Vancouver, B.C.
March 9th, 1989

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE REGISTRAR: In the Supreme Court of British Columbia. Vancouver, this Thursday, March 9, 1989. Calling Delgamuukw versus Her Majesty the Queen at bar. I caution the witness, you're still under oath.

THE COURT: Mr. Mackenzie.

MR. MACKENZIE: My lord, we have checked our records with respect to those interviews which Mr. Rush mentioned yesterday, and we've confirmed that we did receive them in November as Mr. Rush indicated, and September.

THE COURT: Well, I made a lucky guess. Thank you, Mr. Mackenzie.

MR. RUSH: Thank you.

A. MILLS, Resumed:

EXAMINATION IN CHIEF BY MR. RUSH CONTINUED:

Q Dr. Mills, your opinion is in front of you. I wonder if you would please turn to page 215. This is in your final chapter of the opinion and I'd like to refer you to the last paragraph which says, and I quote:

> "The Wet'suwet'en have incorporated Christianity into their lives but they have not lost their own unique way of relating to the world and the land that has been theirs since before their first prophets told of the vast changes that were to come. While the lives of the Wet'suwet'en have changed, as have the lives of all people in the twentieth century, the Wet'suwet'en continue to relate to the modern world from the wisdom of their tradition into which they have been born over the millenia. that tradition is founded on treating all life forms, be they human or animal with respect."

End Quote. And is that your opinion, Dr. Mills, with respect to this chapter?

A Yes.

Q I'd like to direct your attention specifically to the phrase in the second line of that paragraph that I've

1 just read to you which says, "They have not", and I'm
2 quoting, "They have not lost their own unique way of
3 relating to the world." And I wonder if you would
4 explain or amplify that?
5 A Their way of relating to the world is through a system
6 which is grounded in on matrilines which are headed by
7 chiefs who have authority over territories, and they
8 exercise this authority in part because they are
9 recognized as having a kind of spiritual power that's
10 grounded in things like Habo Tsat and the ability to
11 know through dreams to foretell the future. It also
12 includes their continued belief in reincarnation, and
13 this whole way of looking at the world is something
14 that has been maintained up to the present.
15 MR. RUSH: Habo Tsat is H-A-B-O new word T-S-A-T.
16 Q In the chapter you make reference to the prophet Bini,
17 B-I-N-I. And can you explain to the court the
18 significance, if any, of Bini to the Wet'suwet'en
19 world view?
20 A Bini was a Wet'suwet'en who lived from approximately
21 around 1820 to 1855 -- 1885. Excuse me. And he
22 was --
23 THE COURT: I'm sorry. Is it B-E-N-I or B-E-E-N-I?
24 A It's often spelled B-I-N-I.
25 THE COURT: B-I-N-I. Thank you.
26 A And he was important to the Wet'suwet'en as a prophet
27 who foretold change that was going to come. This was
28 before the missionaries had arrived into the area.
29 And he appeared to fall dead and returned -- returned
30 to life after a period of days in which he was
31 apparently unconscious, and told them about what he
32 had learned during this time in a vision that he had
33 had. And he foretold changes that were going to come
34 to the Wet'suwet'en. And he -- he organized them in
35 some ways that paved a way for the Christianity after
36 him. He instituted dances, for example, on a sabath.
37 At the same time that he was integrating some things
38 that were to come he was also a Wet'suwet'en chief of
39 some note. He became Chief Kweese, the head chief of
40 the Tsayu. And this was at a time when the population
41 was being reduced quite drastically by smallpox
42 epidemics, so that he coalesced the Laksamshu and
43 Tsayu into a single house so that -- because the
44 numbers had been reduced so drastically that they
45 couldn't effectively work as a feasting group
46 without -- without this kind of joining. And he -- he
47 is -- his reknown spread in all directions from his

visions and he in feasting got people to take his names at Hagwilget, his prophecies and his new kind of ethic that he was talking about spread also to the Gitksan as well as to the Sekani and to the Beaver Indians and people on different sides.

MR. RUSH:

Q And in terms of the Wet'suwet'en perception of the world did the accounts, or do the accounts of Bini and the understanding of Bini relate to the world view as it began to change?

A Yes. Yes, it does. He provided a kind of way of integrating Christianity later because his prophetic visions, his prowess in dying and returning to life was seen as a way of making comprehensible the teachings about Christ, which then subsequently were brought by the missionaries.

Q The prophet Bini, is he spoken of in Jenness?

A Yes, he is.

Q At pages 203 to 206 of your opinion you make --

THE COURT: I'm sorry, Mr. Rush, before you leave that, I notice on page 215 you talk there of in the last paragraph there their first prophets. Now, I'm not sure if you include Bini in that?

A I do.

THE COURT: The question I have, of course, is does that exclude earlier prophets?

A No. This Bini came out of a tradition in which people were expected to know things through dreaming and through a kind of vision and trans kinds of contact with the spirit world. And I suppose the first prophets would really be the first people in this tradition in an extremely long period of time, but Bini was -- was more major than most.

THE COURT: Yes. All right. I'm sorry, Mr. Rush. What page?

MR. RUSH: Thank you. Pages 203 to 207.

Q You there set out with some particularity the account of Bini and you reference Jenness 1943, is that so?

A Yes. You'd really have to start on 202 to get the first, because the rest is opposites to that

Q Thank you. That's 202 to 207 then. Have there been contemporary Wet'suwet'en people speak to you about Bini?

A Oh, yes.

Q And who were they?

A Lots of people speak about Bini. Emma Michell

Q Where did she describe Bini?

A I think in her commission evidence she also described

Bini. Chief Kweese, who holds the same hereditary title, of course, talks about Bini.
Q Is that Florence Hall?
A Yes.
MR. RUSH: Kweese is K-W-E-E-S-E.
Q You mentioned Barbeau. Did Barbeau address Bini?
A Well, Barbeau was primarily doing field work with the Gitksan, but Bini's name had definitely spread to the Gitksan, and he records what some Gitksan people said about Bini.
MR. RUSH: All right. My lord, the 1943 reference to Jenness on those pages is found at tab 24. Their page references are in the text.
Q I want to draw your attention, Dr. Mills, to tab 43 of the large black volume number three. I would just ask if you'd look at tab 43. And can you identify these as two accounts collected by Marius Barbeau regarding Bini?
A Well, in my version there's one at tab 42.
Q Yes. Thank you. At tab 42.
A And another one at tab 43.
Q Yes. And my question about those two tabs is do they reflect the recordings by Mr. Barbeau of accounts of the life of Bini?
A Yes, they do.
Q Are these the only accounts that Barbeau collected?
A No. He collected some more than this. I haven't counted them recently, but I think there may be six more. Something around eight accounts that he collected. They're all similar.
Q That's what I was going to ask you. Are these representative of the eight that you know of Barbeau's?
A Yes, they are.
Q And did you review these in the preparation of your opinion?
A I did.
MR. RUSH: I'd like these to be marked, my lord.
THE REGISTRAR: The next exhibit number is 945.
THE COURT: 945. Tab 42 would be 945 and tab 43 will be 946.
THE REGISTRAR: Yes.

(EXHIBIT 945: Tab 42 of Plf. Book III)

(EXHIBIT 956: Tab 43 of Plf. Book III)

MR. RUSH:

Q Dr. Mills, in the same chapter you deal with the relationship with the Wet'suwet'en world view with the Christian world view, and I wonder if you can explain or amplify on the nature of the two world views as you from your perspective in your field work were able to determine?

A One of the interesting features is that the Wet'suwet'en have adopted Christianity. As Emma Michell said, "We are all good Catholics or Pentecostals now." But at the same time they have retained their own way of thinking about things as well. As I mentioned yesterday, Morice thought that to make the Carrier, and including the eastern and the western Wet'suwet'en, Christian it would be necessary to stamp out the earlier beliefs. In fact what has happened is that Christianity has been added but the earlier beliefs have not been deleted, so that the Wet'suwet'en continue to believe in the powers as they did previously. They continue to -- to view the cause of illness as they did previously, but at the same time they have added Christianity on and they now think that -- have incorporated it in so that they think that if they do use their powers to harm someone without cause then -- then the retribution in the past would have sort have been caused by some animal species spirit or some other type of Kaigyet spirit is going to be meted out by a higher power.

Q You cite a letter of Father Morice on page 208 over 209 which you translated of October 25, 1899. I just ask you to look at tab 29 which there appears to be in French a version of the English translation at 208. I wonder if you could confirm that for us.

A Yes.

THE COURT: Where is the translation, Mr. Rush?

MR. RUSH: The translation, my lord, the passage translated, is in the text at page 208.

THE COURT: Yes. All right.

MR. RUSH:

Q Dr. Mills, are you able to assist us in respect of the particular page within tab 29 that was the passage that you referred to? If you'll look at page 18 I'll ask you if that -- the underlining that appears in the French text is the portion that you translated on 208 and 209?

A Yes. It begins with the second sentence of the first full paragraph at page 18.

Q All right. And does it continue on to that page and over to the next page?
A Yes.
Q Thank you. All right. Thank you. Can I mark -- this was obtained from the Oblate Archives, was it?
A Yes.
Q In Ottawa?
A Yes.
Q By you personally?
A Yes.
Q And it was translated by you?
A Yes.
MR. RUSH: May this be an exhibit.
THE COURT: The whole of item 29?
MR. RUSH: Well, I've included the whole thing as a package. Yes, the whole thing.
THE COURT: All right. That will be Exhibit 947.
THE REGISTRAR: 947. And it's tab 29.

(EXHIBIT 947: Tab 29 of Plf. Book III)

MR. RUSH:
Q Dr. Mills, would you just review pages 199 through to 216 of your opinion. Do you adopt the facts and opinions as stated in this -- in these pages?
A I do.
Q And I'd ask you if you would, please, to look at pages one through nine of your opinion, and I would ask -- similarly ask you if you would adopt the pages in the introductory chapter of your opinion?
A Yes, I do.
MR. RUSH: Thank you. I wonder if you could just set those aside now. Thank you, Madam Registrar. I wonder if you could produce Exhibit 62-1. My intention now, my lord, is to refer Dr. Mills to several genealogies which have been entered as exhibits in the proceedings.
THE COURT: This is Gisdaywa, is it?
MR. RUSH: This is Gisdaywa. That's Exhibit 62-1.
Q Dr. Mills, do you recognize this genealogy?
A Yes, I do.
Q And you recognize it as a genealogy, do you?
A Yes, I do.
Q Okay. Did you -- did you prepare this?
A Yes, I helped in its preparation.
Q And is this genealogy in your handwriting?
A Yes, it is.

Q And on what did you base the information that's contained on this genealogy?
A I based it on information from Alfred Joseph.
Q Okay. And did you make notes of that information?
A These are the notes.
Q Are you familiar with the names, both the Wet'suwet'en and the English names that appear in -- described on this genealogy? I'm not asking if you know necessarily the people, but simply if you know the names that are shown there.
A That's right. The feast names I'm particularly familiar with. Some of the peoples old names I hadn't heard before. Alfred Joseph gave them.
Q Okay. And does the genealogy tell you anything about the relationship of the -- of people on the genealogy one to the other?
A Yes. These are people who are related matrilineally and their spouses. These are all people of one house, in other words.
Q All right. Does it indicate to you anything with respect to the succession of names?
A Well, yes. You can follow from this genealogy the succession of the chiefs titled Gisdaywa. It first appears on the top left-hand part of the genealogy where there's a woman -- women are represented by circles, and there's a woman whose name is given as Gisdaywa, and then you can see that her son, who is below her, is also Gisdaywa.
Q That's Joseph Paul Naaloogh, N-A-A-L-O-G-H?
A That's right.
Q Yes.
A And then you can see that the succession then goes from Joseph Paul Naaloogh, it goes through his mother's sister's daughter's son is the next Gisdaywa. That's Thomas George Gisdaywa, who appears on -- on the third line down on the right-hand side of the first page of this genealogy.
Q All right. And --
A And then the succession goes from Thomas George Gisdaywa to Alfred Joseph, who's the current Gisdaywa. And it goes from the previous Thomas George Gisdaywa, his sister's son.
MR. RUSH: All right. Gisdaywa on the genealogy is spelled G-A-S-D-A-Y-W-A.
Q Does this genealogy tell you anything else about the relations of the people shown on it?
A Yes. You can say from this genealogy that the people

in this matriline marry people in different clans and houses. For example, that first Gisdaywa that's over on the top left-hand side is married to someone who, in the parentheses, of the Gilseyhu or frog clan, and if you look over and see that top Gisdaywa's sister who is known by her chief name Detsan.

Q Is that D-E-T-S-A-N?

A Yes. You can see that her husband is also identified in Goohlaht's house. So those sisters, in other words, have married people who are in the same clan which is entirely different from the Gisdaywa clan. The marriage is -- is called an exogamous marriage. That means you never marry in your own house and clan. It goes not only house, but clan. And you can see that there's a tendency for there to be some duplication of people marrying in set clans. So that you see Joseph George marrying someone who also is Goohlaht's house.

Q Joseph George being a --

A A son of Cecilia George --

Q Yes.

A -- And Felix George. You see the pattern both ways of a woman sometimes marrying someone who's in her father's clan. For example, Cecilia George married someone who was in her father's clan.

Q Being that person holding the name of Goohlaht?

A The person she married, yes, held the name Goohlaht.

MR. RUSH: All right. Thank you, Dr. Mills. I'm just going to ask you to set that aside. I'd like to ask the witness now about Exhibit 62-18. It should be in the same book.

THE COURT: What is it, Mr. --

MR. RUSH: It's the genealogy of Madeek.

THE COURT: Thank you.

MR. RUSH:

Q Now, Dr. Mills, are you knowledgeable about this genealogy?

A Yes.

Q Did you prepare this?

A Yes.

Q Is this in your handwriting?

A Yes.

Q Or printing. And on this is 62-18, and on what information did you base the genealogy that is here shown as 62-18, Exhibit 62-18?

A I took whatever information had already been gathered when I began, when I was asked to help on these

genealogies, and then went to the people in Madeek's house. Madeek himself, George Naziel, the late George Naziel was alive at the time when I began this, but he had had a stroke so he couldn't speak so I talked to his wife and his son. His son Amos Naziel translated for his wife and got the information that they knew. And we also went to the late Peter Alfred and asked him for information. And he was not in good health, but he gave quite a bit of information. And his wife contributed as well.

Q All right. And can you explain to his lordship what, if anything, this genealogy tells you?

A This genealogy shows the people in a particular house within the Gitdumdem clan, and it shows again the same principle that people are related through the matriline. You are a member of a house by virtue of the house that your mother is in. And it also shows the same principle of succession of names through this matriline. See, if we could find Madeek we could trace the succession. Again, goes through the same kind of matriline, and it shows another principle that you marry outside of your own house and clan.

Q That's exogamous?

A Exogamous. And also shows that you're -- sometimes that people marry outside the clan. They are free to marry in any clan they want to, but often there's sort of a replication of marrying back into your, woman speaking, into her father's clan.

MR. RUSH: All right. Thank you. And would you, please, look now to tab -- well, it's not in that binder. It would be Exhibit 119. That is the genealogy of Wah tah keght. W-A-H new word T-A-H new word K-E-G-H-T.

THE REGISTRAR: Is that tab 9?

MR. RUSH: Yes.

Q Dr. Mills, is this genealogy in your handwriting?

A Some of it is, but some of it isn't.

Q Do you recognize the handwriting of the portions that is not yours?

A I'm not entirely certain if I -- that I do.

Q All right. Were you involved in obtaining information with respect to this genealogy which information appears on the genealogy?

A Yes.

Q All right. And from whom did you obtain the information?

