Yes.

Q What is that?

A That's am halayt, belongs to us.

Q Okay.

A And this here part where it was filled with down inside the top of the head part, filled with down. There are names, features on this thing that these here are actual -- what you call them from the sea lion --

Q Whiskers?

A Whiskers from the sea lion and this is where these came from. Actual trading was done through the kit katla people that wear most of these whiskers of the sea lion came from.

Q You are indicating on that photograph at tab 6, you are indicating the top part of it where those things are sticking up, and the eagle down was behind those when they were performing?

A Yes. These things we call after it is placed in am halayt, we call gaabuus.

THE COURT: Mr. Grant, you have got me confused I think. Are you sure you meant 358? 358 looks like Guxw saagit.

MR. GRANT: No. For which word?
THE COURT: 354 which sounds like Guxw saagit is 'Wii halayt.
MR. GRANT: Yeah. The last part of that halayt was 354. If I said 358, it is my mistake.
THE COURT: It should be 354.
MR. GRANT: Yeah, it is halayt, just the second word of 354 is the word he referred to and then --
THE COURT: I thought he called it 'Wii halayt.
THE WITNESS: That's the person performing is called 'Wii halayt.
MR. GRANT:
Q So that would be 354, my lord?
A But this one here is called am halayt, is crown.
MR. GRANT: And that's 383.
THE COURT: What is tab 6? 383.
MR. GRANT: Yes. And I'd ask it be marked as the next exhibit.
THE COURT: Tab 6 is what number, again?
MR. GRANT: 383, am halayt.
THE REGISTRAR: 353, my lord, tab 6.
THE COURT: 353?
THE REGISTRAR: Yes, my lord.

(EXHIBIT 353 tab 6 - MATHEWS BLACK BOOK B&W Photo - Am Halayt)

MR. GRANT:
Q Now, you said that the persons who performed this at the end were Charlie Smith and he -- that's when he was transferring the name back to your house?
A Yes.
Q Wallace Morgan, who was of your house?
A Yes.
Q And the third one was --
A Andrew Derrick, Ax dii mihl.
Q Of your house?
A Yes.
Q That is your uncle?
A Yes.
Q Who was the 'Wii halayt who performed with the large rattle?
A At the time it was one of my grandfather on my father's side, Edward Tait. At the time he had the name Yax yak.
Q That's number 90, I think, on the Plaintiff and Kitwancool Chief's list. This Guxw saagit that you described, was that -- and that's 358, my lord.
Maybe that's where the mix up was. That's the name

of the person performing the Nax Nok from my notation. What does that mean?

A Guxw saagit?

Q Yes?

A A murder. You don't -- monkey with nobody. The actual lyrics of the song, it says you challenge me; you bring your weapon; I will use it on you before you do it on my people.

Q And was that Nax Nok always in your house?

A It has always been within our house, yes.

Q Was it held by 'Wii hloots'?

A Yes.

Q 'Wii hloots'?

A Yes.

Q At any time?

A Yes.

THE COURT: Out of whose mouth was the large snake taken?

THE WITNESS: The body of my grandfather, Wallace Morgan.

THE COURT: From the body or from the head?

THE WITNESS: Yeah. It looked like -- appeared that they were pulling it out of the mouth, head part.

THE COURT: Thank you.

MR. GRANT:

Q Can you explain to the court how, if this Nax Nok relates to your power or as I think you called it your Dax gyet?

A Yes, actual name power is Nax Nok through -- so our tribe it says fearless, nobody. We look anybody in the eye and we don't get scared of them. That's hereditary I might add.

Q How did you feel when you saw this performance? What was the reaction you had?

A It is unforgettable. You could feel the spirit actually coming in you and that's -- you relate Nax Nok your land to your territory, to the whole house, spirit is given there through Nax Nok.

Q How long a period of time at this event did these -- the performance of this and the other Nax Noks take?

A It was a very lengthy -- if I went through all the Nax Noks that had to be performed, I think they started around one o'clock in the afternoon and they'd end at about four o'clock in the morning.

Q And did something occur after that or was that the end of this?

A No, that -- this is just the night before a feast, the Yukxw.

Q And without having to name all of the chiefs, from

where did chiefs come to attend this Nax Nok performance, from what villages?

A From Kitsegukla, from Kitwancool, yes, from Kispiox, from Gitanmaaxs, and all of the Skeena bands would be there including Kitwangax or 'Nii Dil.

Q Now, you remember when your grandfather Charles Smith died?

A Yes.

Q And at that time were you living -- where was your family living?

A We were living Kitwangax.

Q Did you live for part of that year at that time at Xsi gwin ixst'aat?

A Yes, we did live there until about a year before his death. We had a farewell, I might say, a farewell party at Xsi gwin ixst'aat. We prepared food. After we had eaten, he rose and spoke to us and give us instructions that these instructions be followed and he pointed at me and grabbed me, sat me on his lap and said some day you will be Tenimgyet. He sang Tenimgyet's xsi naahlxw and instructed my mother to memorize and know this song is going to come in at a later date. And that's what we did. Mom never forget the guxw saagit song, the Tenimgyet, the Ts'uw wijix song, the Ts'uw wijix song that I described earlier, the morning song, that's why these are in the house. And instructed us to move into Kitwangax to educate through the education system he is talking about, and then the Morgans had a large family. They moved in as rightful owners at the place. When I say rightful owners, that doesn't exclude us, but they were among the people that got to be there through them. That doesn't mean that we didn't go there. We didn't live there but we go there off and on, accompanying my grandfather, Jeffrey, Jack Wallace, and we lived in way back to Kitwangax and then we didn't stay there long. We moved to Kitwancool where my dad from the house of Luuxoon went back for a while and did a lot of trapping with his uncle Luuxoon. We stayed there about two years. Jeffrey Wallace, he came to mom and told him and balled her out and said don't stay away, don't distant yourself from Kitwangax. And mom said no, we are just here for my father's uncle live there, they work there. Their territory of Kitwancool.

Q You are referring to your father's uncle?

A My father, yes, and we only stayed away for two years and then we moved back to Kitwangax.

Q From then until -- from that time until the time that you took the name Tenimgyet, did you go out on these two territories yourself?
A Yes, quite often, through some of -- like I said to my grandfathers, through their sons, always go hunting goats together.
Q And where did you go hunting goats?
A Up above Wilson Creek, sagat, lots there, lots of goats.
THE COURT: I am sorry, the name?
MR. GRANT:
Q S-a-g-a-t. It is shown on Exhibit 349, I believe. I will just show you. Can you indicate where -- for the court where you went hunting goats?
A Sagat. This one saying the -- stay here for a minute, I will show you some more. We go hunting at sagat for goats, that's siiyuun, and that's spayt muxw. We missed that out spayt muxw.
Q It is in there?
A Yeah.
Q Between -- can you just put an S for spayt muxw?
A Spayt muxw is right next to it.
Q You are referring to it there.
A These are our goat hunting areas.
Q And were those all within your territory?
A Yes.
Q Okay. Just for the record, your S looks like it is outside but actually where you hunted would have been inside the territory?
A Yes, it is.
THE COURT: The spelling of the third location, please?
MR. GRANT: Spayt muxw?
THE SPELLER: Spayt muxw, S-p-a-y-t-space-m-u-x-w.
THE WITNESS: Why it looks like it appears it is right on the boundary, the heights of the mountain are on the boundary.
MR. GRANT: I see.
THE COURT: Can you tell me, please, I think we had it yesterday but I don't remember, when your grandfather Charles Smith died?
THE WITNESS: It was around 1949, in that area.
THE COURT: And then you moved to Kitwangax?
THE WITNESS: Yeah.
THE COURT: At about that time?
THE WITNESS: Yes. We didn't stay there long and then moved to Kitwancool.
THE COURT: You went to Kitwancool for two years and went back

to Kitwangax about 1951 or 1952?
THE WITNESS: Yes, and we have been there ever since.
THE COURT: Thank you.
MR. GRANT:
Q Did your family use the fishing sites at Wilson Creek?
A Yes, we did.
Q Between the time you left there and when you took the name Tenimgyet?
A Yes. We used one fishing site which is jointly owned by the Wolves and the Eagle. I mentioned Ant kii is. I went fishing with George Moore at the time who was T'ewelasxw.
Q Just a moment. Okay. I will be referring to Exhibit 31. You can put these -- put this away for a moment. Now, on Exhibit 31 which was introduced in the evidence I believe of Gwaans or Olive Ryan?
A Gwaans.
Q Can you see Ant kii is that you are referring to?
A Yes, right here.
Q It is the one that's just across from the Kitwangax Indian Reserve?
A Yes, and our house was placed right here. So we had a smokehouse right here.
THE COURT: I am sorry?
THE WITNESS: Fishing right -- I have referred was here Ant kii is.
THE COURT: Just downstream from the bridge?
THE WITNESS: Yes, and our house today located here, still located here, today smokehouse behind.
MR. GRANT:
Q Put a T where your smokehouse was on Exhibit 31? Okay. Now, can you explain to the court, Ant kii is there refers to it as a Lax skiik site under the name of Sakxum higookw on Exhibit 31? Can you explain to the court who you meant when you said this was a joint fishing site?
A Yesterday I referred that Tenimgyet, 'Wii hloots' and the Eagle Clan migrated up the river and that was the first village site at this site. That's why we'd access it through to that and I was fishing with George Moore who held the name T'ewelasxw.
Q And T'ewelasxw, that's --
A Lax skiik.
MR. GRANT: It is number 63 on the plaintiff's list.
THE COURT: I am sorry?
MR. GRANT:

