SMITHERS, B.C.
November 29, 1988

THE REGISTRAR: Order in court. Witness, I remind you, you are still under oath.
MR. GRANT: Before my friend proceeds, my lord, I just wonder if I could have leave, Mr. Adams was scheduled to be working with out-of-court witnesses, and the out-of-court witness he was scheduled to be with this morning there's some logistical problems. He doesn't have his gown, so I wonder if he could sit at counsel table with me.
THE COURT: Oh, yes, certainly. Mr. Mackenzie.
MR. MACKENZIE: Thank you, my lord. First matter, my lord, is these are matters left from yesterday, filings to be made. The first matter is filing the interrogatory of Martha Ridsdale, the affidavits for February 19, 1987, and her interrogatory number 59(c). I would submit that as the next exhibit, my lord.
THE COURT: And that's the interrogatory?
MR. MACKENZIE: The affidavit and the interrogatory.
MR. GRANT: No objection.
THE COURT: Thank you. And her name is Margaret Ridsdale?
MR. MACKENZIE: Martha Ridsdale. She's speaking for Wii'goo'l.
MR. GRANT: Just so you can appreciate, my lord, is that what happened here is that Wii'goob'l, Jessie Sterritt, gave commission evidence which is now before your lordship.
THE COURT: Yes.
MR. GRANT: The interrogatory was prepared -- I believe it was prepared subsequently to that, and Wii'goob'l, Jessie Sterritt, was hospitalized for several months and very ill, and that's why Martha Ridsdale gave her response at that time.
THE COURT: I take it there's no difficulty in marking exhibits in the sequence of numbers used at the trial, even though this is cross-examination?
MR. GRANT: I was going to raise that yesterday, and Mr. Reporter raised it with me, I was intending to raise it this morning. Of course the practise has been that the cross-examinations of each witness are filed as an exhibit appended to their affidavit and the exhibit sequentially, and that's what's happening out of court. I don't think there's a problem, given that we are in court.
THE COURT: Yes, all right. If we have to rearrange the numbering later I suppose that can be done all at one

time. At the moment I think it's probably more convenient just to use the trial numbering sequence and then --

MR. GRANT: And that would suggest that the transcript would be numbered sequentially as part of the trial transcript. So, for example, Mr. Robinson, there won't be an exhibit which is a transcript and an exhibit following his affidavit.

THE COURT: No, all right. This number then will be --

THE REGISTRAR: 811.

THE COURT: 811, thank you.

EXHIBIT 811 - Affidavit of Martha Ridsdale dated February 19, 1987

MR. MACKENZIE: And another outstanding matter is filing Exhibit 810 for identification, and I'm giving my friend a copy and handing to the Madam Registrar a copy that was put to the witness, has my highlighting on it.

THE COURT: Oh, I don't think that matters.

MR. MACKENZIE: And it has a note that I made on the bottom of it also. I would like that to be noted, please, that that wasn't in the original document.

MR. GRANT: Is that the note "R.R. Gwoimt"?

MR. MACKENZIE: Yes, "Also Gwoimt". I'm sorry, so that would be Exhibit 810 for identification.

THE COURT: Thank you.

MR. GRANT: I'm not objecting to Exhibit 810 at all. It can be an exhibit proper.

THE COURT: Yes, thank you.

EXHIBIT 810 - Data sheet of topographic survey

MR. MACKENZIE: And arising out of yesterday, I'm going to file the interrogatories of Guuhadak.

THE COURT: May I see the interrogatories, please? Thank you. Incidentally, did counsel see on the national news last night that they completed a trial in Quebec yesterday after 389 days. I'm glad to see we're not going to be in the Guinness Book of World Records for that reason, at least I hope not.

MR. GRANT: Was the judge elevated in the process, my lord?

MR. MACKENZIE:

1 Q And I'm going to file these. Mr. Robinson, you're now holding the chief's name Guuhadak?

A Yeah. Just holding it, not -- I didn't accept it fully to be mine, I'm just holding it.

1 2 Q Before you it was Thomas Wright, correct?
2 A Yes.
3 3 Q And can you confirm that the members of Guuhadak's
4 house are also the same as the members in Wii Kaax's
5 house?
6 A That's correct.
7 MR. MACKENZIE: My lord, I'm filing Thomas Wright's
8 interrogatory, number -- his affidavit and
9 interrogatory number 24 and his interrogatory number
10 59(c).
11 THE COURT: He's deceased now, is he?
12 MR. MACKENZIE:
13 4 Q Yes. He died last fall. Is that correct, Mr.
14 Robinson?
15 A Yeah. I believe so, yeah.
16 THE COURT: All right. Those will be 812.
17
18 EXHIBIT 812 - Affidavit of Thomas Wright and
19 interrogatories 24 and 59(c)
20
21 MR. MACKENZIE: I might advise your lordship that some of the
22 interrogatories -- Guuhadak interrogatories have been
23 marked in this trial, and the affidavit and
24 interrogatories 9, 10 and 22 were marked as Exhibit
25 337, so if your lordship and my friend have no
26 objection, I still put the affidavit and
27 interrogatories in at this time for the -- to keep the
28 record straight.
29 THE COURT: Exhibit 337 is what again, please?
30 MR. MACKENZIE: The affidavit of Guuhadak and interrogatories 9,
31 10, and 22.
32 THE COURT: All right. It will still be more convenient to give
33 this a separate number because of the sequence in
34 which it appears at the trial. Give me the exhibit
35 numbers again so I can just have a note of where they
36 relate to each other.
37 MR. MACKENZIE: Yes, my Lord. The Guuhadak interrogatory --
38 sorry -- the Guuhadak affidavit and interrogatories 9,
39 10 --
40 THE COURT: What is the exhibit number?
41 MR. MACKENZIE: The exhibit number is 337, my lord.
42 THE COURT: Thank you.
43 MR. GRANT: I think the handwriting on the front of Exhibit 812
44 is my friend's or --
45 THE COURT: Yes. I'm sure it is.
46 MR. MACKENZIE: Yes. That's the indication that this is
47 Guuhadak written on the top of the first page. And

1 continuing from yesterday, filing the interrogatory of
2 Yagosip, Y-A-G-O-S-I-P, the affidavit sworn May 12,
3 1987, and interrogatory 18.
4 THE COURT: Who swore it?
5 MR. GRANT: Sworn by Joyce Turner, who is Yagosip.
6 THE COURT: Thank you.
7 MR. GRANT: Well, the copy my friend has given me includes 1 to
8 6 plus 15 to 18.
9 MR. MACKENZIE: Yes. I'm just filing exhibit -- or at least
10 interrogatory 18, my lord.
11 THE COURT: Yes.
12 MR. MACKENZIE: First page shows that this is Exhibit A to the
13 affidavit, and then the second page shows Exhibit
14 18 -- I'm sorry -- interrogatory 18 and some previous
15 interrogatories, but I'm not filing those.
16 THE COURT: That will be 813.
17 MR. GRANT: No objection.
18
19 EXHIBIT 813 - Affidavit of Yagosip, interrogatory
20 18
21
22 MR. MACKENZIE:
23 5 Q Yesterday, Mr. Robinson, you couldn't recall whether
24 Joyce Turner's grandchildren were in the House of
25 Mediigemgyet?
26 A Grandchildren? That should be the House of Yagosip.
27 6 Q Yes, fine, thank you. And you also couldn't recall
28 that one of the grandchildren was in the House of
29 Luus, or at least some of the grandchildren were in
30 the House of Luus?
31 A No, I can't.
32 MR. MACKENZIE: No. And one in the House of Luutkudziiwas?
33 MR. GRANT: Well, my friend is misreading this, because
34 yesterday, my lord, he suggested that Charlie Witwer
35 is in the House of Luutkudziiwas. That's not how the
36 answer refers to, if you look at the last page.
37 MR. MACKENZIE: I made a mistake in --
38 MR. GRANT: It says she's from the House of Mediigemgyet and it
39 referred to two other persons whose names my friend
40 did not put to the witness as being in the House of
41 Luutkudziiwas.
42 MR. MACKENZIE: Yes. I made it a mistake in that, my lord, and
43 perhaps I can correct this now.
44 MR. GRANT: Can the witness have a -- see the exhibit.
45 MR. MACKENZIE:
46 7 Q Yes. The exhibit's got nothing to do with the
47 witness, but I have no objection to him looking at it.

So, my lord, I should correct my question yesterday. I should have asked Mr. Robinson yesterday to confirm that Joyce Robinson's grandaughter's in -- granddaughter Charlie Witwer is in the House of Mediigemgyet, and I should have asked him that two of the grandchildren, Brandon Wright and Fawn Wright are in the House of Luutkudziiwas.

THE COURT: The affidavit doesn't say that.

MR. MACKENZIE:

8 Q Interrogatory 18 says that, my lord.

A She's supposed to be in Yagosip, Mediigemgyet is just a member of Yagosip's house.

MR. MACKENZIE: Does your lordship see that now?

THE COURT: Oh, I gather then that what you're saying is that the house name comes after the names of the grandchildren, does it?

MR. MACKENZIE: Yes, my lord. That was my mistake, that's why I made the mistake, my lord.

THE COURT: So the Brandon, "Wr" Wright and Fawn Wright are from the House of Luutkudziiwas?

MR. MACKENZIE: Yes, my lord.

THE COURT: Whereas --

MR. GRANT: I don't recall if those two names were put to the witness. I do know the Witwer name was put to the witness.

MR. MACKENZIE: No. They weren't put to the witness.

THE COURT: I don't think those names were put to the witness.

MR. MACKENZIE: No, that's right.

THE COURT: But this document speaks for itself.

MR. MACKENZIE: Yes, my lord.

THE COURT: When you figure it out.

A I believe these -- I don't know the names of these children, but I don't know how it get involved in Mediigemgyet's house, and it says Luutkudziiwas here, and they're grandchildren of Yagosip, is that right.

THE COURT: Yes. But wouldn't that come about by reason of a male child of this lady marrying a member of that house and having children and those children belong to the mother's house?

A I believe this is the way it goes -- it's I guess Yagosip's son lives with Lutkudziiwas' -- married a woman or had children by a woman who was in the other house. This is what I believe, but I don't know the names of the children, but I believe that's the way it is.

MR. GRANT: He was pointing to two children, Brandon and Fawn Wright, but he was explaining that to your lordship.

THE COURT: Well, in my limited knowledge of that, all that could only happen by those two children having a mother who is in the House of Luutkudziiwas, Luutkudziiwas' house.
MR. MACKENZIE: And I think the point that I was making, my lord, is argument really, is the parallel of the houses. There's no mention of Yagosip there.
THE COURT: You mean that none of her grandchildren are said to be in the House of Yagosip?
MR. MACKENZIE:
9 Q Yes, my lord.
A Did she have any daughters?
MR. MACKENZIE: Well, my point, my lord, is that they're said to be in the House of Mediigemgyet.
MR. GRANT: I believe the witness has explained that, my lord.
THE COURT: Yes. Well, I should know that. Mr. Robinson, does Yagosip have children?
A You mean Joyce Turner?
THE COURT: Yes?
A Yes.
THE COURT: And did she have sons and daughters?
A Sons and daughters.
THE COURT: Sons and daughters?
A Yes.
THE COURT: Yes, all right.
A But excuse me, your honour, they are -- their sons are married to a different house. Some of them are married into Nika Te'en's house and some of them are married into Luutkudziiwas' house, and this is what I guess the confusion is all about.
THE COURT: Yes.
MR. MACKENZIE:
10 Q Now yesterday, Mr. Robinson, you said that you respect the elders, you listen to their conversation and if they say something wrong or if you say something wrong they correct you; is that your evidence?
A Yes. That's the general thing, but according to my affidavit that -- that the land that I am talking about I learned from the source of my parents and some other people that are in -- related to it that I walk with on the territory, but outside of that I try to learn something else outside of that, not within the territory that I'm talking about.
11 Q But there are problems around there with the younger people. You have a concern about the younger people today, they don't know about the territories, is that correct?

A Well, some wanted to learn about the territories, but most times in the old days that I can remember some families, they pick a certain young woman or young man to try and educate into their territories, and they keep doing it, doing it, doing it and, you know, and so they will have one in the house that will really understand the territory, but nowadays we've got a lot of things going on and, you know, whenever you get the chance to try and educate a young man or young woman you would have to do it to a, you know, shorter length of time, and then you have to pick it up some other time again, but in the olden days it's really consistent.

12 Q It's difficult today because the young people are going to school and then they're involved in other jobs, and it's difficult to learn sometimes?

A Yes. It is difficult to learn, but, you know, in this day and age now they're going to the feast house a lot more younger than they usually do in the old days, and you know, and then they will pick up their education through there.

13 Q And some of the younger people say when you were a young man you became impatient with some of the old customs, didn't they?

A Me?

14 Q Yes, when you were a young man in those days?

A Well, I figure that I'll never grow old.

15 Q You're still a young man, yes?

A And then I wasn't too keen on learning too much about it, but whatever they told me I think back now and I remember, and then -- now I said to myself I wish I would listen a little bit more.

16 Q Do you remember back around the time when you were about 18, that was about 1940, you were concerned that the older generation of chiefs preferred to practise the old customs and ceremonies; remember being concerned about that?

A Yes. I was concerned because they have to run into a lot of obstacles against a law that is trying to extinguish the way of the life of the native people, they do anything to block, and I was concerned about that.

17 Q And the chiefs, the elders had authority to govern you and to improve your living conditions, but you were concerned that they failed to fulfil those duties?

A I don't think I ever mentioned that they failed to fulfil the duties.

18 Q Well, you believed when you were 18, and I'm sure you believe now, it was essential to improve the Indian people, the Gitksan people socially and mentally and physically, didn't you?
A Well, you've got to stick to what you believe in and what you're brought up into, because you can't deny yourself to be an Indian, you can't be a white man if you're an Indian, so you have to go back to your own laws and governed by it.
19 Q Well, you were concerned when you were a young man in 1940, you complained about the fact that the chiefs were more interested in carrying out the old Indian customs?
A I don't remember saying that.
20 Q And you and other people sought to organize a village council in Hazelton, didn't you?
A You mean the local people organized the village council?
21 Q Yes.
A I don't believe they organized the village council, I believe the D.I.A. did.
22 Q And you and other young people in Hazelton wanted to control the council in Hazelton because you were concerned about the problems with the elders and the chiefs, weren't you?
A I don't think the chiefs have any problem, I think the councils have the problem.
23 Q But you wanted -- you and the other other young people wanted to establish a council and take charge of life in Hazelton, didn't you?
A Not take charge, take directions from the chiefs.
24 Q You wanted that council to be fully controlled by the young people, didn't you?
A No.
25 Q And you wanted the young people in Hazelton to be able to elect their own chief councillor, or didn't you?
A No.
26 Q And you were -- you wanted to achieve these purposes and goals and objectives in co-operation with the local Indian agent?
A I don't know.
MR. GRANT: Just a moment, my Lord. That last question my friend says "these goals and objectives". I'm not -- I think that he should be -- I'm not sure what he's talking about with regard to the last question, unless he's just talking about setting up a council and --
THE COURT: I took it he was talking about the improvement on

the conditions of the Indians generally, as he mentioned in several questions ago.

MR. GRANT: Well, he's raised a whole bunch of things, and I think it's only fair that --

THE COURT: You can clarify that, Mr. Mackenzie.

MR. MACKENZIE:

27 Q Well, I referred to the goals and objectives that I've been discussing with you in the last series of questions, that is, as his lordship said, improving the Indian people of Hazelton socially, mentally and physically, to be able to meet the competition of the new world, to have -- to give power to the young people to manage affairs in Hazelton, to organize and fully control a village council in Hazelton, and to elect their own chief councillor, and all in co-operation with the local Indian agent. And you were one of the young people who wanted to do that, weren't you?

A No. I wasn't involved in the early days about chief councilling until I was elected.

28 Q And your father also, Bob Robinson, was -- wanted to do those things and accomplish those goals, didn't he?

A I don't believe he did.

29 Q And you signed a petition in 1940 stating those facts and your interest and desire to attain those goals, didn't you?

A What kind of a petition?

30 Q I'm talking about when you were 18; do you recall that?

A When I was 18 I don't believe I was in Hazelton.

31 Q So you don't know anything about that?

A No.

32 Q I've put before you a document from Canada's list of documents, document 11385. It's a copy of a letter -- appears to be a copy of a letter dated January 6th, 1940 from Mr. Mellinson. And on the second page of what are typed out names of people which the letter says are signatures of the people who took part in the meeting in which the letter was drawn up and adopted, and at the bottom of the first column there's the name Mr. Steven Robinson, and just above that Mr. Bob Robinson, and above that Mr. Bob W. Robinson. Now, do you know a Mr. Bob W. Robinson?

A That's my dad, yes.

33 Q And do you know Mr. Bob Robinson?

A I guess that's either my dad or my brother.

34 Q Your brother is Bob Robinson, is he?

A Yes.
35 Q And I take it you know many of the other people on that list?
A Yes. I know most of them. Some of them are deceased. I have to go through them. Yes, I know all of them, yeah.
36 Q All right. Can you recall that meeting now?
A No, I can't remember. I can't recall that, sir.
MR. MACKENZIE: Can you recall --
MR. GRANT: Maybe the witness should have an opportunity to read the first page of it.
MR. MACKENZIE:
37 Q Yes.
A No. I don't recall that.
MR. MACKENZIE: My lord, this is Canada's document, and I understand perhaps Miss Koenigsberg can indicate whether that's going to be exhibited at some other time.
MS. KOENIGSBERG: I would anticipate that probably we will seek to have this document admitted probably along with other documents in the file as a business record.
THE COURT: The most that can be done with it at the moment will be marked as identification, it is as a document that the witness has looked at but does not recall.
MR. MACKENZIE: I think that's the only solution, my lord.
THE COURT: All right.
MR. GRANT: What is the number?
THE REGISTRAR: 814.
THE COURT: 814 for identification.

EXHIBIT 814 FOR IDENTIFICATION - Letter dated January 6, 1940, Canada's document number 11385

MR. MACKENZIE:
38 Q Now, you've told us of your respect for the chiefs, and you hold several chief's names: You hold Spookw, Mediigemgyet, and Guuhadak. Those are high names; can you agree with that?
A Yes.
39 Q Can you tell his lordship what training a person has to have to be entitled to hold that responsibility?
A Well, the training that you really have to be disciplined, because when you open -- when the elders teach you you've got to have patience. And if there's any -- I don't know how to put it -- anything that really comes against you, you have to be patient and deal with it and try and do the best you can to

1 straighten it out, and according to the land you have
2 to try and learn and discipline yourself to look after
3 the land that is put upon you so the future
4 generations should use it and respect it.
5 40 Q And only certain people can be chosen for that task?
6 A Well, in the old days I believe there's -- you know,
7 there's -- there should be about two or three, that's
8 what I heard from our conversations that I attended
9 with the elders, and then if --
10 THE COURT: I'm sorry. There were two or three?
11 A Two or three people that would be looked upon to take
12 the responsibility of being a chief, and sometimes the
13 whole three fail and there's one that come out of
14 nowhere that is more responsible than the three, and
15 then they choose that person, and there's a lot of
16 ways in our tradition that you can -- you can pick
17 who's going to be your chief, and sometimes the young
18 person that you've chosen has said no and you have to
19 look at someone else. There's a lot of that happening
20 in the generations past, you know, but it's the new
21 generation, it's more difficult because there's a lot
22 of mixtures in -- going on in this world, this new
23 generation that we have, so that we have to more or
24 less try and train our young people, and the best way
25 to train them is through the feast hall, that's how
26 come they come in the earlier age.
27 MR. MACKENZIE:
28 41 Q And what you've said applies to Spookw and the Lax
29 Gibuu clan as well?
30 A It applies to all clans, not just Lax Gibuu clan, it
31 applies to every clan.
32 42 Q Well, in fact, the situation is, isn't it, that
33 whoever in Lax Gibuu has money can get the name
34 Spookw?
35 A Well, you've got to be a go-getter, it's not just
36 Spookw, it's other chiefs. You try to say just
37 Spookw. Well, that's wrong. You say just Spookw.
38 Maybe frog clan will fight to try to get more money
39 than the Lax Gibuu clan, and they will be Spookw, that
40 will be out of proportion.
41 43 Q Well, you told Neil Sterritt in 1986 that for the
42 Spookw name whoever in Lax Gibuu has money can take
43 the name, that's on page 73 of the notes I handed up
44 to -- handed up to you and his lordship, the second
45 paragraph?
46 A I remember saying that.
47 THE COURT: I'm sorry, you say you do remember or you don't

1 remember?
2 A I remember saying it because -- because if anybody
3 that produced more money and the people would look at
4 him and then he can pay off anything that -- any debt
5 that is incurred, you see, like if your -- it's not
6 just money. If a hard worker and don't let his team
7 down and he'll improve himself and improve his clan,
8 like Spookw, and if, you know, like the other people
9 say "Well, so and so got money, that's why he got it",
10 so maybe, maybe it is, maybe it is not, but when Neil
11 asked me I told him, I says "Well, it concerns with
12 wealth too".
13 MR. MACKENZIE: And -- well, mark that as the next exhibit, my
14 lord, that document.
15 MR. GRANT: I would ask for identification, on the same terms as
16 yesterday, my lord.
17 THE COURT: Yes.
18 MR. MACKENZIE: That's page --
19 THE COURT: 115 for identification.
20
21 EXHIBIT 115 FOR IDENTIFICATION - Notes of Neil
22 Sterritt
23
24 MR. MACKENZIE:
25 44 Q So in fact, a big chief has to put up, as you've said,
26 a lot of money, at least a thousand dollars in cash,
27 to get a name?
28 A Well, just depends, if he gets two thousand he can put
29 two thousand, there's no limit to it.
30 45 Q And you have to put up a lot of food?
31 A A lot of food.
32 46 Q And Liigiwil, what's that?
33 A What?
34 47 Q What is that term?
35 A No. I'm not going to make fun of you, but try and so
36 I can straighten it out in my own mind what it is.
37 Now, what's that word you're talking about?
38 MR. GRANT: It's the word in this reference?
39 MR. MACKENZIE:
40 48 Q Yes. It's on page 43 of the reference I've just
41 handed out and the second paragraph of page 43 of Mr.
42 Sterritt's notes. You see that word at the end there
43 of the second paragraph on page 43? It's
44 L-I-G-I-W-I-L(sic). Does that assist you?
45 A Liigawil.
46 49 Q Yes, Liigawil?
47 A That means any -- in the line of merchandise, there's

a lot of -- what area of merchandise, say like clothing, and whatever Liigawil is, and that includes -- in our terms that includes money too, Liigawil. That's the big word that covers everything.