A A great deal of the information came from Madeline Alfred and other information came from George Holland

and an aunt of his.
Q All right. And in reference to what the genealogies of Gisdaywa and Madeek show what does this show -- this genealogy show, if anything?
A Well, it shows the same kind of patterns. That these are people who are related through the mother's side, that they marry outside of their clan and house, and that sometimes there's a pattern of marrying back into your father's clan, but not necessarily. If you look at all Madeline Alfred's children have married particularly not into the wolf clan, which is her husband's clan, but into the Laksamshu and Tsayu clan.
Q Thank you. And, again, Dr. Mills, are you familiar with some of the Wet'suwet'en names and English names as names that appear on this genealogy?
A Yes.
MR. RUSH: All right. Thank you. I'd like to refer the witness next to Exhibit 99F, the genealogy of Wah tah kwets. That's W-A-H new word T-A-H new word K-W-E-T-S.
THE COURT: K-W-E-T-S?
MR. RUSH: K-W-E-T-S.
Q Dr. Mills, do you recognize this genealogy as a genealogy of the Kwen beegh yex, or house beside the fire of Wah tah kwets. That's K-W-E-N new word B-E-E-G-H new word Y-E-X. And Wah tah kwets is the name spelling I already gave you.
Do you recognize this as a genealogy of that house?
A Yes, I do.
Q Is this genealogy in your handwriting?
A No, it's not.
Q And is it -- are you able to determine from that handwriting who it was that prepared this?
A This is the handwriting of Victor Jim.
Q All right. And would you -- were you involved in the gathering of information that appears on this genealogy?
A Yes.
Q Okay. And in reviewing this genealogy can you tell us what, if anything, it shows; the same or different from what you have commented on with respect to previous genealogies?
A It shows the same principles again. People know their membership into a particular house by being related through a matriline, and they marry outside of their house. There is some tendency to repeat the clans that you marry into.

Q And there are a number of Wet'suwet'en names contained on this genealogy. Are you familiar with those names?
A Yes.
Q And some of the English names, are you familiar with those?
A Yes.
Q I'd like to show the witness Exhibit 239-2. This is the genealogy of Kweese.
THE COURT: K-W-E-E-S-E?
MR. RUSH: Yes.
THE COURT: Thank you.
MR. RUSH:
Q Do you recognize this genealogy, Dr. Mills?
A I guess.
Q Is this in your hand? Was this prepared by you?
A Yes, it was. I think I used this tedious method of trying to use a template for making the lettering nicer.
Q This -- this was work that was done by you however, was it?
A Well, I don't think I would ever have written Brazil for Bazil, and I see that consistently on this first page. I think some of this may have been farmed out to somebody else, but I definitely prepared the ref. copy from which this better copy was made.
Q And from whom did you obtain the information with respect to the relation -- relations which are shown on this genealogy?
A Well, again, any information that had previously been gathered by Heather Harris I used, or any information that had been gathered at all, but I also interviewed Florence Hall in particular for this information.
Q Okay. And can you explain what significance the genealogy has?
A Oh, well, the genealogy follows the same principles as the ones we've viewed already. The way that your membership in -- in a house is determined is by whether you're related through matriline, and the chiefs' names of -- succession of the chief's name Kweese, as well as the other names in the house, are passed through this matriline. And you don't -- it shows that you don't marry into your matriline or your clan.
Q Thank you. The current holder of the name Kweese is Florence Hall?
A That's correct.
MR. RUSH: Thank you. All right. May the witness be shown

Exhibit 252 next. It should be in relatively the same area. This is the genealogy of Namox Tsayu. Exhibit 252.

THE REGISTRAR: It's Dan Michell's book and it's tab 2.

THE COURT: And whose genealogy is it?

MR. RUSH: Namox. N-A-M-O-X.

MR. MACKENZIE:

Q Dr. Mills, did you prepare this genealogy?

A I certainly worked on collecting the information which is contained in it, but this one isn't in my hand either.

Q All right. Do you recognize the hand of the person who prepared this?

A This is in Victor Jim's hand.

Q All right. And are you able to say from whom it was that you obtained information which appears on the genealogy?

A I interviewed Chief Wilat and Emma Michell.

MR. RUSH: Wilat is W-I-L-A-T.

Q And do you know who held the name at that time? Do you remember?

A Margaret Williams.

Q And in -- what can you say about the relationships which are shown on this genealogy?

A Again, they show that the people are related through the mother's side, and the marriages are to someone outside of the house and clan, and that the names, chiefly names, are passed within the members of the house. And that, again, sometimes there is this duplication of marrying or crossing -- cross referencing back to the same father's side. Marry someone who's in your father's clan and house. I mentioned it yesterday for a case that would fall on this -- this genealogy.

Q Right. And I now ask if you look at Exhibit 310, which is the genealogy of Knedebeas, which is K-N-E-D-E-B-E-A-S. This genealogy dated March the 1st, 1988, is this in your handwriting?

A No, it's not.

Q Do you recognize the handwriting?

A No.

Q Okay. Were you involved in gathering the information which appears on this genealogy?

A Yes. I went to Prince George where -- where the head chief of this house, Sarah Layton, was in the hospital, and with Victor Jim and Don Ryan. This may be Don Ryan's handwriting. And we asked her for the

genealogy.

Q All right. And what can you say about what the genealogy shows, if anything?

A Well, it shows the succession of membership in the house through the matriline, succession of names such as Knedebeas and other names in the house with two people who are in the matriline, and the same principle of marrying outside of your own clan and house.

MR. RUSH: All right. Thank you, very much.

Now, my lord, I am going to tender the interview notes of the hereditary chiefs which have been referred to by Dr. Mills, and have been referred to between my learned friends and I. I have compiled a set of these for your lordship, and I have a transfer letter which is -- acts as an index to them, at least in the chronological order in which they appear in the two volumes, one dated November 10th and one dated November 15th. I don't mean to utilize the transfer letter for any reason other than it shows the sequence of what's contained in the volume. If your lordship finds that of use I would have to tender that as well. If not then I'm quite happy to take that out.

THE COURT: Now, whose interviews are these?

MR. RUSH: These are interviews referred to by Dr. Mills in her evidence as the interviews of hereditary chiefs done in the period of 1981, 1983. And they have sometimes been called the land claims interviews, they have been called the transcripts of the interviews of hereditary chiefs and --

THE COURT: None were done by Dr. Mills, of course?

MR. RUSH: None of these were done by Dr. Mills. And some of these are duplicates, and I haven't had the time to take them out of this larger volume, two volume set. Some of these have already been identified and marked in the proceedings, I think in tabs 16 through to 22, and the -- and in some cases --

THE COURT: Of volume?

MR. RUSH: Of volume 2.

THE COURT: Okay. They're already in.

MR. RUSH: They're already in. Now, I have two sets of -- these are just the Wet'suwet'en interviews. One set involves those of November the 10th and the second of November the 15th, and --

THE COURT: And they're tendered on the basis of they form a part of the corpus of material upon which the witness relied in preparing her opinion?

1 MR. RUSH: That's correct. And I'm going to ask the witness
2 just to review these now.
3 MR. MACKENZIE: Well, my lord, I'm going to rise and make an
4 objection about -- to the tendering of these as an
5 exhibit now. I don't know whether we received them
6 all. I assume from what Mr. Rush says that we have,
7 but we had no idea that they were going to be tendered
8 at this time, and no idea that Dr. Mills was going to
9 be asked to review them and indicate that these were
10 the basis of her report, so I can't --
11 THE COURT: Does that not emerge out of her report?
12 MR. MACKENZIE: I can't deny -- sorry, my lord, could I answer
13 your lordship's question. I can't deny they were
14 provided to us, because I don't know. I'm assuming
15 they were in November just before the territorial
16 cross-examinations. And now to answer your lordship's
17 question does that appear from her report, my answer
18 is no, it does not appear from her report. Mr. Rush
19 wrote me a letter telling me which interviews she
20 relied on. Of course, those are the interviews I
21 concentrated on. There is no mention of land claims
22 interviews in her report, although in her draft
23 opinion which we used last Friday land claims tapes is
24 used extensively and land claims interviews used
25 extensively. Having said that I have to acknowledge,
26 as Ms. Koenigsberg has told me, probably in an
27 abundance of caution, we should have reviewed and
28 expected this to happen for all the Wet'suwet'en
29 interviews that were provided to us in November. I
30 simply say we haven't done it. We weren't advised
31 this would happen.
32 THE COURT: Ms. Koenigsberg has suggested you should have done
33 it, has she?
34 MR. MACKENZIE: Yes.
35 THE COURT: Ms. Koenigsberg.
36 MS. KOENIGSBERG: People don't always take my advice. My only
37 concern is that I'm not entirely sure what it is
38 before the witness, and I would just like to have
39 confirmed that there are a body of interviews which
40 have come under heading of land claims interviews
41 which are of Wet'suwet'en people. I believe that the
42 witness has said through her evidence that she
43 reviewed all of the Wet'suwet'en land claims
44 transcript interviews, and I believe her evidence was
45 that she didn't listen to any that had not been
46 transcribed, but that she had reviewed all of the ones
47 that are transcribed. And my question is is what is

now being tendered all of the Wet'suwet'en land claims interviews which have been provided to you, all of them, and the assumption is they have been provided to us.

THE COURT: Well, would it be accurate to put the question the other way, and that is are you asking whether this now -- this collection now includes some that have been transcribed, but not previously furnished to you, because obviously she hasn't got any transcripts there that haven't been transcribed.

MS. KOENIGSBERG: One assumes that's correct.

THE COURT: Yes.

MS. KOENIGSBERG: I'm going to assume that in the production which took place --

THE COURT: Yes.

MS. KOENIGSBERG: -- In November --

THE COURT: Yes.

MS. KOENIGSBERG: -- We received all of the Wet'suwet'en interviews that were transcribed.

THE COURT: Yes. All right.

MS. KOENIGSBERG: And were in the possession of the plaintiffs.

THE COURT: Let's stop there. Is that right, Mr. Rush?

MR. RUSH: Pardon? These interviews, I believe, are in addition to the ones, or may as well incorporate ones that were disclosed on September 8th of 1987. There was an earlier -- there were two disclosures made on September 8th, '87.

THE COURT: Yes.

MR. RUSH: And my understanding is that there are some here that were not duplicated in this disclosure, that disclosure being those of September 8th, '87. Now, what I've tried to do is for the disclosures, or at the least the ones that have already been separately exhibited and have been separately disclosed are contained in volume 2.

THE COURT: Are you saying, Mr. Rush, that everything that is in the two volumes before the witness now was disclosed either on November 10th or November 15th, 1987?

MR. RUSH: Subject to three pages and seven pages which were disclosed on February the 28th.

THE COURT: All right.

MR. RUSH: We're only dealing with the Wet'suwet'en. There are some --

THE COURT: Yes.

MR. RUSH: -- Interviews with the Gitksan.

THE COURT: Well, Ms. Koenigsberg's problem, however, is to define even further by -- by asking, as I understand

it, whether there are any other Wet'suwet'en interviews that have been transcribed but which are not included?

MR. RUSH: Yes, there are. I think, although I'm not sure, there was a disclosure of some handwritten ones that were made during the course of the territorial cross-examinations by Mr. Grant, and I believe that they included some Wet'suwet'en. I have not included those here.

THE COURT: But you're telling Ms. Koenigsberg that all transcribed Wet'suwet'en interviews have now been disclosed?

MR. RUSH: Yes.

THE COURT: All right. Ms. Koenigsberg, are you --

MS. KOENIGSBERG: I think our only possible confusion is whether the witness referred to them.

THE COURT: Yes.

MS. KOENIGSBERG: And in that sense relied upon them. And is my friend now putting forward that collection? I simply wish to have it clear for the court and ourselves, of course, the corpus upon which the opinion rests. And I'm less concerned about actual disclosure, assuming that substantial or complete disclosure has taken place, but that we are referring to and putting into evidence the complete set of which was relied upon by the witness. That is my concern.

THE COURT: All right. I'm not sure. I don't remember whether a moment ago, Mr. Rush, you asked that formal question of the witness.

MR. RUSH: Yes, I did.

THE COURT: You did. And you said -- have you referred to, relied directly or indirectly on all that information, amongst other things?

A I did, yes.

THE COURT: All right. All right. Well, then, Mr. Rush, my only remaining concern or problem is the question of fairness that might arise in this connection out of what Mr. Mackenzie said, that he had inquired and you had told him or gave particulars of what it was that the witness was relying upon, and a number of these were mentioned in reply or response which led him to believe that that was all she would be relying upon. And led him further, I suppose, to say that if you had told me about additional ones I would have reviewed them, but you didn't tell me and now I haven't reviewed them and now I haven't got time before I have to cross-examine. What do you say about that?

1 MR. RUSH: Well, the first point is that in her opinion Dr.
2 Mills, as is evident from the review of the opinion
3 and her evidence, makes specific reference to specific
4 passages that she relied upon.
5 THE COURT: Yes.
6 MR. RUSH: And these are taken from extracts and portions of the
7 interviews with the hereditary chiefs --
8 THE COURT: Yes.
9 MR. RUSH: -- She said that she referred to as part of the
10 underlying work that she did --
11 THE COURT: Yes.
12 MR. RUSH: -- To this body of material. And it is your
13 lordship's, I think, succinct characterization of
14 whether she referred to them directly or indirectly.
15 THE COURT: Yes.
16 MR. RUSH: And it is so that the direct references and the
17 direct reliances that Dr. Mills placed on the -- the
18 hereditary chiefs' interviews are noted in her report
19 and were earlier disclosed. However, the -- all of
20 this body of interviews is -- is not something that
21 she herself has said in her report that she has relied
22 on directly, but I take it that if the -- if there is
23 a basis for her referring to them indirectly and it
24 forms part, if you will, of the body of knowledge that
25 she brings to bear in her opinion --
26 THE COURT: Yes.
27 MR. RUSH: -- Through the procession of investigation that she
28 has undertaken, knowledge that is drawn, I might add
29 from a number of different sources, including
30 ethnographic sources, and so on, then she is entitled
31 to refer to it as part of her opinion. And in
32 addition to that, in my submission, you're entitled to
33 see it by that reference where I choose, or where I
34 think it's significant for you to see the body of
35 underlying material to which she has made reference.
36 THE COURT: You mean in argument?
37 MR. RUSH: Well, now in the course of the examination and as
38 well in argument, yes.
39 THE COURT: All right. All right. Thank you. Anything else
40 you want to say, Mr. Mackenzie?
41 MR. MACKENZIE: My lord, I wonder if I could just read your
42 lordship the letter that all this comes from. That's
43 the first disclosure in response to our request, and
44 that was September 8th, 1987. Mr. Rush said, "I
45 enclose photocopies of interview notes relied on by
46 Dr. Mills in her expert opinion report."
47 THE COURT: Yes.

1 MR. MACKENZIE: And there follow a list of 18 notes. And
2 that's -- that's the disclosure that we had relating
3 to Dr. Mills and our further correspondence related to
4 that disclosure.
5 THE COURT: Present sight shows that to be very ambiguous,
6 doesn't it?
7 MR. MACKENZIE: Yes. Yes, that's correct.
8 THE COURT: Well, all right. I'm -- I'm not sure that there's
9 any difference in principle here between what's
10 happening or what Mr. Rush wants to happen, and what
11 would be the case if a witness were to say I relied
12 upon all the -- all the books on anthropology in the
13 Smithsonian Library or the Library of Man in Ottawa or
14 the archives. I referred to some of them and where
15 I've relied upon some specifically I've said so, but
16 in preparing my opinion I have relied upon a great
17 deal more than just references that have been made. I
18 think the witness would be entitled to say that. And
19 I suspect that when a witness does prepare a report
20 for use in litigation he or she does indeed rely upon
21 all the underlying learning to which he or she has
22 been exposed. And allowing these to be marked for the
23 limited purpose of, or allowing them to be put in
24 evidence for the limited purpose of collecting
25 together what she relied upon doesn't advance the
26 opinion further than would have been the case if she
27 had merely said I relied upon a whole bunch of
28 interviews which I have seen which are not put into
29 evidence, nor is it not materially different except on
30 grounds of convenience if a witness would say if she
31 had taken the broadest approach I mentioned earlier
32 that I relied upon a great collection of learning.
33 For that reason it's my judgment, which I think is
34 consistent with what has happened at this trial, to
35 allow counsel to put before the court in convenient
36 form a broader collection of the material or the
37 underlying material upon which the witness says she
38 relies, and I think that no substantial prejudice
39 results from that. It may be used in argument for
40 good or bad by either side. It may be that the
41 material will be found in argument that there is
42 nothing there which hasn't been mentioned in her
43 report which shows her report is not supportable, or
44 it might on the other hand show that the report is
45 indeed supportable and will therefore assist me in
46 arriving at -- at what I hope will be the right
47 conclusion. I don't think the defence is seriously

prejudiced by the ambiguity of the letter which conveyed this information to counsel. I'm prepared to allow it to be put in evidence for the limited purpose that has been mentioned today, and in connection with other exhibits of like kind. That is those that are put forward as information upon which the witness has relied upon in reaching her opinion.