Q Number 63 on the plaintiff's list. That's a Lax skiik or Eagle name?
A Yes.
MR. GRANT: Presently held by Allan Johnson.
THE COURT: I am not sure if I have grasped the explanation for the fact that he was using a fishing site which on Exhibit 31 is attributed to someone else. I don't know if he's given me that explanation or not.
MR. GRANT: Well, he actually was just explaining it so maybe you just missed it.
THE COURT: All I got was he was fishing with Allan Johnson of Eagle Clan.
MR. GRANT:
Q No. He was fishing with George --
A George Moore of the Eagle Clan who then held the name that Allan Johnson now holds.
THE COURT: I see. George Moore, yes.
MR. GRANT:
Q Now, you were referring to what you said yesterday. Can you explain to the court why you as a member of your house would be fishing at that site?
A Yes, because if you note the seating arrangements that half and half and they help each other. I mentioned yesterday that migration and 'Wii hloots' and Tenimgyet, that they share this law or rule was then applied here. That's when we jointly fished there. That's why we had access to go fishing in the site.
Q Okay. You are referring to Exhibit 348, the seating chart. Are you referring to the fact that you and the Eagles sit together?
A Yes.
Q In the feast hall. And yesterday you -- I believe it was yesterday, you gave evidence that the -- at the time of the migration, Tenimgyet and 'Wii hloots' came up with the Eagles?
A Yes.
Q Towards Kitwangax?
A Yeah.
Q And where did they first settle?
A They first settled here at Ant kii is.
Q Where that's shown on Exhibit 31?
A Yes.
Q Where that site is located?
A Yes.
Q So in the Gitksan law, who is the owner of that site?

A At the time -- there is quite a history in this one, but at the time I am talking about with -- remember the rule, I said who speaks first because they were older than us. There were simgigyet and Lax gyet at the time that rule was applied. They speak ahead of us, so they held it but we had access to it by permission.

Q So the Eagles held that site but you had rights of access?

A Yes, if we ask permission.

Q Is that what you did?

A Yes.

Q Now, since I have the map out already and I may just comment here, my lord, that in case there -- it was some months ago when we dealt with this map, a witness Mrs. Ryan described a large number of these fishing sites but she left a gap in the river and these were the sites of Tenimgyet. And I am now going to refer you and ask you to describe these fishing sites with reference to Exhibit 31 and also explain why certain of them have the names they do. Now, maybe the easiest way to go is just to follow the right bank, that is, as your facing downstream and start up river and the first one would seem to be close to what is marked on Exhibit 31 as Woodcock and it says 'Min golhl hon; is that right?

A Yeah.

THE COURT: I am sorry, are you above or below the bridge?

MR. GRANT: I am below the bridge. If you go downstream, my lord, you will see a reference to Airfield and Woodcock on the right bank.

THE COURT: Yes, thank you.

MR. GRANT:

Q You see that, and then the first fishing site on that bank is the one that I would refer the witness to to start 'Min golhl hon. This is -- is that the most upstream site of Tenimgyet?

A No, that's the lowest. Two den here, right. This is another t'in, they call 'Min golhl hon, and there is a sword, an adaawk about this 'Min golhl hon. One time their den was empty and they didn't know what was going on so they placed people here, guards, like to keep an eye on it, see what's happening. One night the guards reported physically seeing fishes go around the den on their tail. They wabble, walk like that around the den. That's why the men call T'in.

Q What does that name mean?

A The description of it is where the fish ran -- physically ran on land around that -- it will be only a space like that but they could run around. That's why it is call 'Min golhl hon.

Q Just to connect this to Exhibit 349, the map that you have been referring to, can you indicate to the court where An gol hon is in relation to that fishing site?

A Just above the airstrip there.

MR. GRANT: Can you put with an A with a red pen here, just mark it with an A on Exhibit 31 where An gol hon would be?

THE COURT: Well, isn't it marked?

MR. PLANT: Yes, my lord. I have a concern with the evidence that's been given because I have a note that on June 14, 1987, this document was corrected by my friend and Mrs. Ryan, and so that the word that appears 'Min golhl hon was corrected by --

THE COURT: To a-n.

MR. PLANT: Yes, and there was a substantial volume of evidence given by Mrs. Ryan about the fishing sites of this witness at that time.

MR. GRANT: Well, I -- I will review -- there is no intent to repeat evidence but, as I recall, my lord, I led that evidence and it is -- I recall she did not give evidence of these sites.

THE COURT: She described the name that -- she corrected the name and I have a note that it was 358 which is, if that's --

MR. PLANT: 358 is the note I have.

THE COURT: Is the number of the name on one of the lists and it is shown to be Tenimgyet.

MR. GRANT: Okay. Well, thank you.

THE COURT: That doesn't stop you from adducing any evidence you want to adduce about it --

MR. GRANT: No.

THE COURT: -- as long as it is not repetitious.

MR. GRANT: Yes.

THE COURT: She didn't talk about the next two sites.

MR. GRANT: Right.

THE COURT: Well, I don't think she talked about the next four sites which are said to be Tenimgyet.

MR. GRANT: That's right. We left a gap there of those sites as I recall.

THE COURT: Yes, but this one An gol hon she did talk about.

MR. GRANT:

Q Is there a fishing site known as An gol hon?

A Yes.

Q Can you indicate to the court where that is in relation to the triangle marked on the map?
A Yes, right here.
Q Can you put an A on Exhibit 31 where that is?
A Right beside here.
THE COURT: Is it not where the triangle is?
MR. GRANT: No, it is upstream, my lord.
THE COURT: Upstream further than the large A?
MR. GRANT: Yes, just beside the large A just at the bottom end of the bend there at the same side of the river.
THE COURT: Upstream or downstream to the big A?
MR. GRANT: Pardon me?
THE COURT: Upstream or downstream to the big A?
MR. GRANT:
Q Upstream to the big A?
A Yes.
THE COURT: Yes.
MR. GRANT:
Q Now, was An gol hon, was there a village there?
A Yes. 'Wii hloots had a village there. Looking after this den and the village was called An go'ohl hon. That simply means where people go to get fish, anybody could go get it from 'Wii hloots.
MR. GRANT: Now, moving downstream on the same bank.
MR. PLANT: May I have a spelling before we continue for the name of the village?
THE SPELLER: It is number 450 on the word list.
THE COURT: Thank you.
MR. GRANT:
Q Going downstream on the same side of the river there is a site -- there is another triangle. Is that the next fishing site of your house?
A Yes. There is two at that site.
Q There is two fishing locations at that triangle?
A Yes, yes, and these sites are primarily used when the river is high for spring salmon, early spring.
Q Are they used today?
A Yes.
Q And you're referring to the site at the bottom -- where the arrow from the triangle is?
A Gwanksim tsim an alak'.
Q Gwanksim tsim an alak'?
A Yeah.
MR. GRANT: That's referred to on the map. You have that, my lord?
THE COURT: Yes.
THE WITNESS: And why they named it that is like an angry woman.

There was a little spring there that used to come and disappear. They say, well, Gwanksim tsim an alak', that means the woman is mad again; there is no water coming out and that gives the water and so that's the description of that name.

MR. GRANT:

Q Is that fishing site still used today?

A Yes.

Q By your house?

A Yes.

Q And then going downstream again?

A This one is called Tsi winhl lo'op.

Q Yes?

A And this again is used when the river is high for spring salmon use and moving up river -- I mean down river. Yeah, we are going down river is Tsa win lo'op.

Q Before you proceed is Tsi winhl lo'op, is that still used today by your house?

A Yes.

Q I am sorry, go ahead?

A This Miinhl am Bookst is a unique site to us. That was the last request while Jeffrey made to me that he -- when he was still alive, we asked permission to build our smokehouse here. He left instructions to leave this place open for himself to use when he comes, and he gave me a photograph of how Xsi gwin k'ohl look like.

Q Refer you to tab 11 of the document book. Do you recognize that photograph in tab 11?

A Yes. This is Miinhl am Bookst and that's actual --

Q Go ahead.

A This is the -- the actual net.

THE COURT: I am sorry, which one is tab 11?

THE WITNESS: Miinhl am Bookst.

THE COURT: Oh, yes, thank you.

MR. GRANT:

Q You are indicating on the photograph that's the net?

A Yes, that's my grandfather's net. You could see him, he is the one in the middle there, Jeffrey.

Q There are three persons on the beach and he is the middle person?

A Yeah. He is the one in the middle.

Q Okay.

A The reason he gave me this photo, he showed me this is the place he wants to keep when he was alive. He was getting old, and he said, you guys can go anywhere

but I am getting old and come right off the road here and come and fish. That's why he give me this photo.

MR. GRANT: Okay. I'd ask that that be marked as the next exhibit.

THE COURT: Yes.

THE REGISTRAR: 354 tab 11.

(EXHIBIT 354 tab 11 - PHOTOGRAPH)

THE WITNESS: There are two sites here, leave it open, and the one coming out you see Xsi gwin k'ohl and that's the mouth here.

MR. GRANT:

Q Okay. He's referring to the name of the creek, my lord, which on the map is Xsi gwin k'ohl?

A Yes.

Q On Exhibit 31, and it is in brackets under it, Wilson Creek. Then you referred to the mouth of that creek on the photo and maybe you could just put a W where the mouth is so for the court's reference?

A Coming out of here, yes. It is just out of sight there. It comes from out here.

THE COURT: Just around the corner?

THE WITNESS: Yes.

MR. GRANT:

Q But below the bar that stretches into the river?

A Yes. And that where they used to go there fishing with tip nets when the river is high. That's just a big back eddy in there and that's where they did their tip net fishing. We called 'yuusxw.

Q Now, is that site used today?

A Yes, when the river is high, and remind the court that this river was never always called Xsi gwin k'ohl.

Q You are referring to what's marked on the map?

