

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

FEBRUARY 25, 1989  
VANCOUVER, B.C

THE REGISTRAR: Order in court.

THE COURT: In case we forget later in the day, counsel will be reminded, of course, that I can't sit Monday morning, but we will sit 2:00 o'clock Monday afternoon.

THE REGISTRAR: In the Supreme Court of British Columbia, Vancouver, this Saturday, February 25, 1989, calling Delgamuukw versus Her Majesty The Queen at bar. I caution the witness you are still under oath.

MR. GRANT:

Q Doctor, could you turn to page 416 of your report please.

THE COURT: I'm sorry, page?

MR. GRANT: 416, My Lord.

Q I just want to refer you at the bottom of that page, doctor, where you state that:

"In the past, most Gitksan and Wet'suwet'en produced goods to be stored for future use in local consumption and for exchange. Today, in their selective participation in the cash economy, many of the people engage in economic activities which are still motivated by desires to get through the present season and prepare for the next. Today, as in the past, this includes always having something on hand with which to pay sudden debts engendered by a death in the family or for trade in needed goods. This emphasis upon producing for local needs, rather than for capital accumulation has carried through the whole era of cash-cropping of furbearing animals."

Now, with respect with that last comment, you then go on to refer to David Blackwater as an example. Can you expand on why you state that the emphasis upon producing for local needs rather than capital accumulation has carried through the whole era of cash-cropping in furbearing animals?

A Well, the very morality of the society, as annunciated by the elders that I have talked to, reflects this insofar as the -- they reiterate again and again how important it is to have essential subsistence goods

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1                   and funds on hand to guard against the rainy day and  
2                   the crises that come up in the course of life from  
3                   time to time, especially on the occasions of sudden  
4                   death. And informants have told me that people -- the  
5                   best ones, those who are most reliable in terms of  
6                   having the things that are -- being a source of  
7                   necessities are often those who are not out working in  
8                   the outside world, but are closest to the land and in  
9                   the village, and the old people are the sources of  
10                  funds. A whole lifetime of savings is instilled into  
11                  people. So the older you get, the more you are looked  
12                  to as a resource person, even though you may have  
13                  nothing much more than a pension cheque, but you are  
14                  able to mobilize both funds and foodstuffs and access  
15                  to gifts which are necessary for these feasting rounds  
16                  in a way that --

17                Q    Can I refer you to page 418 now. You go on to say,  
18                    and this is a question of accumulation of prestige,  
19                    then you say:

20  
21                                    "Among the Gitksan and Wet'suwet'en  
22                                    however ..."

23  
24                                    At the top of the page, My Lord.

25       THE COURT:   Yes.

26       MR. GRANT:

27                Q

28                                    "The motivation as expressed in the values  
29                                    in the people, is less one of seeking  
30                                    prestige through wealth accumulation than it  
31                                    is of building up or maintaining the  
32                                    reputation of the House group and the  
33                                    chiefly names, quietly, according to the  
34                                    laws of the culture, buttressed by one's  
35                                    kinship group so as to avoid the focus of  
36                                    the public eye upon the actions of the  
37                                    individual. In Gitksan and Wet'suwet'en  
38                                    cultures, to be talked about is not a sign  
39                                    of honour but rather of shame."

40  
41                                    Can you explain why -- the basis for that  
42                                    conclusion and how that fits in with your  
43                                    understanding of tribal societies -- of kinship  
44                                    societies?

45                A    Well, in all societies there is a blending of an ethic  
46                    of equality and an effort to compete and attain a  
47                    certain degree of gain over and above the level of

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1           possessions and the level of wealth and the level of  
2           standing, if you like, of the social position of your  
3           fellows, and there are various mechanisms and  
4           combinations for encouraging one facet or the other.  
5           Both trends occur in all societies. And in tribal --  
6           and in band societies, of course, there is -- there is  
7           always competition over resources, but the social  
8           mechanisms that put a ceiling on the competition are  
9           quite pronounced, such that anyone who persistently  
10          looks like a leader, a big leader, is cut down to size  
11          in various ways, or their power is empheral, because  
12          the economic base, the access to the resources is such  
13          that there is a limit to the amount of accumulation  
14          that is possible to sustain that leadership, and then  
15          there is a moral boosting to bring the person back  
16          down to size.