MR. MACKENZIE: I submit that note as the next exhibit for identification, my lord.

THE COURT: 816.

EXHIBIT 816 FOR IDENTIFICATION - Note of John Sterritt

MR. MACKENZIE:

50 Q Now, I want to finish off our discussion about the territories in your affidavit, Mr. Robinson. Yesterday you said that maps changed but the boundaries remained the same. Do you recall that?

A Yes. Because the map can be changed through Fish and Wildlife and through the working order of discussion. If we're going to draw a map -- but the map that I got in my head is in here, not on a piece of paper.

51 Q But yesterday we saw that people have differing views about the names of the features and the ownership of features and territories?

A Mm-hmm.

52 Q And Spoowk's territories, for example, you agree with that?

A You can have different features of other territories, but what you are taught yourself, that's what you know.

53 Q And we discussed the territory of Spookw yesterday, but for the other territories in your affidavit, Nika Te'en, Yagosip and Woosimlaxha, there are also many different views about ownership of those territories, aren't there?

A Well, you know, like the other people would have different views of it, but the people that have told me this ever since I was knee high I would say, because I travelled with these people in the territory, like Nika te'en's family and my grandfather that has these territories, and, you know, and what I learned from them, that's what I put on this affidavit.

54 Q And I'm suggesting to you that Neil Sterritt, to your knowledge, received information from many people with different opinions about ownership of say Nika te'en and the other territories in your affidavit; can you agree with that?

A Would you really explain that to me, sir, that what you mean?
55 Q I'm saying that you know that Neil Sterritt received many different views about the ownership of territories in those -- ownership of territories described in your affidavit?
A I don't know what kind of views that he had, because I don't read up on his notes or anything.
MR. MACKENZIE: Excuse me, Mr. Robinson, I'm just trying to find a document here. And in your affidavit is -- I'm just speaking about Nika Te'en's territory then, just following this line of questioning.
MR. GRANT: Which one? There are two.
MR. MACKENZIE:
56 Q In your affidavit at page 11, paragraph 35, you say that -- you say under "Hills" that:

> "Mount Glen, locally known as Silver Standard Mountain, is in Nika Te'en's territory."

A Yes.
57 Q Yes. Well, are you aware that Woosimlaxha also claims that territory?
A Not that I know of.
MR. MACKENZIE: That mountain?
MR. GRANT: My lord, if my friend is relying on the two pieces of paper he's just given, I object to that question because Woosimlaxha, as set out in the affidavit, is Victor Mowatt. These two statements do not appear to be the statement of Victor Mowatt, if that is what my friend is relying. If he's relying on something else with which is a state of Mr. Victor Mowatt, who is Woosimlaxha, who that is, it is his territory, then I stand to be corrected, but that is a misleading question that was asked.
MR. MACKENZIE: I have handed up, my lord, Neil Sterritt's topographical survey notes dated February 8th, 1976 relating to this Silver Standard-Mount Glen, and I am -- I've just handed up a map of the Hazelton area showing the location of Mount Glen right in the midst of all those mining claims just north-east of Hazelton. The notes on that map are my notes, and I ask you to disregard them, Mount Glen is right.
THE COURT: I see it.
MR. MACKENZIE: East of Glen Vowell, the Indian Reserve.
THE COURT: Yes.
MR. MACKENZIE: And that's the mountain we're talking about.

Now, I asked Mr. Robinson whether he's aware that other people than Woosimlaxha claims --
THE COURT: Yes. And he said he doesn't know about that.
MR. MACKENZIE: Yes, that's correct, my lord.
MR. GRANT: And I objected to that question.
THE COURT: I don't see why you should object to that question, Mr. Grant.
MR. GRANT: Well, my friend asked Woosimlaxha claims. That is a statement of a topographic sheet that refers to certain informants, it does not refer to Woosimlaxha.
THE COURT: Well, he asked the question and he might have got a yes answer. He got a no answer. There's nothing wrong with the question. The answer is all right for you and it's not so good for Mr. Grant, but I don't think the question is objectionable, but now we go on from there.
MR. MACKENZIE: And well, I submit that topographical data sheet as the next exhibit for identification, my lord.
MR. GRANT: I would object to the map going in.
MR. MACKENZIE: Well, the map's just an aide-memoire to assist your lordship --
THE COURT: All right.
MR. MACKENZIE: In the location of that mountain. We're going to refer to that map again, I hope.
THE COURT: Well, under the arrangement that counsel have, as Mr. Mackenzie explained yesterday, it seems to me that this topographic survey sheet may be marked for identification.
MR. GRANT: Oh, yes, on the same terms as yesterday.
THE COURT: Yes, all right. So that will be exhibit --
THE REGISTRAR: 817.
THE COURT: 817.
THE REGISTRAR: Yes.
THE COURT: For identification.

EXHIBIT 817 FOR IDENTIFICATION - Topographical survey sheet

MR. MACKENZIE:
58 Q Mr. Robinson, there's a reference to P. Samson. Do you know someone by that name?
A There's a lot of Samsons. There's Perry Samson, I believe there's another -- another Samson that I know in the past quite a few years ago.
59 Q And do you know Agnes Travers?
A Yes.
60 Q And she's a Gitksan lady?

A Um-hum.
61 Q And does she live in Gitanmaax?
A Does she live in Gitanmaax?
62 Q Yes?
A No.
63 Q Where does she live?
A Glen Vowell.
64 Q Yes?
A Sika Doax Reserve.
65 Q This is one of the earliest pieces of information we have in Mr. Sterritt's notes. Your testimony is that you started meeting with him sometime in 1976 as well, is that correct?
A Yes. I was meeting with him, but I've never seen that and he never even asked me about him.
66 Q No?
A But you can see that little paragraph in -- that he put in there, that's way after that 76, that's when I told him about that, when I went in with Alfred Danes, Nika Te'en.
MR. MACKENZIE: Yes. I just point that out to your Lordship, there's a reference to Mr. Robinson's information, number 9, remarks.
THE COURT: Yes, I see that.
MR. MACKENZIE:
67 Q Dated May 28, 1979. We've talked about these different pieces of information that Mr. Sterritt had over the years, 1976, and we saw some -- several from 1979 finally -- or not finally -- in 1987 finally you swore an affidavit and interrogatories, didn't you?
A Yes. That's after we made arrangements with the court case.
MR. MACKENZIE: And your affidavit, your interrogatories affidavit was sworn on February 3, 1987. I've handed you a copy. Spookw interrogatory is marked as an exhibit in this proceeding. The affidavit is Exhibit 334, and interrogatories 10, 15 and 27 were marked at that time.
THE COURT: 334?
MR. MACKENZIE: Yes, my lord.
THE COURT: Thank you.
MR. MACKENZIE:
68 Q And now I have -- now I'm filing this affidavit an exhibit and interrogatory 59(c), so I submit, my lord, that it would be -- oh, I see that 59(c) has been marked as Exhibit 335, so there's no need to mark this, my lord. Now I'm going to refer to this

1 affidavit, and paragraph 3 you swear that the answers
2 attached are true to the best of your knowledge;
3 that's true, Mr. -- do you swear that, Mr. Robinson?
4 A On the --
5 69 Q Paragraph 3?
6 A On the third page here?
7 MR. GRANT: Second page.
8 MR. MACKENZIE:
9 70 Q Second page.
10 A Second page? I believe it is true because I signed
11 it.
12 71 Q Very good. And attached to this affidavit were --
13 were certain answers, weren't they, and one of them
14 was answer 59(c), and you were asked what are the
15 boundaries of your house's territory, and you replied:
16
17 "The approximate boundaries of Spookw's territory
18 are included in the map which is set out in
19 schedule C, except my fishing sites, and" --
20 MR. GRANT: If I can just interject, apparently 334 includes
21 59(c), Exhibit 335 is the map.
22 THE COURT: Thank you.
23 MR. MACKENZIE:
24 72 Q Those aren't our notes, my lord. I guess we can
25 verify that. And just handing over the map that was
26 attached, that's Exhibit 335, and that's a map of
27 Seeley Lake and the territory around it, isn't it,
28 correct, Mr. Robinson? Do you see Seeley Lake there?
29 A Yes, right here.
30 73 Q Does your lordship see Seeley Lake?
31 A Yes.
32 74 Q And so those are the approximate boundaries of
33 Spookw's territory, as you indicated in 1987; is that
34 correct, Mr. Robinson?
35 A That's correct, yes.
36 75 Q And those were -- and that which you're claiming
37 today?
38 A That's what I am claiming for the Spookw.
39 76 Q Is that all you're claiming today?
40 A No. That's just the west part of it.
41 77 Q So what you're claiming today includes more than
42 what's shown on this map, Exhibit 335?
43 A It includes more than what's shown on this map.
44 MR. MACKENZIE: In your affidavit in paragraph 40, I'm talking
45 about the affidavit, Exhibit 592.
46 THE COURT: Yes.
47 MR. MACKENZIE:

78 Q You say that Nika Te'en's territory goes to the 1,400 foot contour?
A Yes.
79 Q Yes. So that's not what's shown on your map, Exhibit 335, is it?
A Well, that's the -- Nika Te'en's territory is on the east boundary of this.
80 Q So that shows a much larger territory than you say now is owned by Nika Te'en, is that correct?
A You show me the map and then I'll tell you whether it's -- this is Spookw's map, not Nika Te'en's.
81 Q Well, I'm just mentioning you have Nika Te'en shown?
A Yes, Nika Te'en's shown, but there's supposed to be lines there, and then I can identify to you whether it's right or not, if it is, if it isn't.
82 Q Yes. Well, there are lines shown, there are other boundaries shown on this map, as you can see from Luu ska yak yak on the right-hand side of the boundary seems to go east along the height of land there above Gwis Guyen, and then it goes south down to Staix Kaiyet for the other neighbouring territories.
83 Q I take it now you say -- you would say that that's not Nika Te'en's boundary going along the top of the mountains there?
A Not along the top of the mountain. It's lower.
84 Q Yes?
A Lower than Spookw's boundary right on top of the mountain.
85 Q Spookw's boundary goes along the top of the mountain?
A Along the top, right up on top, and then it goes down to Luu ska yak yak.
86 Q It goes over Mud Flat Creek, doesn't it?
A Yes.
MR. MACKENZIE: Well, the contours are shown on this map, you can see -- your lordship will see 2,500, for example, and the 1,500 foot contour is just south of Seeley Lake. That can be followed around to get an idea of where 1,400 foot contour is for Nika Te'en.
MR. GRANT: The interrogatory answer of course speaks for itself, as the witness has already explained that this -- he was describing her or referring to this map for Spookw's territory, not Nika Te'en's.
THE COURT: Well, where is Hagwilget Peak on this map?
MR. MACKENZIE: It's not on this map, my lord.
THE COURT: It's off to the right-hand side?
MR. MACKENZIE:
87 Q Yes, my lord. Well, Stekyawdenhl, will that be

Hagwilget Peak, just at the edge of that map there?
A Oh, that's that small little peak, that is half-way down.
88 Q Yes?
A Well, there's a lot of names to that, and you know, but the best name that I know is Stekyawdenhl.
MR. MACKENZIE: Yes. So it's off to the right of this map, my lord.
THE COURT: Yes. Well, Exhibit 5, which we looked at yesterday, shows this territory as Spookw crossing through -- crossing south of Hagwilget Peak and extending down to the Bulkley River, does it not?
MR. MACKENZIE: Yes, that's correct. That's what Exhibit 5 shows, my lord. Your lordship will see the present -- on map 9-A where the present claim is.
THE COURT: This easterly boundary on Exhibit 335 would be on the west side of Hagwilget Peak, would it not?
MR. MACKENZIE: That's correct, my lord.
THE COURT: Yes, all right.
MR. MACKENZIE: And no mention of Wii'goob'l on your map, Exhibit 335, is there, Mr. Robinson?
MR. GRANT: On the actual exhibit there is a reference to Wii'goob'l.
MR. MACKENZIE: Does the name Wii'goob'l appear on the actual exhibit?
MR. GRANT: Yes, it does. I believe that in examination -- or in cross-examination this -- that name was put on either by -- in examination of either Miss Wilson Kenni or Mr. Sterritt, but on our copy of the exhibit is noted that on the original exhibit it is now noted.
MR. MACKENZIE: But it was not on the exhibit that was filed with the interrogatory?
THE COURT: No.
MR. MACKENZIE:
89 Q I'm sorry, my lord, I wasn't present for that part of Mr. Sterritt's cross-examination. Well, Mr. Robinson, you said and you swore that those were the approximate boundaries. You saw this map, I take it, when you signed your affidavit, is that right?
A Not this particular map. I've got -- I've got the whole thing here that I think it's -- but that includes the map that I have seen, and you see this is the -- this is the lower part of Spookw's territory, and Wii'goob'l is right at Daxs O'op, you can see just a little -- your honour, you can see just a little circle just below Seeley Lake there, just more or less a little nitch there.

THE COURT: Yes?
A That's Daxs O'op. That's Wii'goob'l's, and it goes down until it hits -- joins with the Chicago Creek, and that's how far it is. Can you see that?
THE COURT: Yes. Daxs O'op is marked on the copy of Exhibit 335 that I have.
MR. MACKENZIE: That's right.
MR. GRANT: I believe it was marked on the original map as well, attached to the interrogatory.
MR. MACKENZIE:
90 Q So when you signed the interrogatory affidavit you saw this map which is Exhibit 335?
A I saw the whole map, but the boundaries here are correct between -- but the Nika Te'en's boundary should be a little lower than the top boundary of Spookw? Nika te'en's boundary comes up Gwin Sagiiblax.
91 Q Station Creek?
A Yes. And then it leaves and goes south-west and up to about 1,400 feet level of Stekyoodenhl, and then it comes and joins in at Station Creek -- I mean, what do you call it, Chicago Creek.
92 Q You approved this map, Exhibit 335, when you signed your affidavit, your interrogatory affidavit, did you?
A If this map goes down and follows the Chicago Creek --
THE COURT: Well, it does, doesn't it?
A What creek is this here? Is that Chicago Creek?
MR. MACKENZIE: You don't understand the Gitksan name that's on that creek?
THE COURT: It looks like G-I-I-S?
A Xsakwhl Giist, that's what it is. Xsakwhl Giist is just from Seeley Lake down.
THE COURT: That's Chicago Creek, isn't it?
MR. MACKENZIE: Yes.
A No. That's --
THE COURT: Seeley Creek?
A Yeah. That's how I know it, but Chicago Creek is the one that comes in and joins with Xsakwhl Giist.
THE COURT: With Seeley Creek?
A Yes.
THE COURT: Yes, all right.
MR. MACKENZIE: Well, my lord, you will see that this map seems to coincide just in a general way with the eastern part of Spookw showing on Exhibit 5.
THE COURT: Yes.
MR. MACKENZIE:
93 Q And there was a western part of Spookw being claimed

in 1987 also, wasn't there, Mr. Robinson -- I'm sorry, I beg your pardon. It shows the western part as shown on Exhibit 5, and in the middle was Nika Te'en and Gyetm Galdoo on Exhibit 5, but you say there's no Gyetm Galdoo there now?

A There's no Gyetm Galdoo there, not what I know of, not what I was told when I was told about the land.

THE COURT: Well, Mr. Robinson, are you -- is it your evidence that on this map that you have in front of you, Exhibit 335, your south-western boundary should be along the 1,400 foot elevation?

A Nika Te'en's should be 1,400.

THE COURT: Well, then yours should as well, should it?

A Mine should be above it.

THE COURT: Above it?

A Yeah. But my boundary goes right to the peak. Nika Te'en's just goes so high.

THE COURT: So what you're saying is that on this map Nika Te'en's territory to the west of --

MR. MACKENZIE: Or east.

THE COURT: To the east -- I'm sorry, to the east of your territory should be at the 1,400 foot elevation?

A Yes.

THE COURT: Who's above him?

A That's all Spookw on the top part.

THE COURT: I see, all right.

MR. MACKENZIE:

94 Q Well, Mr. Robinson, if this map didn't show all of Spookw's territory on the top part, why did you approve it?

A My affidavit said -- you can read my affidavit -- said it's bigger than what is shown here.

95 Q I'm talking about your interrogatories affidavit?

A Well, this is what it says. It covers right to Yak yak, it's supposed to.

96 Q It's supposed to but it doesn't on the map, does it?

A Not the one that you showed me.

MR. MACKENZIE: No. Now, in your affidavit, just moving on to the next subject, I'm finished with this Exhibit 335 now, my lord.

MR. GRANT: Well, I'll leave it for redirect, but there's an Exhibit 336, but I will -- which reflects some of what the witness has said, but I'll leave that for redirect.

THE COURT: Thank you.

MR. GRANT: I'm just cautioning my friend in case he wants to raise it himself.

MR. MACKENZIE:

97 Q No. I'm not going to go into 336 with you, but I will ask your lordship to cast his mind back to when these maps were -- when this map came out in Dora Wilson Kenni's examination we found out that one map had come to British Columbia and a different map had gone to Canada and there were differences in the names, but I don't want to get into that because it doesn't form part of my examination -- cross-examination. Now, Mr. Robinson, in your affidavit you say that Spookw has a territory separate from Yagosip, correct?

A Yes.

98 Q But in fact, Spookw and Yagosip shared the same territories, didn't they?

A Well, they don't have no arguments to go on each other's territory, if that's what you mean.

99 Q What I'm saying is that Spookw and Yagosip really have the same territory, and as you say, Yagosip holds the treasure chest?

A He holds a treasure chest of his own.

100 Q Really Spookw has no land because they're both together?

A Not actually, because it says Spookw has his own land, but the way it is, you know, when they have a feast and there's a feast -- you see, why should there be a map if Spookw has no land, why should I sign an affidavit that I'm speaking for Spookw?

101 Q Well, that's right.

A And that the land that I know it belongs to Spookw is the land that we are talking about.

102 Q Well, you've told me --

A You see, the land that I sign an affidavit on is the land around the Stekyoodenhl and all the way through to Yak yak Creek, and then Yagosip is on the north side of the Bulkley River and up Kispiox River.