A Yes, Butcher Knife Creek, but in ancient time when the -- my people are fear -- God-fearing people. When the missionaries came, they change the name to Butcher Knife rather than its original name. My grandfather made sure I tell you guys that original name was K'otxw which is Penis Creek in our language.

THE COURT: Are you talking about Wilson Creek?

THE WITNESS: Yes.

THE COURT: Well, and you are saying that Butcher Knife Creek is the former name of Wilson Creek?

MR. GRANT:

Q No. The translation of Xsi gwin k'ohl is Butcher

Knife Creek but what he's just given you is the original name before it was called Xsi gwin k'ohl?

A That -- but the original name is Xsa gwin Goohl. When the rail line came through, they couldn't say this name and at the time Paul Wilson was living here, that's why they call it Wilson's Creek.

Q Paul Wilson was related to Charles Smith?

A Yes, his father.

MR. GRANT: Okay. May be an appropriate time to break, my lord.

THE COURT: All right. I'd just like to see if I understand something. I'm looking at Exhibit 349, Mr. Grant. I did not understand that this area of the creek -- of the Skeena River we are talking about now was in the territory of Tenimgyet. The map Exhibit 31 suggests that it is. Is this river frontage where these fishing sites are in the territory of Tenimgyet?

MR. GRANT: Yes. If you look at -- there is two territories referred to on Exhibit 349. One is that large territory over to the west end.

THE COURT: Yes.

MR. GRANT: And the other you see is -- there is a label Xsa gwin Goohl.

THE COURT: Yes. That's that small crooked finger that extends northward from the river.

MR. GRANT: That's right, and you can see Wilson Creek actually through the red there on that small crooked finger section.

THE COURT: Are we a way up there?

MR. GRANT: Yes.

THE COURT: Let me just --

MR. GRANT: That's why I wished the witness to put an A where An gol hon is because that would show you where it is on Exhibit 31.

THE COURT: I think, Mr. Grant, we will clarify this after we resume at 2:00. Thank you.

MR. GRANT: Certainly, my lord.

THE REGISTRAR: Order in court. Court will adjourn until two.

(ADJOURNMENT AT 12:31 P.M.)

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

TANNIS DEFOE, Official Reporter
United Reporting Service Ltd.

(PROCEEDINGS RESUMED PURSUANT TO LUNCHEON ADJOURNMENT)

THE REGISTRAR: Delgamuukw versus Her Majesty the Queen at bar, my lord.
THE COURT: What is it we were going to straighten out, Mr. Grant.
MR. GRANT: I think we were straightening out two maps.
THE COURT: Oh, yes. Well, what I am looking at is Exhibit 349.
MR. GRANT: Yes.
THE COURT: If the House boundaries are the heavy line, the dot and the dash --

MR. GRANT: Yes.
THE COURT: -- the westerly property, T-s-i-h-l G-w-e-l-l-i-i doesn't front on the river at all.
MR. GRANT: No, it does not.
THE COURT: So all these fishing sites we are talking about are in that area of about maybe two miles that front on the Skeena?
MR. GRANT: That's right. The Wilson creek or Xsi gwin ixst'aat area.
THE COURT: All right. Now that's quite different from map Exhibit 31.
MR. GRANT: I am sorry, my lord, in what centre are you saying? Aside from the scale.
THE COURT: It shows House boundaries and Tenimgyet extends from the airport --
MR. GRANT: Yes.
THE COURT: -- downstream to --
MR. GRANT: Below Cedarvale.
THE COURT: Yes. Below Cedarvale. Not below Xsi gwin ixst'aat. Downstream to that site Dip win Gaak T'aat. Yes. That's right. And I assume from that that the areas we are talking about and particularly what I am looking at these sites that the witness has described which refer to the angry woman, the high river sites of which there are four in a row, were not falling within that short distance, that two mile frontage of the river that I spoke about a moment ago.
MR. GRANT: Well --
THE COURT: The two maps can't -- I don't think the two maps can be reconciled. That doesn't mean there is anything special in that. Perhaps Exhibit 31 isn't an accurate depiction of the House territorial boundaries.
MR. GRANT: No. The purpose of Exhibit 31 of course was to show the fishing sites.
THE COURT: Yes.
MR. GRANT: And the House boundaries were a background.
THE COURT: Yes.
MR. GRANT: This witness has described that the accurate boundaries are set out on Exhibit 349.
THE COURT: Right. And can I take it then that what the witness is telling me is that these four fishing sites shown on Exhibit 31 all front on this area -- on what would be the easterly of the two territories of this House?
MR. GRANT: Yes.
THE COURT: Well, you see, the trouble with that is that Kitwanga is where the bridge is and I have got it placed on the -- on the Exhibit 31 a considerable

distance upstream or upriver from these fishing sites. Now, that may be reconcilable. I just don't know.

MR. GRANT: Yes. Well, my lord, if you have -- if on Exhibit 31 the witness -- my friend interjected and the witness referred to An gol hon on Exhibit 31. Now he marked it with an A.

THE COURT: A moment ago. Wait until I find it.

MR. GRANT: It's down where that airfield is marked.

THE COURT: Yes, I have it, yes.

MR. GRANT: And Mrs. Ryan had already referred to An gol hon and in fact on my copy of Exhibit 31 we wrote it in --

THE COURT: Yes.

MR. GRANT: -- at that stage.

THE COURT: Yes.

MR. GRANT: I was looking at the exhibit when I was questioning the witness. That's why I didn't realize it was in.

THE COURT: Well, tell me, is that airstrip in the easterly territory of this House?

MR. GRANT:

Q The airstrip at Woodcock, is it in your territory?

A Yes. Part of it. The very tip is outside. The bulk of it is outside.

THE COURT: The difficulty arises out of the difference in scale and I just assumed the distance we were talking about were greater than they are here.

MR. GRANT:

Q Now, if you look at Exhibit 31 you can see there again within that easterly territory the name Woodcock, a depiction of an airplane.

THE COURT: Airfield? Airfield, yes.

MR. GRANT: Airfield. And Woodcock airfield and An gol hon written in black over it. I said Exhibit 31. That should be Exhibit 349. So that --

THE COURT: I don't see --

MR. GRANT: That matches the location of the airfield in Woodcock on 31.

THE COURT: Oh, that little red dot is an airplane, is it?

MR. GRANT: You see there --

THE COURT: By that triangle?

MR. GRANT: Right beside the hollow triangle there is a little red airplane.

THE COURT: Yes. All right. Well, as long as I am understanding you then. These fishing sites are all in the easterly territory of this House.

MR. GRANT: Yes. Now, we're going to move downstream and he'll discuss some that are outside, but he'll explain why in due course.

THE COURT: Yes.
MR. GRANT: The witness will.
THE COURT: All right. Thank you.
MR. GRANT:
Q Okay. Now, before going back to -- okay. You see the airfield on Exhibit 31, Mr. Mathews. You said that that airfield or part of it was in your territory?
A Yes.
Q Does your territory include the location of where An gol hon, the village is?
A Yes.
Q Okay. Which is marked on Exhibit 31 with an A.
THE COURT: Yes.
MR. GRANT: In red.
Q Now, you were describing before the break, before the lunch hour, you were describing this site that your grandfather Jeffery wanted to keep shown on the photograph at - and you don't need to refer to the photograph at this moment - at tab 11.
THE REGISTRAR: Exhibit 354.
MR. GRANT: Exhibit 354. Exhibit 354.
Q Now, do you have a smokehouse near that site today?
A Yes.
Q And where is it located on Exhibit 31?
A Right at Miinhl am Gookst, just about the bank. The picture you see in that I show this morning is on the river bank here.
Q Just below the triangle?
A The smokehouse is situated right up above it.
Q Okay. Is it upstream or downstream of the mouth of Wilson Creek?
A Downstream.
Q Okay. I would refer you for a moment to tab 7 of your document book. I will put this aside for you. Now, there are three photographs there. Do you recognize the two photographs of the building, one on the first page and one on the second page?
A Yes. This is our smokehouse. When I say our, it belongs to our House, Tenimgyet's House.
Q Is that the smokehouse that is at this site?
A Yes.
Q And is it still standing there?
A Yes.
Q And just -- there is another photograph above that on the second page. And what is that a photograph of?
A Photograph of my mother and my dad.
THE COURT: I am sorry, where is this smokehouse? This is not

the one you marked this morning up by the bridge?
A No.
THE COURT: Where is this one?
A This is at right by the mouth just below the Wilson Creek.
THE COURT: At the spot marked A by Wilson Creek?
MR. GRANT: No, no.
THE COURT: Are you on Exhibit 31?
MR. GRANT: No, my lord. That's An gol hon. Wilson Creek you can see it's at the fishing site.
THE COURT: Yes. All right.
MR. GRANT: Just above Miinhl am Gookst.
THE COURT: Yes. All right.
MR. GRANT: Which going downstream is the fourth fishing site.
THE COURT: Yes.
MR. GRANT: On the right bank that's under -- that's got the name Tenimgyet on it, on Exhibit 31.
THE COURT: Yes.
MR. GRANT:
Q And is this -- which way is this looking?
A From the river bank up, if you are standing at the river bank you can look up away from the smokehouse. If you were standing here you could picture this way.
Q So it's face -- it's like with your bank toward the smokehouse looking up?
A Yes.
Q In the mountain in the background of that picture whose territory is that on?
A Half of it is ours. It's the boundary line of -- our boundary line goes down the draw here we call Ansa delhl aks.
Q Can you just mark on the exhibit where that boundary line is with a line. I am sorry, I am taking my hand out of the way.
A This are -- I will just explain this for a moment. This comes up like this and that's what we call An jagwas, and there is a little draw here and this little creek going up here we call Ansa delhl aks.
Q Is that the boundary there?
A Yes.
Q Mark it with a red line. Now, just to explain what you are just describing, that first name you gave was on the left-hand side and above --
A Yeah.
Q -- the picture and there was a draw where your red line is?
A Yes.