17          Q     Now, on the bottom of that page you state:

18  
19                         "The accumulation of goods is an integral  
20                         part of subsistence strategy based on  
21                         harvesting diverse resources."

22  
23                         That is a cross-cultural comment, is it, that  
24                         first statement, or is it specific at that point to  
25                         the Gitksan and Wet'suwet'en?

26          A     I would say here it's specific to the Gitksan and  
27                  Wet'suwet'en, because there are ways and means of  
28                  gaining access to resources in the diverse economy  
29                  other than through accumulation, but that is usually  
30                  by having a very complex network of kinship ties to  
31                  other regions, other ecological zones, so that you can  
32                  go there and use those resources by your kinship ties.  
33                  And one example that comes to mind are the Bedouin or  
34                  Cyrenaica, which is the work that was done by Emrys  
35                  Peters 25 years ago in the deserts of Libya. It's a  
36                  fascinating account of the kinship ties which people  
37                  consciously make to different ecological regions in  
38                  the desert. It's a way of having a safety net against  
39                  an ecological disaster in one area.

40          Q     Okay. You go on to say that:

41  
42                         "The Gitksan and Wet'suwet'en territories  
43                         have a climate, which unlike most of the  
44                         Northwest Coast culture area, is propitious  
45                         for the reliable drying of foodstuffs  
46                         through the bountiful summer months."

47

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- 1                   And there you are relying on, in part, Sybille  
2                   Haeussler's work and Rod Shelton's work?
- 3           A       Yes.
- 4           Q       Assuming that their work is correct?
- 5           A       And also my general familiarity -- as far back as when  
6                   I was fishing up and down the coast, the coastal  
7                   people always talked about how they liked the smoked  
8                   salmon from inland, which I couldn't quite understand  
9                   why there was any difference, but they said it smokes  
10                  better, it is less oily, and they had a desire for the  
11                  inland salmon, so there was a --
- 12          Q       Is there ethnographic work with the Alaskans which  
13                  refers to the problems of drying or preserving salmon?
- 14          A       I cited one reference in this work by Scott and  
15                  Heller, who were doing an assessment of native diets  
16                  along the coast of Alaska, both the Indian and the  
17                  Inuit and Alouette populations, and they found that  
18                  there was a significant spoilage of the fish that was  
19                  smoked along the coast. They didn't draw any  
20                  conclusions about the implications for this for trade.  
21                  It was nothing to do with what they were working on,  
22                  but it impressed me.
- 23          Q       That's the --
- 24          A       They were speaking of how to increase or develop  
25                  indigenous methods of feeding people, and balancing  
26                  out the diet, due to the rather lamentable diet that  
27                  the people were existing on in the sixties.
- 28          Q       Okay. That was a work called the "Alaska Dietary  
29                  Survey of 1956 to '61" done for the Department of --  
30                  the U.S. Department of Health Education and Welfare?
- 31          A       Uh-huh.
- 32          Q       Now, I would like to turn you to page 419. First of  
33                  all at the top there are -- four lines down you said:  
34
- 35                               "Today some game and much salmon  
36                               continue to be preserved in the traditional  
37                               manner."
- 38
- 39                  And this is the -- you have already described you  
40                  have observed this yourself at the fishing camps?
- 41          A       Yes.
- 42          Q       Now, going to the next paragraph:  
43
- 44                               "While the pre-contact Gitksan and  
45                               Wet'suwet'en did emphasize storage, as well  
46                               as the direction of economic life by the  
47                               chiefs and a system of social ranking, all

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1 of these features operated within the limits  
2 imposed by a subsistence-oriented kinship  
3 economy."  
4

5 Now, I don't want you -- you don't have to repeat  
6 any evidence you have given, but you can refer back to  
7 it if you have to, but what I would like you to  
8 explain for His Lordship is what do you mean by the  
9 limits imposed by a subsistence-oriented kinship  
10 economy?

11 A Of the limits most obviously are the amount of  
12 resources available in their own territory, and  
13 your -- the degree of readily accessible resources --  
14 resources in other people's territories.