What is the suggestion, Mr. Rush, that they be marked as two exhibits?

MR. RUSH: Yes. I should point out, my lord, that the volume that I gave for photocopy, my volume, also includes the Gitksan interviews which were disclosed on November the 14th, and I hadn't intended on those being marked, but I just noted on the spine of mine that it was copied as well. And they can be extracted from that volume, but yes.

THE COURT: Which volume is that, the November 10th or November 15th?

MR. RUSH: Yes. Within the larger of the two volumes I included the disclosures of November the 10th and November the 14th.

THE COURT: All right.

MR. RUSH: The thinner of the two volumes is the November 15th disclosure. So I would -- I wish to ask the witness a couple of questions about these, but subject to the extracting of those other ones.

THE COURT: All right. Can that be quickly done or done on the morning adjournment?

MR. RUSH: I think it can be done very quickly.

THE COURT: Mr. Mackenzie.

MR. MACKENZIE: I submit that these be marked with our being able to confirm we did receive them, because Mr. Rush is not giving us a copy. He's telling us all, and we believe him, of course, that this is what he sent us in November.

THE COURT: Well, you may certainly speak to the matter if you make a discovery along those lines.

MR. MACKENZIE: Thank you, my lord.

THE COURT: Is the transmittal letter in the front of the book, Mr. Rush?

MR. RUSH: Pardon me?

THE COURT: Is the transmittal letter of November 10th in the opening of the book?

MR. RUSH: Yes. Yes, it is.

THE COURT: Yes. All right.

MR. RUSH:

Q Now, Dr. Mills, if you wouldn't mind looking at the

larger of the two volumes. And would you just review the listing of the interviews with the Wet'suwet'en hereditary chiefs and the dates of those interviews on pages two and three of the letter that accompanies this.

A Yes.

Q And I would ask you if you have reviewed the contents of the -- of the volume here previously to determine if the contents of the volume were included as the listing on pages two and three indicate?

A Yes. There seems to be one slight extraneous thing.

THE COURT: Which one is slightly extraneous?

A I don't recognize this writ of summons that appears in it.

MR. RUSH: Neither do I.

THE COURT: I'm sure there's a writ of summons here somewhere.

MR. MACKENZIE: Did you say -- your lordship mentioned a big scoop.

MR. RUSH: It looks like an action started by one of my associates.

THE COURT: Nothing personal I hope, Mr. Rush.

MR. RUSH: I don't know any of the parties there.

THE COURT: No, I'm sorry, Mr. Rush.

MR. RUSH: Maybe you better just flip through the other ones and see if there are any other important matters.

THE COURT: You've been served, Ms. Koenigsberg. You better put in an appearance.

MR. KOENIGSBERG: It will take more than this to get me on the record, my lord.

MR. RUSH:

Q Dr. Mills, can you confirm that these are the interviews with the Wet'suwet'en hereditary chiefs that you reviewed in preparation for your opinion report?

A Yes.

Q In part. This isn't the total amount. I have the next volume to refer you to.

A Yes.

Q And these interviews were translated and transcribed?

A That's correct.

Q All right. And would you look at the second of the two volumes, please.

THE COURT: That one will be 948.

THE REGISTRAR: 948.

THE COURT: For the limited purpose I've mentioned.

(EXHIBIT 948: Volume 1 of Interviews with Hereditary Chiefs)

THE COURT: This one's November 15th.
MR. RUSH:
Q The next one is November 15th. And there's a transmittal letter setting out a number of interviews of Wet'suwet'en hereditary chiefs on specific dates. Would you review that thinner volume, Dr. Mills, please?
A M'hm.
Q If you'll just have a look at the first page of the transmittal letter. Have you reviewed the interviews that are contained in this volume?
A Yes, I have.
Q And can you confirm that these were interviews that you reviewed in preparation of the opinion that you have tendered?
A Yes.
Q And are these interviews of Wet'suwet'en hereditary chiefs that were transcribed and translated?
A Yes. I don't recall if Margaret Pierre has a chief's name.
MR. RUSH: Okay. Thank you. May that be the next exhibit, please.
THE COURT: 949.
THE REGISTRAR: 949.

(EXHIBIT 949: Volume 2 of Interviews with Hereditary Chiefs)

THE COURT: Will you be wanting to extract the exhibit, Mr. Mackenzie, for comparison purposes?
MR. MACKENZIE: Yes, my lord. Thank you, very much.
THE COURT: Yes. I think that's reasonable.
MR. RUSH:
Q Now, Dr. Mills, would you please turn to volume 1 of the volumes. The first volume that has been signed. Yes.
THE REGISTRAR: This one.
MR. RUSH: Not of the interview reports. I don't wish to refer to them. Thank you. Now, my lord, I provided you with a tab divider for the notes that were tendered yesterday as tab 8.
THE COURT: Yes.
MR. RUSH: And I neglected to get the exhibit number for that.
THE REGISTRAR: 929.

THE COURT: 929.
MR. RUSH: 929.
THE COURT: Yes.
MR. RUSH: Thank you. And I've also inserted a new tab 9.
THE COURT: Yes.
MR. RUSH: I'm going to direct the witness' attention to that.
Q It's the last tab in that binder, Dr. Mills. Would you, please, turn your attention to that. Do you see that?
A I do.
Q Can you identify what's contained in that tab for us, please?
A Yes. This is a letter from Father Le Jacq to the bishop dated November 19, 1875, and it's the source of a quote that I used in my report.
Q And I'll just ask you to pause there. Is the translated version of that source found at page 90 of the opinion?
A Yes, it is.
Q All right. And if you turn, please, to the fourth page along which is marked 4378 at the top is the portion which you translated, and is found at page 90 of your report, is that portion in the middle paragraph of the French version?
A Yes, it is.
Q Okay. And can you confirm for his lordship that this letter was obtained by you at the Oblate Archives in Ottawa?
A Yes.
MR. RUSH: Thank you. May that be the next exhibit, please.
THE REGISTRAR: It will be 950.
THE COURT: 950.
THE REGISTRAR: Tab 9 of the book, my lord.

(EXHIBIT 950: Letter from Father Le Jacq to bishop dtd. Nov.19, 1875)

MR. RUSH: Thank you.
THE COURT: Do you want to take the morning adjournment, Mr. Rush?
MR. RUSH: Thank you.
THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED)

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

_____
Peri McHale, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
THE REGISTRAR: Order in court.
MR. RUSH:
Q Yes, my lord. I wonder if we could place before the witness, Madam Registrar, the last two exhibits, Exhibits 948 and 949, the interviews with the hereditary chiefs.
Dr. Mills, with reference to previous historic and ethnographic literature, I asked you to assess the strengths and weaknesses of the literature. And I wonder if you would -- if you can comment on the strengths and weaknesses of the corpus of the interviews of the hereditary chiefs, which have been marked Exhibits 948 and 949 in these proceedings?
A The strengths of these reports is that they -- they represent a large body of interviews with Wet'suwet'en people asking about specific information, and it's recorded. It's sort of the opposite of Jenness weaknesses, where Jenness doesn't give native terms for a place or a thing or mention who he's interviewed. These land claims transcripts all mention those things. But it -- one difficulty is that if you don't happen to know Wet'suwet'en, sometimes if you're reading through them, in some of them there'll be large -- or passages -- frequent passages that are in Wet'suwet'en, which if you don't know the language, it doesn't mean a great deal to you. It's good to have that material recorded, but it means that it's easier to read them if you have someone who can tell you what they mean. I began reviewing these transcripts when I was still resident in Vancouver and after seeing that frequently there will be passages like that, I saved it until I got to Moricetown and could ask what those passages meant.
Q Are there other strengths or weaknesses that you noted?
A Well, as an interview technique, these were tape recorded. The tape recorder was going and capturing everything that was said. And these transcriptions reflect that. They have not been edited down in any way. Typically when people do interviews, they will take notes often of the answers to the questions they ask and exclude kind of extraneous material that may come up in the course of an interview, the sort of the passing of the time of day kind of exchange that inevitably takes place. And these -- these transcripts include all of that as well. In a certain

way it's a strength as well. It shows what's important to the Wet'suwet'en, all these side exchanges, et cetera. But in terms of a focused interview, sometimes they wander a bit, but they're very good. It's an excellent corpus of material. We're fortunate to have Jenness and this is a very good corpus of material as well.

Q Dr. Mills, if you will please look at Volume 3 of the first set of volumes I placed before you. Would you please turn to Tab 30 in that volume? This is -- this contains in part page 22, a short monograph by Jenness entitled "The Ancient Education of a Carrier Indian" and it's dated 1929. Did you refer to this monograph in the course of the preparation of your opinion?

A I did.

MR. RUSH: May that be marked as an exhibit, my lord?

THE REGISTRAR: 951.

MR. RUSH: For convenience purposes I'm only directing the witness' attention to pages 22 to 27. Everything is extraneous. And those are the only passages of interest, I think.

THE COURT: All right. Well, then it's only pages 22 to 27 that will be Exhibit 951.

(EXHIBIT 951: Tab 30 - "The Ancient Education of a Carrier Indian - D. Jenness)

MR. RUSH:

Q And, Dr. Mills, would you also turn to Tab 35? This is apparently an article by Father Morice and dated 1933 entitled "Carrier Onomatology". Did you make reference to this article in the course of preparing your opinion?

A I did.

MR. RUSH: Thank you. Can that be an exhibit, my lord?

THE COURT: 952.

THE REGISTRAR: 952.

(EXHIBIT 952: Tab 35 - "Carrier Onomatology" - G. Morice)

THE COURT: What does onomatology mean?

THE WITNESS: System of naming.

THE COURT: Naming places or persons or both?

THE WITNESS: Both.

MR. RUSH:

Q And, finally, Dr. Mills, at Tab 45, this is a document apparently written by Father Morice and dated 1893 called "Under the Transactions of the Canadian Institute. Notes on the Western Denes". Did you have occasion to refer to this in the course of the

preparation of your opinion?
A Yes, I did.
MR. RUSH: Can that be the next exhibit, please?
THE REGISTRAR: 953.
THE COURT: 953.
(EXHIBIT 953: Tab 45 - "Notes of the Western Denes" - G. Morice)
MR. RUSH:
Q Now, my lord, I've endeavoured to obtain a copy of Jenness 1930 and I have not been able to obtain a copy for your lordship, but apparently it is out of the library at U.B.C. and I'm trying to obtain it. I, however, would like you -- like the Court to reserve a number for the monograph written by Jenness in 1930. Reference has been made to it in the course of the body of the opinion on several occasions.
A It's Morice, not Jenness.
MR. RUSH: Excuse me. Morice.
THE COURT: Not Jenness?
MR. RUSH: No. It's Morice 1930.
THE COURT: 1930?
MR. RUSH: Yes.
THE COURT: All right.
MR. MACKENZIE: My lord, I think we have that copy and we'll be pleased to get it back to the library so Mr. Rush can get it out immediately.
MR. RUSH: I had my suspicions about where it was, but I --
MR. MACKENZIE: Apparently a lot of pressure has been applied. I learned that this morning.
MR. RUSH: Not enough to work.
THE COURT: Are you overdue, Mr. Mackenzie? Don't answer that question. Exhibit 954 number will be reserved.
MR. RUSH: Thank you.
(EXHIBIT 954: Reserved)
MR. RUSH: And, my lord, I'd like to have Dr. Mills' opinion marked as the next exhibit.
THE REGISTRAR: We reserved a number for it.
THE COURT: What number?
THE REGISTRAR: 906.
(EXHIBIT 906: Report of A. Mills)
MR. MACKENZIE: Yes. That is subject to the objections that -- or in light of the objections that we stated on Monday morning.
THE COURT: Oh, yes.
MR. RUSH: Those are my questions for Dr. Mills. Thank you.
THE COURT: Thank you. Mr. MacKenzie, Ms. Koenigsberg? Who's first? Mr. MacKenzie.

THE COURT: Are we going to need these three large volumes, Mr. Mackenzie?
MR. MACKENZIE: The volumes of the plaintiff's documents, my lord?
THE COURT: Yes.
MR. MACKENZIE: Yes, my lord. I've handed your lordship an empty binder, following Mr. Willms' practice of having the documents inserted --
THE COURT: Yes.
MR. MACKENZIE: -- as they're identified. And the first document that should be inserted is the "Social Anthropology" article that I referred to during Dr. Mills' cross-examination, my lord.
THE COURT: That was by Evans Pritchard.
MR. MACKENZIE: Yes.
THE COURT: That was marked Exhibit 904.
THE REGISTRAR: So may the book be marked? Are we going to mark the book 904 and then 904-1?
MR. MACKENZIE: We can mark the exhibit book as Exhibit 904 subject to your lordship's views, and the tabs will be marked as exhibits under that number.
THE COURT: Well, I'm not sure.
MR. MACKENZIE: Oh, I'm sorry, my lord. This is going to cause a slight problem.
THE COURT: Well, we're out of chronological sequence.
MR. MACKENZIE: Yes. That's right.
THE COURT: I think it doesn't -- it doesn't do any harm if this document is in twice, and I think we'll just mark the book as the next exhibit, 955, and we'll make that document which is 904 then to 905-1.
THE REGISTRAR: 955-1.
(EXHIBIT 955: AGBC Cross-exam book)
(EXHIBIT 955-1: Tab 1 - "Social Anthropology" - E. Pritchard)
CROSS-EXAMINATION BY MR. MACKENZIE:
Q Now, Dr. Mills, you told Mr. Rush that you commenced your library research on -- in March, 1985; is that correct?
A For this project.
Q Yes. And you arrived in Moricetown for the first time related to this project in July, 1985?
A That's correct.
Q And we have -- Exhibit 905 is the contract you signed on March 13, 1985?
A Um-hum. That's correct.
Q Did you sign that contract in Vancouver or in Moricetown?

A In Hazelton.
Q In Hazelton. So you had been in the area prior to your arrival of July, 1985?
A I came up to Hazelton to discuss the project and to see if it was something that I wanted to undertake and something that they wanted to have -- they wanted to have use me.
Q And was that meeting before March, 1985?
A It was March, 1985. It was the date that's on that contract.
Q Is that the first meeting you had to discuss the research project?
A Yes.
Q And who did you meet with at that time?
A I met with Victor Jim and Marvin George and Don Ryan and Neil Sterritt came briefly and Richard Overstall and Susan Marsden, and I think Peter Grant came in briefly.
Q Is that the first contact that you had with the representatives of the Gitksan and Wet'suwet'en people related to this research contract?
A Yes. I'm sorry. What was your question?
Q Is that the first contact that you had related to this research project?
A Well, I went there because I received a telephone call asking if I would be interested.
Q And that was from Don Ryan?
A That's right.
Q When did you receive that call, just approximately?
A It was probably February. It was in the month of February.
THE COURT: Of that year?
THE WITNESS: Of '85, that's right.
MR. MACKENZIE:
Q Well, you -- there are some field notes and feast notes dated January, '85. Is that a typographical error, Matt Michell feast?
A I think what had happened is just over the change to the new year, I had failed to note that I should be writing 1986. I'm sorry.
Q So we can change the dates on the Matt Michell feast note to January, 1986?
A Yes. If indeed -- I haven't looked to verify what you say. I'm not sure if it's a mistake that's in the table of contents or in my notes themselves.
Q And we can change the date on the Charlie Austin speech at that feast to January, 1986?