103 Q Well, you told Neil Sterritt in 1981 that Yagosip holds the land, she holds the treasure chest, she holds the treasure chest, but Spookw has no land?

A Well, according to myself I have no land, although I got the Spookw's name, that's me, but Spookw has land.

104 Q Yeah. But --

A The reason why I say this, you go across southbound and you find -- try to look for a place where you can set a trap. You can't find it because it's all farms, and you go east from New Hazleton. They're all lined up with farms there.

105 Q That's not what you were speaking about?

A That's what I meant when I said it, and if you don't believe what I'm talking about you must be reading my mind or even saying -- putting things, you know, into my own ideas, but that wasn't my idea.

106 Q Well, do you recall telling -- you do recall telling Neil Sterritt that Spookw has no land?

A Well, he came to me and he said -- you know, he says "You've got land", he says. I got no land, I just told him, just like that, and that's what I meant.

107 Q And you told him that Yagosip was looking after the hunting ground for Spookw?

A Well, not generally Spookw, she's looking after her own hunting ground.

108 Q Now, this is a note dated December 31, 1981, page 37 and page 38. And at the bottom -- you're speaking about the feast hall seating and the inter-relationship between Spookw and Yagosip and all the family, and then down at the bottom Neil Sterritt writes, number 3:

> "Yagosip is Andims'ax in Spookw's house meaning she holds the treasure chest to the land. Spookw has no land."

That's what you said to Neil Sterritt, isn't it?

A Well, I said it, that's because, you know, he asked me to represent -- and then I looked around and I said "Where's my land, looks like I got no land, it's all farmed".

109 Q And then on the next page, page 38, at the top, Neil Sterritt writes "Yagosip", and there's a Gitksan sentence, he says:

> "Looking after the hunting ground for Spookw."

Did you tell Neil Sterritt that as well?

A No, I didn't.

110 Q So Neil Sterritt is wrong when you wrote that down?

A I guess he just even the sitting here in the feast hall is wrong too.

111 Q Yes. So he made quite a few errors in that?

A Yes. That's an error, you see, you know, that's unintentional. It's not meant to be, because he's just working for the chiefs.

112 Q Yes, that's right.

A That's what, you know, you can make mistakes.

113 Q Yes?

A Even you can make mistake.
114 Q Yes?
A I can make mistakes.
MR. MACKENZIE: Yes. We've seen a couple of your mistakes, and mine as well. I submit that as the next exhibit, my lord.
THE COURT: I'm sorry, 818 for identification, two pages.

EXHIBIT 818 FOR IDENTIFICATION - Notes of Neil Sterritt dated December 29, 1981 to April 24, 1982

THE COURT: Andims'ax is joint chieftainship of a house, is it not? Is that what it means?
MR. MACKENZIE:
115 Q Andims'ax?
A Andims'ax.
116 Q At the bottom of page 37, number 3?
A 37?
117 Q You see that number 3 where Yagosip is Andims'ax in Spookw's house?
A I don't know, I'm a stupid Indian too. I don't even understand, you know. The way it's pronounced I don't know if you can pronounce it properly.
THE COURT: My recollection is that we had it in the evidence of Mr. Art Matthews. I think this is the word where there were two chiefs usually of equal standing in the same house.
MR. GRANT: Yes. I don't recall that word, so I'm not --
THE COURT: All right.
MR. GRANT: I remember the evidence of Mr. Matthews regarding that. There was the Wilksiwitxw, but there was also this other term that he used. I don't recall it as being that word, and I can't --
THE COURT: I think our Madam word person has something to tell us about this?
A Yes. I'm sorry, your honour, that I can't explain the meaning of that word because there's a lot of these -- the words in our own language is that it takes a little older people like Arthur Matthews and -- would know, understand the meaning of it.
MR. GRANT: It appears that Miss Howard is having difficulty with that word as it's spelled as well.
THE COURT: Yes. Well, I'm far from satisfied that my recollection is accurate.
MR. GRANT: I think I can check that. I know exactly what you're referring to in Mr. Matthews' evidence.
THE COURT: Yes, all right, thank you.

MR. MACKENZIE: My lord, does your lordship have any objection to the word person giving the meaning to that word?
THE COURT: No. But she doesn't know, she says.
MR. MACKENZIE: I'm sorry.
THE COURT: Or she's unsure.
MR. MACKENZIE: That was marked as an exhibit, my lord?
THE COURT: Yes, 818.
MR. MACKENZIE: My lord, I've just handed to Mr. Robinson and your lordship an excerpt from Exhibit 102, which as your lordship will recall was prepared in October, 1985.
MR. GRANT: That was the draft map prepared, I believe, for counsel for the plaintiffs.
THE COURT: Yes.
MR. GRANT: And Glen Williams discussed that in his evidence, and he and Neil Sterritt, is that right, put it together. It was the end product of their research, that's Mr. Williams' evidence. Now, I've taken the liberty of highlighting in yellow, just I don't think that was the end result, that's because it was a draft map prepared at that stage.
MR. MACKENZIE: I'm sorry, yes, my friend is correct.
THE COURT: Yes.
MR. MACKENZIE: Product of the research, but my friend says a draft map, and I've added the key that appears on that Exhibit 102 to this map and I am referring the court and Mr. Robinson to the highlighted area, 1C-10, which seems to -- appears to be Lax Gibuu, Gitanmaax, Spookw, Yagosip.
MR. GRANT: Which is also map 4 on our desk copy, my lord, on these.
THE COURT: Yes, fine.
MR. MACKENZIE:
118 Q So we're looking at the Seeley Lake territory. That's described as Spookw-Yagosip isn't it, and that just includes Seeley Lake, doesn't it, Mr. Robinson?
A No. I couldn't even read this map here.
MR. MACKENZIE: Well, can you say whether the boundaries of the land that you're claiming for Spookw are different from the ones shown in here, 1C-10, highlighted in yellow?
MR. GRANT: There are three 1C-10's, and he just said he couldn't read them.
MR. MACKENZIE:
119 Q South of South Hazelton?
A 1C-10?
120 Q Yeah.

A That's the south part of -- the west part of -- that's the same map that the working map that you showed me.
121 Q Exhibit 335, your interrogatory map, yes?
A That's a part of the territory that Spookw is claiming.
122 Q Yes. Is that the same with the next one up, north-east of New Hazleton, is that the land that Spookw and Yagosip are claiming -- I'm sorry -- is that the land that Yagosip is claiming?
A Yagosip, is that Xsi Luu Guu'asxw?
123 Q Yes. You gave a Gitksan name, but could you -- would you agree with me, Mr. Robinson, that what appears on this map as 1C-10, those areas around Hazelton are different from the areas that are being claimed in your affidavit today?
A This area here is.
THE COURT: Which one is here, please?
A 1C-10 on --
THE COURT: But which one?
A On the north side of Bulkley, I think.
THE COURT: Well, it's north side of the Suskwa, isn't it?
MR. MACKENZIE: No, my lord -- the Suskwa, that's right, Suskwa. East of Bulkley, north of Suskwa.
THE COURT: Yes.
MR. GRANT: The witness was asking about the name of the creek, which appears to be Xsan Logix X-S-A-N L-O-G-I-X. Do you have the section he's now referring to, my lord?
THE COURT: Yes.
A You see, the boundary goes down here, you see, that's just a little portion here.
MR. GRANT: I'm just going to ask Madam Interpreter to pronounce that word for the witness?
THE TRANSLATOR: Xsan Logix.
MR. GRANT: Madam, it's hard to tell whether it's an O or an A.
THE COURT: But you're saying, Mr. Mackenzie, that that IC-10, bounded on the south by the Suskwa and the Bulkley, is different on this map from what is described in the witness' territorial affidavit, are you?
MR. MACKENZIE: Yes, my lord.
THE COURT: All right.
MR. GRANT: You can see the distinction on Exhibit 646, I believe it is, the overlays, because this map here, map 4, is underlaid under 9-A, and you can see the difference on that between the two, my lord.
THE COURT: Yeah. Well, perhaps --
MR. GRANT: He said the one Yagosip is claiming, and he was pointing to some area on the map.

THE COURT: Mr. Mackenzie, don't you have an answer to your question already.
MR. MACKENZIE: Yes, my lord.
THE COURT: By the means Mr. Grant has just described?
MR. MACKENZIE: Yes, that's correct, my lord.
MR. GRANT: Yes. That's why I'm unsure about this, because it's already been canvassed extensively with Mr. Sterritt, and the plaintiffs themselves have introduced maps which show these very differences my friend is trying to establish. If that's -- he may want to prove something else of the witness, but if that's what he's trying to prove, that's already been proven.
THE COURT: This may be the first step in proving something, but I don't know, seems to me that we have an answer to that question, Mr. Mackenzie.
MR. MACKENZIE: Yes, my lord.
THE COURT: You're free to go on from there. Perhaps this is a convenient time while the witness is familiarizing himself with the map if we were to take the morning adjournment.
THE REGISTRAR: Order In court.

(MORNING RECESS TAKEN)

THE REGISTRAR: Order in court.
THE COURT: Mr. Mackenzie.
MR. MACKENZIE:
124 Q In your affidavit, your territorial affidavit Exhibit 592, you speak about Woosimlaxha territory in section B of your affidavit, correct?
A Yes. I believe so.
125 Q Yes. And you say that Woosimlaxha's boundary goes along the Salmon River, Shegunia River to the Skeena?
A That's correct.
MR. MACKENZIE: Yes. Now, my lord, if your lordship can take a look at that map that I handed up showing Mount Glen, your lordship will see that Shegunia River just north.
THE COURT: Just a moment, Mount Glen, yes?
MR. MACKENZIE: Your Lordship, we're not going to deal with Exhibit -- yes, does your lordship see Shegunia River there in Kispiox, flows into the Skeena River just at Kispiox, the Shegunia River?
THE COURT: There's so many crooked lines here, some are contours and some are rivers.
MR. MACKENZIE: Does your lordship see the Kispiox Indian Reserve?
THE COURT: I've -- I see where -- does it flow into the Skeena

1 just at Kispiox?
2 MR. MACKENZIE: Yes, my lord.
3 THE COURT: Yes. I have it, thank you.
4 MR. MACKENZIE: My lord, we became very familiar with that area
5 when we dealt -- when Pete Muldoe gave us that
6 evidence.
7 THE COURT: Yes.
8 MR. MACKENZIE: And this map -- a copy of this map was put in as
9 an exhibit at that time.
10 THE COURT: Yes.
11 MR. MACKENZIE:
12 126 Q With certain other notations on it. So you say
13 Woosimlaxha's boundary goes right along the Shegunia
14 River to the Skeena River?
15 A Yes.
16 127 Q Yes. All along the southern boundary -- I'm sorry,
17 all along the southern shore of Shegunia River?
18 A Yes.
19 THE COURT: What paragraph of the affidavit are you talking
20 about now?
21 MR. MACKENZIE: On page 5, paragraph 12, my lord.
22 THE COURT: Thank you.
23 MR. GRANT: Well, my friend is talking about the Yagosip
24 territory on page 5, paragraph 12, he indicated, as I
25 was confused as well.
26 MR. MACKENZIE: I'm sorry, I'm referring to --
27 MR. GRANT: Paragraph 19 I believe is what you're referring to.
28 MR. MACKENZIE: Yes, that's right. I beg your pardon. I beg
29 your pardon, it's paragraph on page 6, my lord. It's
30 the Robinson Lake territory, and your lordship can see
31 the description is given there, starting with Shegunia
32 joins the Skeena, the line runs up the Shegunia seven
33 miles.
34 THE COURT: Yes.
35 MR. MACKENZIE: Does your lordship have that reference?
36 THE COURT: Yes.
37 MR. MACKENZIE: And now, Mr. Robinson, if someone -- Mr. Peter
38 Muldoe said that his Gitludahl territory ran along the
39 south bank of the Shegunia River for five miles about
40 one mile south of the river -- I'm referring to Mr.
41 Muldoe's evidence, volume 102, 6410.
42 THE COURT: My first problem with that, Mr. Mackenzie, is one on
43 the south bank and one on the north bank. If so,
44 there's no problem.
45 MR. MACKENZIE: Well, my lord, my friend -- Mr. Robinson I think
46 has agreed that his territory -- Woosimlaxha's
47 territory runs along the south bank of the Shegunia

River.
THE COURT: All right, yep.
MR. MACKENZIE:
128 Q And that's true, isn't it?
A To my knowledge it is, yeah.
MR. MACKENZIE: Yes. Thank you, my lord, for clarifying that.
THE COURT: And you say that Pete Muldoe said that his territory --
MR. MACKENZIE: Gitludahl.
THE COURT: Gitludahl runs along the south side of Shegunia for five miles?
MR. MACKENZIE: Yes.
THE COURT: Yes.
MR. MACKENZIE:
129 Q Do you know about that Gitludahl territory on the south bank of the Shegunia River?
A You mean the south bank, or the Gitludahl, or Woosimlaxha?
130 Q Gitludahl?
A Gitludahl? That's the territory on the north -- no, the only person or the house that I know is Gutginuxw, but I believe he has a working relation with Gitludahl in some areas in that area, especially the berry patch in some.
131 Q Collins Lake?
A Ansa matja, Collins Lake. That's Collins lake in that area really belongs to Gutginuxw, and the person that worked there, that area that I remember is 'Niis gimii nuu.
132 Q That's Alvin Weget?
A That's Gutginuxw's house.
133 Q That's Alvin Weget?
A No. That is Andrew Crosby.
134 Q And now it's Alvin Weget?
A It was Alvin Weget, and he put it on James Woods, and then when James Woods passed away and then he took it back again.
135 Q Alvin Weget took it back again, and he has it now?
A He has 'Niis gimii nuu? You see, like --
MR. GRANT: Just I think the witness said he's 'Niis gimii nuu, and he's Dinii also?
A That's right.
MR. GRANT: And I also would ask that the witness be asked to complete his answer. My friend interjected.
A You see, when Andrew Crosby, the late Niis gimii nuu was working, and he's from Gutginuxw's house, and then when he passed away and Maxhlatk'a'atxw was working

that line, was also named Baluu, that's Willie Smart, and through the relationship of Willie Smart and myself is my -- he's my brother-in-law. So I went with him at one time over in some other -- into Shimogyet(?), and then he explained to me, that's how I know 'Niis gimii nuu owned that area and -- I mean Gutginuxw and all his house? Willie Smart had two names, Maxhlatk'a'atxw and Baluu, and when he passed away Alvin took over.

136 Q Alvin Weget is Niis gimii nuu?

A Alvin Weget is.

137 Q Alvin Weget is now a chief in the House of Gitludahl?

A A chief in the house of Gitludahl, yes.

138 Q Pete Muldoe said he had Gitludahl territory on the south bank of Shegunia. Do you agree with that?

A It's not a matter of agreeing, but I have no knowledge of it.

139 Q You don't know anything about Gitludahl territory on south bank of Shegunia?

A All I know, it belongs to Gutginuxw, the House of Gutginuxw, and all his relatives worked there.

140 Q I'm talking about south bank of Shegunia?

A That's -- well, that's the south bank.

141 Q I'm talking about south bank of Shegunia. You say it belongs to whom?

A Gutginuxw. In from south bank up Pine Nut all through that area.

142 Q Now I'm asking you about Gitludahl territory. Along the Shegunia River but south of Shegunia River do you deny Gitludahl has territory south of the Shegunia River?

A I'm sorry. I have no business to deny or agree, this is not why I'm sitting here, because I am representing Woosimlaxha, and then and now just the witness to identify who is on the border of Woosimlaxha and the next chief. And that's all I know, sir, is Gutginuxw.

THE COURT: I'm not sure that I have grasped the significance of what the witness is saying about Gutginuxw.

MR. MACKENZIE: Could I attempt to summarize what the witness is saying?

THE COURT: If you would, please?

MR. MACKENZIE: Without Mr. Grant interjecting.

MR. GRANT: I just refer you to the map. If you see the Shegunia River, which you have, then you can see Pine Nut north of there. Those are the geographical references that the witness has referred to, Shegunia, and then north you see where the W.M. is in on this

aide-memoire.
THE COURT: Yes.
MR. GRANT: If you go along that to the right, just between where it says Skeena and Province, you see Pine Nut. Now, that's the reference the witness is referring to when he says about the territory between Shegunia as far up as Pine Nut.
THE COURT: Well, I thought that the questions were directed to the area south of the Shegunia.
MR. GRANT: Yes. And he said up from the south banks, so he's talking about from the south bank up to Pine Nut.
THE COURT: He's talking about north of the Shegunia.
MR. GRANT: Yes. From the south bank as far north as Pine Nut, so it would encompass what he's describing, it would encompass the river.
THE COURT: Well, you say, Mr. Robinson, that Woosimlaxha has the south bank of the Shegunia?
A The south bank, your Honour, from the south bank of Shegunia to Xsi mahla gan right across from Glen Vowell.
THE COURT: Yes.
A That's the area that belongs to Woosimlaxha.
THE COURT: How far south does it go from the Shegunia?
A You see, you come down from Shegunia and then you follow it down the river, middle of the Skeena River, and then it comes -- you see Shegunia Ranch there, I guess you can't.
THE COURT: No.
A But there's a little creek that comes from Dam O'osit that runs down and follows down and comes out across from Glen Vowell village.
THE COURT: All right.
A And then it follows up, it goes kind of a north-east, that's my own estimation, and then it leaves that creek and heads towards in between Dam O'osit and Lax lix hetxwit, that's the mountain in question here, that's Nika Te'en.
MR. MACKENZIE:
143 Q Mount Glen?
A You see, and it goes around and it comes Dam lax andatw, that's Robinson Lake, and it comes down between Robinson Lake and Lax lix hetxwit, that was Wooimlaxha's territory on the north side, and it hit Shegunia, Two Mile Creek about half or three-quarter miles below Da lax andatw, that's Robinson Lake, and follows down Two Mile Creek until it hits Xsan Ando'o.
144 Q Bulkley River?

A Bulkley River, and it comes down --
THE COURT: All right.
A And it comes right around. That's -- you know, I'm tying in Nika te'en's.
THE COURT: So the territory between Shegunia and Two Mile Creek west of the Skeena is Woosimlaxha's territory?
A Not all.
MR. MACKENZIE: East of the Skeena, my lord.
THE COURT: East of the Skeena, I'm sorry.
A You see, not all of it, you see, and then, you know, you come to -- you come to Xsan Ando'o, you follow me?
THE COURT: Yes.
A That's Bulkley River. And you go up and then you get to a creek that's Four Mile Creek on the map, Xsan luu guu asxw, that's what we call that, and it goes up to the head of Xsan luu guu asxw and goes up on the Lax andatw Mountain, that's the Nine Mile Mountain, they call it.
MR. MACKENZIE: That's not on the map.
THE COURT: No, all right. So you're not aware of any territory owned by Gitludahl in that area south of Shegunia Creek?
A No. Not that I know of.
THE COURT: All right.
MR. MACKENZIE:
145 Q Thank you, my lord. So, Mr. Robinson, we've discussed several of the territories in your affidavit: Spookw, and Nika Te'en, and Woosimlaxha, and I'm suggesting to you that over the years there was much uncertainty about the names and the ownership of the features in those territories. Do you agree or disagree with that?
A You know, I don't know anything about the disagreement or agreement because the only things that I know, it's the people that advised me about these territories.
146 Q And you know that Neil Sterritt received a lot of differing opinions about the ownership of these territories?
A Not that I know of.
147 Q But what in effect you were trying to do with Neil Sterritt was prepare a case for the land claims, weren't you?
A Partially, yes, but not all.
148 Q You had to make all the pieces fit together so you could show that all the land was owned --
A I'm not the only teamster.
MR. MACKENZIE: Yes. And it was Neil Sterritt who really --

MR. GRANT: Just a moment. Was the witness finished his answer?
MR. MACKENZIE: Well --
THE COURT: I thought he was.
MR. GRANT: Oh, okay. I wasn't watching, I just heard.
MR. MACKENZIE:
149 Q And it was Neil Sterritt who pulled all the pieces together for the land claim, wasn't it?
A He was instructed by the chiefs.
150 Q And you're still uncertain about who owns different parts of those territories, aren't you?
A I'm not uncertain about what my affidavit is. I know, because I was taught by these people, told, and I walked the area, sir.
151 Q And no one really knows what the names of those territories are, do they?
A I guess I believe the owners know the names of the territories.
152 Q And the reason is because people had forgotten the names of the features on the territories over the years, hadn't they?
A I can't verify on that because I don't know what is in the other person's mind.
153 Q People, the Indian people in Gitanmaax stopped going out on the trapline, didn't they, after the 1940's?
A I don't think so, because there's a lot of people still going out on the traplines.
154 Q And you don't have a registered trapline, do you?
A No.
155 Q And the people in Gitanmaax, including yourself, got employment in the logging industry and the fishing industry, didn't they?
A I'm employed in a lot of things, sir.
156 Q Yes. You've done a lot of things as a fisherman?
A Fisherman, yes.
157 Q And driving the logs down the river, down the Skeena River?
A Yes.
158 Q And working the pole camps?
A Yes.
159 Q So people weren't going out on the land anymore, they were involved in getting income from those types of industries, weren't they?
A Well, it doesn't mean that you give up your land.
160 Q Yes. But you had to have something for the land claims, something certain, didn't you?
A Well, we don't have to have something, we know we got the land that we're claiming.