15 Q Uh-huh.

16 A So in reference to the Gitksan-Wet'suwet'en area,  
17 transportation was rather a difficulty. Things had to  
18 be carried on people's backs as far as being able to  
19 accumulate large amounts of valued goods from other  
20 places. And this was quite a different situation on  
21 the coast, where they had large cedar canoes that  
22 travelled up and down the coast and engaged in  
23 considerable accumulation and exchange of values from  
24 different ecological regions along the coast all the  
25 way down to California.

26 Q Okay. Now, I would like to go to 419 to 420. You  
27 say:

28  
29 "With a good stock of produce stored for  
30 winter, the House had a firm foundation for  
31 its social and political affairs, and for  
32 the fulfillment of its role in the credit  
33 and debt relations that still exist between  
34 families and Houses."  
35

36 And that's one of your conclusions, your opinion,  
37 is that right?

38 A Between families and Houses.

39 Q Between families and Houses.  
40

41 "In this way, the storage of goods  
42 underwrote the authority of the chief. The  
43 chiefly authority extended only to the  
44 limits of House affairs, although on  
45 occasion, when the situation so demanded, a  
46 respected House chief could be chosen by a  
47 whole community - especially in the western

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1 villages - as a spokesperson or  
2 representative in dealings with external,  
3 non-Gitksan, non-Wet'suwet'en peoples. When  
4 such occasions have been completed, the  
5 chief in question is no longer given  
6 authority to speak on behalf of anyone  
7 beyond his or her local kinship ties."  
8

9 Now, I would like you to explain that conclusion  
10 and how you have come to it.

11 A Another feature of tribal societies with -- is that --  
12 I'm sorry. Normally the authority that people -- that  
13 chiefs are given is limited to their own kinship  
14 grouping, but on special occasions -- I'm sorry, my  
15 head is not together this morning.

16 Q Let me rephrase the question to assist you, doctor.  
17 You state that -- and here you are talking about the  
18 Gitksan and Wet'suwet'en, that chiefly authority  
19 extended only to the limits of House affairs.  
20 Now, here are you referring to the Gitksan and the  
21 Wet'suwet'en when you make that statement?

22 A Certainly to the Gitksan. The situation is slightly  
23 different with the Wet'suwet'en.

24 Q Can you explain that difference.

25 A The Wet'suwet'en are more in the habit and custom of  
26 putting forward or -- if the issue is something that  
27 involves all of them, they immediately, all their high  
28 chiefs come together and discuss the issue and  
29 delegate someone to be their spokesperson in  
30 negotiations with outsiders, and I have seen this many  
31 times in the course of community meetings and  
32 deliberations in relation to this court action. The  
33 Wet'suwet'en get together right away and delegate  
34 someone to speak on that, whatever the issue is, and  
35 there is no issue, that's it.

36 Well, with the Gitksan the situation is much more  
37 one chief speaks on behalf of his House, or perhaps a  
38 group of closely related Houses, two or three other  
39 Houses, and you -- they don't deem to speak on behalf  
40 of all of the nations. But on occasion they will set  
41 up a -- they will have an agreement that this sort of  
42 arrangement be done as well. And in Kitwancool they  
43 have a president, and this position has been in  
44 existence for quite a long time.

45 My understanding is, talking to some of the  
46 elders, particularly Solomon Marsden and Peter  
47 Williams himself, who is the president, that this