A Yes. If it says '85, then it would be January, '86, that's correct.
Q And did you sign the contract the same day that you arrived for the meeting?
A I think so.
Q So it was quite a -- it was a fairly quick decision after the meeting or during the meeting?
A Well, as I said, I had heard a description of the job previously in February.
Q And at this time had you received the fellowship from the Social Science and Humanities Research Council?
A No. I didn't know that I was going to be receiving that. I made my application, but --
Q You had applied to conduct research into reincarnation with the Wet'suwet'en people; is that correct?
A Beaver and Gitksan.
Q The three peoples?
A Um-hum. Originally I asked to -- my proposal was to do it with Beaver and Gitksan and then when I received the grant, I asked for permission to include the Wet'suwet'en.
Q And when did you receiver the grant, just approximately?
A I think it began in October.
Q October, 1985?
A Yes. I guess that's correct.
Q Now, during this meeting was it apparent to you that the people -- I'm speaking about the meeting in March in Hazelton. Was it apparent to you that the people there had reviewed any of the work -- the writings that you had done before that time?
A No. I'm not sure. They didn't make reference to any. I don't recall them making reference to any.
Q Is it fair to say that they contacted you because they were aware of your previous research generally with the Beaver Indians?
A Yes.
Q Is it fair to say that they contacted you because of the extensive field work that you and your -- well, that you had done over the previous 20 years with the Beaver Indians in northeastern British Columbia?
A They wanted to find someone who is knowledgeable about Athabascans.
Q And at the meeting you explained what your experience was, had been with the Beaver Indians?
A I don't think that that was an issue.
Q Is it fair to say that, to your knowledge, they wanted

1 someone who was familiar with the Athabascan Indians
2 and someone who understood the Indians' world view?
3 Is that a fair statement?
4 A They wanted someone to assess the Wet'suwet'en
5 material in particular and they wanted someone who
6 would -- was grounded in the literature for the
7 Athabascans.
8 Q And so you agreed to conduct a research project in a
9 manner satisfactory to the tribal council?
10 A No. I wouldn't -- that doesn't describe the -- them
11 at all, what was said. They told me that they had
12 undertaken a court action, and they told me that they
13 would like me to review the material that exists about
14 Carriers and Wet'suwet'en in particular. They told me
15 that they had -- there had been previous research done
16 on the land claims transcripts, and they invited me to
17 do research and to assist the lawyers in understanding
18 the Wet'suwet'en system and to write an opinion
19 report. And I said I had indeed reviewed the
20 literature on the Carrier in the course of doing my
21 doctoral dissertation. I hadn't reviewed it from the
22 point of view of land tenure, but I would be glad to
23 look at it from that perspective, but I reserve the
24 right to write exactly what I found and what I found
25 to be true. And they said that's fine.
26 Q So you disagree with my characterization of your
27 agreement? I said you agreed to conduct the research
28 in a manner satisfactory to the tribal council. You
29 disagree with that statement?
30 A Yes. You make it sound as if they were dictating what
31 I was to find, and that's very far from the case.
32 MR. MACKENZIE: I'm sorry. I didn't mean to make it sound any
33 particular way. I'm just reading from your contract,
34 and that's Exhibit 905. So maybe we could look at
35 that now, please.
36 THE COURT: Volume 1? Is it Volume 1?
37 THE REGISTRAR: Tab 2.
38 THE COURT: Thank you.
39 MR. MACKENZIE: Yes. Tab 2, my lord. Does your lordship have
40 that reference?
41 THE COURT: Yes.
42 MR. MACKENZIE:
43 Q And reading on page 2, section 2.1, the contract
44 reads: "In a manner satisfactory to the tribal
45 council, the consultant agrees to provide the tribal
46 council with the following services". So that was
47 clearly a clause in the contract that you signed, Dr.

1 Mills?
2 A Well, as I stated, I made it very clear to the tribal
3 council that what I wrote would be to the best of my
4 ability following the understanding that I had of what
5 represented an intelligent opinion about the body of
6 work and that I would indeed conduct research to form
7 my own opinion.
8 Q And you agreed to provide research related to an
9 ethnographic account of the Wet'suwet'en houses?
10 A Could you repeat that? Ethnographic?
11 Q Yes. You agreed to provide research related to an
12 ethnographic account of the Wet'suwet'en houses?
13 A You mean to conduct research?
14 Q Yes.
15 A Yes.
16 Q And also geographic account of the Wet'suwet'en
17 houses?
18 A I was not expected to do much on geography because
19 they had cartographers, Marvin George, et cetera.
20 Much of this research -- that research had been done
21 previously by Alfred Joseph, and I was not asked to --
22 to do that work. I was given access to the work so
23 that I could review it.
24 Q And you were asked to provide and to do a historic
25 account of the Wet'suwet'en houses?
26 A To look -- my understanding was that I was to look at
27 all the literature that existed and -- and that
28 combined with any research that I would undertake
29 would form the basis.
30 Q You agree with me that that is the description of the
31 research, ethnographic, geographic and historical?
32 That's contained in the contract, Exhibit 905, section
33 2.1, subsection (a)? Do you see that?
34 A I see it written there.
35 Q And so one of the assumptions was that there were
36 Wet'suwet'en houses, correct?
37 A Oh, yes. It's not -- I wouldn't -- assumption makes
38 it sound as if that was based on no basis. In fact,
39 the Wet'suwet'en organized themselves by houses in
40 notes reported in Jenness long before. It was not as
41 if it was an unfounded assumption on which they were
42 basing this concept.
43 Q And your contract was based on the assumption that
44 there was an entity called the Wet'suwet'en, correct?
45 A Yes.
46 Q And it was based on the assumption that there were 12
47 Wet'suwet'en houses, correct?

A Basically.
Q Now, you were aware that the term Wet'suwet'en is a relatively recent use and say in the 1980's?
A No, it's not.
Q But in your previous writing you always referred to these people as Carrier, didn't you?
A Yes.
Q Or as the Bulkley River Carrier?
A That's right.
Q And that's how Jenness refers to them?
A That's right. It's only 1980 if you take it from -- from some literature points of view, but the term existed for the Wet'suwet'en. It's recorded, I think, by Morice as well. So it was -- but the general anthropological usage was to just use Bulkley River Carrier.
Q In fact that's what the tribal council called themselves up until the 1980's, the Gitksan Carrier Tribal Council, correct?
A I think so.
Q And the use of the word Carrier reflects the relationship to the greater Carrier nation or the greater Carrier-speaking people, including the Babine people and the people at Fort St. James and Stuart Lake, doesn't it?
A I'm not sure how -- who was responsible for that title, the Gitksan Carrier, whether it was the Department of Indian Affairs or who began that usage.
Q I'm sorry. I misstated the question. What I meant to say was that the use of the word Carrier to describe the people in the Bulkley River valley reflected their relationship to the greater Carrier-speaking group of people, the Babine Lake area and the Stuart Lake and Fort St. James, et cetera; is that a fair statement?
A I don't think it characterizes it quite accurately. The reason that they were called Carrier was not so much because it reflected their -- their interaction. Is that the word you used?
Q The relations?
A The relations, only because it reflected relations. It was also a linguistic category because they were all recognized as speaking an Athabascan language, whereas the relations obviously went equally or more so -- far more so to their neighbours, the Gitksan and Nishga. But also, as I said in my evidence in chief, it's almost a misnomer because the linguistic variations within the group that's called Carrier are

1 very deep, and Morice was the first person to note
2 this, but somehow this label still remained in place
3 until fairly recent times.
4 Q And you -- as you say, you were aware that your
5 research was to be conducted in the -- in relation to
6 a land claims litigation case which had already
7 commenced?
8 A Yes. I was told that.
9 Q And you were made aware that there was a body of
10 interviews which you refer to as the land claims tapes
11 and interview?
12 A Yes.
13 Q All the data that you were to produce would become the
14 property of the tribal council?
15 A I'm not sure that that was mentioned to me when I
16 first went up there, but I subsequently learned that
17 the report, et cetera would become the property of the
18 Wet'suwet'en, yes.
19 Q And you were to provide original records of all your
20 data and interviews as well as your report to be filed
21 with the tribal council?
22 A They never specified that.
23 Q Referring to the contract, Exhibit 905, page 5,
24 section 13. And that paragraph reads:
25
26 "All surveys, reports, drawings,
27 calculations, designs, plans, specifications
28 and other data, information and material
29 collected, compiled, drawn and produced
30 during the performance of the work are the
31 property of the tribal council and the
32 copywrite therein vests in the tribal
33 council."
34
35 A Yes. It's there.
36 Q And with respect to the research you were to provide,
37 services you were to provide, you were directed to
38 include in your research sources the tapes,
39 transcripts and notes of interviews with Wet'suwet'en
40 informants in possession of the tribal council?
41 A Yes.
42 Q And you were directed also to --
43 A Are you quoting?
44 Q Yes. From section 2 on page 2 of the contract,
45 Exhibit 905.
46 A I never had recourse to the tapes because they were in
47 Wet'suwet'en.

1 Q Do you distinguish between transcripts of interviews
2 and notes of interviews as indicated at section 2 on
3 page 2 of the contract, Exhibit 905?
4 A I think that the notes of interviews refer to notes
5 that Alfred Joseph took of place names when he would
6 go out with an informant. He had sometimes a keying
7 system where he would write down names and places.
8 That's -- there aren't interviews that are separate
9 from the land claims tapes other than the list of
10 place names, to my knowledge.
11 Q Now, we were speaking about your data. Did you in
12 fact file all your data and information with the
13 tribal council?
14 A I think so.
15 Q And has that all been produced, to your knowledge, to
16 us?
17 A To my knowledge.
18 Q And you were also directed to review the published and
19 unpublished papers and notes of Diamond Jenness,
20 correct?
21 A Yes.
22 Q And your evidence was that you searched for those, for
23 such notes, the unpublished papers. You were unable
24 to find any?
25 A I didn't find any.
26 Q But you were interested in seeking -- or seeing those
27 unpublished notes in order to amplify or -- amplify
28 the observations in Jennesss' 1943 work and in the --
29 his 1934 works, "Myths of the Carrier People"?
30 A That's correct.
31 Q Your contract was from March 11, 1985 to September 30,
32 1985, correct?
33 A That's what's written here.
34 Q But you in fact stayed in the valley. As you said,
35 you didn't leave until summer of 1988; is that
36 correct?
37 A That's correct.
38 Q Did you have another contract?
39 A No, I didn't.
40 Q Were you paid after the -- after September, 1985 for
41 your services?
42 A Yes, I was.
43 Q And was there any basis for that payment other than
44 this contract that we have here, Exhibit 905, to your
45 knowledge?
46 A No. There was never any written statement. This
47 contract also doesn't set out that I was to do an

1 opinion report, but that was -- I don't know if it
2 ever got in writing, but that was made manifest in
3 that same March 15th meeting. I agreed to do both an
4 opinion report and research.
5 Q You were required to produce the results of your
6 research in a binder form. Did you do that?
7 A Yes.
8 Q And is that different from the report that you have
9 presented today?
10 A Yes.
11 Q What -- in what way is it different?
12 A I was asked to assemble the material to assist the
13 council for the Wet'suwet'en in organizing the
14 material that exists, Jenness, to whatever extent
15 Morice was relevant. It didn't turn out to be very
16 relevant in terms of what it said about the houses in
17 a form that would be helpful for them to understand
18 what was going on.
19 Q Do you have any other -- do you have any
20 correspondence with the tribal council -- did you have
21 any correspondence relating to the terms of your
22 research agreement other than this contract, Exhibit
23 905?
24 A I don't recall any.
25 Q Now, is it fair to say that the inclusion of Diamond
26 Jenness in your required sources in this contract
27 reflects the importance of Jenness in the field of
28 Carrier ethnography -- ethnology, I mean?
29 A Yes. He's one of the few sources of Wet'suwet'en
30 ethnography, um-hum.
31 Q Now, you were also required to conduct interviews and
32 other field work with the Wet'suwet'en, correct?
33 A I was given quite a bit of latitude. It wasn't as if
34 I was required to. I was asked to do two things. One
35 was to help organize the material that basically
36 already existed for a format that could assist
37 counsel, and the other was to form an opinion, and the
38 opinion was separate from this other task that they
39 wanted me to perform and that was left at my
40 discretion.
41 Q And did you -- have you prepared a list of all the
42 informants that you interviewed?
43 A I don't think I've ever prepared such a list.
44 Q Do we now have all the notes that -- of interviews
45 with informants that you conducted, to your knowledge?
46 A I think you do.
47 Q But, as you have said, there were other communications

and information sessions that you did not record?
A I didn't record absolutely everything that was said, and also I conducted information after I made the report.
Q Now, is it fair to say that -- to your knowledge that the reason the tribal council retained your services is they were satisfied that you were sympathetic to the Indians' world view?
A No. I don't think they cared. I hadn't finished the task when this contract finished. Therefore, I needed to continue it to finish it.
Q Actually what I meant was when the tribal council first retained you, to your knowledge they were retaining you because they felt that you were sympathetic to the world view of the Indian people in British Columbia?
A They never made that manifest.
Q Would you agree with me that that is reflected from your earlier writings?
A Sympathetic?
Q Yes.
A To the world view?
Q Yes.
A I had done some work that indicated that I was -- tried to understand it if that's what you mean.
Q Well, is it fair to say that in the contact and any conflict between the Beaver Indian and western civilization, you would be sympathetic to the Beaver Indians' viewpoint?
A Could you give us an example?
Q Yes. Look at some excerpts from your thesis. Now, I'm showing you the cover page of a thesis entitled "The Beaver Indian Prophet Dance and Related Movements Among North American Indians", a thesis presented by Antonia Curtze Mills at Harvard University, October, 1981. Now, that is the cover page from your thesis, correct?
A I think it is.
MR. MACKENZIE: And I have included some excerpts from that thesis with that cover page. And, my lord, I tender that as the next exhibit.
MR. RUSH: I wonder if my friend could just indicate for the sake of the record the length of the thesis.
MR. MACKENZIE: Yes.
MR. RUSH: It seems to be an indication towards 200 pages in length?
THE COURT: It's roughly 214 in the bibliography.

MR. RUSH: Yes. I see that.
MR. MACKENZIE:
Q I have a full volume here. I'm going to put the full volume before Dr. Mills. The full volume of your thesis, including the bibliography, goes to 224 pages; is that correct?
A Seems to be.
MR. MACKENZIE: My lord, I tender that as the next exhibit.
THE COURT: Yes. All right.
THE REGISTRAR: Be 955-2.
(EXHIBIT 955-2: Tab 2 - "The Beaver Indian Prophet Dance" - A. Mills)
MR. MACKENZIE: And perhaps Dr. Mills could have a copy. Does his lordship have a copy?
THE COURT: Yes.
MR. MACKENZIE:
Q Now, this thesis dealt with the prophet dance with respect to several North American Indian groups, didn't it?
A Yes.
Q But by this time you had had several years' experience of field work with the Beaver Indians?
A Yes. More than several.
Q So the Beaver Indians were part of the subject of your thesis?
A Yes.
THE COURT: I'm sorry, Mr. Mackenzie. Did you call it prophet dance?
MR. MACKENZIE: Prophet. That is p-r-o-p-h-e-t, not a reference to the cash economy.
THE COURT: I know what you mean.
MR. MACKENZIE:
Q Now, I refer in this -- these excerpts to page 2 of your thesis. And now this has been marked as Exhibit 955-2. And in this -- on this page you were speaking about -- you're in the midst of speaking about your extensive field work with the Beaver Indians, is that fair to say?
A Yes.
Q And then the first paragraph at the bottom of the page 2 reads:

> "This long period of time has been indispensable for beginning to learn what the Beaver Indian prophet tradition means. The process has no foreseeable end point. I continue to find that my understanding

1 changes like a kaleidoscope shaken, with a
2 new pattern emerging as my old way of
3 looking at the situation changes, the
4 structure that holds my understanding
5 crumbles, and almost immediately some pieces
6 of a new structure emerge."
7
8 And that's what you wrote in your thesis?
9 A I did.
10 Q And that's your view today?
11 A That -- that -- yes. I'd like to explain, because I'm
12 not sure if you understand correctly what I meant
13 there; is that in trying to understand another
14 person -- peoples' world view, you are always blinded
15 by the -- by the vantage point with which you arrive
16 and then -- at first I found that I was expecting
17 things to be in a very different format. They would
18 instruct me and then I would begin to understand
19 something about -- human beings are good at sort of
20 taking pieces, making them into a new kind of format.
21 Then they would instruct me further and I would find
22 that this understanding I had arrived at was incorrect
23 as well, and the process keeps on going like that
24 until you begin to learn what it is they really --
25 really are saying.
26 Q And you continued to learn over 20 years with the
27 Beaver Indians?
28 A I try to.
29 Q And then you continue on page 3 of your thesis:
30
31 "The structure I brought to the Beaver
32 Indians could not contain their thought so
33 those structures have been abandoned for new
34 ones which I am aware still do not duplicate
35 exactly the Beaver Indians ones, although
36 they can encompass more of the Beaver
37 thought than the original ones."
38
39 And that was your view in 1981?
40 A Right. I'm not saying that I have abandoned being my
41 own personhood or understood assumptions of my own
42 culture. That would be a fallacious interpretation of
43 this passage. But in terms of trying to understand
44 the Beaver Indians, I have tried, to the best of my
45 ability, to discern what it is that they are saying,
46 and that it has taken a concerted effort over many
47 years. And as I said here, I -- the end point is not

in sight. I do not pretend to fully comprehend what they mean when they say many things.
Q I take it from your remarks that your view continues to be one that you expressed in this passage?
A That I'm trying to learn --
Q Yes.
A Yes. I would like to learn what they are thinking.
Q And the next paragraph you continue:

> "It has taken such a long time to absorb what has been assimulated because the subject is vast."