Q Okay. I'd ask that those be marked as the next exhibit and --
A Berry patches is on here, too.
THE COURT: No objection, Mr. Plant? Mr. Macaulay?
MR. MACAULAY: No, my lord.
THE COURT: Okay. Exhibit 355.
THE REGISTRAR: Exhibit 355.

(EXHIBIT 355: Three photographs: Two of smokehouse and one of territory from the smokehouse)

THE COURT: Three photographs.
MR. GRANT: And that's three photographs, two photographs of the smokehouse and one photograph of the territory from the smokehouse.
THE COURT: Yes.
MR. GRANT: At tab seven.
Q Now, when was that smokehouse built?
A We began building this shortly after I received my name in 1981. I mentioned it yesterday that I had to go ask permission from my grandfather Axtii hiikw to have this smokehouse built here.
Q Why did you have to go and ask him permission after you got the name Tenimgyet?
A Because we were always taught to respect our elders and that doesn't mean that I have a name like that I can go and do things on my own. We have to ask permission and direction. And like he did, he give us -- granted our wishes with the exception of one fishing site he wanted left open for him to use whenever he's there. But he says if I'm not there you are quite welcome. If I'm there, I want the site to use myself personally.
THE COURT: But it's in your territory?
A It is in our territory.
MR. GRANT:
Q Now, this smokehouse, the two pictures in front of you, Exhibit 355, they appear to have crests drawn on them?
A Yes.
Q Can you just tell the judge, looking at the photograph on page two of tab seven, Exhibit 355, there are four crests. Could you just tell the judge what they are going from left to right?
A The biggest one here is what we call Tsiipxwa smex. That belongs to us.

THE TRANSLATOR: 351.
MR. GRANT: 351.
Q And what is that?
A These other two are bear cubs, Biis hoon bear cubs. We call it in our language Si awehlxwm smex.
Q And those are the two middle figures that you are referring to?
A Yes.
Q Do you have a number for that?
THE TRANSLATOR: Si awehlxwm smex, S-i a-w-e-h-l-x-w-m s-m-e-x.
THE COURT: I am sorry, the last word?
THE TRANSLATOR: S-m-e-x.
THE COURT: Thank you.
MR. GRANT:
Q And how would you translate the meaning of the first name, that is the large one on the left?
A Ensnared bear.
Q Ensnared bear?
A Yes.
Q And what is the last figure, the furthest to the right?
A This one is the Hawaaw'. And that's a lion.
THE COURT: Lion.
MR. GRANT:
Q Lion.
A We have an adaawk to that which we will get to later.
THE COURT: I saw it this morning. What's the number, please?
THE TRANSLATOR: 359.
THE COURT: Thank you.
MR. GRANT:
Q Okay. Do those four crests belong to Tenimgyet's House?
A Yes. This smokehouse has a name. We had a grand opening. We invited the chiefs at our grand opening and we gave the name to this smokehouse at Guuks haitixit. So the smokehouse is named Guuks haitixit. Standing on the bank.
Q That's what that name means?
A Yes.
MR. GRANT: Do you have that number or spelling for that?
THE TRANSLATOR: Guuks haitixit. G-u-u-k-s h-a-i-t-i-x-i-t.
THE COURT: Thank you.
MR. GRANT:
Q Now, I just wanted to be clear on one point, Mr. Mathews. You said that your grandfather Jeffery asked that he could use this fishing site which is shown on Exhibit 354, that picture we looked at this morning.

Is that the only fishing site right at this smokehouse?

A It's right below it, yes, on the top. If you see where I identified to Hawaaw'.

Q Yes.

A Walk straight over the bank from there behind the smoke -- it's right below it.

Q Is there any other -- is there another fishing site right in the location?

A The one that I described this morning at Gwin ixstaat. So the about where they did dip-net fishing in high water.

Q And that was -- and that's again right at -- right at the location of the smokehouse?

A Yes.

Q Okay. Now, I believe you referred to Xsi gwin ixst'aat as a central or a lookout place?

A Yes.

Q And is that -- is that reference -- is that in the same place to where the smokehouse is now located?

A Yes.

Q And is that where Tenimgyet's House was in the earlier time?

A Yes. There was a House there, a building.

Q Okay.

A This is not the only building that exists in this general area. You walk across that creek, the Wilson Creek, there is a smokehouse and a House on the opposite side which belonged to Jeffery. Ax tii hiikw. That is why we ask permission to build our House on this side. We didn't want to interfere with him because he had, like I said, a large family used it.

Q Now, I would just like it if you would clarify what -- why Tenimgyet's House was at this place called Xsi gwin ixst'aat?

A It's a strategic point. Like I said, that they placed the centinnel guard, a watchman at the mouth of the river in the picture I showed this morning identification -- identify, and this, the look-out you might say a first line of defence against intruders, war years from down river.

Q Was the smokehouse or was Tenimgyet's House visible from the river?

A Yes.

Q Okay.

A And it's one of our look-outs. If you are going

through somebody's territory you have to stop at this particular place we call anjok.

MR. GRANT: Do you have a number for that or a spelling?

THE TRANSLATOR: Anjok, A-n-j-o-k.

A The people going through our territories have to report at this anjok to the chief that they are going to use your territory to go through it for access of their territory maybe or trading or whatever. The rule specifies the law you have to stop and check in like and tell the owners of that territory your intentions. And then in turn they give you a pilot to go through your territory in a friendly manner. If you do not stop at this particular site, or just using our site for an example but all sites are the same, if you don't report into this anjok, then they had -- they know you had other intentions. You might not attack this village, but they will stop you and ask for your -- whatever intentions you have of governing up -- further up the river.

MR. GRANT:

Q And this applied, this rule applies --

A To anybody.

Q -- to all the Gitksan?

A Yes. Even today people that are riding up and down the river stop off and just chat for a minute and take off.

Q I'd like to refer you back for a few minutes to Exhibit 31 and the next site downstream shown on Exhibit 31 is Guun gibuus?

A Guun gibuus.

Q Is that the next site of your House?

A Yes.

Q On that side of the river?

A Yes. That belongs to us.

Q Uh-huh.

A There is about three sites here that's good all year round, both high water and low water. Three sites here for fishing.

Q This is at Guun gibuus?

A Yes. First two are gillnet. We use gillnet now and the third one down we use for trapping eels. We call them lok'.

Q What type of salmon do you catch there?

A Lok'?

Q No. The first two sites, the gillnet site?

A Oh, it's good from year round from the spring salmon to the sockeye to the coho.

Q Okay. Were you present when eels were caught at that site?
A Yes. I have fun there.
Q How were the eels caught?
A It was caught by making -- if I could just get a cup here. Almost looks like one of these cups of the trap that was made, it looked like similar to that. About the size of the growth, if you stood up they measure it up to your shoulders how big this trap was and it was made out of long sticks, the big finger. They measured their finger to measure these lengthwise. And it would go around. They made around first a bigger one and then a smaller one like this, it tapers downs to a smaller hole at the end. If we cut a hole in this cup, smaller, that would -- and it would face at -- like the river's coming this way, it would face opposite from the river, because the migration or the flow of the eel comes upriver.
Q Okay. So just for the record, you are indicating that it's an -- you are using a styrofoam cup and you are indicating that it's built with a large opening on the downstream end?
A Yes.
Q And it's built with a smaller opening at the upstream end?
A Yeah. If you doubled that and reduced the size and gradually tapered this down as a funnel, that's how it looked like.
Q Yes.
A And the eels would get in there and they had no way out, because once they are going plus -- once they get in there they are pretty impossible, a lot of them, a few of them would get away, but most of them were caught. And they would go in. And as we are setting this up, we make picket fence along from the -- from the bank out. These were made out of jackpine. Picket fences. Until it got up to your shoulders and that's where you would place this. And a sgana was put over it to hold it down.
MR. GRANT: Do you have sgana?
A It's just a mat made out of cedar.
MR. GRANT: You have that?
THE TRANSLATOR: Uh-huh.
A And this would hold this thing down, this trap down.
MR. GRANT:
Q So the mat or the sgana would be on top of it?
A You have to hold it down so it wouldn't float.

Q One thing is you said up to your shoulder, is that how far out on the river you would go?
A Yes. That's how, and there is a certain sign we use at the first minute we catch the first pinky, all nets were taken out of the river and concentrate on these lok', the eel. And that was -- and the fence picketing continued because it's not too far, but very little.
Q Was the picketing right together?
A Yes.
Q Posts right together?
A Yes.
Q So they couldn't go between?
A Yes. And these things, as soon as daylight if you leave it too long they notice the opening, they would get out. So naturally you have to get up quite early in the morning, about four o'clock in the morning we get up to take these to visit these traps. These I say when -- one, this trap, and they are quite slippery. You can't hang onto them. And they would take these traps and dump them into the bent box. I described the bent box yesterday. Galenk we call it. And that's how they dump in there and tied it tightly around so they wouldn't get out. Because if they dig it out, like I said you can't hang onto them, they are really slippery. They are black in colour. We would take these to the smokehouse and in order to assist the ladies because they can't grab them too well, we used to tuck our arms in there. They would suck on you, hang onto it. You would hang it up to your mothers and they would slit it here and it would let go quickly. Clean it that way. So that was the things we did here at Guun gibuus and we used that lok'. We hardly -- we don't eat too much of it, but we use it primarily for trading with the Wet'suwet'en.
Q Okay. Before -- you said you would take them back to the smokehouse. Was this in the same location as the present smokehouse?
A Yes. We had to pack them back up back up the river.
Q So -- and is that what you said when you were using the fishing site at Guun gibuus?
A Yeah. When we used Guun gibuus this eel trapping, yes, we had to take it back up the river to the smokehouse.
Q Now, you traded these eels with the Wet'suwet'en?
A Yes.
Q And do you recall what they were traded for when you