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- 1 agreement was taken as a way of dealing with the  
2 non-native outside world in an expeditious way, and in  
3 a way that the white people would understand as well,  
4 that we have our president, our representative, but  
5 it's for very specific functions.
- 6 Q Okay. That -- you are aware of the Duff or the  
7 histories, territories and laws of Kitwancool?
- 8 A Yes.
- 9 Q And that refers to the role of the president in  
10 Kitwancool?
- 11 A Yes, it does.
- 12 Q Now, as an anthropologist can you explain, in terms of  
13 the structures you have described in the last four or  
14 five days, can you explain how this concept of each  
15 chief speaks for his own House generally in the  
16 Gitksan situation, how that fits into the society and  
17 to similar societies?
- 18 A It's very similar -- I think I mentioned before the  
19 whole case of Handsome Lake and other leaders among  
20 the Iroquois, they would throw up a leader who would  
21 speak on behalf of the whole tribe or in that case the  
22 confederacy, but only for very specific purposes and  
23 reasons. And it was the same situation in times of  
24 war, a -- one chief, usually the wronged chief, if war  
25 was usually perceived from both sides as a  
26 retaliation, redressing a dishonourable situation,  
27 whoever mounted a raid would be generally the  
28 commander, and there would be a highly -- a high  
29 devolution of authority, and this was the situation in  
30 the Kweese raids on the Kitimat people, the Haisla.
- 31 Q The Kweese being a Wet'suwet'en chief?
- 32 A Wet'suwet'en chief, yes.
- 33 Q Just to be clear, you said the wronged, w-r-o-n-g-e-d,  
34 would be the one selected?
- 35 A Yes.
- 36 Q Now, then you go on to say that when such occasion  
37 have been completed, the chief in question is no  
38 longer given authority to speak on behalf of anyone  
39 beyond his or her local kinship ties?
- 40 A Yes.
- 41 Q Why do you say that? Do you have any examples that  
42 show that?
- 43 A It's a feature of the social structure, and that's  
44 related to the amount of accumulative -- the  
45 possibility of accumulating wealth and redeploying it  
46 to build up your name and your own personal  
47 entrepreneurial standing and abilities. It's a

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1 feature of tribal and band societies, and it's  
2 certainly played out in the local politics on the  
3 reserves right across the country. Outsiders see it  
4 as impossible factualism, but it's a working out of  
5 this decentralized family groupings in various kinship  
6 combinations, where no one leader will enjoy the  
7 concerted support of the community for a very long  
8 period of time.

9 Q Now, I would like to give you a hypothetical, doctor,  
10 and ask if that fits in. Evidence before the court  
11 has demonstrated that Neil Sterritt, that's Neil John  
12 Sterritt, was president of the Tribal Council for a  
13 period of time when this action was commenced, and he  
14 gave evidence that he was authorized to speak in  
15 public on behalf of the chiefs as the president of the  
16 Tribal Council.

17 A Yes.

18 Q Evidence also indicates that when he was ordered by  
19 this court to be examined for discovery on behalf of  
20 all of the chiefs, that he was told by a number of the  
21 chiefs not to describe their adaawk or histories of  
22 their Houses when he gave his discovery. Now, that  
23 is -- given that sequence of facts, does that -- how  
24 would that scenario fit into what you have just  
25 described, in terms of the kinship society and the  
26 anthropological analysis?

27 A I think that's very consistent.

28 THE COURT: But isn't it self serving? It happened long after  
29 the action started. How can it be relied upon now to  
30 prove an anthropological proposition? People -- I am  
31 not suggesting that happened here, but people could go  
32 around setting up scenarios and proving them at trial.

33 MR. GRANT: Well --

34 THE COURT: -- a policy consideration would exclude this.

35 MR. GRANT: Just a moment, My Lord. The issue --

36 THE COURT: Especially when you have an event that took place in  
37 a structure totally foreign to what the author is  
38 describing. I happen to assume that Mr. Sterritt was  
39 told that he had to answer all proper questions and  
40 deliberate decisions made to define the rules of the  
41 forum that was chosen, and surely that can't be of any  
42 assistance in buttressing an anthropological opinion.

43 MR. GRANT: Well, I won't -- I was not tendering it to buttress  
44 an anthropological opinion, My Lord.

45 THE COURT: You said it's a perfect example of what you are  
46 talking about.

47 MR. GRANT: Well, I was asking him to comment on that scenario



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1 in terms of the system itself.

2 THE COURT: Well, I couldn't put any weight on it, because I  
3 just am quite uncertain what is going on there, and I  
4 would rather not get into it. I found the whole thing  
5 offensive, but that's my culture. That's the culture  
6 they chose to enact this little drama in, and I just  
7 don't think it has any demonstrative value.