And that was your view in 1981?
A That's my opinion now as well.
Q And it's your opinion as well. Now, these comments apply to your experience with the Wet'suwet'en Indians, do they not?
A In some ways that -- I don't pretend to fully understand the -- all that they say and mean as well, yes.
Q On page 67 there's another passage to which I wish to draw your attention, but before I do that I just want to have -- ask you to agree with me that in response to Mr. Rush's questions, you -- you did advise him that during your field work with the Beaver Indians, you reviewed their oral traditions in an attempt to evaluate them?
A Yes.
Q And you were assisted in the interpretation of their oral traditions by references to historical events if they occurred in the tradition?
A Yes.
Q That would assist you to date the particular oral tradition?
A Yes.
Q And that's a process that you describe in your thesis, correct, for example at the first paragraph at the bottom of page 67? And here you say:

> "When did the first Beaver Indian Prophet appear? It is difficult to pinpoint a time from the stories of people for whom time is as much mythic as calendric."

Now, that was your view in 1981?
A What I'm saying is that they don't say the first

prophet appeared in 1793. That is not a concept that they would use or could use or do use or did use. And then I go on to pinpoint from whatever sources we have when I think it occurred. I disagree with -- with an presumption that was made by another anthropologist. I -- on the basis, for one thing, of the genealogies I had gathered. You ground this in whatever kind of way you can. I also relied on Leslie Spier, who --

Q S-p-i-e-r?

A S-p-i-e-r, yes, whose 1935 monograph is one of the most significant works in this regard, which I also reviewed in my thesis.

Q So it's fair to say that you still agree with the views that you expressed here in 1981, which we just read?

A I wouldn't like this passage to be taken out of context. In looking at the oral traditions of -- of people without a written tradition, anthropologists do distinguish different kinds of accounts. There are ones that seem to be more ancient. There are ones that seem to reflect more recent events as well. It's not as if one can't make some kind of chronology without looking at the traditions of an oral people.

Q So subject to your qualifications which you've just expressed, the views that we read in this passage on page 67 are your views today?

A Well, with the proviso that the people themselves differentiate between things that are very, you know, distant and things that are more recent.

Q And you consider that genealogies are of great assistance in evaluating the oral tradition?

A Sometimes they can be.

MR. MACKENZIE: And as you say, you take issue with Robin Ridington, who you mentioned was your husband and a fellow anthropologist, and you analyse this particular oral tradition. Carry on page 68 until you get down to the bottom of page 68. You say, the last four words on page 68:

> "... an examination of all the evidence which forms Appendix I, indicates that the Beaver Indian prophets began sometime in the middle of the nineteenth century and that the Cigne Chief of 1799 was not" this Indian name "Makenunatene, known as the Sikanni Chief."

1 And you've actually carried out the evaulation process
2 by looking at historical events, haven't you?
3 THE COURT: Mr. Mackenzie, I haven't found what you read from
4 here.
5 MR. MACKENZIE: Bottom of page 68, my lord, the last four words
6 at the bottom.
7 THE COURT: "An examination".
8 MR. MACKENZIE:
9 Q Yes. And I've just included Appendix I, which is
10 pages 168 to 173. Can you confirm, Dr. Mills, that
11 that's Appendix I and it shows your process of
12 evaluating the oral tradition by comparing it, for
13 example, with historical events?
14 A I'm not sure what you mean by oral tradition in this
15 sense. It's -- the Beaver Indians are very clear.
16 They aren't claiming themselves a particular date for
17 their first prophets either. I mean they recognize
18 that the first prophets came in relatively recent
19 times. So it's not -- I'd like you to differentiate
20 that from the oral tradition, which is the body of
21 stories that they relate. There's -- there's no
22 confusion in the Beaver Indians' minds whatsoever
23 about -- about the general kind of time period. I'm
24 just trying to pinpoint it a little more specifically.
25 Q Yes. And you do that by referring to historical
26 events and different writing that you take into
27 account to come up with a date that is different from
28 Robin Ridington's date?
29 A Right. He had taken the name c-i-g-n-e and had
30 suggested that perhaps this word, which could be
31 pronounced cigne, suggests that an early fur trader
32 was talking about a Sikanni Indian, meant cigne in
33 French, swan, and since an early prophet, who's
34 correctly pronounced Makenunatane, was also identified
35 with swan, he thought perhaps this was the same
36 person. And I reviewed why I thought that there was
37 not much evidence that this could be the case.
38 Q And you did that by referring to historical events
39 which could be identified through the tradition?
40 A Yes.
41 MR. MACKENZIE: My lord, I've got a couple more references which
42 I can do in two minutes.
43 THE COURT: All right.
44 MR. MACKENZIE: Just finishing up the thesis here, page 189
45 here -- does your lordship have that reference?
46 THE COURT: 189?
47 MR. MACKENZIE: Yes, my lord. And on -- does your lordship have

that reference?
THE COURT: 189?
MR. MACKENZIE: Yes.
THE COURT: Yes.
MR. MACKENZIE:
Q On that page you refer to the Carrier; is that correct, Dr. Mills?
A Yes.
Q And in this -- this passage you say:

> "The only public group rite (as opposed to the Kyan curing ceremonies which are restricted to the patients, the Kyanyuantan and the kalullim society) mentioned for the Carrier is the potlatch, of relatively recent origin. The potlatch described by Jenness is in fact the curing ceremony for a potential member of the kalullim society, someone suffering from a mild affliction of kyan. The many day ceremony follows the pattern elaborated on the Northwest Coast."

And that was the view that you expressed in 1981; is that correct?
A It's obviously written here. I certainly stand corrected in terms of thinking that the kyan -- the curing ceremonies were more ancient than the potlatch. I was led to this by having read Morice and Jenness, and this was obviously before -- not obviously, but it was indeed before I had reviewed Dyen and Aberle as well.
MR. MACKENZIE: My lord, that would be a convenient -- the final -- sorry, my lord.
THE COURT: Yes.
MR. MACKENZIE: The final point is on page 214.
THE COURT: What is kyan, k-y-a-n?
MR. MACKENZIE: Sorry.
THE COURT: Mild affliction of kyan.
MR. MACKENZIE:
Q Dr. Mills -- sorry.
A I'm sorry.
THE COURT: What is kyan, k-y-a-n?
THE WITNESS: It's sickness that afflicts -- it's the name for a kind of spiritual sickness --
THE COURT: All right.
THE WITNESS: -- that Jenness identifies.
THE COURT: Pardon?

THE WITNESS: That Jenness identifies.
MR. MACKENZIE:
Q Just finally, can you agree with me that Irving Goldman was one of the authors upon who you relied in your thesis and referred to as appears on page 214?
A Yes.
MR. MACKENZIE: That completes that section, my lord.
THE COURT: Yes. All right. Thank you. Two o'clock, please.
THE REGISTRAR: Order in court. Court will adjourn until two.

(PROCEEDINGS ADJOURNED)

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

Kathie Tanaka, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO LUNCHEON RECESS)

THE REGISTRAR: Ready to proceed, my lord.
THE COURT: Thank you. Mr. Mackenzie.
MR. MACKENZIE: Thank you, my lord.

Q We reviewed some of your other writing before the break -- before the noon hour, Dr. Mills. And can I summarize. I asked you whether you were sympathetic to the Indian world view, and can I ask you that question a different way now. You'll agree with me that as a result of your field work you have come to the understanding that there are two different realities, that of the Indian world view and that of the white world view. Is that a fair statement?

A I don't think it even really took field work to know that. That's an anthropological given.

Q The challenge for you and Robin Ridington was to suspend the way of thinking of your white world view to come and understand the Indian world view?

A Well, first of all, I don't speak for Robin Ridington.

Q No, I know you don't.

A I don't know how you can raise it.

Q Perhaps without interrupting you I can say you worked with Robin Ridington for many, many years?

A From '64 until '72.

Q Yes. And fine, thank you. Would you continue your comments?

A I would like to differentiate between this use of the word that you're making use of, the word sympathetic and the use of the word to comprehend. My goal was to comprehend the Beaver Indian world view. That was one of the things that I was attempting to do was to understand what they meant when they said things. And I think it is a leap to jump from my attempt to understand what they said to call that sympathetic or sympathy. Anthropologists typically try to understand what the people that they are working with tell them, as they ought to.

Q Well, you came to understand that for the Beaver Indians, at least, the mythic reality lies within the reality of everyday experience, doesn't it?

A Yes. What white people term as myth provide some of the background of their concept of how things work and how things happen. But this term mythic is -- perhaps needs some clarification itself. The word is often used to refer to the traditions of other people. So if we looked at ourselves from that point of view then the oral traditions that were handed down in the Judeo-Christian tradition would be called mythic and then they get written down. So it's a term that refers to the body of literature or body of oral tradition of a people. Anthropologists these days try to avoid the word mythic, because it has the connotation of meaning it's somehow or other unreal, and it's obvious to the people who hold it, and anthropologists recognize that they do hold it.

Q And you came to understand that Indian time is different from the white view of time?

A Well, obviously there is a difference in having an oral tradition without a written record of when you can note down that something happened in a specific year and a specific century, but if you go very far back in our own western tradition that -- the same thing applies. There's a time before people have written records and when dating is more difficult because you can't pinpoint it to a specific year, but anthropologists in looking at an oral tradition do take a great deal of care in noting whether an account seems to be of great antiquity, or speaking of something that can be dated by some other means, or referring to something that can be placed in time by any other context. And it's not as if native peoples make no distinctions in time either. They can equally tell someone whether something happened relatively recently, since fur trade, long before that, et cetera.

Q Now, I've handed around and placed before you a front page of a book entitled "Trail to Heaven" by Robin Ridington. Now, this is the Robin Ridington that we've been speaking about in our discussion so far, is it not?

A I do think there's only one.

Q Yes. And you have read this book by Robin Ridington?

A Not in its entirety.

Q But you're aware that he published this book?

A Yes, I am.

Q And you will agree with me that Robin Ridington is regarded as an eminent authority in British Columbia,

and in North America as well, in the area of Athabascan and Beaver anthropology?
A Yes.
MR. MACKENZIE: My lord, I submit that as the next exhibit.
THE REGISTRAR: 955-3.

(EXHIBIT 955-3: Extract of book of Robin Ridington)

MR. MACKENZIE:
Q Now, this book that Robin Ridington wrote dealt to some extent with the experiences that you and he had during your field work with the Beaver Indians, didn't you?
A As I say, I haven't read the book in its entirety. Perhaps you can point me to something, if you'd like.
Q Perhaps you could answer the question. Do you know whether the book relates to the field work that you and your husband did with the Beaver Indians?
A I know that I -- I think it does. I think it does.
Q Yes, it's a recent publication. I think it's just been published recently, has it not? There was a review of this in the paper just over the weekend, but I think it's just a recent publication. I'll get that for you. It's 1988.
MR. RUSH: Thank you.
MR. MACKENZIE:
Q And on page -- I put in the introduction here. Introduction page XV, second paragraph, Dr. Ridington actually thanks you, Dr. Mills, for your contribution to the texts that appear in the book. Do you see that?
A Which paragraph?
Q It's the second paragraph on page XV.
A Yes, I see that.
Q So when he says texts he's talking about the oral traditions of the Beaver Indian that you and he collected over the years, isn't he?
A The oral traditions?
Q Yes.
A Yes, I suppose so.
Q On the first page of the introduction Dr. Ridington indicates that this is -- he commenced his anthropological field work in 1964. And he goes on to talk about his experiences with the Beaver Indians. And on page XI I'd like to draw your attention to the first paragraph -- the second paragraph, and Dr. Ridington says here "People in Western culture". See

that, second paragraph on XI?
A Yes.
MR. MACKENZIE: Does your lordship have that reference?
THE COURT: Yes.

MR. MACKENZIE:
Q
"People in Western culture, for instance, assume that we can know and experience events only after they have begun to take place in a physical world accessible to our senses. The Dunne-za assume, I came to learn, that events can take place only after people have known and experienced them in myths, dreams, and visions. Even their concept of person is different from ours. In Dunne-za reality, animals, winds, rocks, and natural forces are 'people.' Human people are continually in contact with these nonhuman persons. All persons continually bring the world into being through myths, dreams, and visions they share with one another. Western culture views 'myths' and 'dreams' as false and illusory. The Dunne-za experience myths and dreams as fundamental sources of knowledge."

Do you agree with that?
A That -- that characterizes what?
Q He's speaking about the Beaver Indians there.
A Oh, I think it's perhaps a bit overstated. The Beaver Indians don't presume to dream about absolutely every event. But I don't think that he -- I'm not sure that he meant that one was to take it literally that they did dream absolutely every event. They certainly do dream about many significant events.
Q And on the page XII at the end of the first paragraph, the last line in the first paragraph;

"I have attempted to show how Dunne-za mythic reality lies within the reality of everday experience."

Did you have that passage?
A Which paragraph?