were young?
A We traded them for tanned moosehide, because our relatives lived there and we knew these Wet'suwet'en, the Hagwilget.
Q Now --
THE COURT: Madam Registrar.
MR. GRANT:
Q The next fishing site on Exhibit 31 appears to be the name An ax woowax?
A If I could just go back to Guun gibuus. All it means --
Q Yes.
A -- what it says in the description of it. If you are down river here, you look up, look like the part of your am halayt. As I mentioned this morning, gabuus was the name and the way the trees are lined up it looks like it was that's what it describes.
Q Okay. On Exhibit 353 you mean this top part?
A Yes. This is known as the gabuus.
Q Yes.
A You are down river the way the trees, all the trees are growing it looks like these.
Q Now, I just refer you for a moment to tab -- to Exhibit 351 at tab ten. Can you see these fishing sites in any of these photos?
A Can you pull it out?
Q Yes, I can can pull it all the way out, certainly. And when I say these I mean the ones you referred to thus far.
A Yes. It would be just out of sight of this here. This would take in the eel --
THE COURT: Which side is just out of sight?
A The Buun gibuus.
MR. GRANT: He's just pointing to photo number three and the middle -- the middle right-hand side.
A It would be over there. The eeling part would be here, but there are two other sites just out of sight of this photo.
MR. GRANT:
Q Okay. Can you just put a G on photo three where that is?
THE COURT: That's a railway train in the background, isn't it?
A Yes.
THE COURT: Yes.
MR. GRANT: We'll come back to that.
THE COURT: All right.
A I own it every time it goes by.

MR. PLANT: I missed something. What was the purpose of the G on the photograph?
MR. GRANT: It was the site of --
A Guun gibuus.
MR. GRANT: -- of the eel site at Guun gibuus. And the witness indicated there were two sites just off the photo which were the other parts of that.
Q Okay. On the map Exhibit 31 I am referring to, going downstream on the right bank there is the name An ax woowax?
A An ax woowax.
Q Is that a fishing site of your House?
A Yes.
Q And which side of the river was that site on?
A On the railroad side. Your lordship spotted the train there and that train, the railway when it went through destroyed some smokehouses that were lined up along that and An ax woowax means described as where they never slept, they would fish here at nighttime with torches and attract fish and bag them.
Q Now, can you see on either photo one or photo three of Exhibit 351 where An ax woowax is?
A An ax woowax is along here, along the bank here.
Q On photo one he is referring to where the train is, my lord, and along the line. Can you just put an A in that area and a line showing the area where it is on both sides of the A?
A Yes. Along this area here. From there to there where they had fish smokehouses.
Q I'll just mark it. Okay. So between the two vertical lines, that's where the smokehouses were?
A Yes.
Q And did your grandfather tell you about the destruction of those smokehouses?
A Yes. As a matter of fact, they have a name for the train in their language. If they are mad at that train, the name of the train it was given is mobile disease carrier. That's how they are known the train.
Q That was the name your grandfather called the train?
A Called the train, yes.
Q Now, I will return for a moment to Exhibit 31 and there is a -- well, there is actually two triangles together again on the right bank a little bit downstream and it looks like Dip win xsduutxw?
A It's spelled wrong. Dip win xsduutxw.
MR. GRANT: Dip win xsduutxw. Do you have that location?
THE COURT: Yes.

MR. GRANT:
Q Are those fishing sites of your House?
A Yes. Pretty well destroyed by the high river of 1936, so they are no longer used, but the names are still available for us.
Q So they are not longer used now?
A No. It's been -- the river erosion filled them up and you could see the big sand bar. It's just totally destroyed them.
THE COURT: In 1946 did you say?
A 36.
THE COURT: 36.
MR. GRANT:
Q Do you know what kind of fishing was carried out at those sites?
A They were primarily, yes, the fishing all year round. They were pretty good fishing sites that were used for spring, sockeye and all the rest. The species that we catch.
Q Okay. Now, if one -- actually there is those two triangles together. There is another name right beside Gwinxtootxw?
A That is another mispelling. This one, the last one, this site.
Q It arrows to the second triangle right beside the one you have described?
A Yes. Beside this little -- just a little bit further down the river. There is another one in our language we call An laks huu yoo.
Q Is that below Gwinxtootxw?
A Yes.
Q Could you with reference to Exhibit 31 just put a triangle in red where that one would be?
A Just past this block, just -- these sites are right close together. I do not think they are in scale. Are for reference only in putting these down.
Q Just before you do, there is a Gwin ax Indian reserve across the river.
A It will be just -- they are side by side, so it will be right beside there.
Q And can you give that name again for the word person? What's the name of that third site that you have just --
A An laks huu yoo.
MR. GRANT: Do you have that? Could you give a spelling for the court?
THE TRANSLATOR: An laks huu yoo, A-n space l-a-k-s space h-u-u

space y-o-o.
A And that was another site. They changed the name because they figured the name before it was too gross so they changed the name, but the actual name is Win luu loks hli gyalps huu yoo. That means where Huu yoo dipped his testicles in the water.
MR. GRANT: Do you have that last spelling?
THE TRANSLATOR: Do you want me to spell the whole thing?
MR. GRANT: Yes. The whole name that he gave.
THE TRANSLATOR: Okay. W-i-n space l-u-u space l-o-k-s space h-l-i space g-y-a-l-p-s.
THE COURT: P-l-t-s?
THE TRANSLATOR: A-l-p-s space h-a -- h-u-u space y-o-o.
MR. GRANT:
Q Now, again I just like to refer you to the photographs and ask if in the series of photographs Exhibit 351 -- these are actually on the back side here, if there are any photographs of -- if you can see any of these fishing sites that you have just referred us to.
A Yes. We follow this, the -- it's quite hard to tell here, but it's -- with -- that last one I meant was at end here, An laks huu yoo.
Q Okay. He is referring to photograph number eight and can you just put a one in the area where it is. You can put a circle around it. Sorry, my lord, some of these are upside down from the others.
I take it that that -- would it be correct to say that where you see that the white like the snow, is that part of the river or is that the far shore?
A It's the far shore, but it's all filled in with gravel.
Q Can you see that last fishing site in any of these photographs? Those are the ones you just looked at?
A Yes. No, this one looks like -- this one is upside down, isn't it.
Q Well, I will switch it over for you. There you go.
A No, further down. The only one that shows it is this one.
Q Okay. Now, referring back to Exhibit 31, are there any fishing sites of Tenimgyet further downstream on the right bank than the site you've just said?
A That is the last one.
Q Okay. Now, if you look at -- going upstream on the left bank it is again we are facing downstream, but going on the left bank right -- you see across the river there is a site referred to as Xsi gwin gewin on Exhibit 31?

A Yes. Xsi gwin gewin. It's another site by the mouth of this river.
Q And you are referring to the river that's the line that's below that triangle?
A Yes. I believe the name of it on the map would be Gull Creek.
Q Gull Creek.
THE COURT: Where the are we, Mr. --
MR. GRANT: We are on the left bank.
THE COURT: Yes.
MR. GRANT: And if you just look upstream, the first triangle on the left bank from the ones that he was just talking about.
THE COURT: Yes.
MR. GRANT: And you see a small -- looks like a creek there going back from the river there.
THE COURT: Xsi gwin gewin?
A Xsi gwin gewin.
MR. GRANT: Yes. Xsi gwin gewin.
THE COURT: Yes.
MR. GRANT: And there is a small creek going back there and that creek he referred to as Gull Creek on the map.
THE COURT: Yes.
A And that simply the description of that if you are just a little bit down river and you come up here, there is a little rock that looks like a gull from down river. That's why they call it Xsi gwin gewin.
MR. GRANT:
Q That's the Gitksan for gull?
A Yes.
Q Okay. And then there is on the map -- is that the lowest fishing site of Tenimgyet on the left bank of the river?
A On the left bank, yes.
Q And then going further back on the upstream on the left bank there is a name An si gyootxw. Is that the next site upstream?
A Yes. An si gyootxw.
Q And what is that and is that site still used?
A Not primarily, but we know where it is if we have to use it. It's still if we look at -- it is quite active.
Q Now, what is An si gyootxw referred to? Why is it called that name?
A We have -- they said there is an adaawk connecting to this that a person they call Txemsim.
MR. GRANT: Do you have a spelling or number for that?

THE TRANSLATOR: Txemsim?
MR. GRANT: Uh-huh.
THE TRANSLATOR: Txemsim, T-x underlined e-m-s-i-m.
A When he travelled the Skeena, walked up the Skeena, he tried to cross the river here, slipped and fell down, got soaked and wet and An si gyootxw. And he got out a red cloak and shook it and that's why the shale on this side of the river is all red. That's why they call it An si gyootxw.
MR. GRANT:
Q That's the shale on the high side of the river?
A Yes.
Q And if you drive down there where the highway is, would you see that red rock?
A Yes. It's all there today.
Q And I don't think I asked you whether or not -- just a second. Xsi gwin gewin, is that site still used by your House today?
A Yes.
Q What kinds of fish do you fish for there?
A It's good all around.
Q So it's good throughout the season?
A Yes.
Q Now, going further upriver on the left bank the next site on the map referred to is Isim hanak?
A Yes.
Q Is that fishing site the next site of your House?
A Yes.
Q On that side?
A It's directly across from Wilson Creek, Xsi gwin k'ohl.
Q And is that site used today?
A No. It's destroyed by the highway.
Q And do you recall when that site was destroyed?
A No. I don't know. When they put the highway through that's when the site -- there used to be a little spring what they call it Isim hanak. Just a little real cold spring coming out of there. That spring no longer exists. The highway and that and this name was changed also, but it was -- the proper name of it used to be Gwunksim tsim dults', which is just refers a description is just the way it was shaped in the rock coming out. It was like a design to them, so that's what they named that particular spring.
Q And let me ask you another question. Do you remember that spring in your lifetime, seeing it when you were younger?