8 MR. GRANT: Just a moment. In light of -- I don't think I have  
9 to go further than that.

10 THE COURT: I'm sure you don't. I wish you hadn't gone this  
11 far.

12 MR. GRANT:

13 Q I would like to go to the next section -- I should say  
14 page 421, doctor, "Accumulation, Hierarchy and  
15 Political Power". I would like to refer you to the  
16 bottom of page 421 where you state, and I will quote:

17  
18 "The Gitksan and Wet'suwet'en society, taken  
19 as a whole social phenomenon composed of  
20 two linguistic and historical traditions, is  
21 a composite, or a blend of both the  
22 decentralized and egalitarian social values  
23 of the inland Athapaskan lifestyle and the  
24 more centralized hierarchical, and  
25 stratified social values of the north  
26 coast."

27

28 Now, can you explain that conclusion?

29 A Well, just like the -- I explained the overlay of the  
30 biogeoclimatic zones and the climatic regions of  
31 continental climatic regions. It seems to me in the  
32 region where the Gitksan and the Wet'suwet'en live,  
33 you have a blending of two distinct cultural  
34 groupings, and it's fascinating from an  
35 anthropological point of view, because you have got  
36 features of both of them from the coast, the coastal  
37 features and the inland features meshing right there  
38 in that mountainous region between the coast and the  
39 interior plateau. And there is a gradation of  
40 coastedness and interiorness that meets in that  
41 general region.

42 Q You go on to state that:

43

44 "The archaeological record, and the peoples'  
45 oral histories indicate that the inland  
46 culture moved out, south and west toward the  
47 coast after the last deglaciation."

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1  
2                   And do you adopt, based on the archaeological  
3                   record and oral history, do you adopt that as your  
4                   opinion?  
5       MR. WILLMS: I object, My Lord. That is an opinion that we have  
6                   already heard from a ethnoarchaeologist about. We  
7                   have got somebody who has tied ethnology and  
8                   archaeology together. She's given evidence. This is  
9                   an anthropologist, and if he can tie the ethnology  
10                  together and date it somehow, then my friend can lay  
11                  the foundation for that and ask the opinion. But  
12                  we've already had the archaeologist here, and she has  
13                  explained the archaeology and ethnology, and we don't  
14                  need this witness to do it. He is not qualified.  
15       THE COURT: But this isn't what she said.  
16       MR. WILLMS: No, it isn't, My Lord. That's exactly the point.  
17                  And she is the archaeologist, he isn't.  
18       MR. GRANT: Well, first of all my friend -- as I understand, my  
19                  friend made strong objection to the qualification of  
20                  the archaeologist as an ethnoarchaeologist. If my  
21                  friend is withdrawing that objection now, then maybe  
22                  we can change things, but I understand that there is  
23                  at large a matter that you are ultimately going to  
24                  rule on, and you decided to hear the evidence, and at  
25                  the end of the day that argument will be made. So I  
26                  think that my friend cannot say because one person has  
27                  said it that another person can't.  
28                  Secondly, I was just going to lead or I was going  
29                  to --  
30       THE COURT: Well, can you not put it on the basis that this is  
31                  an assumption that Dr. Daly has made? I assume that's  
32                  what it is.  
33       MR. GRANT: Well, I don't think it is. I think that it may --  
34                  the sentence may not be framed in a clear way. I  
35                  think in part it is and in part it isn't, and I'll  
36                  break that apart, my Lord.  
37                Q    You assume that the archaeological record which you  
38                      referred to is accurate?  
39                A    I do.  
40       MR. WILLMS: Let's hear what that is then.  
41       THE COURT: I don't know what the --  
42       MR. GRANT: I am going to come to that, My Lord, if Mr. Willms  
43                  would give me a moment. I am coming right to it.  
44                Q    And what is -- what are the sources of that  
45                      archaeological record that you are referring to?  
46                A    Well, the overview by Charles Borden is the thing that  
47                      comes first and foremost to mind.