Q The end of the first full paragraph.
A The first. Yes, I see it.
Q And do you agree with that statement or do you agree with the fact that Dunne-za mythic reality lies within the reality of everyday experience?
A Well, as I say, I haven't read the entirety of this book, but I think I have the impression that perhaps what he meant here was that he was trying to show some kind of relationship between their mythic reality and his everyday life. I'm not sure if that paraphrases him correctly or not, but it may.
Q Well, as far as you're concerned, Dr. Mills, do these statements about mythic reality lying within the reality of everyday experience apply to the Wet'suwet'en people?
A What would you take that to mean? I'm not sure what you really mean by that. What would you mean by a mythic experience lying within everyday reality?
Q I am now referring to Dr. Ridington's comments about the Beaver Indians and I'm simply asking you whether they apply to the Wet'suwet'ens?
A I think it would be very difficult to say. As I understand from the portions of this book that I have looked at he's using a very metaphorical kind of language, and I wouldn't want to take a metaphorical use and apply it in any kind of broad way without understanding what the implications of such a statement was. If you could put a specific --
Q Yes. Fine, thank you. Your concern is you haven't read the whole book, and you don't understand what Dr. Ridington is referring to. Is that a fair summary?
A Well, are you asking me whether the Wet'suwet'en concept of everyday realty includes the things that are contained in their Kungax.
Q Yes.
A I don't know why you needed to put this to me. That question is quite relevant. But the Wet'suwet'en think what happened, the events that are related in their Kungax are related to them, yes.
Q And you have said, and you believe in fact, that myth is not myth, but reality. You've said that in your previous writing.
A Would you care to quote me?
Q Well, yes. You say:

> "The conclusion of this thesis, if it can be said to have one, is that myth is not myth

1 but reality, the inner realty of psychic
2 development."
3
4 Do you recall saying that?
5 A Could you show me the context?
6 Q Yes, I certainly will. Can you recall saying that, or
7 writing that?
8 A Not particularly.
9 THE COURT: What is this, Mr. Mackenzie?
10 MR. MACKENZIE: This, my lord -- I'm about to ask the witness
11 what this is. This is an article or paper that was
12 apparently written by Dr. Mills which appears in her
13 curriculum vitae. I'm asking her to identify it. I'm
14 referring to it.
15 Q Dr. Mills this document I've handed to you is entitled
16 "Beaver Indian Supernatural Power: The Cosmology of
17 Consciousness", and it's dated May 1969. Is that a
18 publishable paper that you wrote?
19 A Yes, it is.
20 MR. MACKENZIE: I submit that for the next exhibit, my lord.
21 THE COURT: Where is the passage to which you referred?
22 MR. MACKENZIE: The passage is on page 65, my lord, the last
23 paragraph.
24 THE COURT: Whereabouts again?
25 MR. MACKENZIE: Page 65, my lord, the last paragraph.
26 THE COURT: Yes.
27 MR. MACKENZIE: I tender that as the next exhibit, my lord.
28 THE COURT: Yes. 955-4.
29 THE REGISTRAR: Thank you.
30
31 (EXHIBIT 955-4: Extract of paper of Dr. A. Mills)
32
33 MR. RUSH: My lord, it should be clear, if it's not from the few
34 number of pages, that this is an extract.
35 THE COURT: Yes. I noticed that. Thank you.
36 MR. MACKENZIE: And just continuing to refer to that Exhibit
37 955-4, my lord.
38 Q Dr. Mills, on page 29 you discuss the acquisition of
39 supernatural power. Is that correct, Dr. Mills?
40 A Yes, it seems to be.
41 Q And you say in that first paragraph:
42
43 "It should be made" --
44
45 This is starting at the second -- starting at the
46 first line.
47

"This chapter attempts to make clearer the process of acquiring supernatural power that exists among the Beaver Indians. It should be made very clear that I am at a distinct disadvantage in describing the process because it is something that must be entered into to be understood, and I have not entered into this quest. From the Beaver's point of view we are at the psychological level of four year olds, with the added disadvantage of having lived considerably longer than that and having developed lopsidedly, solipsistically in other directions. What follows is based on what the Beaver Indians have deemed appropriate to tell such strange creatures about the nature of supernatural power, and what such strange creatures can observe in the comportment of people at different stages in the development and attainment of their supernatural power."

And those were your views in 1969?

A Yes.

Q And those are your views today?

A More or less.

Q And did that apply also to the Wet'suwet'en?

A The concept that I arrived like a four year old and needed to learn what they thought? Yes, I think that I did need to understand what they -- I did seek to be instructed by them about what they understood. For example, houses, clans, et cetera.

Q On page 60 you set out your description of western society. I'm not going to read it out, but I just ask you to read over the first couple paragraphs there down to the -- the line "Normal men have killed perhaps 100,000,000 of their fellow normal men in the last fifty years." Was that your view in 1969?

A Yes.

Q And is that your view today?

A I think I probably am a bit more sophisticated than that, but people certainly continue to kill their normal men. It's not as if I'm saying that other people don't do it as well. It's not as if I'm claiming that the Beaver Indians didn't kill one another.

Q So, as you say, you completed your -- or you signed

1 the contract and you did library research from
2 March -- started your library research in March 1985,
3 and you started your interviews in July after you
4 arrived in Moricetown?
5 A Yes.
6 Q And people to whom you spoke were aware you were
7 working on the land claims case?
8 A To some extent.
9 Q And they knew that the information might be used in
10 the case?
11 A I think many of them did.
12 Q And can you agree that most of your informants,
13 certainly all of them you've discussed here, with the
14 exception of perhaps Margaret Pierre, were hereditary
15 chiefs?
16 A Most of the people that I talked to were hereditary
17 chiefs. I certainly talked to people who weren't
18 hereditary chiefs as well.
19 Q And who would be a couple of the people who weren't
20 chiefs that you spoke to?
21 A Well, for -- just spoke to -- I'm not sure what you
22 mean. In terms of doing formal interviews or just --
23 Q Yes, in terms of doing formal interviews.
24 A Most of them were chiefs.
25 Q Can you recall any of your informants with whom you
26 did formal interviews that weren't chiefs?
27 A Not offhand. Most of what one typically does is go to
28 the elderly and knowledgeable people. In the
29 Wet'suwet'en culture those people are typically
30 chiefs.
31 Q And you were assisted in the selection of your
32 interview subjects by Victor Jim?
33 A To a slight extent. The obvious thing to do was to go
34 and interview the heads of the houses. That didn't
35 take any prompting from anyone.
36 Q You were assisted, or Victor Jim accompanied you on
37 some of your interviews. Is that fair to say?
38 A Not very many, no. No, he accompanied me when I went
39 with his father and mother to his father's territory,
40 but -- and he and Don Ryan went with me to see Sarah
41 Layton, who was in the hospital in Prince Rupert. But
42 other than that I conducted the interviews on my own.
43 Q Yes. You spoke to -- you spoke to someone to get
44 recommendations as to whom you should select as
45 informants, did you not?
46 A Well, it was obvious that the first thing to do was to
47 talk to head chiefs of the house, as I just said, and

so that's what I did.
Q And how did you come to know who the head chiefs of the houses were?
A I asked. Everyone knows who the head chiefs of the houses are. Every Wet'suwet'en knows. The people at Moricetown and Hagwilget know that. It's common knowledge.
Q When you were living with -- when you were living at Hagwilget, as you say -- sorry. When you were living at Moricetown, as you say, you attended several feasts?
A I did.
Q And as you mentioned to Ms. Koenigsberg you attended at the demonstration of the airport?
A I wasn't coming to a demonstration. My daughter was arriving by that plane so I arrived to receive her.
Q And you developed close friendships with many of the people in the Wet'suwet'en community?
A I developed some friendships, certainly.
Q And is it fair to say that you would be reluctant to disclose information which might embarrass or offend those people?
A I should think that people would do that in any context. That doesn't mean that I have suppressed information, or have edited out information. And I'd like to make it clear that the land claims tapes that I reviewed are a remarkable body of information, because there is no attempt at suppression or regulating what people say. I think it's a misnomer to think that it's possible for anthropologists or lawyers who are representing Indians to sort of control what they're going to say. They say what they want to say, when they want to say, as they want to say it. And I asked some questions and they told me what they had to say.
Q And it's fair to say that the people to whom you spoke would not disclose to you information that would be embarrassing or that might come to public attention?
A I've disclosed in my report things that -- that the Wet'suwet'en themselves wouldn't say about themselves. They would say it perhaps in the context of talking to somebody, but they wouldn't say it of themselves.
Q Well, to your knowledge, your informants were aware you were working for the lands claims case. They wouldn't and didn't tell you anything that would contradict the thrust of your report, would they, or did they?

MR. RUSH: My lord, I object to that. I mean, that's a question that is asking this witness to penetrate the minds of the informants.
THE COURT: Yes, I think that's correct.
MR. MACKENZIE: Okay.
Q Did your informants provide you with information which contradicted your report today?
A No, they didn't. I based my report on the information they gave me.
Q Did your informants provide you with information which disclosed that many of them do not attend at feasts?
A I say in my report how many attend at feasts, you know.
Q No. I say did your informants advise you how many people do not attend at feasts?
A It wasn't necessary. I attended the feasts and observed for myself.
Q Fine. Did your informants advise you of people who did not comply with the laws of matrilineal inheritance?
A Oh, yes. Occasionally in doing the genealogical work they would point out that this was an incorrect marriage. In any kind of genealogical work that's what you find. There's a basic pattern and there are occasional deviations, and when they -- when going through the genealogies recording the marriages they came across a case like that they told me. It's marked out on the genealogies, and it's recorded as well -- exceptions as well as the -- the much greater body of confirmations of the matrilineal principle.
Q And as you've mentioned already there were -- there were also personal communications that you did not record?
A Oh, yes.
Q Were any of those not recorded because of the sensitive nature of the information?
A Usually when I say something's a personal communication it was because it was said in a context when I wasn't taking notes and so I put it in memory and went home and recorded it at that stage. No, I didn't have the sense that people were covering up. They were -- they were telling a lot of material, giving me a lot of material.
Q Dr. Mills, I'm going to suggest to you that you embarked upon your research to substantiate the assumption that there was a Wet'suwet'en society, and it was -- and that these were distinct people with a

distinct culture, and that was the purpose of your research?

A You're putting it even in the past tense. The question is what is the Wet'suwet'en society. I went to see and to study what it was without any particular assumptions. I was informed to some extent by the literature that I had read, Jenness, and it wasn't as if I was trying to create information that would indicate that something that wasn't there was there. I was interested in seeing what the information would show.

Q So I take it you deny that you started off with a goal that was to prove that there was a Wet'suwet'en society, and it was distinct, and that was the goal of your research. Do you deny that?

A Yes, I do. My goal was to find out to study what was the Wet'suwet'en society.

Q Now, when you were doing your library research you consulted many authorities, and you've listed some of those starting at page 217 in your report?

A I think that's the accurate page.

THE REGISTRAR: It's there.

A Oh, I see. 217. That's right.

MR. MACKENZIE:

Q And you consulted many other authorities that you did not list in your report?

A Yes.

Q Yes. You had familiarity with the literature on the Wet'suwet'en and the Carriers as a result of your previous writing relating to Indian symbolism, religion and psychology?

A I've already stated that.

Q Yes. You did not include several authorities whose work contradicted the case that you were trying to establish, that there was a Wet'suwet'en society?

A Would you like to give examples?

Q Oh, yeah. Let me just say so you can't respond to that until I give you specific examples?

A That's a wiser course.

Q You did not list authorities, or many authorities that contradict your evidence that the Wet'suwet'en borrowed their clans, traditions and institutions from Tsimshian during the fur trade period?

A As you notice, this isn't just a bibliography, it's references cited. And that was referring to Goldman and Kobrinsky. As you are yourself aware I refer to Kobrinsky in an earlier version of my report, but

1 given that I had concluded that Dyen and Aberle's
2 assessment was of greater weight I didn't refer to it
3 in the final version. I should point out that Dr.
4 Kobrinsky wrote his dissertation which formed the
5 basis for the later paper in 1973, and since Dr.
6 Aberle wasn't his advisor, and Dyen and Aberle's book
7 didn't come out until 1974, Dr. Kobrinsky wasn't using
8 that as one of the resources that he used in writing
9 his dissertation either. Then he wrote a later
10 article. It was after Dyen and Aberle had published
11 their work, but he basically repeated what he had said
12 in his PhD dissertation earlier with just saying that
13 he felt that that was more valid than Dyen and Aberle.
14 But I didn't -- I found the Dyen and Aberle work very
15 impressive, and I thought that it explained a great
16 deal of material in a comprehensible and clear way,
17 and it made a lot of sense out of a lot of Athabascan
18 studies that had been done previously. Therefore, I
19 used Dyen and Aberle. And I continue to think that
20 they are a very, very important and good reference.
21 Q Yes. You referred to Dyen and Aberle in your report,
22 didn't you?
23 A I did.
24 Q But I take it you would defer to Dr. Kari as far as
25 linguistics is concerned. You're not an linguistic
26 expert, are you?
27 A I'm not an linguistic expert the way Dr. Kari is, no.
28 Q And another person who you didn't list in your report
29 is Ruth Murdoch, but you consulted her work, didn't
30 you?
31 A Yes, I read a draft report that she had made, and I
32 actually -- she had done an archeological study for
33 the Moricetown Band and I heard that she was living in
34 the area. I went to see her as well. And she said it
35 was a draft report, that she was going to complete a
36 final version and not to quote the draft report. And
37 she cited some -- some interesting material, and so I
38 asked her if I could go and see, talk to the people
39 who had provided her with that information. Of course
40 she said yes. And so I think in my report I have
41 several instances where passages that I had seen in
42 Ruth Murdoch I then went and talked to the person who
43 had given her that information and verified it through
44 them so that I would get it firsthand. And what
45 happened was she never did complete the final version
46 of her -- of her report and that's why I didn't refer
47 to it.

1 Q Ruth Murdoch was hired by the Moricetown Band to
2 conduct archeological research in the summer of 1984?
3 A I think that's correct.
4 Q And you're aware that she interviewed 20 Wet'suwet'en
5 hereditary chiefs during July and August 1984?
6 A I think her report says so.
7 Q Yeah. And that became apparent to you during your
8 discussions with her and your research for your draft?
9 A Yes.
10 Q And she was conducting archeological and
11 ethnohistorical research at the request of the
12 Moricetown Indian Band?
13 A I think that's correct.
14 Q And were you aware also, did she advise you, that the
15 band had possession of all the material that came out
16 of her research, including her notes, interpreter's
17 notes, tapes, artifacts and her report?
18 A Yes. And that's another reason I didn't cite it,
19 because it was not ever finished and --
20 Q You're aware that those are all on file at the
21 Moricetown Band office?
22 A I didn't know that's where they were.
23 MR. MACKENZIE: My lord, I've handed up to your lordship a --
24 some excerpts from this report by Ruth Murdoch with
25 which, or about which I've just been questioning Dr.
26 Mills.
27 Q I would submit that as the next exhibit after asking
28 Dr. Mills if that's the draft report she was referring
29 to?
30 A I think it is, m'hm.
31 THE COURT: 955-5.
32 THE REGISTRAR: Yes.
33
34 (EXHIBIT 955-5: Draft report of Ruth Murdoch)
35
36 MR. MACKENZIE:
37 Q As a result of your review of the report and
38 conversation with Dr. Ruth Murdoch you were aware that
39 she had concluded that the Bulkley Carrier borrowed
40 many aspects of the Gitksan and other coastal peoples
41 social organization and culture, such as a matrilineal
42 kinship system?
43 THE COURT: What page are you quoting from?
44 MR. MACKENZIE:
45 Q I'm just wondering if you recall her --
46 A No, I don't.
47 MR. MACKENZIE: Page four. You see that halfway through the

1 second paragraph. Does your lordship have that
2 reference, while the Bulkley Carrier?
3 THE COURT: Yes.
4 MR. MACKENZIE:
5 Q On page four.
6
7 "While the Bulkley Carrier retained some
8 important aspects of the interior cultural
9 patterns, they also borrowed many aspects of
10 the Gitksan and other coastal peoples social
11 organization and culture, such as a
12 'matrilineal kinship system' and a ranked
13 clan system, with subdivisions into houses
14 with hereditary chiefs and crests."
15
16 Were you -- do you agree or disagree with that,
17 Dr. Mills?
18 A Well, I've already made clear that the best
19 interpretation as I see it of the way that the Gitksan
20 and Wet'suwet'en have influenced each other is that
21 there has been a very long term interaction between
22 the two, and that the clan system itself may well be
23 just a proto Athabascan nature of antiquity.
24 Q I take it you disagree with what Ms. Murdoch says?
25 A I agree there is a matrilineal kinship system and
26 ranked clan system and subdivision into houses and
27 they have hereditary chiefs and crests. I don't think
28 that there is any indication that they ever -- that
29 they came -- that they necessarily came from an
30 interior origin or ever had a more kind of interior
31 social structure. The evidence seems to be that the
32 people, the sub Arctic Athabascans probably came from
33 a social structure that's more similar to the
34 Wet'suwet'en social structure and in the process of
35 going to a different environment where they could not
36 sustain such large populations that they developed
37 what's -- what has previously often been thought of as
38 characteristic Athabascan social structure.
39 Q On page 26 Ruth Murdoch just describes the interview
40 process.
41 MR. RUSH: What page, please?
42 MR. MACKENZIE: Page 26.
43 Q And you are aware that the interviews were conducted
44 at elders' homes and also actually visits to the
45 Morice Bulkley Canyon, Moricetown Canyon?
46 A Yes, I read this report.
47 Q On page 30 is a list of the informants, people who