MR. MACKENZIE: And so you and Neil Sterritt got -- prepared these affidavits and this map so that you would pull it all together and have something certain to present to his lordship, correct?
MR. GRANT: Which affidavits and which maps my friend is referring to? Is it the final one he's talking about?
MR. MACKENZIE:
161 Q I'm talking about the territorial affidavit that you swore and your other chiefs are swearing?
A What other chiefs?
162 Q Even though you disagree with some of the information in the affidavits and the testimony of other chiefs, you don't say anything, do you?
A Well, you know, if I disagree I let you know, but I don't know nothing about what they're telling Neil.
163 Q And you -- that's right?
A And I wasn't asked.
164 Q Sorry, that's right. You don't say anything because you and all your -- all the other people in your clan and your tribe want to share in the land claims, correct?
A It's not just sharing, it's tell the government that we own these lands, it's not sharing.
165 Q And these territories are being used by farmers, correct; that's Spookw's territory?
A Yes.
166 Q And by trappers?
A Yes.
167 Q And they're mining up in Mount Glen and --
A Yes.
168 Q And there are towns in those territories which you're speaking about?
A Yes.
169 Q And your sister, Joyce Turner, doesn't go trapping, does she?
A She generally goes out with her husband.
170 Q She doesn't have a registered trapline, does she?
A No. They're working. Delbert got a registered trapline, they're working on it.
171 Q So all these different opinions about the territories were pulled together by Neil Sterritt in the affidavit, correct?
A It's not pulled by Neil Sterritt. I told him what it is and how it is.
172 Q And he got information from other people too, didn't he?
A I don't know.

173 Q And he brought -- he pulled them all together and he drafted an affidavit for you, didn't he?
A I don't know who drafted it, but I read it.
174 Q And they brought you a draft affidavit, didn't they?
A I told them what to put on the affidavit and I read this through, and if there's any changes there I tell them there's a -- this one here, maybe one line of something that's not really correct, I tell them to redo it, because I haven't got the education like most people have like -- like the learned people like yourself or the education like Mr. Sterritt and some other people that are working with the tribal council, and this is the reason why the chiefs lay the work on these people, because they are educated and they can put our language into the Indian -- English language so that you people can understand what we're talking about.
175 Q And someone came to you in 1988 with this draft affidavit, that that's your draft affidavit of Exhibit 592 you're talking about today?
A Yes.
176 Q And that was in what, June 1988?
A Yes. I believe so.
177 Q And you saw the first draft?
A I went to scan through it, but I noticed there's some errors in it, and then I advised the changes.
178 Q And the boundaries were set out in that draft?
A The boundaries, and that's the original boundaries that I put on there.
179 Q And there they were set out in a lot of detail with the -- the distances and the names of the features in English when you got the affidavits?
A Repeat that question again, please.
180 Q The descriptions of boundaries were in the draft when you got to look at it?
A I put the descriptions of the boundaries to the person, that is right, taking these notes down, and I told them the Indian names that I have learned from my parents and other chiefs that I walked the land with.
181 Q Yes. And the boundaries in this affidavit are not the way you learned the boundary, the territories are they?
A Why should I -- if it's not true why should I put it on there.
182 Q It's not in the language that people taught you, is it?
A It is in the language, because that's the only

language they know, is the Indian language.
183 Q These are not your words in these descriptions, are they?
A If they are from my mouth it can't be anybody else.
184 Q You just learned about creeks and lakes and features of traplines when you were learning about the territories?
A Yes. And then boundaries.
185 Q Yes. And this -- the boundaries that are described in the affidavit were written in the affidavit by someone else, isn't that true?
A By my directions, yes.
186 Q These are not your words, are they?
A They are my words if they come from my mouth.
187 Q They don't come from your mouth, do they?
A Yes. It is just like I'm talking to you now.
188 Q Someone took your description of different features and made it into a legal description in the boundary, didn't they?
A Not if you're going to go into a legal case as court case, you have to make something legal.
189 Q You gave certain details to Mr. Sterritt, he extrapolated and he prepared these boundary descriptions, didn't he?
A Well, he was advised by the chiefs to do all the chiefs want.
190 Q He brought you the affidavit to sign and you signed it?
A I don't remember when he brought me the affidavit to sign.
191 Q And when you signed it there were two important errors in the affidavit; the one in paragraph 2 saying Mediigemgyet and Guuhadak, you signed that because it was wrong?
A Because we are in the same house.
192 Q Did you see the error?
A From the history -- historical, back in the history, we are the same.
193 Q That's right.
A We are Yagosip and Mediigemgyet.
194 Q So it was right?
A And Wii Kaax, and you can go down the list and all these people are in the same house in the historical times.
195 Q That's right. And that's why you signed it?
A And that's why I belong to each others today.
196 Q That's right. And that's why you signed it, because

it was correct, paragraph 2, wasn't it?
A I signed it because I believe in the -- from the beginning right from the past and everything is right.
197 Q Someone else corrected it for you, didn't they?
A I don't know who would correct it for me.
198 Q And paragraph 13 there was another error, and Gitludahl was crossed out, and who did that?
A I noticed and acknowledged that it was in there, and Gutginuxw, they're in the same house, and they're the ones, and what's his name now, Woosimlaxha.
199 Q So Mr. Grant corrected that paragraph 13, you didn't correct it, did you?
A I told him to. We didn't know until I advised him to, that's wrong.
200 Q And you had -- the informants that you mentioned here all died before 1974?
A Yes.
201 Q Yes. You were told to mention only people who had died, weren't you?
A I wasn't told that, because they're the only people that told me these, that teach me these.
202 Q But there are other sources for your information in this affidavit, aren't there?
A No. There's no other sources, there's the only source that is I can put on there.
203 Q You didn't learn about this material from anybody other than these people who passed away?
A Not that I remember.
204 Q You didn't learn about this from any other living people?
A Not that I remember.
205 Q And the information there we've gone over some of these things, but there is information you gave to Neil Sterritt in 1978 and after 1978 that's different from the information in your affidavit today?
A I don't know what you're talking about.
MR. MACKENZIE: And where did you get the information that you gave to Neil Sterritt?
MR. GRANT: I would ask my friend to put -- refer him -- he's referred this witness to a great deal of information. If he's going to pinpoint one thing he should be fair to the witness and refer to him what he's asking about specifically.
THE COURT: I think that's right, Mr. Mackenzie.
MR. MACKENZIE:
206 Q Fine, my lord, I'll withdraw the question. And I'm putting to you that you continued to learn about the

1 territory after the death of your informants in this
2 affidavit, that's correct, isn't it?
3 A Not this territory, the other territory outside.
4 207 Q Yes. And I'm suggesting to you that you continued to
5 talk to people after 1975 to learn more about Spookw's
6 territory and the other territories in your affidavit?
7 A Not Spookw's territory, because I know Spookw's
8 territory.
9 208 Q And you -- but you asked other people about the other
10 territories in your affidavits?
11 A Not Yagosip's territory.
12 209 Q Yes. But Nika Te'en and Woosimlaxha?
13 A Nika Te'en, I learned that from my father and the
14 former Nika Te'en, Alfred Danes.
15 MR. MACKENZIE: Yes. And you continued to learn after 1975,
16 didn't you?
17 MR. GRANT: About Nika Te'en's territory?
18 MR. MACKENZIE:
19 210 Q About Nika Te'en?
20 A About Nika Te'en's area?
21 211 Q Yes?
22 A No. I learned that when I was a young man, and I went
23 with Alfred Danes on Lax lix hetxwit and I thought it
24 was other people, and then, you know, I wanted to make
25 sure whose land is this. It's ours.
26 212 Q Mr. Robinson, I'm going to suggest to you that you're
27 a very important person in the land claims process?
28 A I don't know how important it is.
29 213 Q I think -- I submit and suggest to you you're one of
30 the most important actors in the land claims process?
31 A I'm not acting.
32 214 Q What I meant is you're the person who's working -- one
33 of the most important people working in the land
34 claims process?
35 A If that's the other people's opinion, I'm really happy
36 if they think that.
37 215 Q And I'm suggesting to you that you're a very important
38 person in the whole development of the Gitksan nation
39 over the last 20 years?
40 A If other people think so, sir, including you, I thank
41 you for it.
42 216 Q And I suggest to you that in 1940 you wanted to move
43 on and to move away from the old traditions?
44 A If I wanted to move away from the old traditions why
45 am I sitting here?
46 217 Q You were 18 and with other young people you wanted to
47 join -- you wanted to join the industries, the logging

and fishing industries and get income in the area around Hazelton and the Skeena Valley?
A Well, it's not throwing away your heritage.
218 Q Now, you -- sorry?
A I'm sorry, I have to put that in, because if I don't do the things I am doing I wouldn't survive today because all the things that we are trying to do is blocked by the government. We want to go trapping, the government say well you got to have permits, and these are the things that we -- we're proud people, so we have to go and earn a living.
219 Q That's right. And you've always been -- you've been very active in the politics of the Gitksan people. You were active in the Gitksan-Carrier, Gitksan-Wet'suwet'en Tribal Council?
A If that's the way you put it, political, I don't know, I'm just -- I'm just a working partner with all the chiefs.
220 Q And in the 1960's the Gitksan-Carrier District Council was set up, wasn't it?
A I can't remember what exact date or year is, sir.
221 Q And in the 1960's all the bands in the Babine Agency joined together in the district council, didn't they?
A 1960?
222 Q In the 1960's?
A I don't remember. You know, if I remember I would agree with you, but I don't -- I can't say yes or no.
223 Q And in 1971 you were at a meeting where the constitution of Gitksan-Carrier Tribal Council was discussed?
A Yes, I was.
224 Q And at that time the people in Moricetown wanted to associate with the Carrier people in Prince George, didn't they?
A I don't remember that.
225 Q But they decided that all the people in Hagwilget and Moricetown, the Gitksan people would join in the Gitksan-Carrier Tribal Council, correct?
A You see, I don't know -- I don't understand, you know, like Carrier, you know, reaches out in a big area.
226 Q That's right.
A You see.
227 Q And all those tribes and people in the Gitksan-Carrier Tribal Council were the Indian bands in the Babine Agency, weren't they?
A Before they changed the agency?
228 Q Yes?

A Claim?
229 Q Yes?
A Yes, I agree.
230 Q That's right. And in 1973 the chiefs, including you, heard about the Nisga'a Land Claims case, didn't you?
A I've heard about it.
231 Q And you knew that the Nisga'a people were claiming Gitksan land, weren't you?
A I heard about that, yes.
232 Q And you signed the resolution in 1975 making land claims a first priority of the tribal council, didn't you?
A I believe I did, and I don't remember.
233 Q And the Gitksan-Wet'suwet'en Tribal Council, and you were a director, carried on with land claims as the main and principal objective of the tribal council, didn't they?
A Yes. That I believe that deeply in my heart. It's the land claims, that's what we really believe in, because this is our land and we haven't -- distinguish it, we haven't sold it, haven't signed it over to anybody.
234 Q And in 1977 the tribal council made a presentation to the Federal Government with their land claim, didn't they?
A I believe that is the year, yes.
235 Q Yes. And you were there, weren't you?
A Yes.
236 Q And in 1984 you started the Indian land claims case that we're in today, didn't you?
A Yes.
237 Q And you were one of the chiefs that was in that land claims case to start with?
A That's why I'm here today, sir.
238 Q You were the principal -- one of the principal researchers conducting research for the land claims?
A I don't know what you mean research, because I was one of the people that advised the workers, one of the chiefs.
239 Q And everyone in the Gitksan nation, Gitksan people were aware that the land claims process was underway, wasn't that true?
A Repeat that question again.
MR. GRANT: How can -- I object to that question.
MR. MACKENZIE: Do you know --
THE COURT: Just a minute, Mr. Mackenzie.
MR. GRANT: That last question about -- this witness, I have no

1 objection to what this witness perceived, but this
2 witness -- everybody in the area --
3 THE COURT: I don't think there's a last question anymore, Mr.
4 Grant. We're going to start over again anyway.
5 MR. MACKENZIE:
6 240 Q And the people that you spoke to were aware, to your
7 knowledge, that you were preparing for the land claims
8 case, isn't that true?
9 A I wasn't the only one that prepared for the land
10 claims case, it's all the chiefs in the area.
11 241 Q That's right. All the people you interviewed knew
12 that you were preparing for the land -- or to present
13 a land claims case to the government?
14 A All the people that I interviewed I just went along
15 for -- for the other people that doing the work to
16 interview and I sit in.
17 242 Q And all the differing opinions and the gaps have been
18 pulled together to make a case to present to the
19 Supreme Court, correct?
20 A All the opinions, different opinions, and then we
21 advised the workers. It says okay, do more research
22 on and see if this is correct, this is the advice the
23 chiefs give these people that are working for them.
24 243 Q So I suggest to you that over the years you were
25 principally involved in the creation of this case for
26 the Supreme Court?
27 A I wouldn't say that. You know, I was one of the
28 persons, yes, one of the chiefs. I wouldn't say that
29 I spearheaded it, but we all get together and then we
30 talked about it, and this is the conclusion that we
31 arrived to, sir.
32 244 Q And that's what it is, a recreation, a creation that
33 you prepared for this purpose?
34 A It's not a creation, it's there, and then we know what
35 our land is. We didn't create -- I'm not -- I'm not a
36 magician to create anything or do anything like that.
37 245 Q Yeah.
38 A But we are talking about land and all get together,
39 and then we were denied by the B.C. government, they
40 wouldn't recognize us as people of this country.
41 MR. MACKENZIE: I have no further questions, my lord.
42 THE COURT: Thank you. Miss Koenigsberg. Mr. Robinson, when
43 did you take the name Spookw?
44 A Oh, I'm sorry, your honour, I can't remember.
45 THE COURT: In which decade, the 50's?
46 A In the 50's I think.
47 THE COURT: In the 50's?

A Yeah.
THE COURT: Thank you. And how old are you, please, sir?
A Well, I'm pushing 67, I believe, if my arithmetic is right.
THE COURT: All right, thank you. Miss Koenigsberg.

CROSS-EXAMINATION BY MS. KOENIGSBERG:
246 Q I'm going to ask you a few questions, Mr. Robinson, about some feast books. Did you provide some feast books to your counsel yesterday or today?
A Yes.
MS. KOENIGSBERG: And I'm just going to ask you a few questions because I can't tell whose feast book is whose here, and I might want to ask you a couple of questions about them. I'm just going to show you the copies that I was given. The first --
MR. GRANT: Maybe before my friend starts, that I stapled these together as best I could, I appreciate they were one. I may -- that was my work, and then maybe that there's some miscorrection(sic) on the grouping of the pages, but --
THE COURT: What's a miscorrection, Mr. Grant?
MR. GRANT: Eh?
THE COURT: What's a miscorrection?
MR. GRANT: It's a malaprop, my lord.
THE COURT: Something you created.
MS. KOENIGSBERG. Well, we'll see if we can straighten this out fairly expeditiously.
MR. GRANT: Thank you, my lord.
MS. KOENIGSBERG.
247 Q The first group of documents stapled together has at the top of the page February something, and it looks like a '63?
A '63.
248 Q And your name is the first one on the list?
A Yes.
249 Q And it's got 430 something?
A That's correct.
250 Q Can you read that?
A That says 432 or 38 -- yeah, 38.87.
251 Q So okay. And the 9 above it is a carry for the person who was adding up the list?
A I don't know, I just look at the -- we've got -- we hired a person to keep track of all the expenses, you know, whoever comes in and put in money, and this is what I put in.
252 Q For what feast is this a list?

A Now, that's another -- let me see now.
253 Q Your counsel provided me with a list of persons for whom these may be feasts, parts of feast books.
A Um-hum.
254 Q If 1963 is the date of the feast it wouldn't have been Tommy Muldoe?
A It might be. If I can find -- there's another part here some place that would signify if it's Tommy Muldoe's.
255 Q Well, I can tell you that there is another group in here that has Tommy up at the top. My guess was that that might be Tommy Muldoe's feast book?
A Yes, 1954, isn't it?
256 Q It doesn't have a date on it, I'm afraid, but next to your name it has a total for contributions at this feast of $1,619.39 by your name. Would that be your recollection of your contribution at Tommy Muldoe's funeral feast?
A Let's see, I don't know, I don't remember. There's a lot of feasts that I put up, and I can't remember it. You see, I just give these books and I just picked them up and I turn them over, so the council --
257 Q Well, I'm going to put my copy in front of you.
A Um-hum.
258 Q And I'm just going to ask you a couple of questions about it, and we'll try not to spend too much time trying to figure out which one is which.
A Now I remember this one here.
259 Q Now just a second.
A It's 1963, your honour.
MR. GRANT: My lord, these are the only copies of these I have. I will get them released and photocopied later, but I'll just review the witness' copy with him.
A This is William Harold Robinson, my brother.
MS. KOENIGSBERG: Just a moment now, you're looking at one --
MR. GRANT: February 1963.
MS. KOENIGSBERG:
260 Q Where your name is first and the amount written by your name is 438.87?
A Um-hum.
261 Q Is that correct? And you say that was for whom?
A My brother, Billy, William Harold is his name.
262 Q All right. In the list that Mr. Grant provided me this morning there is a smoke feast and feast for Bill Robinson as number 3, and then number 5 is Robert Robinson feast, but it's 1985. Those are two different persons, correct?