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- 1 Q Yes. And that's cited -- that's one of the  
2 authorities that you cited?
- 3 A And Fladmark's overview as well on the prehistory of  
4 British Columbia.
- 5 Q Yes. Now --
- 6 A The rest of the archaeological sources I looked at  
7 were more specific about the actual sites and  
8 locations that the specific people had been  
9 investigating.
- 10 Q Now, you state, for example, you refer in that  
11 paragraph just -- and I am going to come back to that  
12 statement, but you refer to MacDonald and Inglis, and  
13 you state that:
- 14
- 15 "MacDonald and Inglis discuss this  
16 historical and cultural spread of coastal  
17 influences inland over the last 3,000 years.  
18 Focusing upon the development of the coastal  
19 culture of the Tsimshian, they tend not to  
20 address the question of the earlier  
21 settlements inland, and the subsequent  
22 coastward dispersals, as described in the  
23 adaawk of the region and attested to by the  
24 archaeological record of continuous  
25 habitation for millennia at sites such as  
26 Hagwilget and Moricetown ..."
- 27
- 28 Now, stopping there. You are stating that  
29 MacDonald and Inglis do not in this analysis of the  
30 coastal influences moving inland, do not address the  
31 question of earlier settlements inland in their --
- 32 A No, they don't. They certainly -- they both  
33 acknowledge that the people claim they came from  
34 Temlaxham-Dizkle area, somewhere around the junction  
35 of the rivers.
- 36 Q Skeena and Bulkley Rivers?
- 37 A And the people that George MacDonald was -- whose  
38 cultures he was excavating and the Prince Rupert  
39 harbour area. That's the assumption, because all the  
40 living culture of the Coast Tsimshian, they say that  
41 they came from Temlaxham. But his main area of  
42 investigation and analysis has been following the -- I  
43 suppose it's a common feature of most researchers.  
44 You work from what you know best, the area you have  
45 been working, and then look for its outward influences  
46 on the rest of the world. So he has been more  
47 interested in looking at the features of the coast,

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1                   which are common to interior areas from the  
2                   perspective that of a diffusion of the coast to the  
3                   interior, which I think certainly has occurred, but  
4                   from the oral narratives --  
5               Q     These are the ones that you have read?  
6               A     Yes. There was very likely a prior movement out from  
7                   the interior to the coast, and this is certainly the  
8                   findings of Charles Borden, after a full lifetime of  
9                   archaeological investigation in British Columbia. He  
10                  wrote this publication shortly before he died.  
11       THE COURT: Well then, that's the assumption that you have  
12                  made --  
13       THE WITNESS: Well, in anthropological terms I would call it an  
14                  assumption, but I believe that assumption means  
15                  something different in this context.  
16       THE COURT: I'm sure -- I'm not sure where the problem is, Mr.  
17                  Grant.  
18       MR. GRANT: I want to go now --  
19               Q     You state that the inland culture moved out south and  
20                   west toward the coast after the last deglaciation.  
21                   Have you based that statement on your reading of the  
22                   oral history and -- such as these adaawk of Barbeau  
23                   and Beynon?  
24       THE COURT: I thought you said you had reached that on the basis  
25                  of the overviews of Borden and Fladmark.  
26       THE WITNESS: Yes, and in addition to the whole body of the  
27                  adaawks and the feelings of some of the comments by  
28                  Barbeau himself in the body of his work, lead one to  
29                  this conclusion as well.  
30       MR. GRANT:  
31               Q     You have reviewed the "Men of Medeek", which you say  
32                   is a fairly extensive adaawk description you described  
33                   a few days ago?  
34               A     Yes.  
35               Q     Do you rely on that as well as the basis for this  
36                   opinion? Does that reflect that?  
37               A     Oh, it gives a very detailed account of where this  
38                   chiefly group went from village to village down the  
39                   Skeena River after leaving the area of Temlaxham and  
40                   the ecological problems they had. They first of all  
41                   would be taken in as guests by the local chiefs of  
42                   their same clan, the Fireweed Clan, but they didn't --  
43                   the resources couldn't stand the pressure over time,  
44                   and they would be asked to leave, or there would be a  
45                   fight that would break out and they would have a  
46                   battle and then leave, until they found a piece of  
47                   land which was unoccupied.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 Q Well, just to be clear, do you rely on that particular  
2 adaawk, detailed adaawk for this opinion?  
3 A Yes.  
4 Q Okay.  
5 A I am sorry, I have relied on a number of things,  
6 but --  
7 Q Okay. Well, you have relied on the adaawk, you have  
8 relied on Fladmark and Borden, and that's an  
9 assumption that you made that they are accurate in  
10 their reports?  
11 A Yes.  
12 Q But you have relied on your own review of adaawk and  
13 including the "Men of Medeek". Is there anything else  
14 that you have relied on in forming this opinion  
15 yourself?  
16 A Well, the views of the people in the community. They  
17 are very clear about the movement -- the movement from  
18 the interior, and in some cases some of their oral  
19 narratives speak of coming out under the ice through  
20 the glaciers, coming down the Stikene River and onto  
21 the coast.  
22 Q I just want to refer you to this. I am not going -- I  
23 am going to tab 2 of this document book. Is that the  
24 Medeek adaawk that you have referred to, or the typed  
25 script of Medeek adaawk?  
26 A Yes, it is.  
27 Q Okay.  
28 THE COURT: Now, I don't know if you've already told me, Mr.  
29 Grant, but if you have you can remind me. Of what is  
30 this the adaawk? Medeek is what, a House?  
31 MR. GRANT:  
32 Q This is an adaawk of one House group; is that right  
33 doctor?  
34 A Yes, Medeek refers to the main crest of that House  
35 group.  
36 Q And which House is that?  
37 A It is the House of -- he explained it right at the  
38 beginning. He says "Neas-D-Hok is my name", and he  
39 says "It's the adaawk of Neas-Hiwas."  
40 Q Of Kitselas?  
41 A Of Kitselas, yes. They ended up, after -- he recounts  
42 here, they began their existence as a House in  
43 Temlaxham, and as happens in many of the adaawks, you  
44 get the impression that these are the only people  
45 really in existence. He said they were the chief of  
46 the whole of Temlaxham, but that's the general view,  
47 because everyone speaks from the position of their own