1 were interviewed, and many of these people were also
2 interviewed on your land claims transcript, were they
3 not, Dr. Mills?
4 A Yes. I don't recall any with Jennie Naziel or Johnny
5 Tommy. There are no land claims transcripts on Mary
6 Jim either, though she certainly has a chief's name.
7 And I don't recall any with Elizabeth Joseph. Did you
8 want me to --
9 Q No, thanks. So there are some that aren't included in
10 the ones you reviewed and some are. Is that fair to
11 say?
12 A Pardon?
13 Q Some are not included in the interviews you reviewed
14 and some are?
15 A You're talking about the land claims interviews or are
16 you talking about Ruth Murdoch's interviews?
17 Q The land claims interviews including -- I'm asking
18 whether this list of people that are set out on page
19 30 of Exhibit 955-5 were among the people that were
20 the subject of the land claims interviews you
21 reviewed?
22 A I -- well, we have the list, we've put in evidence, I
23 think of the people who were interviewed for the land
24 claims transcripts. And there is an overlap, yes.
25 Q So some are and some aren't, is that fair to say?
26 A That's right.
27 THE COURT: What is the asterisk with the plus mean?
28 MR. MACKENZIE: It's indicated at the bottom, my lord, note two.
29 THE COURT: I see. I'm sorry.
30 MR. MACKENZIE: "Asterisks represent home interviews, and the
31 crosses represents canyon visits."
32 THE COURT: This work was done in 1984?
33 A Yes.
34 MR. MACKENZIE: July August 1984, my lord.
35 Q Now, I just wanted to finish up with this Murdoch
36 report. Page 70 there's an interview with Alfred
37 Mitchell which continues over to page 73 it goes on.
38 I just refer you to the section on page 72 on summer.
39 He's discussing the seasonal round, and you see the
40 second, the third sentence, fourth sentence in that
41 section Alfred Mitchell says:
42
43 "A lot of money goes into getting a name and
44 a trapline. That's why we are trying to
45 keep our traplines. This government is
46 trying to take our traplines away just
47 because we're not trapping. If they had no

1 money they could always go out trapping."
2
3 Did you see that passage when you reviewed the
4 Murdoch's -- Ms. Murdoch's report?
5 A Yes.
6 Q Yes. And does that change your -- did you take that
7 into consideration when you gave your opinion about
8 the -- the continuation of the trapline and
9 territorial system?
10 A Oh, I certainly did. But I also took into
11 consideration discussions with Alfred Mitchell.
12 That's who has been quoted here.
13 Q Yes, that's right.
14 A Alfred Mitchell is particularly active. I think he
15 has given testimony in this court and he's -- he's
16 somebody who is greatly respected as a man of the
17 bush, a hunter and trapper. This would, taken out of
18 context, one might think that the Wet'suwet'en
19 didn't -- didn't use their territories and that they
20 thought of them only as traplines. It's a term which
21 was explained in Bazil Michell's commission evidence.
22 There's a confusion. Sometimes they use the term
23 trapline. In their sense it's referring to their
24 territory and traditional territory. And when the
25 traplines were first established by the Wildlife
26 Branch they just knew the territories that the
27 Wet'suwet'en chiefs had -- had territories and they
28 adopted that as the basis for deciding the traplines.
29 I'm sure you've had a lot of testimony already in the
30 court, but also my interviews, my observations
31 indicated that -- that the system of territories is
32 very much alive. In fact this very passage talks
33 about how it is important for them. They spend a lot
34 of money taking their names and he says traplines
35 meaning territories. Yes, they do.
36 Q So you'll agree that -- that when the Wet'suwet'en
37 people are speaking about these areas they often refer
38 to them as traplines or trapping territories?
39 A They sometimes do, yes.
40 Q And at the land claims feast, I'm sorry, at the All
41 Clans Feast particularly there was a lot of reference
42 to traplines and trapping territory. Do you recall
43 that?
44 A I don't recall the frequency that that term was used
45 as opposed to the frequency with which the term
46 territory is used, but as I just finished saying, the
47 Wet'suwet'en often use the term synonymously, but they

do not -- this is exactly what you -- perhaps you have usefully pointed out in my previous work in anthropology. It's important that we do not confuse our use of the term trapline with what the Wet'suwet'en mean when they use the term trapline. They're not referring to a piece of paper or a registration, though those things also exist, and they know that they need to take them seriously, and they do, but when they use the word trapline typically they're meaning their territory.

Q Well, it's true, isn't it, you don't need to go on someone's territory for hunting, but you do if you're trapping?

A Well, that depends. Typically you ask permission for either purpose.

Q And --

A Or should.

Q Sorry. Did I interrupt you?

A Or should.

Q You're aware, and you indicated in your evidence in chief, that Dr. Kobrinsky's view was to protect the final furry sources that the discreet territories were set up. That's his view?

A Even he is contradictory. If you notice the septs were what he -- were there originally. He uses the word sept the way we would use the word band. He said that's the old category. He doesn't claim they had discreet territories in that sense. What he's saying is the matrilineality and system of feasts, and I think he also indicates potlatches, is a result of the fur trade, and I don't think that the evidence bears that out.

Q I'm going to suggest to you that the Wet'suwet'en still regard these territories as trapping territories, and they continue to refer to them in that sense. I take it you disagree with that?

A Well, I've already said I think twice -- I could say it a third time.

Q No. I'm just asking whether you disagree with it.

A Well, they do think that they have the right to trap in them, if that's what you're asking.

THE COURT: Is the question do they sometimes call their territories their trapline?

MR. MACKENZIE: No. The question is they regard these territories as trapping territories, as resource use territories for trapping fine fur purposes.

Q That's what I'm suggesting to you.

A Right. And I'm saying no, they think of the territory as a territory in which the head chiefs have the authority to say whatever resources are taken from them. And that berries are very important to the Wet'suwet'en. They obviously take fish in the territories. Trout are an important resource. The game that they hunt in there is also important to them, but also so are the fur bearing animals.

Q So it's your evidence whenever the Wet'suwet'en use traplines -- and those instances occur frequently in your field notes you'll agree?

A Yes.

Q They mean territories and all resources on the territory?

A Yes. In English they tend -- they sometimes, not always, they use the word trapline and territory interchangeably.

Q I'm going to ask you to assume that if a chief advised you -- informed you that he could hunt anywhere, but he required permission to trap, would that change your view in any way from what you just said?

A You're going to assume -- I'm not used to this parlance. Perhaps you can tell me what I'm supposed to be speaking to.

Q I'm suggesting to you -- I want you to assume that a high chief advises you that he requires permission to trap, but he can hunt anywhere. Can you -- will that change your opinion as to whether these are trapping territories or trapline -- fur trapping territories?

A Perhaps you could put an instance to me and then I could address it. I'm not sure what you're saying.

Q I've already put the instance to you, Dr. Mills. Can you respond to it?

A I'm supposed to assume?

Q Yes.

A I don't think -- in anthropology we don't do that.

Q Well, let me put it this way, I'm suggesting to you that evidence to that effect has been called in this case, and if it's accepted by the court would that change your view? That's why I'm asking you to assume it.

A I would, of course, have to have the evidence put to me.

Q I just put it to you, Dr. Mills.

MR. RUSH: My lord, it might be that the exchange between the witness and Mr. Mackenzie has to do with context and framework, and who the witness was, and so on.

THE COURT: I don't believe the witness needs to know the name in order to make that simple assumption.

A Is your question if a Wet'suwet'en chief says that traplines or territories --

THE COURT: The assumption is that he can hunt anywhere, but he needs permission to trap on another chief's territory. Does that affect your opinion about the way these people regard these territories?

A A number of hereditary chiefs have told me they don't take it lightly if someone goes and traps, hunts on their territories, but they commonly say that they give permission if people ask.

MR. MACKENZIE: Well, I'm asking you still. With respect, my lord, the witness is still not asking the question. I'm going to put the actual evidence to the witness then, my lord.

THE COURT: I think maybe before we do that we'll take the afternoon recess, please.

THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED)

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

Peri McHale, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
THE REGISTRAR: Order in Court.
THE COURT: Mr. MacKenzie.
MR. MACKENZIE:
Q Thank you, my lord.
Dr. Mills, I just want to get it clear what our discussion was. I was asking you if a hereditary chief told you that he could hunt anywhere but needed permission to trap, would that change your view as to the use of these trapping -- traplines, trapping territories?
A And I guess the answer would be it depends on the context. That traditionally what happened was that you would be moving from the summer salmon fishing villages out to the territories, and in that context of moving -- moving camp, it was expected that you would do hunting along the way, and though it was particularly thought that it was appropriate to take smaller game, but often you would be going along with the head chiefs or someone who is authorized to hunt in that territory as well. And as the -- now, the Wet'suwet'en don't have the same kind of seasonal movement from the fishing villages. They tend to stay in the fishing villages and go out into the territories for trapping and hunting. And in general most -- most -- most chiefs say that they would prefer that permission be asked before somebody goes and takes game and it's expected that the game taken from the territories be shared, and that happens.
Q My lord, this is the passage from the cross-examination of Walter Joseph. It's Volume 160 of the trial transcript at page 10214. And reading from line 39:

Q "And where do you hunt, Mr. Joseph?
A You mean for game?
Q Yes, I mean for game.
A Well, anywhere in the Hazelton area, Telkwa, or up the Babine -- Babine Trail. That's up towards the 24 mile, eh.
Q And that's east of Hazelton as you described to us?
A Yes.
Q Do you know in whose territory you hunt?
A No. If you're hunting for game, you know, you can -- I can go hunt anywhere,

but if you had a trap and then it's a different -- you have to have permission before you go in there.
Q I see. So you don't need to ask permission for hunting game, you just chased the game?
A No.
Q Pardon me?
A You just go wherever it takes you."

So having read that passage, Dr. Mills, does that change your opinion as to the use of these territories as fur traplines?
A This -- this isn't a view that's the typically evinced view. I'm sure that you are aware of the testimony of Lucy Bazil in this regard. I agree that this man said -- said this, but in my estimation most people do know whose territory they are in or where the territories are and that people take this into consideration in hunting as well as in taking furs.
Q Is it fair to say that you have been advised by other chiefs contrary to what Mr. Joseph says?
A That's correct.
Q And you prefer their version to Mr. Joseph's?
A It's -- the way one evaluates these things is by the frequency of statements and things like that.
Q And you reached that evaluation as a result of your participant observation during 1985 to 1988?
A Well, I wrote my report in '87.
Q So you reached that evaluation as a result of your participant observation between 1985 and 1987?
A And interviews and reading the land claims transcripts and reading Jenness and all the other sources, yes.
Q You -- you applied your expertise as an anthropologist to come to that conclusion?
A Yes.
MR. MACKENZIE: Now, assuming -- my lord, perhaps your lordship would find it convenient to mark that excerpt from the trial transcript at this point in the proceedings as well.
THE COURT: Yes. 955-6.
(EXHIBIT 955-6: Tab 6 - Transcript extract, December 8, 1988)
MR. MACKENZIE:
Q Dr. Mills, you're aware that Walter Joseph is a hereditary chief?
A I am.

THE COURT: A Wet'suwet'en hereditary chief?
THE WITNESS: Yes.
MR. MACKENZIE:
Q And you also interviewed Tommy Tait and Sarah Tait, didn't you, during your time in Moricetown?
A I did.
Q And there -- Sarah Tait is hereditary chief?
A So is her husband.
Q And her husband is also hereditary chief. And Sarah and Tommy told you that people could hunt anywhere. They have to get their food. They said people couldn't take beaver or marten on someone else's land but they could get moose anywhere. Do you recall them saying that?
A Yes, I do.
Q Does that change your opinion?
A Well, it was in the context of talking about the time when they used to travel out to the -- their territory. Often the territory they went to was the -- you have to understand that Sarah -- let's put this in context. Sarah Tait is the sister of John Namox and Pat Namox, whose father was Namox. And Sarah Tait and her husband were talking about the time when they used to travel out to Namox territory, because it was -- it was the territory of her father and they were given permission to go there. And on their way out to this territory, it took them a long time to get there, and they would hunt for -- for meat on their way out. If they had had a conveyance to bring the food back to Moricetown, if they -- they would have shared it with the other people. But they -- they were hunting on their way to the -- this specific territory that they were authorized to go. And then most of their hunting was done in the context of being in that territory where everybody expected that they had the right and permission to hunt.
Q I handed to you a copy of your field notes dated October 23, 1985. Can you confirm that those -- that that's a copy of your field notes?
A Yes, I can.
MR. MACKENZIE: Mark that as the next exhibit, please, my lord.
THE COURT: 955-6.
THE REGISTRAR: 955-7, my lord.
(EXHIBIT 955-7: Tab 7 - Field notes of A. Mills dated October 23, 1985)
THE WITNESS: Could I make a further comment on this passage that you've just marked?

MR. MACKENZIE:
Q Well, yes, you can. Perhaps -- I haven't marked the passage yet. Perhaps we could look at the passage and then you may want to respond. It's the third paragraph -- fourth paragraph, and I'm quoting from:

> "Sarah and Tommy said people could hunt moose anywhere. 'They have to get their food', Sarah said. They said people couldn't take beaver or marten on someone else's land but they could get moose anywhere."

Now, you gave an explanation about travelling -- travelling around through other territories, but I can't see it in that passage there, Dr. Mills.
A That's right. And then it goes on to talk about what happened if you were warned not to hunt on somebody's territory.
Q You asked that question?
A Yes. And -- it was -- I asked a question about something that I had read in the land claims transcripts, and Sarah Tait and Tommy Tait went on to explain that, yes, that happened a lot; that if people went on other people's territory and for hunting and were warned, that people did not take it lightly and used Habo'ts'at type powers against the person.
THE COURT: What is that word? Medicine?
THE WITNESS: On page 2 or 94?
THE COURT: No. 93 at the bottom where you were just reading from.
MR. MACKENZIE: Medicine, my lord. "The man whose territory it was used medicine, used witchcraft to kill him".
THE COURT: Thank you. Medicine comma.
THE WITNESS: Yes. There is a comma.
MR. MACKENZIE:
Q Okay. I have one more assumption I wanted to ask you about.
A And I'd like to also point out at the bottom of page 94 it says:

> "There used to be lots of Indian doctors like that, now not so much. They still have some. People learn those things in their dreams. In their dreams they know what to do. That still happens today."

1 Q Well, I'm going to ask you to assume that a hereditary
2 chief claims an area as his traditional trapping
3 territory, but then he goes and gets a Crown grant of
4 land to have a farm and then the next year he sells
5 the farm to someone else. Does that change your view
6 as to the use of these areas as trapping, fur trapping
7 territories?
8 A We're luckier because I don't have to assume this. I
9 find it very hard to assume something without an
10 actual fact being put before me. I don't -- I'm not
11 in the habit of assuming things that way, but in this
12 case I think you're probably referring to Johnny
13 David; is that correct?
14 Q No. I'm referring to Thomas George.
15 A Could you put that to me then?
16 Q I just put it to you.
17 A So what I would like though is specific information
18 about it.
19 Q I've just given it to you, Dr. Mills. Do you say that
20 you can't answer that question?
21 A Well, again I'd just like to clarify that I'm not in
22 the habit of assuming something, but I can give you an
23 analogous instance which is in the court record.
24 Q No. I just want you to answer my question if you
25 don't mind.
26 A If I assumed -- in other words --
27 THE COURT: Very simple. Somebody had a claim territory. He
28 got a Crown grant for a farm and he sold it. Does
29 that affect your opinion?
30 THE WITNESS: I see.
31 THE COURT: I don't know who he sold it to. Did he sell it to a
32 white person?
33 MR. MACKENZIE: Yes, your lordship.
34 THE COURT: A white person?
35 MR. MACKENZIE:
36 Q Yes, my lord.
37 A And does that mean that -- that the Wet'suwet'en
38 territories don't exist? Is that your question?
39 THE COURT: Well, the question is does that scenario change your
40 opinion --
41 THE WITNESS: Oh, does it change my opinion. No.
42 THE COURT: -- about hunting and other territories or other uses
43 to which these territories have been put by the
44 Wet'suwet'en?
45 THE WITNESS: Right. No, it doesn't. There are large pieces of
46 Wet'suwet'en territory that have been taken up for all
47 kinds of uses or alienated in all kinds of ways, and

that doesn't affect the -- and given that is the case, the Wet'suwet'en still have a sense of territories and how the chiefs relate to the territories and how it should be done.