A Yes. They're both brothers of mine.
263 Q Both brothers?
A Both brothers of mine, yeah.
264 Q All right. So you think the 1963 one is Bill Robinson?
A Is Bill.
265 Q And is this document that we've being looking at where your name is first on the list, the 438.87 by it, is that from the smoke feast?
A I think that the total, both of them together on that, I believe that's what it is.
266 Q When you say both, there would be a smoke feast and then a funeral feast?
A Yes.
267 Q And you believe that the first page of this four page -- four pages clipped together here, the first page with February '63 on the top, and the total at the bottom being 1,025.60 and then a 25 under it is a totalling of the contributions at both feasts, is that correct?
A Yes. I believe so.
268 Q All right. Did you take a name at that feast?
A No. I have -- I already have a name, and that's why I'm the head man in that feast, otherwise I wouldn't be -- not that much money.
269 Q And you say that at this feast in 1963 you were already a head man. Which name would we know you by in '63?
A Well, I've got two names. At that feast I was -- I used Mediigemgyet. I think you can see it on the bottom part of the --
270 Q On the bottom part?
A I think so, it's in there some place.
271 Q I haven't had much time to look at this, but in my quick perusal I didn't see a name?
A No. It's not on this one, but that's the name I used for that feast.
272 Q You were Mediigemgyet -- you want to say that for me?
A Say?
273 Q Mediigemgyet?
A Yes.
274 Q You held that name in 1963?
A Yes.
THE COURT: You said you were already Spookw?
A Yeah. I believe I was too at that time.
MS. KOENIGSBERG:
275 Q Then we have a group of documents, five in number,

1 headed "Tommy" at the top. Can you find that group?
2 Do you see that?
3 A Yes, "Tommy".
4 276 Q And your name is first, Steve Robinson?
5 A Um-hum.
6 277 Q And as we just mentioned, there's a total over at the
7 side, the last column on that first page that shows
8 $1,619.39?
9 A Um-hum, yes.
10 278 Q And then there are other persons of course listed
11 having made contributions?
12 A Yes.
13 279 Q Is this a document from the feast book for Tommy
14 Muldoe's funeral feast?
15 A I believe so. I don't remember putting up the feast
16 for any other Tommys except him.
17 280 Q And can you help us; the Chief Justice asked you just
18 a few moments ago if you remembered when that was. Do
19 you have any idea of the year?
20 A I don't remember. Sometimes I guess people just don't
21 put the years on.
22 MS. KOENIGSBERG: Your counsel's showing you a page.
23 MR. GRANT: The second to last page has at the bottom, I just
24 was pointing it out, it has a date there of April
25 29th. It might reflect something about that feast.
26 MS. KOENIGSBERG:
27 281 Q Was this the feast where you took the name Spookw?
28 A No. I don't think so. I took it before that, I think
29 Tommy Muldoe died way before that. I think this is --
30 this is --
31 THE COURT: Well, this is headed "Feathers for Steve Robinson".
32 MS. KOENIGSBERG. I'm sorry. Is your lordship looking at --
33 THE COURT: Page 3 -- no, page 4, I believe.
34 MS. KOENIGSBERG.
35 282 Q Page 4, "Feathers for Steve Robinson". Does that have
36 significance in terms of taking a name?
37 A Well, if you go out to invite other chiefs and then
38 you go and you don't send them an invitation card you
39 have to walk to their houses and knock and tell these
40 people what kind of feast that you're going to put up
41 and invite them.
42 283 Q Yes?
43 A To that particular feast.
44 284 Q Yes?
45 A And there's a feast of raising the headstone, there's
46 a burial feast, and raising the headstone and these
47 things that these proceedings that you have to go

1 through. You've got to respect the people that you
2 are going to invite, and you have to go yourself and
3 invite them personally.
4 285 Q All right. And so you invited personally the persons
5 listed under these for Steve Robinson?
6 A Yes. And they say, well, thank you, and in return
7 they give you amount of dollars that say they will be
8 there, but in return I have to pay that back, because
9 with interest, through the respect for their attending
10 the feast, so I have to add to it.
11 286 Q All right. Can we take it that because you invited
12 those persons in that fashion that this was the
13 funeral feast for Tommy Muldoe?
14 A It could be a funeral feast for Tommy Muldoe, it could
15 be a funeral feast or headstone raising for Johnson
16 Alexander, I don't know which. It's either one of
17 them, because I put up a lot of feasts during my chief
18 days, and I don't remember which is which.
19 287 Q Well, Johnson Alexander died in 1971, did he?
20 A I believe that's it.
21 288 Q And --
22 A And Tommy Muldoe died way before that.
23 289 Q Do you remember how much you contributed at Tommy
24 Muldoe's feast when you took the name Spookw?
25 A This should be here, $384.64.
26 MS. KOENIGSBERG: Where is that?
27 MR. GRANT: It's on one of the feast -- the one with his name at
28 the top and that amount beside it.
29 MS. KOENIGSBERG. So we're looking now at --
30 THE COURT: But you told me that that was for your brother
31 Billy?
32 A No. That's a different one now, your honour.
33 MR. GRANT: No. The one in 1963 was 438.87.
34 THE COURT: Yes.
35 MR. GRANT: Tommy Muldoe just has the name Steve Robinson,
36 384.64 under that Mary Johnson, 1912; under that
37 Johnson Alexander. It's undated on the first page.
38 THE COURT: Oh, yes.
39 MS. KOENIGSBERG.
40 290 Q So to your knowledge or to your recollection Johnson
41 Alexander died after Tommy Muldoe?
42 A Yes.
43 291 Q All right. And you believe that the document which is
44 four pages headed "Steven Robinson" 384.64 is from the
45 feast book of Tommy Muldoe's funeral feast?
46 A Yes. This was the one, because Esther Muldoe is the
47 wife of Tommy Muldoe, and that's the reason why I

1 identify that in the bottom.
2 292 Q All right. You're looking under "Haircut", where it
3 says Esther Muldoe and then 445.25, as the design --
4 A Yes.
5 MS. KOENIGSBERG: And is there anything under this document now
6 that you could look at which would assist you in
7 confirming of your opinion that this is the book from
8 Tommy Muldoe's funeral feast? I notice on the last
9 page, for instance, it says "Bertha Star stayed at
10 house during the day". Does that mean anything to
11 you?
12 MR. GRANT: The witness has just asked me if I had put them
13 together right, my lord, anticipating my
14 miscorrection.
15 THE COURT: Yeah.
16 MR. GRANT: And he referred to Adam Snow. He said I believe
17 some of these people are dead long before Tommy Muldoe
18 and he refers to the second page to Adam Snow.
19 A I don't know, I can't remember because it's a long
20 time ago.
21 MS. KOENIGSBERG. I wonder if did you provide some original
22 documents, often there are lined paper of notebooks
23 with these.
24 MR. GRANT: I can advise the court of the situation, my lord,
25 and assist. Mr. Robinson provided me with feast books
26 which included in some of them more than one feast.
27 There was also material that I deem was entirely
28 irrelevant and personal and of a personal nature which
29 as in previous occasions I edit it. Now, I
30 endeavoured to put them together as I understood they
31 matched. I have no difficulty if my friend wishes and
32 if my lord grants leave to just review those original
33 books with Mr. Robinson and ensure they have a
34 correction. At the time he delivered these feast
35 books to me we did not have an opportunity to go over
36 them, I only had an opportunity to photocopy them and
37 deliver them to my friend, so if my friend wishes to
38 do that, that's --
39 THE COURT: Can you do that over lunch?
40 MR. GRANT: I would be happy to do that over lunch with leave of
41 the court.
42 MS. KOENIGSBERG: I would be happy if my friend would straighten
43 it out.
44 THE COURT: All right.
45 MS. KOENIGSBERG.
46 293 Q Let me just ask you before we break what your
47 recollection is, if you have one, of what your

1 contribution at the feast was when you took the name
2 Spookw?
3 A Well, I tell you, I figure if I contribute these
4 amount of money to the feast hall, that I am doing
5 what my grandfathers would be doing with their
6 deceased relatives, to take care of them through the
7 love of the family unity, and this is the reason why
8 we do this, and to exercise our rights. I mean our
9 laws are kept alive, and this is what these documents
10 means, it's not -- it doesn't mean that you going to
11 be higher or better than anybody else, it's just --
12 it's your chore to do what you can do to your clan and
13 your family, to keep the tradition up so that your
14 laws and working of your land is still workable today.
15 294 Q Now --
16 A And this is the -- sorry, but this is -- this is what
17 is happening today. We try to keep all this up so
18 that people would know that we have kept our heritage
19 alive and our tradition alive and the totem poles that
20 we have put up, and I believe that the white people
21 really enjoy them and that's the foundation of the
22 land. If you -- if the government pick up the totem
23 pole, we don't force it on them, and they take it and
24 put it on the legislature building, that means they
25 recognize that we are the owner of this land.
26 295 Q My question to you was do you recall when you took the
27 name Spookw what your monetary contribution at the
28 feast was for the taking of that name?
29 A Well, I'm responsible because I am the head chief.
30 296 Q I understand that.
31 A And everyone had to, you know, expect something of me
32 and then in return I have to do the best I can, and
33 this is my contribution, is to show my people that I
34 am working with them. This is the main contribution
35 that you can do to your fellow men and women, is show
36 that you can love them and try to work together with
37 them, and this is the main contribution that I have
38 with my people, and even if I have to do it with other
39 races I will try and work with them also because
40 that's another contribution towards something else.
41 You see, that's -- let's put it here, excuse me, your
42 honour, I'm going to -- you see, what you're doing
43 today, this is your contribution towards the federal
44 government, and then my contribution to my people as a
45 head --
46 THE COURT: I think we're getting beyond the question, Mr.
47 Robinson.

MS. KOENIGSBERG.
297 Q Yes. Mr. Robinson, I appreciate there are a number of ways in which you may have made a contribution to your people and as a chief, but my question is as it's shown on these books for various feasts and as we heard the custom is, moneys are paid both in goods valued and in goods and in dollars at funeral feasts when someone takes a name. Now, you've told us that you took the name Spookw?
A Mm-hmm.
298 Q And the name Mediigemgyet at the funeral feast of Tommy Muldoe, is that correct?
A Um-hum.
299 Q Do you recall how much money in both goods and cash you contributed when you took both of those names?
A The money's on that, the sheet.
300 Q All right. You believe that if in fact we are looking at the funeral feast book for Tommy Muldoe's feast, it is $384.64?
A Um-hum.
MS. KOENIGSBERG: Perhaps for the purpose of the record, my lord, and until we know differently, the document which shows Steven Robinson at the head of it at the top of the page with 384.64 and four sheets put together could be marked as the next exhibit.
MR. GRANT: Well, my lord, I would ask because the witness indicated he was concerned that one of the pages may not belong, if my friend isn't prejudiced we will wait until after the lunch and I will be sure we have the right --
THE COURT: It can be done after lunch.
MS. KOENIGSBERG. I just wanted to be sure we had the right one.
THE COURT: All right. Do you want to carry on with something else?
MS. KOENIGSBERG: Yes. I think I probably could cover a considerable portion.
THE COURT: All right, go ahead.
MS. KOENIGSBERG.
301 Q I would like to ask you now about your residence and employment history as best you can tell us. You told us that you're coming into your 67th year?
A Um-hum.
302 Q That's correct? Can you tell us where you have lived, and if it's five hundred places, let's try to do it in blocks so you don't have to tell us every single one. Where were you born?
A I was born in Gitanmaax.

303 Q And have you lived any place other than Gitanmaax?
A Oh, yes. I went to school in Edmonton.
304 Q And when was that?
A That was in 1932, I believe.
305 Q And --
A That's where I learned how to look after animals, not educate them.
306 Q And when you left school from Edmonton, would that -- were you there for more than one year?
A Three years.
307 Q Three years, so 1935?
A 1935.
308 Q Did you come back to Gitanmaax?
A Yes. And I went down -- right from Alberta I went down fishing with my brother-in-law at the Port Essington.
309 Q And would you have been about 13, 14?
A Yeah. About around there.
310 Q And you went to Port Essington and worked with your brother?
A Brother-in-law.
311 Q Your brother-in-law?
A Yeah.
312 Q For the canneries?
A I was fishing deck-hand on the fishing boat.
313 Q And how long did you do that?
A Well, it's seasonal work, and we worked from spring -- you start fishing early at that time because there's no restriction of any kind. You start fishing, you fish five days a week, and we finished until around October.
314 Q Yes?
A You fishing start maybe around latter part of March, or early April, whenever, you start.
315 Q Yes?
A And fish all the way through.
316 Q And during that period of time, we're talking about in the mid to late 30's, would you come back to Gitanmaax and --
A Come back after the season's over and then come back and live in Gitanmaax.
317 Q All right.
A And then if I can squeeze a little schooling in at the Indian day school I would, but most of the time I would be hunting squirrels.
318 Q And how long did you maintain that schedule?
A Well, it was, you know, I think two or three years.

1 I'm not too sure.
2 319 Q Until you were about 16, 17?
3 A Yeah. About 16, I guess.
4 320 Q And then what did you do?
5 A And then I went out and worked, because there's -- at
6 that time there's depression. I used to go out and
7 cut wood, you know, to help my dad out, because we
8 have such a big family, and I stayed at home.
9 321 Q Yes?
10 A And then --
11 322 Q You said you went out and worked. Where did you work?
12 A I worked around helping my dad in the early age, and
13 then I went down to Rupert and worked around. When
14 the war broke out I worked in the shipyard, and
15 there's some sawmills around that area and I stayed in
16 Rupert and I came back to Hazelton in 1942, I believe,
17 and then, you know, I worked with Hanson Lumber and
18 Timber Company and I lived in Hazelton. I worked for
19 Bell Pole later on, I worked for telephone company,
20 I've worked -- and I was helping -- I was working at
21 the airport in Smithers during the war.
22 323 Q And so that covers about, what, are we up into the --
23 through the airport time, are we up through the mid to
24 late 40's?
25 A Yeah. It's around -- then I -- that's early 40's.
26 You see, from the '39 on, and then I went back to
27 Rupert again and I stayed there, and then in 1941 I
28 came back -- '42 I came back.
29 324 Q Yeah?
30 A And I got married in 1944, figure I was grown up then.
31 325 Q All right. And then from 1944 after you were married?
32 A I went out to pole camp in the bush to work.
33 326 Q You worked in the logging industry?
34 A Yes. And we were driving, I was a foreman on Hanson
35 Lumber and Timber.
36 327 Q You were the foreman?
37 A Yes. For quite a few years. I just can't pin down,
38 I've been jumping here and there, all over.
39 328 Q I understand that. You were working then in the
40 logging industry from 1944 for approximately how many
41 years?
42 A I can't remember because it's quite a few years I've
43 been working there, and I work for Public Works in
44 Hazelton, you know, for about two months, I guess, I
45 believe so. I forget what year it is when they're
46 building the garage at the -- you know, the government
47 is building the garage for New Hazleton when they

1 moved from Hazelton, and I was the man with the little
2 bit of knowledge of mixing concrete, and that's why
3 they hired me, and then after that I went back in the
4 bush again. It's -- you know, it's --
5 329 Q Did that take you through the 40's?
6 A Well, it's in the 40's, and then I go fishing in the
7 summer-time.
8 330 Q And you've been a commercial fisherman?
9 A I've been a commercial fisherman and I'm still a
10 commercial fisherman.
11 331 Q For approximately how many years have you been a
12 commercial fisherman?
13 A Well, I started in 1935 as a deck-hand.
14 332 Q Right?
15 A And in 1937 I believe I rented a boat from the A.B.C.
16 Company when we moved to North Pacific Cannery, and I
17 rented a boat until 1948, and I bought a boat. The
18 name of the boat is NP258.
19 333 Q 258? And how long did you operate your own boat, or
20 are you still operating one?
21 A I'm still operating my own boat.
22 334 Q And have you --
23 A Because I retired that 258 in 1954 when I have the
24 GITKSAN PRINCESS, a fibreglass built -- started to
25 build in 1974. That's when they start building it
26 at -- I couldn't remember the -- Alvin Boat Shop in
27 Maple Ridge.
28 335 Q All right. So, I'm sorry, I thought I understood you
29 to say that your first boat you retired in 1954?
30 A No, '74.
31 336 Q In 1974 when you began with your newest boat?
32 A Yeah.
33 337 Q And have you been fishing, commercially fishing with
34 your newest boat, it's GITKSAN PRINCESS?
35 A GITKSAN PRINCESS.
36 338 Q From 1974 until?
37 A Still exists today.
38 339 Q And where have you commercially fished?
39 A Well, I went west coast of Vancouver Island one year,
40 and I had to -- to pull the boat over. I don't want
41 to go around the gulf, so we pulled it out of the --
42 no, what you call that little place there, just above
43 Nanaimo?
44 THE COURT: Nanoose Bay?
45 A In the area of Parksville, and we pulled it over with
46 a truck over to Port Alberni on the other side, and
47 then we launched it again, and then the same way on

the way back.
MS. KOENIGSBERG:
340 Q Yeah. And have you fished, commercially fished in the Fraser River?
A No, no. I don't -- you know, I haven't had -- I don't think I would care too much, because I went out with the commercial fisherman while my boat is built in Maple Ridge, and I don't know, I don't want to take chances, because once you goof up in the fishing you lose a lot of things. You've got to learn, you got to learn.
341 Q Where else?
A I fished up and down the coast as far as -- I went to Bella Coola, Bella Bella, and now looking down the coast. I didn't go as far as, what you call that, Johnson Straights, I didn't get down that far. Recent years I more or less hang around locally. I went to the Queen Charlotte Islands, but the last few years I didn't go because there's not too many fish, and the openings are too far apart.
THE COURT: Do you want to adjourn?
MS. KOENIGSBERG: Sure.
THE COURT: All right, two o'clock, please.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AT 12:30)
(PROCEEDINGS RESUMED AT 2:00)

THE REGISTRAR: Order in court. Witness, I remind you, you are still under oath.
THE COURT: Mr. Grant.
MR. GRANT: My lord, I had an opportunity to discuss with the witness these feast books, and I have delivered them or spoken to my friend about them. I've also delivered another one which I will refer to which was not included earlier today, but it just had to be copied. If you take the first one, the one where Steve Robinson is at the top and there's a reference to a contribution of 1,619.39 on the top of the first page, now, it would be right on the top.
MS. KOENIGSBERG: My lord, the one I have referred to as having "Tommy" on the top, actually that's not "Tommy", it's "Family".
THE COURT: What is it?
MR. GRANT: It's "Family". It says "Steve Robinson", and it looks like it has "Tommy" on the top.
THE COURT: Oh, yes.

1 MR. GRANT: Now, what happened, and it's only when I went back
2 to the originals, is apparently -- photocopying didn't
3 take all of the top, and the left side it should read
4 "April 29th, '77", and then it says "Family". This is
5 not written, but I've been instructed by the witness
6 that this would be the Johnson Alexander headstone
7 feast.
8 THE COURT: Yes.
9 MR. GRANT: The next one is Jimmy Wood's casket on the first
10 page on the top.
11 THE COURT: Yes.
12 MR. GRANT: And that is the Robert Robinson feast, and if you
13 turn the first page, there's some writing on the
14 left-hand upper corner. It's "October 23rd, '85" on
15 the original. And actually, that October 23rd, '85 is
16 on each page that is numbered after the first page.
17 It's on page 1, page 2 with Irene Conier(?) on the
18 top, and number 3, Cathy McKenzie, then it goes family
19 expense, and on the top of the original, my lord, it
20 should read, and it does read, "October 26th/85", and
21 above the word "Family expense" it should read
22 "Final", and on the right-hand side it just says "In
23 the pot - $12,850". That's how the original reads.
24 And then the subsequent pages are numbered and each of
25 them have the words "October 26th, '85" on them, on
26 the top of the original right up to where it says
27 "Haircut", and including that page. There are two
28 pages of calculations referenced to names on the last
29 page.
30 THE COURT: I haven't found "Haircut" yet.
31 MR. GRANT: Oh, it would be --
32 THE COURT: Yes. I have it, that's fine.
33 MR. GRANT: Three pages in from the end.
34 THE COURT: Yes. I have it.
35 MR. GRANT: You have it? The next one I need say no more
36 because there was nothing cut off. It's the one where
37 Steve Robinson is referred to as 384.64, and he's
38 already given evidence about the feast that he recalls
39 that as being. There's no record in the original of
40 the date of the feast.
41 THE COURT: You told me it was the feast book for Tommy Muldoe.
42 MR. GRANT: That's right, that's what he's already given
43 evidence, but there was no additional information on
44 the original document. The next one, which has "Steve
45 Robinson 438.87" on the top, should have "February
46 11th, '63" on the top of that page, and of course it's
47 on the subsequent pages. And he's given evidence, I

1 believe, that that's Bill Robinson's, his brother's.
2 THE COURT: Yes.
3 MR. GRANT: The second to last one -- The third last one is a
4 two-page excerpt. It says "Smoke at Kispiox for Mary
5 Johnson", it's only two pages long, and it starts with
6 Steve Robinson.
7 THE COURT: Yes. I have it.
8 MR. GRANT: Now, that is from a different -- it's a different
9 record of the next one, which says "Smoke feast", and
10 it should say "Mary Johnson" and it has expenses,
11 "July 3rd, '69" on the top of it. That is the next
12 separate excerpt.
13 THE COURT: Yes.
14 MR. GRANT: And so it should say "Mary Johnson expenses July
15 3rd, '69".
16 THE COURT: Yes. What does it -- it just says "Mary Johnson",
17 does it?
18 MR. GRANT: You see the word "Expenses, July 3rd, '69", yeah,
19 "Mary Johnson" should be written above that.
20 THE COURT: Thank you. Is that July 30th?
21 MR. GRANT: July 3rd, I believe.
22 THE COURT: Yes, all right, thank you.
23 MR. GRANT: Now, that is six pages long, and it not only
24 includes the record of the smoke feast but also the
25 funeral feast for Mary Johnson. And the final one is
26 funeral -- the Hilroy tab on the cover, "Funeral,
27 September 1st, 1987, Thomas Alfred Wright, deceased
28 August 28th, 1987", and that is Thomas Wright, the
29 former Guuhadak, who is a plaintiff in the action, and
30 that's the feast record for that feast. And you
31 didn't have that this morning.
32 THE COURT: No, all right, thank you.
33 MR. GRANT: The only other matter I wish to advise the court of
34 is that the witness we had intended to examine out of
35 court this morning we've been unable to locate and
36 arrange to be here, and so this morning's examination
37 has not proceeded. I've advised I was to be out of
38 court with the next witness this afternoon, and as
39 soon as Mr. Robinson's over we will commence that, and
40 I think subject to the problem this morning we will be
41 able to -- we may have to sit late, but we will
42 complete the out-of-court witness this afternoon.
43 THE COURT: All right.
44 MR. GRANT: Those are all my comments.
45 MR. MACKENZIE: My lord, I'm scheduled to do the out-of-court
46 witness scheduled for tomorrow, Mrs. Mary Skin, and I
47 understand she's not going to be available. I wonder

if my friend could advise on the status of that examination.