A No. I was too small.
Q Okay. Now, you have referred to this site and the site at Wilson Creek and some other sites as the names being changed. Do you know why these names were changed?
A The missionaries figure when these people ask they come around and they asked translation, they figured it was too gross. So -- but even then they changed and we still know the original name or the original names are still handed down to us. We will never forget these names.
Q Did your grandfather tell you why they gave them these names?
A The description once you -- it's told to you in these -- like these parts of your body, we never forget and the description comes with them. It constantly reminds you that's in every day-to-day life it's part of your body you will never forget. It's burnt in your mind, the names of these descriptions that you are told. That's the whole philosophy behind using these names to it.
MR. PLANT: Which grandfather was it?
MR. GRANT:
Q Yes. Which grandfather?
A All of them. If I can go back again it will be Charlie Smith, Wallace Morgan and Jeffery Morgan.
Q Are the same kind of names used for other landmarks other than fishing sites?
A Yes.
Q Now, I'd like to refer you to the next site on Exhibit 31, again going upstream from Isim hanak you come to a place it appears Gwin k'alp?
A Gwin k'alp.
Q Is that the next fishing site of your House upstream on the left bank?
A Yes. It's just up not too far from it.
Q Yes.
A And this fishing site we are now giving Henry Wilson amnigwootxw to use in site. And he requests permission every year to use this site. Gwin k'alp there is a description, tiny little sticks coming around always swing around. Gwin k'alp.
Q These are little sticks in the river?
A Yeah. They come and gather and just spin around.
Q Now, going further upstream -- okay. There are no other sites shown on the left bank as belonging to your House?

A There are two here, but it's not listed on this one.
Q When you refer to here you are referring to -- you are pointing to both sides of the creek?
A Xsi sgamagaa.
Q Which is Xsi sgamagaa on this map and you see where that creek enters the Skeena, my lord, that's just upstream from that Gwin k'alp site. Now, can you just put a triangle where each of those sites are?
A These are no longer in use, but I just want to mention them.
Q Okay. But you were taught where they were?
A Yes. One on this side of the creek.
THE COURT: On the same side of the river?
A Yes. On the left.
MR. GRANT:
Q Yes. This is still the left bank?
A One on this side of the creek and one on the opposite side, they are side by side.
Q Thank you.
A We used in -- we used these two sites with my --.
Q The witness has marked in red with two triangles these sites on both sides.
A This one is known as Whiskey Creek.
THE COURT: Thank you.
MR. GRANT:
Q Whiskey Creek?
A Yes.
Q Now, the lower of those two, that is the one downstream from Whiskey Creek, is there a name for that site that you know?
A Yes. We all -- we -- we just call it Xsi sgamagaa sga ski. When you put a net there it looked like it's put on the way, put on the way of this creek coming out sga ski. That means on the way, put on the way.
MR. GRANT: It's not on the map, Miss Stevens. Can you give a spelling for that name?
THE TRANSLATOR: Sga ski, s-g underline a space s-k-i.

THE COURT: S-g-a-s-k-i?
THE TRANSLATOR: Yes.
THE COURT: Thank you.
A One on the opposite side.
MR. GRANT:
Q That's just upstream of Whiskey Creek?
A Yes.
THE COURT: Upstream of Whiskey Creek.
MR. GRANT: The one he just referred to was downstream, my lord.

Now he's just going to the next one.
A Yes. We call that sexwhl Ts'oohlixs. And all it means is that below the slough, there is a slough coming through here. It's no longer exist. Like I said, the sites are destroyed.
MR. GRANT: Okay. Do you have a spelling for that name?
THE TRANSLATOR: Sexwhl Ts'oohlixs. S-e-x-w-h-l T-s-'-o-o-h-l-i-x-s.
MR. GRANT:
Q You said those two sites were destroyed. Do you know what happened to destroy those two sites?
A Not really. These creeks come up at one time, I forgot the dates when they came up, and flooded those areas with all the bolders and the rocks and whatnot. One year. That totally destroyed these areas here, that flood caused all the debris to come down.
Q I see. Now, when you look -- are there any other sites or is that upstream on the left bank or is that -- are those two the last sites of your House that are upstream?
A There are some here across from the airport just past where the road straight across the airport there is one.
Q Could you just mark that on the map with a triangle. Do you recall the name of that site?
A We refer win luulokhl an yuusxw.
THE COURT: I think I have that one marked already.
A Have you?
MR. GRANT: Yes. The exhibit, my lord, the witness is referring to the exhibit of course and I see I have it marked as gwin ax woowax.
THE COURT: Mrs. Ryan I think gave that name. That's one of your sites?
A Where are you guys? I am lost here too now.
MR. GRANT: I will just show you.
THE COURT: Right across from the airport.
MR. GRANT:
Q It's right in the --
A This one doesn't have it, I don't think.
Q No, no, it doesn't. Mrs. Ryan gave some evidence and there is a site that she marked across from the 'min golhl hon site. She marked with a triangle and gave the name gwin ax woowax which is g-w-i-n a-x w-o-o-w-a-x?
A Uh-huh.
Q Is that the same site as you are now referring to?
A Yes. The names are mixed up. Referred down --

1 Q It's across from --
2 A Uh-huh.
3 Q -- 'min golhl hon. That's same site as you are
4 referring to?
5 A Yes.
6 Q Is there any other sites of Tenimgyet upstream on the
7 left bank?
8 A No.
9 Q Now, when you look at Exhibit 31 and what you have
10 just described, Mr. Mathews, it indicates that you
11 have fishing sites along the river where your
12 territory is located and on the other shore of the
13 river?
14 A Yes. Our --
15 Q Go ahead.
16 A Our rights only includes these fishing sites, but does
17 not go over the bank. It belongs to somebody else.
18 Just our sites I have mentioned belongs to us.
19 Q Well, what shore are you talking about when you say
20 that?
21 A Both banks, both shores.
22 Q Okay.
23 A Within the ones I have just described.
24 Q But those sites, for example, where your smokehouse is
25 located?
26 A Yes. That's on our territory.
27 Q Okay. So that is actually your territory?
28 A Yes.
29 THE COURT: You didn't describe any smokehouses on the
30 downstream left-hand side of the river, did you?
31 A No.
32 MR. GRANT: No.
33 THE COURT: No.
34 MR. GRANT:
35 Q I just wanted to be clear. So you are referring to
36 the left bank as you are looking downstream?
37 A Yes.
38 Q You just go to the shore?
39 A Yes. Just --
40 THE COURT: You went to the bank?
41 MR. GRANT: Went to the bank, yes.
42 A Good description.
43 THE COURT: I describe that as the natural boundary. Should we
44 take the afternoon adjournment, please?
45 MR. GRANT: Yes. It's about time to break.
46
47 (PROCEEDINGS ADJOURNED PURSUANT TO AFTERNOON BREAK)

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

Laara Yardley, Official Reporter,
United Reporting Service Ltd.

(PROCEEDINGS RESUMED PURSUANT TO AN AFTERNOON ADJOURNMENT AT 3:20 P.M.)

THE REGISTRAR: Order in court. Ready to proceed.
THE COURT: Yes, thank you. Mr. Grant?

EXAMINATION IN CHIEF CONTINUED BY MR. GRANT:

Q Thank you, my lord. Mr. Mathews, I'd like to ask you while we are on the topic of your fishing sites and your fishery, I'd like to move into -- but a related area, and I'd like to ask you some questions about how your fishery, that is the use of your fishing sites and the utilization of the fishery is managed by your house. And again, my lord, this is in the context of what I suggested at the opening of Mr. Mathews' evidence as demonstrative as how the Gitksan operate the fishery.

Now, you have a fishing site, you have a smoke house which you have shown the photographs of at Xsi gwin ixst'aat; that's right?

A Yes.

Q And it is being used annually now?

A Yes.

Q And you indicated that that fishing site, that smoke house, was built by yourself and your house in 1981?

A Yes.

Q And who is in charge of the fishery at that fishing site?

A At time to time this is another law, a rule in our house, that if the lady is confident enough to ask if he could run our smoke houses, they were granted the wishes that they would look after -- when I say look after, doesn't mean they can overrule the chiefs of the house or run it out of orderly, but what I mean, look after it; it is running the daily day operation. They are in charge of how many fish they want to catch, what species. They are in charge of looking after not to spoil or throw fish away, just to throw it away physically without connection with house or rules, whatever. These things are run by the lady that request us. Today as of 1981, my mother runs that smoke house, and run it quite efficiently I might add.

Q And your mother holds a name in your house?

A Yes, my mother is one of the head ladies of the house, Simoogit sigidim hanak of Bax heldaasaat.