MR. MACKENZIE:

Q Well --

A I'm not saying that the territories exist exactly without any alienation. Smithers is in the midst of what the Wet'suwet'en consider their territories. There are large pieces of land that are used for all kinds of other purposes.

Q I have one further question on this. Dr. Mills, you referred at length to the all clans feast in your report?

A I devote some pages to it.

Q And you make -- for example, at page -- at page 17 of your report you have Alfred Joseph speaking. Do you see that?

A Yes.

Q And you've already -- Mr. Rush has already showed to you the Exhibit 82 of the -- from the all clans feast. You recall confirming that that was the transcript of the all clans feast?

A I do recall.

Q Now, you've taken these citations from the all clans feast transcript, I take it; is that correct?

A Yes.

Q Well, all the references to traplines in the all clans feast transcript have been changed to territories in your report. Did you know how that came about?

A It was probably on the presumption that these words are used interchangeably. The traplines has the sense of not talking about a specific -- a specific area as registered for the purposes of fur trapping with the game warden, but they are thought of as their territories. I think the -- typically the word that was used in Wet'suwet'en is yunta and yunta means territory and in getting translated into English is trapline.

Q Well, let's just take a look at this reference, this citation from Alfred Joseph, which appears -- it's at page 11 in the all clans feast transcript, which is Exhibit 82. Alfred Joseph actually -- his name appears at the bottom of page 10 and his speech goes on. His speech starts really on the top of page 11 and then carries down to where there's a cut in the tape and then Roy Morris starts to speak. And let me

1 direct your attention just to the last four sentences
2 on page 11 where Alfred Joseph starts to talk. He
3 says "We know all the traplines". You see that? It's
4 about six lines up from the cut in the tape.
5 A This is Roy Morris speaking?
6 MR. MACKENZIE: No. This is Alfred Joseph.
7 THE COURT: I haven't found that.
8 MR. MACKENZIE:
9 Q Page 11.
10 A Oh, cut in tape.
11 MR. MACKENZIE: Are you on page 11?
12 THE COURT: Yes.
13 MR. MACKENZIE: Does your lordship see where Roy Morris is
14 there?
15 THE COURT: Yes.
16 MR. MACKENZIE: There's a cut in tape. That's the end of Alfred
17 Joseph's speech. And if your lordship will go up six
18 lines.
19 THE COURT: Yes. I have it. Thank you.
20 MR. MACKENZIE: It starts "We all know -- sorry -- "We know all
21 the traplines". Does your lordship have that
22 reference?
23 THE COURT: Yes.
24 MR. MACKENZIE:
25 Q
26 "The chiefs know all the traplines where
27 they are. Everybody who owns the trapline,
28 they benefit from it. Amongst all our
29 native people, we all know we use our land,
30 wherever it is located."
31
32 And then if you look at page 17 of your report, you
33 say:
34
35 "We all know the territories. The chiefs
36 know where all the territories are."
37
38 And then there's an omission there.
39
40 "It has always been worked in the feast.
41 The chiefs that take a name, they are the
42 ones that receive the territory. Amongst
43 all our native people, we all know we use
44 our land, wherever it is located."
45
46 That is, in effect, taken from page 11 on the all
47 clans feast transcript, and all the references to

1 traplines in the transcript have been changed to
2 territories in your report. Now, how did that come
3 about?
4 A Well, first of all, I'm not entirely certain that this
5 passage on page 11 of the all clans transcript
6 reflects what's quoted on page 17. Alfred Joseph
7 spoke at great length at this feast, and the terms as
8 I put it on page 17 may appear elsewhere in the --
9 that feast, so I would like to -- perhaps over some
10 break I could review the rest and see if this is in
11 fact not the place that I'm quoting from.
12 Q Okay. Fine. Well, you'll agree that on page 11 of
13 the transcript Alfred Joseph uses the word 'traplines'
14 several times?
15 A Yes.
16 Q And you'll agree that in your -- that what you've
17 quoted on page 17 in your report, he does not use the
18 word 'trapline'?
19 A I agree. I think Alfred Joseph has given testimony in
20 Court, and I think that he has expressed himself that
21 the territories are not what are considered by the
22 game warden as traplines. He's described the
23 boundaries of his territory that goes with the title
24 and he's made it abundantly clear that this is not
25 merely a trapline. This is a territory that is
26 associated with the title which he holds.
27 Q So you're saying Alfred Joseph didn't mean trapline.
28 He meant territory?
29 A Yes.
30 MR. MACKENZIE: Look at -- just quickly look at page 23 of your
31 report and page 35 -- page 35 of the transcript, which
32 I've included. This is Robert Abraham speaking. And
33 does your lordship have the reference in the middle of
34 the page to Robert Abraham?
35 THE COURT: Yes.
36 MR. MACKENZIE:
37 Q And on page 23 of your report you quote from Robert
38 Abraham. I'll just read the transcript -- or the all
39 clans feast transcript at page 35:
40
41 "Robert Abraham: People have sat a long
42 time to listen. The young generation and
43 the teenager boys are listening to this. In
44 the old days what happened was our ancestors
45 taught us how they used our land. They
46 teach us to invite people when we were
47 young. They use our land in the feast hall.

How they teach us, they use this trapline.
In the past they teach us in the feast hall.
All the clans own the trapline."

And in your report you say:

"People have sat a long time to listen. The young generation and the teenager boys are listening to this. In the old days what happened was our ancestors taught us how they used our land. They teach us to invite people when we were young. They use our land in the feast hall. How they teach us, they use this territory. In the past they teach us in the feast hall. All the clans own the territory."

So you'll agree with me that in the all clans feast transcript, Exhibit 82, Robert Abraham speaks of trapline?

A I'd like to point out that he was speaking in Wet'suwet'en. He was not using English. And the word that he used was yunta, which it doesn't refer to traps in the least.

THE COURT: What is the word?

THE WITNESS: Yunta. It means lands, and that's the Wet'suwet'en term.

THE COURT: And the Wet'suwet'en word for it, please? Yunta?

THE WITNESS: Yes. Y-u-n-t-a.

MR. MACKENZIE:

Q And you identified the transcript -- the all clans feast transcript as being the transcript of the feast. Who prepared this transcript, to your knowledge?

A Well, lots of people worked on the translation because it was in -- much of the proceedings were in Wet'suwet'en, and the people who helped translate this were Roy Morris, Rita George, Helen Nikol.

Q Okay. Well, this transcript, Exhibit 82, was put to Alfred Joseph and he was asked, so far as you're concerned, "This is a written record of what went on?" And Alfred Joseph said "Yes". Are you saying that you disagree with the all clans feast transcript, Exhibit 82?

A I'm explaining to you that these problems of translation can exist when people speak in their own language. They -- they use a word, and this -- what I have already said, this word 'yunta', which means

territory, means land, is sometimes translated into English as trapline, but -- and when the Wet'suwet'en often use the word trapline, what it's triggering into them is the word yunta, which has nothing to do with traps or trapping. It's talking about territory or land. And in this case the word 'yunta' got translated as trapline and since it was yunta, it doesn't really refer to traps or trapping. I thought it was more accurate to put it as territory. Territory is much closer -- a much more correct translation.

THE COURT: Did you make these changes?

THE WITNESS: I'm not sure at what stage the people going over recognize that the word was yunta and should be translated as trapline -- I mean as territory rather than trapline.

THE COURT: Were you aware of the fact that that change had been made?

THE WITNESS: I think that I heard discussion about how they -- this word should be most accurately translated, yes.

THE COURT: Thank you.

MR. MACKENZIE:

Q I might point out that Alfred Joseph uses the word 'territory' several times on page 8 of the transcript when he -- he's referring to a different -- sorry. It doesn't say trapline. It says territories. So he appears to differentiate. Can you say where the change occurred between the Exhibit 82 and your -- your report, the citations in your report, who, as his lordship indicated, changed the words as they appear in the transcript to the words as they appear in your report?

A I think shortly after this feast took place there was -- they began to have a translator's course at -- to teach people about how to translate, and I think they reviewed some of this -- the transcript and agreed that when the term 'yunta' was used, it would be most accurately and least misleadingly translated as territory rather than trapline, because trapline means something else to the game warden and to many people. It was -- because it doesn't, of course, change the fact that the Wet'suwet'en in speaking English sometimes use trapline with the assumption that it means territory. But in this translator's course they were -- this was the kind of distinction that they were trying to differentiate so that they could have an accurate portrayal of what was being

said.
Q And you were present at the translator's course?
A No.
Q Do you know what happened at the course?
A Well, I was in Hazelton once when it was taking place and they asked me to come and talk a little bit about -- from an anthropologist's point of view about language, which I did. It was -- I didn't say much to them, but I was informed that the purpose of the translator's course was to instruct people about the procedure for translating and the requirement of translating everything and not paraphrasing and knowing the vocabulary that in fact translated correctly concepts in Wet'suwet'en which don't necessarily have a ready gloss in English, that kind of thing.

MR. MACKENZIE: And, my lord, perhaps it would be convenient to mark that all clans feast transcript as an exhibit in these proceedings.

THE COURT: 955-8.

MR. MACKENZIE: That's an excerpt.

THE REGISTRAR: 955-8.

(EXHIBIT 955-8: Tab 8 - All clans feast transcript)

MR. MACKENZIE: And for your lordship's reference, the passage is relating to Thomas George's farm or volume 38, pages 2513 and 2514.

THE COURT: Thank you.

THE WITNESS: I think I begin to understand what you meant by your question assuming, et cetera, and perhaps I can give a better answer to that. There are specific cases where land has been sold or alienated, and I guess the question is do I still think that the Wet'suwet'en have the system as I have described it in my report, and the answer is yes, I do.

MR. MACKENZIE:
Q Now, strangely as it may seem, we got on to this quite detailed topic because we happened to be speaking about some of the sources that you dealt with, and we were talking about the Murdoch report. I'm just going to finish up this series of questions on the sources and just have you -- ask you to confirm, Dr. Mills, that as obviously the case before, you wrote your report. You didn't have an opportunity to review the trial evidence or evidence of cross-examinations on territory affidavits, did you?
A No.
Q Your review of the evidence was really restricted to

the commission evidence that you heard of Johnny David, Emma Michell, Bazil Michell and another chief; is that correct?
A And the land claims transcripts and discussions that I -- that I heard, trips to the territory with chiefs, observations in Moricetown particularly --
Q I'm sorry.
A -- and discussions.
Q You spoke -- in our discussions of the all clans feast, you spoke about the interpreter's course. And I guess you'll agree with me that that was after the land claims litigation course took place?
A Yes.
Q And the purpose of the course was really to train people in contemplation of the litigation?
A Contemplation. Well, it was specifically to train them as translators so that they could translate for people who are uncomfortable in English or don't have a good knowledge of English.
Q During your preparation of -- during your research you consulted, of course, with the other people -- other experts who were retained by the tribal council?
A To some extent.
Q You met and discussed these matters with Dr. Daly?
A Which matters?
Q Dr. -- the subject of your research.
A To a certain extent, because we wanted to differentiate and make sure that we weren't just overlapping each other, and I had begun my research before he did and then when he joined, the idea was that he would take over particularly the area of economy.
Q And you met and you had quite a long -- you had quite a long section in your draft opinion on linguistics, didn't you, and that was taken out in preparation for this report which is before us now?
A That's right. It seemed wise, since we had trained professional linguists, for them to deal with that more particularly. Obviously as an anthropologist I had reviewed the literature, and I consider that an important part of the basis for making an evaluation, but it seemed that we -- rather than being totally redundant, it would be wiser to have the people that have the greatest expertise address that.
THE COURT: Have you read Dr. Daly's report?
THE WITNESS: Dr. Daly's?
THE COURT: Yes.

THE WITNESS: Not the whole thing, no.
THE COURT: Not the whole thing.
MR. MACKENZIE:
Q You had though -- in preparing your opinions, you had reviewed Rigsby and Kari's view and their draft report?
A I had seen Kari's work on the earlier -- he had published -- or perhaps -- I'm not sure if it's published, but it's from the University of Alaska. And I had looked at Story. He had also indicated that I should look at Story. I had written that as well. They hadn't written their -- I don't think -- I think I finished my report before they did. At any rate, basically I was -- as you can see, I was reaching my own conclusions first and it seemed wiser to have the linguists speak to their areas of expertise.
Q You referred to Dr. Kari's report from the University of Alaska. I'm just giving you an excerpt from this article entitled "Babine, a New Athabaskan Linguistic Grouping". Is that the -- was that the article that you were referring to? And it's referred in your -- in your citations, 1975 article?
A I think so. Is there another one as well? I should perhaps refer to my references here.
Q That's the only citation that you have --
A That's the one.
MR. MACKENZIE: -- for Dr. Kari, page 218. Can we mark that as the next exhibit, my lord, that excerpt?
THE COURT: Exhibit 955-9.
MR. MACKENZIE: It's an excerpt of pages 3 and 4 from this Kari article.
(EXHIBIT 955-9: Tab 9 - "Babine, A New Athabaskan Linguistic Grouping" - J. Kari)
MR. MACKENZIE:
Q And looking at page 4, Dr. Kari says in the second sentence:

> "The importance of the linguistic position of Babine is underscored by Jenness' remarkable study of the Bulkley River Carrier done at Hagwilgate in 1924 - 25 (Jenness, 1943) which details a major adaptation by the Athabaskans to the stratified social culture of the Gitksan. Jenness' monograph is also an important source of linguistic information on the Hagwilgate language. One is struck by the

large number of Gitksan loan words in the study."

Did you take that into consideration when you prepared your opinion?

A Yes, I did. And as I have stated, I -- after completing my report and seeing the testimony given by James Kari as well as the report that was made by Dr. Bruce Rigsby and Dr. James Kari, I -- I endorsed with some exceptions what I had said in my report.

Q So I take it you would disagree with that passage in Dr. Kari's report now; is that fair to say?

A Well, as Dr. Kari said, Jenness was not a linguist. He definitely wasn't. And I would certainly go by the opinion of a trained linguist over Jenness, who had no pretensions to being a linguist.

Q Dr. Kari says there was a major adaptation by the Athabaskans to the stratified social culture of the Gitksan. Do you agree with that?

A He's saying that Jenness says there was a major adaptation by the Athabascans. I think I've already stated my position is that the Wet'suwet'en had indeed adapted to the Gitksan and have indeed what's called a stratified social culture, but that the basis for this is not simple and is not recent, and Kari's work exemplifies and Rigsby's work exemplifies some of the remarkable time depth that's involved in this interplay between these people.

Q In the preparation of your final report, you prepared at least one draft report; is that fair to say, one draft opinion?

A Yes. I first wrote a first draft, yes.

Q Is that the only draft that's in existence?

A I believe so.

Q And it was dated June, 1986?

A Yes.

Q And you sent it to various people for comments?

A I don't think I sent it, but some people requested it. Yes.

Could I return to this question of the linguistics? I'd like to also make a further statement that in looking at the linguistics, obviously one important source to look at is Dyen and Aberle, who worked out the Proto-Athabascan linguistic forms, and that has made an impact on how anthropologists view this whole exchange. And it's not something, as you noticed, that Kari cites here,

I'm sure because just as Kobrinsky doesn't in his original dissertation either, because the Dyen and Aberle came out in '74. Kari probably hadn't read it at the time that he had prepared this and sent it off.

THE COURT: Dyen and Aberle is 1974.

THE WITNESS: Yes.

THE COURT: Is it convenient to adjourn, Mr. Mackenzie?

MR. MACKENZIE: Yes, my lord.

THE COURT: All right. Ten o'clock tomorrow morning. Thank you.

THE REGISTRAR: Order in court. This court stands adjourned until 10:00 a.m. tomorrow.

(PROCEEDINGS ADJOURNED UNTIL MARCH 10, 1989 AT 10:00 A.M.)

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

Kathie Tanaka, Official Reporter
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