MS. MANDELL: My lord, I'm also scheduled with respect to Miss Skin. She's an 80-year-old lady from Francois Lake. We're not certain she's going to be here. We're not -- we haven't lost hope yet either, so I'll tell my friend as soon as we know.

THE COURT: All right, thank you. Miss Koenigsberg?

MS. KOENIGSBERG:

342 Q Mr. Robinson, before we go back I want to ask you a few more questions about the feasts and the feast books, but I would just like to finish off, if I can, your evidence on your employment history. And we gathered quite a lot of it, and I believe when we broke for lunch we had -- you told us about your extensive commercial fishing activities and that you are still commercially fishing, but I wanted to ask you if you have ever engaged in farming?

A No. I don't think -- I believe, well, the only time I engaged in handling animals is, as you call that, farming in Edmonton at the school, Essington School, to look after the animals half a day and go to school half a day.

343 Q I could be mistaken, but I thought I recall that on your interrogatories on your employment activities you had mentioned farming, but you haven't actually either owned a farm or worked on a farm for any period of time?

A Well, the only place I worked on the farm is when I was a young lad and earned one dollar a day for digging potatoes.

344 Q Might that have been your reference?

A It's not in my reference, it might be.

345 Q I'm sorry?

A But then it's -- either that's when I'm helping my dad do haying.

346 Q Haying?

A Yeah.

347 Q Is that at the same time that --

A You know, it's when I was young, but actually I never owned a farm or any kind of cattle or any -- like anything like that, but I have horses that I worked with in the bush.

348 Q You also listed carpentry. Was there a period of time in which you engaged in the occupation -- in an occupation which carpentry was your principal occupation?

A Well, I was just a helper on Bowmac(?) and Smithers Contracting, and George Adelaide in Smithers here, I can't remember the particular year, and then I buy materials for my house and I build it myself.

349 Q And so you've told us that you spent many many years as a commercial fisherman, many many years in the various aspects of what we would call the logging industry?

A Um-hum.

350 Q And you worked in shipyards, and you've told us about that. Are there any other occupations that we haven't covered?

A Maybe there's some, but I can't recall.

351 Q Now, you've told us about hunting squirrels when you were a boy?

A Oh, yeah. I used to sneak away from school just to go hunt squirrels.

352 Q Have you hunted, other than as a boy, squirrels?

A Well, I can, you know, I snare squirrels.

353 Q Um-hum?

A And I went out with my dad to set traps, which you know I made a home-made trap, which I learned from school, the residence school.

354 Q Yes?

A And I told my dad one time we were going out, I said "I'm going to make a little box about that long".

355 Q Yes?

A And then have a little sliding door up and down, you know, a little invention, because that's how we hunt I mean golphers and weasels.

356 Q So you went out hunting and trapping with your dad?

A Yes.

357 Q Is that when you were a boy?

A Yeah. When I was a boy, yeah.

358 Q How about since you've been an adult?

A Well, I wouldn't say that I really go into hunting, but I went in there just to keep myself, you know, in -- I don't know how to word it, but active in trapping.

359 Q All right.

A So whenever I got a chance I go out.

360 Q Would you say that you occasionally hunt or trap?

A Occasionally, because some day maybe I will have an opportunity to go out and trap if I got -- you know, if some of my relatives say "Well, Steve, there's an open place for you to go out and hunt", I'll go.

MS. KOENIGSBERG: Would you go as often as once a year?

MR. GRANT: Which, hunting, trapping or both?
MS. KOENIGSBERG:
361 Q Hunting or trapping?
A Well, I'm hunting every year just, you know, game hunting, like moose, deer, but occasionally I slip a little trap in here and there.
362 Q Would you go more often than once a year on a hunting trip?
A Well, right now I would because I'm unoccupied in the wintertime.
363 Q When did you become unoccupied in the wintertime so that you could go hunting?
A Well, since I've -- since I've -- you know, when this new law came out in this commercial fishing, and then there's a threat there. I don't remember what year it was, if you're not a real -- you know, just a part-time fisherman, you know, the fishery would say "Okay, you're just a part-time fisherman", so I say "Well, I'm going to be a full-time commercial fisherman", which pretty well experienced that, so I said to the wife, I says "I'm going to make enough money this summer and then if make sure I don't run short looking after the family, I'm going to dedicate myself either mending my net in the wintertime, getting ready for the next season".
364 Q Let me --
A That's, you know, for maybe about six years before I was pensioned off.
365 Q So about six years ago you ceased commercially fishing full time?
A No. I'm still commercial fishing full time.
366 Q What is the last six years?
A That I can get the odd jobs around in the wintertime.
367 Q So --
A You see, I fished in the summertime. If there's an opening of odd jobs, like carpenter's helper, I'll take that, but for the last few years I don't do that anymore.
368 Q We were trying to pin down approximately when you've been able to go hunting at least once a year, and you said you couldn't put a date on it, but it's since you've had more time in the wintertime. Has that been in the last two years or last five years?
A Well, it doesn't make any difference how many years, because if I have the opportunity to go out trapping I would --
369 Q Yes?

A In the wintertime instead of going out in the bush and work, but I haven't got no trapline, you see, all over around you now it's all clear cut, and there's forestry burning and then there is mice and everything all burned up, and there's no tree and there's hardly any marten or anything, they move out.

370 Q So --

A And on top of that, I haven't got all -- what do you call that -- registered trapline.

371 Q So let me try and understand your evidence, if I can, on the frequency of your hunting and trapping. You hunt or trap occasionally as often as you can in the wintertime?

A I wish I would do it full time, if I can.

372 Q But as of --

A But, you know, the way the situation is I can't do it. It's not my fault.

373 Q When you have hunted, particularly big game, where have you hunted?

A I went all over, you know, just to keep out of the way of these big-game hunters, they're trigger happy, so they don't shoot me instead.

374 Q And what would "all over" encompass?

A Well, sometimes I go at around the Babine area, and up Kisgegas, up at Medzi(?) and all through that area. I went through Houston hunting big game.

375 Q And what about trapping, where have you been trapping?

A Oh, just up around on the reserve, around Gitanmaax.

376 Q And was that when you were with your father?

A No. Just, you know, when I have nothing to do, but when I'm with my father we go into Nika Te'en's territory, just like I say to you.

377 Q So when you were a boy trapping with your father it was on Nika Te'en's territory, and since you've been able to trap only infrequently since you've been an adult it's been in and around the reserve?

A Yes.

378 Q Which reserve are we speaking of?

A Gitanmaax.

379 Q Now, let's come back to the feast books and let me try and understand -- I think your counsel is going to put them in front of you. If you prefer you can sit down, Mr. Robinson?

A No. I think I'll stand for awhile, stretch my old bones.

380 Q I'm looking at the feast book that's headed "Family, Johnson Alexander".

A Um-hum.
381 Q April 29th, 1977. That was the date of the headstone feast?
A Yes.
382 Q And so the headstone feast for Johnson Alexander was then held approximately six years after his death?
A Yes.
MS. KOENIGSBERG: And did anyone take a name at this feast?
MR. GRANT: The headstone feast?
MS. KOENIGSBERG:
383 Q Yes?
A I don't believe there's any -- I can't recall. If there is it should be on here.
384 Q Well --
A They usually mark them.
385 Q Down at the bottom of the page that we were looking at before, it's the fourth page in, called "Feathers for Steve Robinson". You see that? It's the only name I could find on it. It says, I believe that's Mediigemgyet?
A Yes.
386 Q But you didn't take the name Mediigemgyet at this feast?
A No. It shouldn't be on there, it's the bookkeeper's error, I believe.
387 Q When you say "Bookkeeper", you mean the person who -- the Gitksan person?
A That takes these down.
388 Q The person who takes the notes or keeps the record of who made what contributions at the feast?
A Yes.
389 Q And can you see there's a name just on the left-hand side from Mediigemgyet?
A That's Liligit.
390 Q Liligit?
A That's feast.
391 Q And then let's look at -- I'm sorry, the one that says "Robert Robinson" at the top, Jimmy Wood's casket?
A Mm-hmm.
392 Q Now, this is your brother, Robert?
A Yes.
393 Q And did we have a date for this one, October 23rd, 1985?
A I guess.
MR. GRANT: That was a smoke feast, and I think the record shows that the funeral feast was October the 26th?
A October 26th.

MS. KOENIGSBERG:
394 Q All right. And on the front page where it has "Jimmy Wood's casket", is there a significance to that grouping of persons with those names at the side? I mean where it says "Casket and clothing engraved"?
A Yes.
395 Q What is that?
A You see, that's the relative of my father, and it's generally the three -- the real thing you're supposed to do if you -- your father's relative was to buy your casket, if the casket is a little bit expensive you have to get maybe one or two people to pay for the casket, and this is what Jimmy and Norris, the brother and sister here, and Francis Samson's secretary, she's one that writes all these, the expenses down.
396 Q All right. And the persons' names appear here, are they members of your father's house?
A Not all of them. It's -- they're members of Nika Te'en's house, and not all of them are members, you see. There's Delbert Turner there, that's Luutkudziiwas' house, you see, but he's Lax Seel. He's my brother-in-law, they -- usually brother-in-law used to go out and we call them Antdim hanak, contribute what he can to assist the grieved family, because he's a member of the family.
397 Q And I see Agnes Travers' name there?
A Yes.
398 Q Is she a relative of your father's?
A Yes. The House of Nika Te'en.
399 Q In the House of Nika Te'en?
A Yes.
400 Q And is she related by blood to your father?
A Yes.
401 Q What relationship?
A It's, you know, distant. Maybe we call it in our own ways granddaughter, in our own system.
402 Q I see. So she could be, for instance, a grand-niece, or --
A Yeah, grand-niece or whatever.
MS. KOENIGSBERG: She was the person who was one of the informants of Neil Sterritt's. Do you remember when Mr. Mackenzie was asking the questions?
MR. GRANT: Which questions?
A Yes, yes.
MS. KOENIGSBERG:
403 Q I believe it was -- I'm sorry, let me just identify this for the record, Mr. Robinson. I believe it was

on a topographic survey sheet, Exhibit 817 for identification, and she had identified the Silver Standard Mountain as being in a territory of Woosimlaxha?
A Um-hum.
404 Q And it was P. Samson and Agnes Travers and the informants. And that person, Agnes Travers, would be the same person here?
A Yes.
405 Q And does -- is she then related to Gordon Travers?
A That's her husband.
406 Q Okay. I notice his name is involved in these feasts?
A Yes. He was adopted into Kliiyemlaxhaa's house.
407 Q And is Agnes Travers a knowledgeable person about the territories?
A I wouldn't know.
MS. KOENIGSBERG: All right. Now, Mary Johnson was your grandmother?
THE COURT: I'm sorry, Miss Koenigsberg, are you leaving this one?
MS. KOENIGSBERG: Yes.
THE COURT: Do I take it Robert Robinson is your father?
A No. That's my brother, with the --
THE COURT: Oh, all right, he's a brother?
A Yes.
THE COURT: But these people that are on this list were -- were your father's relatives?
A Yeah, my father's relatives, and they're all in from Nika Te'en's house except Delbert Turner.
THE COURT: Yes. What were they called, Wilksiwitxw?
A Wilksiwitxw, you're correct, your Honour.
THE COURT: Thank you.
MS. KOENIGSBERG: Maybe, my Lord, I'm reminded by your question, we can mark the Robert Robinson one with Jimmy Woods on the first page as the next exhibit.
THE COURT: You don't want to mark the other one that you dealt with earlier, the Johnson Alexander?
MS. KOENIGSBERG: Yes, if we could.
THE COURT: All right. What number will that be?
THE REGISTRAR: Next number is 819.
THE COURT: 819, thank you.
MS. KOENIGSBERG: And so the Johnson Alexander one will be Exhibit 819.
THE COURT: Yes.
THE REGISTRAR: And Robert Robinson will be the next one?
THE COURT: Yes, 820.
MS. KOENIGSBERG: To be sure we don't get them mixed up, "Robert

Robinson with Jimmy Wood's casket" is the first line of the first page on that one.

THE COURT: Of 820.

EXHIBIT 819 - Feast book relating to Johnson Alexander

EXHIBIT 820 - Feast book relating to Robert Robinson with Jimmy Wood's casket

MR. GRANT: I'm providing a copy because I've only -- I'll ask to remove these to copy them for myself, I've labelled the "Robert Robinson feast" at the top of the first page.

MS. KOENIGSBERG: And yes, maybe we should mark the book that -- for Tommy Muldoe. It says Steven Robinson, 384.64 as the next exhibit, that's the one we were going to mark before but my friend wanted to confirm.

THE COURT: Yes. That will be 821.

MR. MACKENZIE: There was no --

MR. GRANT: There was no problem with that, my lord.

THE COURT: Thank you.

EXHIBIT 821 - Feast book relating to Tommy Muldoe

MS. KOENIGSBERG: Now, the Mary Johnson one, there's a grouping here that says "Smoke", and I can't read the next word, "Expenses July 1969", and it says "Steve Robinson 29.58" at the top.

THE COURT: Yes.

MS. KOENIGSBERG: And the one I'm looking at, and I'm being this particular because there are two in a very similar end on the same page with Jack Wright, $4.50 at the bottom.

THE COURT: Yes.

MS. KOENIGSBERG:

408 Q This is if for a smoke feast, this first page is for the smoke feast for Mary Johnson?

A Yes.

409 Q And then if we turn over the page it says "Expenses for Mary Johnson", and it's got some -- the first item is scratched out and then under that it says "Mary Johnson 241.85?

A Yes. That's the amount of money that's found on her when she was passed away.

410 Q All right. And then "Steve Robinson 350"?

A Yes.

1 411 Q And does this denote her funeral feast?
2 A Yes. That's her funeral feast.
3 MS. KOENIGSBERG: And so there are five pages to this document?
4 MR. GRANT: There's six actually.
5 THE COURT: Including the smoke feast there's six.
6 MR. GRANT: Yeah. Including the smoke feast there's six.
7 MS. KOENIGSBERG: I'm sorry, the last page was loose on me.
8 MR. GRANT: Yeah. The last page was a loose page on ours as
9 well, but it says "Lloyd Turner help with coffin".
10 THE COURT: Yes.
11 MS. KOENIGSBERG: So if we make that one document, six pages, if
12 it can be marked as the next exhibit.
13 THE COURT: 822.
14 MS. KOENIGSBERG: I'm sorry, 822?
15 THE COURT: Yes.
16
17 EXHIBIT 822 - Feast book relating to Mary Johnson
18 and smoke feast
19
20 MS. KOENIGSBERG:
21 412 Q Thank you, my lord. Did anyone take a name at this
22 feast, at the funeral feast of Mary Johnson?
23 A Yes. That's when my sister Joyce received the name of
24 Yagosip.
25 THE COURT: The name of Yagosip?
26 A Yeah.
27 THE COURT: At the funeral feast?
28 A At the funeral feast, yes.
29 MS. KOENIGSBERG:
30 413 Q And your grandmother, Mary Johnson, had held that name
31 before?
32 A Yes.
33 414 Q And was your sister Joyce Turner's contribution for
34 that name $276.25, as indicated on the page under
35 "Expenses for Mary Johnson"?
36 A Well, you see, take a look at the head chief's
37 contribution, because I think at that time the money
38 is kind of hard to come by, so I've got -- already got
39 names, and then she's the runner-up, so she is -- she
40 got the name.
41 415 Q If I could try and understand what you just said, you
42 said take a look at the head chief's contributions at
43 that time?
44 A Yes, yes. The $350 and Joyce Turner's 276 is hardly
45 any too much of a difference between the gap. She's
46 the one that got the Yagosip name because she's -- I
47 had to talk to her a lot about it, and I believe in my

1 own mind and the other members of the family she's
2 capable of taking it, so it's the agreement of other
3 chiefs, not only mine.
4 416 Q Okay. Were there any other moneys contributed by
5 Joyce Turner, other than the amount shown here at
6 276.25, which would have gone for the purposes of her
7 taking that name that you know of?
8 A No. I got no idea because I don't really keep track
9 of who's -- you know --
10 417 Q Right. You were at the feast?
11 A I was at the feast.
12 418 Q Yeah. And it would have been announced at the feast,
13 I assume?
14 A Yeah, it would, but I would be busy, you know, helping
15 distributing everything out because a chief doesn't
16 sit down idly, and he's got to do the work too.
17 MS. KOENIGSBERG: And perhaps for the sake of completeness, we
18 have a separate document here that says "Smoke at
19 Kispiox". I'm assuming that's what it says, because
20 the top of the letters are cut off on my copy.
21 MR. GRANT: That's right.
22 MS. KOENIGSBERG:
23 419 Q For Mary Johnson, and again shows Steve Robinson 285,
24 and it has two pages and it appears to be just a
25 second person having kept track of contributions.
26 This would have been for the smoke feast for your
27 grandmother?
28 A Yes. It's -- it's all the feasts it's like that, you
29 know. There's a -- there's a smoke feast and you have
30 to have somebody to keep track of what's coming in,
31 and then there is -- you know, they'll buy stuff for,
32 maybe carton of cigarettes, whatever, and then they're
33 written down. This is the reason why, maybe whatever,
34 you know, cookies and things like that, and these --
35 you know, just a small thing so that you can make
36 announcements of the next procedures of the coming
37 event, like field notes and all that, that's -- and
38 then there's -- if we have elders in there sing songs,
39 lament songs, and this is what the smoke feast is all
40 about.
41 MS. KOENIGSBERG: Perhaps we could mark that one just as 822A.
42 THE COURT: All right.
43
44 EXHIBIT 822A - separate page relating to Mary
45 Johnson "Smoke at Kispiox"
46
47 MS. KOENIGSBERG:

420 Q And then the next one is for Bill Robinson, who is also your brother?
A Yes.
421 Q And that was in February 11th, 1963?
A Yes.
422 Q And you say you were holding the name Mediigemgyet at that time?
A Yes. Anyone in Yagosip's house I have to move over.
MS. KOENIGSBERG: And that has four pages to it. If it could be marked as the next exhibit.
THE COURT: This one is February 11th, '63?
MR. GRANT: That's correct.
THE COURT: Yes.
MR. GRANT: The Bill Robinson feast?
THE COURT: Oh, yes, all right. That will be 823.

EXHIBIT 823 - Feast book relating to Bill Robinson

MS. KOENIGSBERG:
423 Q And I haven't actually had a chance to look at the Thomas Alfred Wright feast, but perhaps for that reason I won't have it marked, and I just have one last question. I wonder if as a result of going over this material over the lunch break if you've had an opportunity if you might remember when it was that Tommy Muldoe died and you took the name Spookw?
A I believe it's in the 50's, and I can't pin down the dates on it.
MS. KOENIGSBERG: All right.
MR. GRANT: There was no record in the original of that Tommy Muldoe about any dates or anything to indicate, my lord.
MS. KOENIGSBERG: Those are all my questions, thank you.
THE COURT: Thank you. Mr. Grant.