Q Okay. Simoogit sigidim hanak is a reference to a

1 woman chief?
2 A Yes.
3 Q Do you have a number for that or the spelling?
4 THE SPELLER: No, I don't. Simoogit sigidim hanak,
5 S-i-m-o-o-g-i-t-space-s-i-d-i-m-space-h-a-n-a-k-
6 underlined (SIC).
7 MR. GRANT:
8 Q And then you referred to her name Bax heldaasaat?
9 A Yes.
10 MR. GRANT: And that's in Exhibit 348 Seating Chart, my lord.
11 Do you have a number for that?
12 THE SPELLER: 472 on the word list.
13 THE COURT: 472?
14 THE SPELLER: Yes.
15 MR. GRANT:
16 Q 472, yes. And your mother sits four seats away from
17 you on the right -- on your right-hand side at the
18 head table of your house?
19 A Yes.
20 Q Is that right? Now, when does your family go --
21 what time of year do they commence to use the fishing
22 site and who goes there and what do they do there?
23 A When we -- when you use the word commence, I hoping
24 you are referring to fishing, what time do we start
25 fishing?
26 Q Yes, to start fishing?
27 A The site itself is used all year round but when we
28 commence, to use that word you gave me, commence
29 fishing, we generally start in mid April, depending of
30 the weather conditions that are warm, we move down
31 to -- first thing we catch in April are steelhead and,
32 later on, we would catch springs, spring salmon. And
33 when we start fishing, we go heavily into the springs
34 early in the year from May 'til the end of June and
35 the bulk of the spring comes mostly in the middle of
36 June to the end and you drop off.
37 Q That's the spring salmon?
38 A Spring salmon I am talking about, yeah.
39 Q Yes?
40 A Spring salmon is highly prized. It is highly used
41 both in our home use. We give some to our elders that
42 cannot make it out to the fishing grounds, and we use
43 it for trade. The Gwin ixst'aat area, I don't know if
44 I mentioned it, it is known, it is the banquet table,
45 Ant'ookxw in our language. It is a banquet table for
46 all to get these processed fish, not only our elders,
47 our trade. We both use it in terms of obtaining the

vegetables, vital things that are important to us. You must remember we are busy all year round, we hardly do any gardening, so -- so the vegetable part of the trade is quite important to us. And we trade with lot of people. In fact, we go in detail but these are some of the things we use to salmon both the dried ones -- especially the dried ones, the strips that are dried are highly prized by other people. We call that huxws.

MR. GRANT: Do you have a spelling for that?

THE SPELLER: Huxws, h-u-x-w-s.

THE COURT: What is that, please?

THE WITNESS: Pardon?

THE COURT: What is that?

THE WITNESS: Dried fish.

THE COURT: Dried fish?

THE WITNESS: That they get -- they trim it off, they fillet it, they fillet it off the flesh.

MR. GRANT:

Q Is that just one species of the salmon they use for that or is it different kinds?

A They are different kinds but I am talking about the springs and they are highly prized. When I say they are highly prized, people do things to us, give us things, like, for instance, the net was supplied by one of the Kitwancool members, Peter Martin. He comes and supplies the spring net. In return, he wants some of these prize fish, prized huxws is what I am telling, and in the case of the boat, that boat we using is Allan Johnson's boat, T'ewelasxw.

MR. GRANT: What's the number of that?

THE SPELLER: 63.

MR. GRANT: On the plaintiff's list?

THE SPELLER: Yes.

THE WITNESS: The boat is supplied as I said by Allan Johnson, the stern kicker. Like I said, it doesn't rely just on our native people. The stern kicker itself is supplied by our minister, Mr. McLeod, Reverend McLeod supplies this kicker because it is a highly prized fish I am talking about. In turn, we have to pay them back their request and in this -- doing this, we don't break any of our laws. It is there for us to use to our own eyes that we -- we use these trades.

MR. GRANT:

Q How does your mother regulate how much fish to take? Is there any particular time, for example, while you are catching spring salmon that she stops it for any

1 reason?
2 A We -- well, I ask -- she ask me, she said how much
3 do you need; I tell him how much I need, how much my
4 sister would need, how much my brother would need, how
5 much their need. Then they would compare it to the
6 trade that might have gone on at the payment of the
7 equipment they are using. This has all been looked
8 after, regulated. That's how they come to a decision.
9 If they can't -- if they over produce, it wouldn't be
10 of no use so we usually try to make it just a little
11 bit under what we say we set out -- because that's
12 tremendous work. My mother, you see, is not that
13 young but she really works hard along with my sister,
14 and my sister is married.
15 Q Does your sister go to the smoke house site with
16 them?
17 A Yes, we all do. If you see the picture there,
18 that's a picture of my family on the side of the smoke
19 house. That's my little family there. My brother's
20 got his family to go there, and our niece goes there,
21 and some of the people we adopt goes out, use these
22 sites and used the smoke house. So that smoke house
23 works really hard and steady so from mid April to the
24 end of September, August.
25 Q Does your -- do your parents live out there during
26 that time of year?
27 A Yes.
28 Q And your brothers and sisters?
29 A Yes.
30 Q And yourself and your family?
31 A Yes. When I say tremendous work, I'd like to just
32 show you how much work involved. Big springs, 20 to
33 30 pounds each, quite large to handle, 10, 20 a day is
34 tremendous work, has to be done opening the -- getting
35 them ready. First you open them up, cut along tail
36 and put on these drying poles over night, let them
37 drip all off, and the next day you put it on the -- a
38 board triangular. We call it ha'nii ts'el. Do you
39 want to give the spelling?
40 MR. GRANT: It is okay. Do you have it for the reporter?
41 THE SPELLER: Yes.
42 THE WITNESS: And they would take these fish and split them open
43 one along the back and side. They would split it open
44 and start filleting the fish. When it is half dry,
45 and do the other side, and each house have a
46 distinctive mark -- marking the way it is filleted for
47 identification to know where it came from. This is a

strict law in our house where I know it's done. My mother cut half the fillet and cut two lines this way across the fish. If that was the head and that was the tail, when they fillet, they cut two slots across like this.

Q Is that the inside or the outside?

A Inside in the fleshy part?

Q Yes?

A And when my wife, I remember I told her -- she was from Kit katla. She makes two other lines here and I tried to tell her do it this way and she said no, it is my fish, I'll do it the way as my mother taught me as our own distinctive sign. So each house has its own distinctive sign, identification from where these fish come from.

Q Do other Gitksan houses have a distinctive sign too?

A Yes.

Q Your mother smokes the fish?

A Yes, we smoked them.

Q What other ways do you preserve the fish?

A We salt them and we canned them.

Q Now, you indicated that the spring salmon, the intensive spring salmon fishery is in May and June?

A Yes.

Q What do you do after the end of the spring salmon fishery?

A At the end of the springs, we get ready for sockeye. Before I get into that, this is one reason. My father was charged while fishing without a licence, going out early to go fishing for our use as fish, it is really highly used and that is one reason my mom and dad went out early and he was charged with fishing without permit at one time.

Q This was around 1983?

A Yes.

Q And what was he out fishing -- why was he out fishing early that year specifically?

A He was fishing that early March of that year. We have some friends living in Kitimat that gave us a whole pile of -- big garbage container full of oolachans and, in return, they wanted some of this prized spring salmon, dried spring salmon fillets, and by going out early, he was charged with these charges.

Q Okay. You just mentioned that March. Is that when you got the oolachans?

A Yes, yes. That's when they come through Kitimat.

Q So he was out in April or May when this happened?

A Yes.
THE COURT: March he said?
MR. GRANT:
Q I want it to be clear. They got the -- yeah, you referred to March. Was that when your dad went out fishing or when the oolachans --
A No, when the oolachans came through when they made the deal. When the deal was made, he had these -- Kitimat came to us and phoned us and said do you want some oolachans, you come and get it, we may want to trade it with your dried fillets.
Q So at the time that your father got the oolachans, the spring salmon, they had not started running?
A No, this comes later.
Q So he owed -- he received the oolachans and then was re-paying them?
A Yes. Not only that, we have -- my wife comes from Kit katla, so we had a bunch of seafood that comes out of there early or late March for herring eggs which comes from Kit Katla, so we had a lots of work that year. We owed people and we had to work harder. That's why they started out earlier than usual and they wanted to put up more than usual than what we required.
Q Did your dad have his own net that year?
A In what way are you talking about?
Q The year that he was charged?
A Yes. We had a -- and these nets cost -- the cost is tremendous. When you get them from the coast, they sell them by the pound. So -- and spring salmon net is quite thick and heavy. You only need to get a few yards, I would guess a pound, just a small chunk. We run our net about 75 feet long.
Q Did your father lose his net that year?
A Yes.
Q How did he lose it?
A Department of Fisheries came and confiscated it.
THE COURT: How long was the net?
THE WITNESS: They run -- they range from 75 feet to 50 feet, within that range.
MR. GRANT:
Q How long was your father's net that year?
A It was the -- the longest.
Q It was the longer one?
A Yes.
Q And was it after that that you received the net or was that --

A That's one of the reasons why we get nets from other people, such a tremendous amount of money it takes to get them to go obtain them down towards Prince Rupert. The fishing areas, the commercial fishermen there that obtain these nets is quite a waste for them to go get it, you see.

Q For your family?

A For my -- yes, parents.

THE COURT: What are these, cut down gill-nets?

THE WITNESS: In what way you call cut down?

THE COURT: They take an ordinary commercial gill-net which is what, 200 fathoms long and cut it into smaller pieces?

THE WITNESS: No. What they do is strip it down and --

THE COURT: How deep are these nets?

THE WITNESS: Oh, some of them would be around 40 -- I don't know, we call them mesh. I don't know how you measure that.

MR. GRANT: 40 mesh down?

THE WITNESS: Down, yes.

THE COURT: A typical gill-net is 30 feet deep, isn't it?

THE WITNESS: Yeah, about that, yes.

THE COURT: That's about what these are?

THE WITNESS: Yes.

THE COURT: With a cork line at the top and a head line at the bottom?

THE WITNESS: Yes.

MR. GRANT:

Q When you get these nets, does your mother and father hang them or did they get the net already hung?

A No. They have to re-hang them themselves to do it the way they want to do it. The way that the commercial fishermen do it is a lot different than they want to do it. They don't want to tangle the fish up that much. They just want to take and prize them like the commercial fisherman; want to take the fish without getting away. We don't do it, we rehang them so it is easier for us to take out the net.