RE-EXAMINATION IN CHIEF BY MR. GRANT:
424 Q You were asked yesterday by Mr. Mackenzie that -- and you explained that you took the name Spookw after Tommy Muldoe's death, and you were asked, and my note of the question was if somebody said that Johnson Alexander held the name Spookw, that would be wrong, wouldn't it, and I believe you said yes?
A Yes.
MR. MACKENZIE: That's not the question.
MR. GRANT: Well --
MR. MACKENZIE: The question was if someone said you took the name Spookw on the death of Johnson Alexander, that

1 person would be wrong, wouldn't they.
2 MR. GRANT:
3 425 Q Okay. My note is as I've said it, I'm not going to --
4 Johnson Alexander lived after Tommy Muldoe, correct?
5 A Yes.
6 426 Q Where did Johnson Alexander sit in the feast hall
7 between the time of Tommy Muldoe's death and Johnson
8 Alexander's death?
9 A Well, to tell you the truth, I haven't seen them
10 really in the feast hall that much, and I can't tell
11 you where he sits because he wasn't around that often,
12 if I can recall.
13 427 Q Do you recall Johnson Alexander sitting in any feast
14 hall after the time of Tommy Muldoe's death, and
15 where -- if he did, where did he sit in relation to
16 you?
17 A Well, you know, when -- after Tommy Muldoe's death he
18 sits beside me on my right side.
19 428 Q Johnson?
20 A Johnson, yes.
21 429 Q And what name was he called by in the feast?
22 A I told him, because he's having a rough time with
23 the -- with other people that, you know, you better
24 come, I said "I need an elder and you can use the name
25 Johnson and then I'll look after you after you've
26 passed away", and this is -- and then he didn't show
27 up right away until later on, maybe about a year or so
28 after.
29 430 Q You said "You could use the name Johnson"?
30 A Yes, yes. Spookw, I'm sorry.
31 431 Q Did he use that name in the feast hall?
32 A Yes. The chiefs called him that, and they called me
33 Mediigemgyet because I have to honour my elder.
34 432 Q And did he use that until he died?
35 A Yes.
36 THE COURT: Well, what were you then?
37 A Mediigemgyet.
38 THE COURT: Well, I thought you told him he could use both those
39 names?
40 A Yeah. Well, when Johnson was still alive.
41 THE COURT: Yes?
42 A And then I sit him alongside of me.
43 THE COURT: No. But when he was alive what name did you use?
44 A I used both of them before he comes back into the
45 feast hall.
46 THE COURT: Yes?
47 A And then I said "Johnson", I says "You come back to

the feast hall".
THE COURT: Yes?
A Because there's a friction between the other chiefs against him.
THE COURT: Yes?
A Which I don't like and I disagree with.
THE COURT: All right.
A Because I know that he's one of the elders of my grandfather, you know, that's what -- how I take it, your honour.
THE COURT: But what name did you use when he was using those names?
A Well, when he was using just one name, Johnson Alexander used Spookw.
THE COURT: You used Mediigemgyet?
A I used Mediigemgyet.
THE COURT: All right.
MR. GRANT:
433 Q In answer to a question by Mr. Mackenzie you said that Yagosip and Guuhadak shared one of Yagosip's territories. Which territory of Yagosip is shared with Guuhadak?
A The territory of Xsuwii luu hlabit, you know, Max Hligandit is the real name, Max Hligandit, that's north of Bulkley and --
434 Q So it's the territory just north of the Bulkley?
A Yes. Just north of the Bulkley up the Babine trail.
THE COURT: And is that the one we talked about this morning?
MR. GRANT: It's one of the ones talked about this morning. It's in section -- I'm just getting his affidavit of the witness.
THE COURT: Well, it's the one that he said was south of Shegunia Creek.
MR. GRANT: No.
A No, it's --
MR. GRANT: Just a moment.
THE COURT: It's page 4?
A It's north of Shando and Bulkley.
MR. GRANT:
435 Q Just a moment, Mr. Robinson. You said it was the Max hligandit territory?
A Max hligandit territory.
MR. GRANT: It's the section B territory.
THE COURT: Yes.
MR. GRANT:
436 Q Which house was your father in?
A Nika Te'en.

437 Q And which house is your wife in?
A Nika Te'en.
438 Q You describe in answer to Mr. Mackenzie's questions that you had gone on and walked on the territory of Spookw, Spookw's territory. Have you travelled the Yagosip territories that you describe in your affidavit?
A Yes.
439 Q Have you travelled the Nika Te'en territories that you've described in your affidavit?
A Yes.
440 Q Have you travelled the Woosimlaxha territories described in your affidavit?
A Yes.
441 Q Could Exhibit 809 be put in front of the witness please, and his affidavit. Now, in your description of the Spookw territory in paragraph 5 of your affidavit you describe the territory as going as far west as Mud Flat Creek, and from my reading of the description and looking at map 9-A, your description in your affidavit of the Stikyawdenhl territory of Spookw would encompass or include Dax Sook.
A Yes.
MR. MACKENZIE: This is a leading question, my lord.
MR. GRANT: I haven't even asked a question.
THE COURT: I think we're still locating ourselves.
MR. GRANT: That's what I'm trying to do especially, your lordship, I'm not asking --
THE COURT: Yes. I haven't found it at 809 yet. I haven't seen Mud Flat Creek on 809.
MR. GRANT: No. There's no reference to Mud Flat Creek ever on 809, I'm referring to paragraph 5 of the affidavit.
THE COURT: All right.
MR. GRANT:
442 Q Exhibit 809 and your evidence yesterday you explained that Dax Sook belongs to Yagosip. You recall that yesterday?
A Yes.
MR. GRANT: Is there any explanation -- can you clarify for me and for the court why you say the territory surrounding Dax Sook is in Spookw's and yet you said yesterday that Dax Sook is Yagosip's?
MR. MACKENZIE: I think I asked that question directly several times, my lord.
THE COURT: You certainly came very close to that question. I'm not sure you got an answer, Mr. Mackenzie.
MR. MACKENZIE: I sure didn't -- sorry, my lord, in my

submission I didn't receive an answer. I asked the question several times.

MR. GRANT: I don't think he was ever asked to explain why Dax Sook was in Yagosip's territory, and why he claimed in his affidavit that this area surrounding Dax Sook is Spookw's. The witness was never asked for an explanation, he was just asked "You say it's Yagosip's", as I recall.

THE COURT: I'm going to allow the re-examination, Mr. Mackenzie. First, it arose in the cross-examination, secondly, I think your questions were directed to questioning whether it was in the territory or not. And I think it's a fair inference to draw from your cross-examination that you doubted the validity of the entire suggestion of this little pond in the middle of Spookw's territories belonging to Yagosip, whereas Mr. Grant's question presupposes that it does belong to Yagosip and asks the witness how that comes about, and seems to me that there's enough of a difference there that it might be the course of wisdom to allow it in, subject to your objection.

MR. MACKENZIE: I agree, my lord, but perhaps I could draw your lordship's tension to the fact that Mr. -- in his affidavit Mr. Robinson says clearly that this lake is in Spookw's territory.

MR. GRANT: Well --

MR. MACKENZIE: At page 3, paragraph 7, item 4 under "Lakes".

MR. GRANT: Well, he says of course that Dax Sook, which he's explained as Wii'goob'l, is a geographical feature on the boundary or within the territory. My friend focussed on paragraph 7 and I'm focusing on paragraph 5. You can see there that Daxs O'op, number 2, which the witness has described as belonging to Wii'goob'l, is described as a geographical feature within a territory, and he's explained with respect to Wii'goob'l. I want to ask him about Dax Sook, number 4, as another geographical feature and how he can explain, and this apparent contradiction comes about from the introduction of Exhibit 809.

THE COURT: Well, this difficulty arises because of -- because it's endemic to re-examination, and I've said before that there's more difficulty with re-examination than anything else, but I think in the circumstances I'm going to allow the re-examination, subject to the objection. It will have -- it's a matter that will have to be rationalized at some time, and I think it might be better to allow the question to be answered.

1 You may proceed.
2 MR. GRANT: Thank you, my lord. I probably should restate the
3 question for you.
4 THE COURT: Yes. I think you must.
5 MR. GRANT:
6 443 Q In your affidavit you describe the Spookw territory,
7 and from my reading of paragraph 5 of your affidavit
8 and on looking at the map 9-A, which draws out
9 paragraph 5, it appears that Spookw's territory
10 encompasses the area where Dax Sook, that lake, is
11 located?
12 A Um-hum.
13 444 Q You agree with that?
14 A Yes.
15 445 Q Yesterday Mr Mackenzie put Exhibit 809 to you and
16 referred you to the fact that that topographic survey
17 sheet refers to a note of Mr. Sterritt of a discussion
18 with you in 1979 that in which you advised that Dax
19 Sook, that lake, was in -- was Yagosip's?
20 A Yes.
21 446 Q Can you explain the apparent contradiction between
22 what it says in your affidavit, that Dax Sook -- that
23 whole area is covered by Spookw, and what you said
24 yesterday, that Dax Sook is Yagosip's; would you
25 explain that for the court?
26 A Your honour, Dax Sook is I believe quite a few years
27 before our time, that to have some kind of a deal,
28 just like Wii'goob'l, and where you can get beaver and
29 fish, and that is the reason why Dax Sook is Yagosip
30 but the surrounding area is Spookw, it's just that
31 lake is claimed by Yagosip and it's put Yagosip's
32 house members' name on it because he is the man that
33 goes and use that particular area, it's not just
34 recently, and it's handed down from all generations
35 and then -- and then when this good lady from
36 Sylvester George's mother was contributing to the
37 feast of Yagosip all the time, so in turn his
38 gratitude he says "You use Dax Sook", and that's --
39 he's the owner of the lake, and then he told to
40 Cecilia George to use it as long as she lives, and I
41 believe Spookw has no complaint about that because
42 they know the situation that Yagosip owns this and he
43 owns the surrounding area. So I don't think there's
44 any friction in there in the past, and the same way
45 with Wii'Goob'l's claim on Dax Sook. I hope I
46 explained it the best I can, your honour.
47 THE COURT: I understand what you're saying. Mr. Grant, are you

1 going to be some time? Do you want to carry on or do
2 you --
3 MR. GRANT: I think maybe we should take the break. I don't
4 think I'm going to be much longer, I certainly hope we
5 can commence the next witness.
6 THE COURT: Yes, all right. Thank you.
7 THE REGISTRAR: Order in court.
8
9 (SHORT BREAK TAKEN)
10
11 THE REGISTRAR: Order in court.
12 THE COURT: Mr. Grant.
13 MR. GRANT:
14 447 Q Yes, my lord. I'm referring the witness to map -- I'm
15 referring him to the map series on the berries, and
16 I'm just going to refer you commencing with map 3 to
17 the berries. You described that you went up with your
18 mother and father to I believe the name would be Lax
19 andaatw on Stekyawdenhl. You recall that evidence
20 yesterday?
21 A Lax andaatw?
22 MR. GRANT: Lax andaatw, yes. I'll show you the photographs,
23 and don't worry about the names above and beside them,
24 but which of the berries did you pick up there with
25 your parents? Now, map 3 says soap berry, and there's
26 a --
27 MR. MACKENZIE: Well, my lord, I don't think this is anything to
28 do with the question I asked or the subject matter
29 that I was canvassing. We were talking about
30 ownership of the territory.
31 MR. GRANT: Well, he picked -- this witness picked berries. I
32 mean, my lord, the difficulty with the redirect with
33 these witnesses of course is our direct evidence is
34 solely the evidence in the affidavits.
35 THE COURT: Yes.
36 MR. GRANT: There's no evidence in the affidavits led by this
37 witness of picking berries. My friend cross-examined
38 and raised that issue -- I mean cross-examined, and in
39 the course of it that evidence came out.
40 THE COURT: Your friend says he never raised the question about
41 what kind of berries they were at all, he merely found
42 out in the cross-examination by reason of an
43 unexpected answer of the witness that they went
44 picking berries at a location.
45 MR. GRANT: Well --
46 THE COURT: That the identity or the species of berries was
47 totally inconsequential to the evidence he gave, which

could have importance for other reasons, but not, it seems to me, for any reason that would be affected by the kind of berries they were picking.

MR. GRANT: Well, of course the reference made was to Exhibit 808, which was to Lax Andaatw berry pick area below the old trapline and down below Dam Similoo, and my friend knew full well what he -- that he was talking about a berry picking area.

THE COURT: He wasn't seeking to know -- to either challenge that or to seek evidence about the kind of berries that were being picked. I can't imagine anything that would be much less consequential than this.

MR. GRANT: Well, I would have thought so as well, my lord, except for the fact that an issue has come up already with respect to other witnesses about the lack of a connection between these particular berries that the witness gave evidence of, the witness who introduced these maps and the berries being picked by the Gitksan people. I agree, I think that -- I thought at one point that was inconsequential as well, but it's not so, my friends elect to cross-examine and raise evidence of berry picking.

THE COURT: It seems to me if your friend says "What kind of berries did you pick" this would then be proper re-examination, but that wasn't the question at all, and the evidence stands that they picked berries. Now, how is it going to advance your case to know what kind of berries they were?

MR. GRANT: To establish that the kind of berries being utilized by this chief and his family were berries.

THE COURT: You're just buttressing his credibility or assisting his -- well, his credibility. I don't think his credibility on the question of picking berries is challenged.

MR. GRANT: Well, no, but I'm not introducing this evidence to buttress this witness' credibility, I'm introducing this evidence to establish that the specific type of berry that my friend raises the evidence of what kind of berry is picked.

THE COURT: He didn't ask that.

MR. GRANT: No. My friend raises the evidence that berry grounds are used within Spookw's territory. That was introduced by my friend, it's not in the affidavit.

THE COURT: And that's not challenged. The witness said it and he wasn't -- it wasn't pursued with him, and I can't imagine why I would not accept that evidence.

MR. GRANT: Well, my lord, but my friends raised the issue of

the distancing of the species of berries referred to in the map atlas as being connected to the berries picked by any of the Gitksan.

THE COURT: Your friends didn't -- your friend didn't raise the map atlas in their evidence.

MR. GRANT: They didn't raise it with this witness.

THE COURT: No.

MR. GRANT: They raised it of course with the expert witness, and they have challenged extremely the expert witnesses, and the expert witness of course could not say which of these species of berries were picked.

THE COURT: You can't help the evidence of those who gave evidence about berries in re-examination.

MR. GRANT: Well, I submit, my lord, what I'm saying is that I'm not asking this question to establish the credibility of this witness, but to establish with rescission as to what he was talking about. That will go to the time of year that he was picking berries and all of those other factors.

THE COURT: But that didn't arise in the cross-examination. If your friends had challenged that berries were available on that mountain slope, then by all means, re-examination would be admissible, but it seems to me that you are trying to raise something that's already established in chief into an issue, and there was no issue during the cross-examination.

MR. GRANT: No. But there was no -- but, my lord, there was no evidence of berry picking on this area in the examination in chief of this witness, because the affidavit --

THE COURT: No. Your friend found out there was berries on that mountain slope, they used to go and pick there, that evidence stands, it's uncontradicted. Your friend didn't challenge it, and if it arises again an issue can be joined on it, but it isn't at the moment. There are very few things about this case where I feel that there's much certainty, but I think we've reached one of them.

MR. GRANT: I have your point.

THE COURT: This would not be proper re-examination.

MR. GRANT: Thank you, my lord.

THE COURT: Harmless as I think it may well be.

MR. GRANT: Well, I only say, my Lord, is that -- of course is that if my friends are not -- I mean it goes to the question of the species, and I'm sure we will have more to say about that or my friends will. Now, an area that was raised, my lord, and I'm going to before

asking the witness the question, in case my friend wishes to object, an area that was raised for the first time on cross-examination with respect to this witness was the evidence of genealogies and the genealogy of the Spookw house and the genealogy chart of that house has been introduced, and also the genealogy of the Guuhadak-Yagosip house, and I intended to put to this witness the genealogy chart which was delivered to my friends and ask him if that reflects the genealogy of his house. There was much cross-examination as to whether this witness was in Guuhadak's house or Yagosip's house and how he fit into the scheme, and that was not raised on direct, so I propose to do that by showing the witness the genealogy chart and asking him if he is -- if he recognizes that as the genealogy of his house, referring at this point to the House of Yagosip and Guuhadak.

MS. KOENIGSBERG: I don't know what my friend Mr. Mackenzie has to say about it, but in my submission it would not be proper re-examination to introduce the Guuhadak-Yagosip genealogy. They were not put to the witness, nor was the form of it challenged of where he fit and why and how he got the names was the object, and not the genealogy. The witness used the word genealogy in response to some of Mr. Mackenzie's questions, that is that he belonged in this house by genealogy. I don't know if he meant by this genealogy, but rather I took him to mean by birth, by his parents, but in my submission it's not proper to introduce this document, which was given to us rather late, I might say.

THE COURT: Mr. Mackenzie?

MR. MACKENZIE: My lord.

THE COURT: No. I don't think I need to hear you, Mr. Mackenzie. This isn't re-examination, Mr. Grant.

MR. GRANT: All right.

THE COURT: The witness used the word, but your friend didn't embark upon that subject at all.

MR. GRANT: I don't have the record, but I do recall my friend asking about genealogy.

THE COURT: The witness used it and he may well have asked for an explanation by what he meant by his answer, but your friend didn't bring it up or embark on a cross-examination in any way relating to genealogies. He's talking names in houses.

MR. GRANT: Well, he did ask him about the Wii Kaax genealogy

and the Gitludahl house being the same as the Wii Kaax genealogy.

THE COURT: That's the way the witness chose to answer about questions about names he had in houses, that wasn't the way your friend approached it, or nor do I think there would be anything advanced by pursuing it now.

MR. GRANT: This morning you were asked about the territory around Shegunia River, the Gitludahl, Gutginuxw names, Gitludahl's evidence was referred to, that is Pete Muldoe, and you described for his lordship about Andrew Crosby, the late 'Niisgimiinuu, and about Alvin Weget, and what I would like to ask you is what name does Alvin Weget hold today?

MR. MACKENZIE: Excuse me, my lord, I think that answer was -- that question was asked and that answer was given.

THE COURT: Yes. I think it was, but your friend can locate the witness in this -- in the area that we're going to examine on.

MR. GRANT:

448 Q That's what I intend to do.
A He still uses 'Niisgimiinuu, and Dinii.
449 Q What house is the name 'Niisgimiinuu in?
A Gutginuxw.
450 Q What house is Dinii in?
A Gitludahl.
451 Q Have you seen Alvin Weget sitting in the feast hall recently within the last year?
A Yes.
452 Q At whose table does he sit, Gutginuxw or Gitludahl?
A Gutginuxw.
453 Q You were asked this morning by Mr. Mackenzie about whether or not you were involved in preparing this in the work you did with Mr. Sterritt in making a land claim, and you said in answer "Yes, to make a land claim partially, but not all". Why else did you engage in this work?
A Because I'm interested in our own hunting areas, and I believe that they, you know, if I participate in this I would try and prove that I am knowledgeable about Spookw and Yagosip's claim.
454 Q You were asked about your history of your work this afternoon -- or this morning and this afternoon by Miss Koenigsberg. When have you last gone hunting?
A You mean game hunting or --
455 Q Game hunting?
A Well, just the day before the -- I'm not really sure when the season closed, November 18th, I think, but I

1 think two days before that I stopped going hunting.
2 456 Q And how often did you go out hunting this last -- this
3 fall?
4 A Just about every day.
5 457 Q And what about last year?
6 A The same.
7 458 Q Do you recall any year since you were a boy in which
8 you have not gone out hunting?
9 A No. I think it's part of my life to go out and hunt,
10 and there's times I couldn't get out because through
11 illness sometimes, but you know, as soon as I feel a
12 little better I go out, and when I'm not working I go
13 out.
14 MR. GRANT: My lord, I just want to refer you, and you may want
15 to make a note in your own bench book that the seating
16 chart which was introduced as Exhibit 2-1, 2(1), shows
17 'Niisgimiinuu, Alvin Weget, and it shows the seat that
18 he --
19 THE COURT: Exhibit 2 --
20 MR. GRANT: Exhibit 2 in the proceedings. I've photocopied the
21 bottom half of that, and just for your reference only
22 because I couldn't photocopy -- the page was too
23 large.
24 THE COURT: All right, thank you.
25 MR. GRANT: And just so that I have it clear, I don't need to
26 show this of course to the witness, but which house is
27 Abel Brown or Anda'ap in.
28 MR. MACKENZIE: I object to that question, my lord.
29 MR. GRANT: Okay. I mean I'm only trying to connect this to
30 what the witness has said?
31 THE COURT: Well, this is already -- it proves whatever it
32 proves.
33 MR. GRANT: Yes, it does.
34 THE COURT: It's a matter for argument.
35 MR. GRANT: Doesn't have the name Gutginuxw on it, that's the
36 only reason it was --
37 THE COURT: Well, the witness has explained that.
38 MR. GRANT: Yes, okay. And one other matter is this: My friend
39 yesterday said in a question to the witness that
40 Jessie Sterritt in her transcript of evidence, page 63
41 or page 64 of her evidence, and it's Exhibit number
42 70(B), said that Seeley Lake was at a territory used
43 by the house by Seeley Lake, and her answer was the
44 lake that is known as Seeley Lake now was referred to
45 as Wii'goob'l's Lake. I would only ask the court to
46 note that she went on to describe that he used to in
47 referring to Sam Hoak's father from Wii'goob'l's

house.

"Q I presume he used to set a net in the area of the fish trap between the area?
A There's a small lake there and a big lake, and he would fish between the two.
459 Q Did he use a fish trap?
A Yes.
460 Q All right. Would you tell us how would he catch the fish with the fish trap?
A Fish trap is in a barrel shape and they use tree roots."

And he describes how would they be forced into it, there's a stream that runs from the big lake to the little lake, and this is where they would set the fish trap in between the two lakes. The fish trap would be set between the two lakes and the stream there and the small fishes in the spring, the trout, all fair size, would come into the trap, they would flow into the trap, and then --

THE COURT: Mr. Grant, isn't this argument?

MR. GRANT: All I'm stating, I just wanted to know, my lord, my friend has suggested to the witness, and I'm not asking the witness a question on it, I just want to note for the record there's a description there which is -- the first -- there's one answer that my friend referred to, but the description seems much more in line with what other evidence be, and I wanted your honour -- I wanted your lordship to have that.

MR. MACKENZIE: I object to that, my lord.

THE COURT: Well, you don't need to.

MR. GRANT: I'm not asking a question.

THE COURT: He's not asking a question. I think Mr. Grant has made an argument, I think it may be useful but it's out of turn, and I don't think it should now call for an argument in reply.

MR. MACKENZIE: Well, my lord, I'm not arguing, but I referred to that page and the page that followed, and --

THE COURT: All right. That's probably how your friend found it.

MR. MACKENZIE: Yes.

MR. GRANT: I did ask for the reference and my friend had the courtesy of giving it to me.

THE COURT: Yes, all right.

MR. GRANT: Those are all my questions, my lord.

THE COURT: All right. Thank you, Mr. Robinson, you're excused.

A Thank you, your honour.
MR. GRANT: My lord, if we could just a have a few moments, if we can adjourn briefly.
THE COURT: Yes, sure.
THE REGISTRAR: Order in court.

(SHORT BREAK TAKEN)

(PROCEEDINGS RESUMED FOLLOWING SHORT BREAK)

MS. MANDELL: My lord, the next witness is Antoine Tom, if he could take the stand.

My lord, I would like to advise that Mr. Tom speaks a little English and he is deaf in his left ear and we are asking that Mr. George Holland be available to assist with respect to the translation.

THE COURT: All right. Thank you. Thank you, Mr. Holland. Swear Mr. Holland first.

MS. MANDELL: It's Wet'suwet'en to English.

GEORGE HOLLAND, Interpreter, Sworn:

ANTOINE TOM, a witness called on behalf of the plaintiffs, after first being duly sworn, testified as follows:

THE COURT: Mr. Holland, please interpret that for him.

A Yes.

THE COURT: What's the full name of the witness, please?

MS. MANDELL: The full name is Antoine Tom.

THE COURT: T-O-M?

MS. MANDELL: Yes. My lord, I have advised my friends that we wish to make one correction to the affidavit and I would like to do that through the witness now. It's with respect to paragraph 4.

THE COURT: I don't think I have the affidavit, do I?

THE REGISTRAR: I have the exhibit copy.

THE COURT: Is there another copy? Doesn't matter if there isn't.

THE REGISTRAR: Thank you.

THE COURT: Thank you. Yes.

EXAMINATION IN CHIEF BY MS. MANDELL:

MS. MANDELL:

461 Q Mr. Tom, do you recall swearing an affidavit on May 17th, 1988, and is that your signature?

A Yes.

462 Q You said at paragraph 4 that you were instructed about the territory and its boundary by Smogelgem and you mentioned the name David McKenzie. Was David McKenzie's name David or was he referred to only as McKenzie?

A I only knew him as McKenzie.

463 Q And was David McKenzie your great grandfather?

A Yes.
464 Q And was David McKenzie's daughter Ben McKenzie's mother?
A Yes.
465 Q And were you then primarily instructed about the territory from Ben McKenzie, rather than from McKenzie?
A My uncle Johnny Dominic was the one that informed Ben McKenzie who worked together.
466 Q And were you primarily -- were you instructed about the territory by Ben McKenzie?
A My uncle Johnny Dominic was the one that instructed me.
MS. MANDELL: Based on that evidence, my lord, we seek to amend the fourth paragraph by striking the words by the former Smogelgem, McKenzie.
THE COURT: Well, he has got Johnny Dominic here.
MS. MANDELL: That's right. But I don't believe it's accurate that he was instructed by McKenzie, who is there marked David McKenzie, the former Smogelgem.
THE COURT: Are you going to finish this witness this afternoon?
MS. MANDELL: This is the end of my questions. He is now subject to cross-examination.
THE COURT: So you don't know. Well, there is no procedure for amending affidavits. What's required is for the affidavit to be corrected and re-sworn. I think you have given your friends notice of what you're going to do and after the evidence or at some convenient time I think you should have the affidavit amended and corrected and re-sworn.
MS. MANDELL: That was then the only place then, in our view, the required correction to be made.
THE COURT: Your friends know about that and there is no prejudice.
MR. MACKENZIE: I didn't get the amendment then, my lord.
THE COURT: It's to delete David McKenzie as an informant in paragraph 4.
MR. MACKENZIE: So, my lord, that would be delete the words in paragraph 4 "the former Smogelgem David McKenzie" end?
THE COURT: I would think so, yes.
MS. MANDELL: Yes. Thank you. The witness is available for the cross-examination my lord.

CROSS-EXAMINATION BY MR. FREY:

MR. FREY:
467 Q Mr. Tom, you're in the house of Smogelgem?

A Yes.
468 Q That's the Laksamshu Clan? Please refer to Mr. Holland if there is any difficulty at all.
A Yes.
469 Q That's the right clan.
And is that the Wet'suwet'en term for the Fireweed Clan?
A Yes, that, we have always been the Clan Fireweed on this earth.
470 Q Now, Mr. Tom, what is your Wet'suwet'en name?
A In Wet'suwet'en, I am called G'ee Yeeh Ghun. Not only is it Wet'suwet'en, it's our name in this world.
471 Q And is G'ee Yeeh Ghun, is that a chiefly name?
A Yes, it's in the past, the Indians have always had Indian names, they never had English names before.
472 Q Well, my question is whether the name G'ee Yeeh Ghun is a chief's name or a wing's name?
A It's a chief's name.
473 Q All right.
My lord, that name is in paragraph two of the affidavit.
THE COURT: I see it. Thank you.
MR. FREY:
474 Q And has that been a chief's name in the House of Smogelgem for sometime?
A Yes, it belongs in the House of Smogelgem and Smogelgem is my grandfather.
475 Q Who held the name G'ee Yeeh Ghum before you?
A Moses Dennis.
THE COURT: I am sorry, Moses?
A Moses Dennis.
THE COURT: Thank you.
MR. FREY:
476 Q And do you know who held the name before Moses Dennis?
A Thomas Lolly.
THE COURT: L-O-L-L-Y?
A Lolly.
MR. FREY:
477 Q And can you tell the court when you received that name?
A '81.
478 Q And was there a feast when you received that name?
A Yes.
479 Q And that feast was in 1981?
A Yes.
480 Q Now, Johnny Dominic is named, and I understand the only imformant upon which the affidavit is based; is

that correct?
A Yes, Johnny Dominic and he also worked with McKenzie, who was his uncle.
481 Q In other words, Chief McKenzie, who is Smogelgem, was Johnny Dominic's uncle?
A Yes, that's right.
482 Q And what was Johnny Dominic's name?
A His name was G'wis da.
MR. FREY: Can I get a spelling for that name?
THE TRANSLATOR: G-'-W-I-S, D-A.
MR. FREY:
483 Q Now, there is a name in paragraph 4 of the affidavit, and it will be painful but I will try to pronounce it to direct your attention to it, it's Ghel Yii? Do you have a copy of the affidavit?
THE TRANSLATOR: That's his name.
THE COURT: At the start of the third line.
MR. FREY: Mr. Holland, can you ask him whether Johnny Dominic held the name, if you could pronounce it for me, Ghel Yii?
A Ghel Yii.
MR. FREY:
484 Q Can you ask him if Johnny Dominic ever held that name?
A He held that name before G'wis da.
485 Q Now, the name Ghel Yii, is that a chief's name in the House of Smogelgem?
A Yes, that's a chief name, Smogelgem's nephew's name.
486 Q And I take it the name G'wis da -- can you pronounce that one for me again?
A G'wis da.
487 Q That name is also a chief's name in the House of Smogelgem?
A Yes, I already told you that's Smogelgem's nephew's name. That's the chief name.
488 Q Well, I am sorry then, I missed it. I take it that G'wis da is a chief's name and Ghel Yii is also a chief's name in the house of Smogelgem, they are both chief's names.
A Yes, they are both chief names.
MR. FREY: My lord, do you want to stop now or shall I continue?
THE COURT: I am in counsels' hands.
MR. FREY: I believe if I finish the witness by noon tomorrow we will be on schedule. At least in the court here. So I am in your lordship's hands.
THE COURT: Can you finish by noon tomorrow?
MR. FREY: Perhaps if we just went a bit further now. But it's up to your lordship or Miss Mandell.

THE COURT: Are you all right, Mr. Reporter?
THE REPORTER: Yes, my lord.
THE COURT: I think we will continue until 4:30. Is that all right, Madam Registrar?
THE REGISTRAR: Yes.
MR. FREY:
489 Q Now, the name of Ghel Yii, who holds that name now?
A Nobody is holding that name now but the one -- my uncle's name there has been a smoke feast held and a successor, who is in Prince George -- who is in Prince George, I don't know how it stands at this time.
490 Q That's a successor to the name Ghel Yii?
A No, G'wis da.
491 Q G'wis da. And, who held the name G'wis da?
A Nobody is holding that name at this time.
492 Q Who was the last person that held that name?
A Johnny Dominic.
493 Q And did Johnny Dominic pass away in 1981?
A Yes.
494 Q Now, have you ever heard Smogelgem referred to as the Chief Of The Sun?
A Yes, the sun and the grouse and the owl is their crest.
495 Q What about the whale, is that one of his crests?
A Yes, that's the Laksamshu, that's the same as Tsayu, who own beaver.
496 Q I missed the answer, the whale is one of the crests as well?
A Yes, that's Laksamshu crest.
497 Q Now, there is another plaintiff, and I am probably pronouncing this not very well, Kloum Khun?
A Kloum Khun and Tsaibesa was my grandmother. And Ma'ul. The mother of my mother.
MR. FREY: May I have the spelling of the name Ma'ul?
THE TRANSLATOR: M-A-'-U-L.
MR. FREY:
498 Q And the other two names were Tsayu and Kloum Khun?
A There is three of them, Tsaibesa, Kloum Khun and Ma'ul, my grandmothers.
MR. FREY: Does your lordship have that? K-L-O-U-M, K-H-U-N, that's one of of the named plaintiffs.
THE COURT: I didn't get the third one.
THE TRANSLATOR: M-A-'-U-L.
MR. FREY:
499 Q You're saying there were three of them, is this your grandmother and her two sisters?
A Yes.

500 Q Now, Kloum Khun is a chief of the Laksamshu; is that correct?
A Yes, that's right.
501 Q And is he known as the owl chief?
A Yes, one of my nephews is Mesdzii.
502 Q I am sorry, I didn't get that last word, Mr. Holland?
A One of my nephews holds the name which is Mesdzii.
MR. FREY: Can you spell that?
THE TRANSLATOR: M-E-S-D-Z-I-I.
MR. FREY:
503 Q Is that a chief's name in the House of Kloum Khun?
A Yes.
504 Q Is the owl crest a crest of Kloum Khun or a cross of Smogelgem or is it a crest of both?
A Yes, it's a crest and their house is called Mesdzii Yex House.
MR. FREY: Mr. Michell, if you could spell that for us, please?
THE TRANSLATOR: M-E-S-D-Z-I-I, Y-E-X.
MR. FREY:
505 Q Mr. Holland, do you have a translation for that term, Mesdzii Yex?
A It's an Owl House.
506 Q And what I am trying get at, Mr. Tom, is that is Mesdzii Yex a name associated with Kloum Khun or is it associated with Smogelgem or both?
A Yes, they all belong to Mesdzii Yex.
507 Q Now, in the Laksamshu clan, there is the House of Smogelgem and the House of Kloum Khun, are there any other houses in the House of Kloum Khun?
A Yes, I know of some other houses besides the ones I mentioned, and it's Tsayu, they have a house, call that C'a K'en Yex, Beaver House. Tsayu.
508 Q You and is it Kweese that's the chief of that house?
A Yes, she would belong in that house because she is Tsayu, the same as Mesdzii Yex.
THE COURT: Are we not off on a side trip here? I thought the question was were there any other houses in addition to Smogelgem and Kloum Khun in this house of Smogelgem?
MR. FREY: In the Laksamshu clan, my lord. And I believe the evidence that comes out, there is another associated clan. I will ask Mr. Tom about that now.
THE COURT: Now he is starting to tell me, it seems to me, about other houses in other clans.
MR. FREY: That's correct, my lord, that is the evidence.
509 Q Firstly, Mr. Holland, can you give us the name of the Beaver House? You gave us a word for that, or Mr.

Michell, can you give me a spelling for that?
THE TRANSLATOR: C-'-A, K-'-E-N, Y-E-X.
MR. FREY:
A Correction there, it's Tsa K'en Yex.
THE TRANSLATOR: T-S-A, K-'-E-N, Y-E-X.
THE COURT: What is that, please?
MR. FREY: I believe that's the name for what he has termed the beaver house. Or it's another name for C'a K'en Yex, I believe.
THE COURT: I have got something else for the Beaver House, are there two names for the Beaver House?
MR. FREY: Well, there are two names, if I understand, Tsayu is the name of the clan. Perhaps I can ask the witness, Mr. Tom, this:
510 Q Is Tsayu the name of the Beaver Clan?
A Yes, that's a clan name. And they are associated with Laksamshu as one.
511 Q All right. And the name Tsa K'en Yex, is that also a name for the Beaver Clan?
A Yes, Tsa K'en Yex is a Tsayu house.
512 Q Now, I believe your evidence was that the Beaver Clan is part of or very close to the Laksamshu clan?
A Yes, they are as one, they all sit together.
513 Q They all sit together at the feast?
A Yes, they all sit together and that is their names.
514 Q Do you know when the two clans combined?
A I have always known that since I was a small child, and I have heard my grandmother speak about it, they ever always been as one.
515 Q All right. So, you have never heard that the Laksamshu Clan and the Beaver Clan combined in the 1860s?
A Yes, they combined but they have always been close, like where there is killer whales on the coast, there is Laksamshu down there and Laksamshu around here and Tsayu, they have always been as one.
516 Q And today, is it one clan or two clans?
A Yes, they are as one today. And except their names are different for some.
MR. FREY: So, my lord, that's Beaver and Fireweed that we are discussing.
THE COURT: I don't know if the witness has agreed with you about the 1860s.
MR. FREY: I simply asked him if he was aware of it.
THE COURT: I don't know that I have got an answer to that, if you want to pursue it.
MR. FREY: I will repeat that one question.

517 Q Mr. Tom, have you ever heard that the two clans combined in the 1860s, had you ever heard that anywhere?
A Some may speak of it in that sense, but as far as I know, like I said before, the people from the coast who are Laksamshu where the killer whale comes from, and the Laksamshu here and Tsayu, have always been one.
518 Q Now, when these two clans sit at the feast, Smogelgem sits in the centre; is that right?
A Yes.
519 Q And is Smogelgem the senior chief of the combined clan?
A At this time, as far as I know, all the head chiefs sit in the middle.
520 Q And when you say all the head chiefs, do you mean Smogelgem, Kweese and Kloum Khun?
A Yes.
521 Q Have I missed any out of the head chiefs?
A All the head chiefs sit at -- in the centre in the back and all the younger chiefs who have names also sit -- sit back there at this time, according to where they come from.
522 Q But there are a group of head chiefs who sit in the middle who are the most important chiefs and I understand that three of those chiefs are Smogelgem, Kloum Khun and Kweese and of that group of important chiefs that sit in the middle, I just want to make sure I have got them all.
A Yes, that's right.
523 Q Thank you. Now of those three head chiefs, are they all equally as important or is any of those three more important?
A Yes, according to where we all live, we all have names and where we have territories we all know where we come from.
524 Q Well, I am going to take a run at that one again. I am asking about the three chiefs that we discussed, Kloum Khun, Kweese and Smogelgem, and I am simply asking if in the clan today are those chiefs all of equal importance or is any of those three chiefs more important than the other?
A Yes, they are all equally as important and wherever we may be situated, wherever we all come from, when we all come together, we all have equal powers.
525 Q All right. Now, the territory described in your affidavit is a territory around Harold Price Creek; is

that correct?
A Yes.
526 Q Now Mr. Holland, can you pronounce the name for Harold Price Creek for me? Do you have a copy of the affidavit? Let me show you. It's at the top of page 2. If it will be easier, if you could just ask Mr. Tom what the name for Harold Price Creek is and then you can just pronounce it.
Ms. Mandell has pointed out there is a separate name for the creek, I am asking the name for the territory.
A Yes, that's within the Ses Kwe, you're probably talking about English name, the area that I know as Ses Kwe. And it's -- while I travelled through the territory, all the different areas have different names.
MR. FREY: My lord, if I could direct you on the territory that we are talking about -- I don't know if you have a Canada map there?
THE COURT: Yes. 13-A?
MR. FREY: Yes, that's right.
THE COURT: That's not near the Susqua River, is it?
MR. FREY: It's in the lower reaches, my lord.
THE COURT: Is it?
MR. FREY: Perhaps I can ask the witness.
527 Q Harold Price Creek flows into the Susqua River; is that right?
THE COURT: Yes, I see it.
MR. FREY: My lord, have you got where Harold Price Creek is located?
THE COURT: Yes, I have got it.
MR. FREY:
528 Q And the point where Harold Price Creek flows into the Susqua is 12 or 15 miles up from the Bulkley; is that right?
A It's not 15 miles, it's more than that.
529 Q More than 15 miles up from the Bulkley?
A Yes.
530 Q Now the territory along the southern or southwestern boundary of Smogelgem's territory is claimed by Goohlaht; is that correct?
A There is a mountain range there and which is Caspit's territory along -- belonging to -- within the Goohlaht territory, who are Gilseyhu.
531 Q Gilseyhu, that's their clan?
A Yes, it's Gilseyhu territory would be this side of the mountain.

MR. FREY: And Mr. Michell, have you got a spelling for Gilseyhu?
THE TRANSLATOR: G-I-L-S-E-Y-H-U.
MR. FREY:
532 Q And is Caspit a chief in Goohlaht's house?
A Yes, they are chiefs.
533 Q He is a chief in Goohlaht's house? I am sorry.
A Yes, that's Gilseyhu business. I don't talk about. I only talk about the territory which I came from.
534 Q All right. So you don't -- you can't tell us today whether Caspit's a chief in Goohlaht's house?
A Like I told you before, there are chiefs in different clans and I don't talk about their business.
MR. FREY: My lord, I note it's 4:30.
THE COURT: All right. We will adjourn until -- can we adjourn until 9:30?
MR. FREY: Yes, my lord.
THE COURT: Mr. Mackenzie is not here -- are you going to need this map again? The large one. Mr. Mackenzie is here. Should it be put away with the exhibits for the last witness or should I keep it handy?
MR. MACKENZIE: That relates to the last witness and it's an aide memoire for your lordship. We aren't going to refer to it again.

(PROCEEDINGS ADJOURNED UNTIL 9:30 A.M., WEDNESDAY, NOVEMBER 30, 1988)

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

Wilf Roy
Official Reporter