Q Now, after the spring salmon run at the end of June, what does your family and your house do with regards to the fishery next?

A Then we take these fish and spring fish nets out and we put out the sockeye nets out which have a smaller mesh on them.

Q So you use different nets for different species?

A Different nets for different species, yes.

Q Do you use different fishing sites for different species?

A Not here. Miinhl am K'ooxst, use it quite regularly now. It is right below our smoke house. At the time, '81, we were using the one further down and Gwin Gibuus, that's where we had our nets at the time.
Q That's the place you referred to where you used to catch eels or you caught eels?
A Yes.
Q How long does your house fish for sockeye?
A Well, it depends -- we start off and the fish are just lightly coming. When there is too much, it is when my mother's rule come in and one night you might catch a hundred of them and then we quickly put the net away because it is too much work; there is no use catching any more. They come in big bunches at times, so we don't want to catch too many or be behind the work load. So when this happens, we pull our nose out and work on these because it takes two or three days to finish that what I just described. It comes in a big bunch and they are catching a hundred. That would take two or three days to finish the process right from the water from the catching to actually stringing them up in the ceiling where it was dried and wracked.
Q That's in the smoke house?
A In the smoke house.
Q And how long does your house fish for then?
A We generally do this 'til the end of July, early August, and then we quit because what I said while pinky, I don't know what you understand pinky means, pink salmon. When they start arriving at that stage we have no use for them so we quit. One might only want to keep ten or whatever, but that's about all.
Q And you referred to when would set up the trap for the eels. Was that around this time of year when the pinks came?
A That's right. That's when the very first sign of them come. That's when the sign of them that says eel is there, that's coming.
Q And do you fish for the eel today?
A No, not today.
Q Now, but you used those fishing sites?
A We use the fishing sites.
Q The same fishing sites?
A Yes.
Q When you stop, when your house stops for the sockeye or when the pink come, what do they do next?
A That's generally the signal to go out picking berries and the first site or the first place we go is

on the Tsihl Gwellii side where we pick salmon berries. I think that's the only part of our territory that carries these berries is up there -- up that place. We generally go camping about a week or -- the berries in our language, we call it 'mii k'ooxs.

MR. GRANT: Do you have a number or spelling for that, Ms. Stevens?

THE SPELLER: 'Mii k'ooxs?

THE COURT: What is this?

THE SPELLER: 'Mii k'ooxs.

MR. GRANT: This is the name of the berries.

THE SPELLER: '-M-i-i-space-k-underline-'-o-o-x-underline-s.

MR. GRANT:

Q Now, could you indicate on Exhibit 349 where you go to pick the berries or you camp on the Tsihl Gwellii?

A Yes. There is a logging road comes off and this here, and goes up towards the side of this mountain. That's where we usually go up the side there.

Q Maybe you could just put a 4 in that area with a green pen?

A Up in the sides of the mountains.

MR. GRANT: You saw that?

THE COURT: Yes.

THE COURT: That heavy red line, is that a logging road?

MR. GRANT: Just a moment, my lord.

THE COURT: Looks like it goes up both sides of that creek.

MR. GRANT:

Q Yes. There appears to be two going up that Cedar Creek?

A Use the longer one on this side of the creek.

Q Yes?

A Yes.

MR. GRANT: It appears to be so.

THE COURT: Yes.

THE WITNESS: We would camp here for about a week or so to pick these berries.

MR. GRANT:

Q And then where -- then what do you do next?

A We then would go back home and -- say home back to Wilson Creek because that's where my mother, father stay all summer and they process these berries back there for a while and, generally after that, we try to look for some huckleberries up above our -- our Wilson Creek territory.

Q And is this -- in what month is this in that you do that?

A We are in August and, after we come back here for processing, it generally takes us right into mid August.
Q And where do you go for huckleberries?
A Just above the camp site I recall that the berry patch win luu mes.
Q Can you see that on the map, that small map?
A There is a photo here that takes it in.
Q Okay. Referring you to Exhibit 355?
A Yes.
Q Does that photo show where it is?
A Yes, right here.
Q Okay.
A That's win luu mes, right here.
MR. GRANT: That's the photo off the territory from the smoke house. Can you just put a W there on that photo?
THE COURT: What number is it, please?
MR. GRANT: It is tab 7.
THE COURT: Yes.
MR. GRANT: The photo of the site.
THE COURT: Tab 7, I am sorry?
THE WITNESS: Green doesn't work too good.
MR. GRANT:
Q No, no. I thought I would give you a red pen.
A It is right in this area, call it win luu mes.
Q Right where the W is in red?
A Yes.
Q And that's on the second photo in Exhibit 355, and how long does it take you to get up there from Wilson Creek when you go there?
A Now, or when my father was younger, it only takes us about a matter of about two and a half hours.
Q Now it takes you about two and a half hours?
A No, before, but now my father -- it is now like that -- it takes us about five hours to go at his pace.
Q You go slower because of your father?
A Yes.
Q And do you stay there or do you come back -- do you camp there or do you come back?
A Yes, we have camp sites up there.
Q Now, what -- do you return to the fishery after the berry -- after you go to the berry grounds?
A Yes. Around first, second week, depending on how long the running of pink salmons when they start, there is less and less of them coming and we would observe these after the first week of September. If

they were still around, we won't put our nets until probably well into the second week and then we go back for coho and we don't take too much of this coho. We just take a few of them.

Q And then what do you fish -- do you fish for anything besides coho at that time of year?

A Yes. My younger brother Charles likes salted steelhead so some of them would have to stay a few more extra days to put up the salty steelhead.

Q So when do you normally -- when do you end the fishery at Wilson Creek?

A Well, we -- like I said, this is the time right after -- this doesn't take too much time but to catch a few coho and by mid -- or whatever the run is, like I said, the -- this determines where these pink salmon -- sometimes the longest we have stayed there and the cleaning up everything within the smoke house and putting away the boats and stuff like that, it would be towards the end of September, early October that we all -- mom, dad, tell us a day -- maybe it is a Sunday, tell us a day we'll be all there and that's when we all go back and have a feast amongst ourselves, the house members amongst themselves, my family, my sister's family and my other brother and we all come here this fishing site.

Q You are referring to Exhibit 355, the photo?

A Yeah, the smoke house and alongside here you see it is quite -- if it is mid summer, it is all green with grass and it is quite clean but mom would have a tarp laid out here, a bright white, bright red tarp and you would divide all the fish that was being processed all summer and they count them in 40's, groups of 40's. Language that's the tradition count each bundle of 40, we call k'i'yhl luuks.

MR. GRANT: Do you have a spelling for that?

THE SPELLER: K'i'yhl --

THE WITNESS: Luuks.

THE SPELLER: K'i'yhl luuks, k-'-i-'-y-h-l-space-l-u-u-k-s.

THE WITNESS: And this is just an Indian counting refer 40 per bundle. And they would have it all laid out all the dried fish, all filleted dried fish, all the salted in little containers and this would be all distributed plus some of the berries we put up that year is also equally given out and then, after that, we go home.

MR. GRANT: Now, who --

THE COURT: That's back to Kitwangax?

THE WITNESS: Kitwangax, yes.

MR. GRANT:

Q You have indicated your family, your sister's family, your brother's family, your parents and your other brother would get the fish. Are fish at that time distributed to any other persons from your house?

A Yes. During this month of August, like I said, there wasn't too many berries or we had enough or season was late. We had to repay what we owe people, but yes, if the time came when we had to -- and these various people come at the time and pick up theirs and they all witness what's laid out in front of them, that nobody got more than what they supposed to. And the new season begins with the smoke house. After this, we go home. Then I think we trap in that area during the winter time and all our bait, our traps are kept in the smoke house so it is visited regularly.

THE COURT: Is this a convenient place to adjourn?

MR. GRANT: Yes. I just wanted to check one question with my colleague just if I could pursue it, my lord, just so I could end it.

THE COURT: Pick a convenient time.

MR. GRANT:

Q Yes. Mr. Mathews, just to be clear, for example, you said Mr. Allan Johnson lent your parents the boat and Peter Martin has given them a net to use. When are these people given the fish? Is that at the time that it is distributed to you at the end of September or is that earlier?

A Whenever convenient to them, but it's there. It is all split up. If they were there at the time, they would come and pick it up. If they were a little late of coming to get it, it was there for them to pick it up by then.

Q So it would be set aside for them?

A Yes.

Q Before your family distributed it?

A Or if they wanted to come and pick it up earlier after it's processed, they do that. They have that option. It is there. Usually we try to deal with these outside things first before we accommodate our own needs.

Q Okay. What about the children of your grandfather Jeffrey, your grandfathers Jeffrey and Wallace? Is any of the good salmon given to them?

A Some of it, if they were there to -- it depends on need. If they want to put -- they are quite welcome to use the site if they wanted to use, but it is their

privileged rights through amnigwootxw. They are quite welcome to our feast, told they have no problem of coming to use.

Q That was the feast when Jeffrey died?

A Yes, have no problem coming to use these things.

Q And what about Henry Tait and his family? Is this the time it is shared with them, too?

A Yes. If they wanted, they would receive what they want.

MR. GRANT: This may be a convenient time to break, my lord.

THE COURT: All right, thank you. We will -- remember that I am not able to sit tomorrow morning, gentlemen.

MR. GRANT: Yes, my lord.

THE COURT: Two o'clock.

MR. GRANT: Would it be 2:00 then?

THE COURT: Yes, thank you.

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

(PROCEEDINGS ADJOURNED AT 4:00 P.M.TO MAR. 16, 1988 AT 2:00 P.M.)

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

TANNIS DEFOE, Official Reporter
United Reporting Service Ltd.