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 Clan and their own House, because they don't have the  
2 authority in the community to speak for the whole  
3 nation.

4 THE COURT: All right. Is it Niist, N-i-i-s-t?

5 MR. GRANT: If you look at Roman numeral IX, My Lord, the  
6 prologue, it says "Neas-D-Hok", and there it's  
7 N-e-s-s - D - H-o-k.

8 THE COURT: I'm sorry, N-e --

9 MR. GRANT: s-s- - D - H-o-k.

10

11 " ...is my name and I am the head chief of  
12 the Grizzly Bear people of Kitselas. I have  
13 power on both sides of the big canyon."

14

15 And then the House is referred to in the second  
16 paragraph where he says:

17

18 "When I was a boy my grandfather who was  
19 Neas-Hiwas",

20

21 THE COURT: How do you spell Neas?

22 MR. GRANT: N-e-a-s, and H-i-w-a-s. And I'm sorry, where I say  
23 said Neas-D-Hok, it should be N-e-a-s not N-e-s-s.

24

25 "And he taught me the history of Medeek."

26

27 Q So would it be correct to say that this adaawk is an  
28 adaawk that describes the migration of this House  
29 group whose origins are Temlaxham, that is place of  
30 origin is the same place as the Gitksan? Is that how  
31 it is described?

32

A That's correct.

33

Q And that this House group, after long migrations,  
34 ended at Kitselas?

35

A Yes.

36

MR. GRANT: Okay. My Lord, I understand that this has been  
37 referred to on many occasions, and --

38

THE COURT: Well, its been referred to all over the place, but  
39 its never been --

40

MR. GRANT: Its never been tendered as an exhibit.

41

THE COURT: No, and its never been considered from the point of  
42 view admissibility.

43

MR. GRANT: Well, I would ask that this document be marked as an  
44 exhibit, as it's one of the documents in the same  
45 range as -- I will -- I think ultimately we will be in  
46 a position -- ultimately at some stage we would argue  
47 that it would be an adaawk that would come within the

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                   framework of your ruling, but I don't think it's  
2                   necessary to make that argument now. It can go in an  
3                   adaawk relied upon by Dr. Daly.

4       THE COURT: Well, it can go in as a source of research or item  
5                   of research.

6       MR. GRANT: Yes, I appreciate that, yes, because of your ruling  
7                   on adaawk. I appreciate that, My Lord.

8       THE COURT: Next you exhibit number is 898, and is that at Tab  
9                   2?

10      THE REGISTRAR: Yes.

11  
12                               (EXHIBIT NO. 898 - TAB 2 - WITNESS BOOK  
13                               III - MEDEEK ADAAWK -RESEARCH SOURCE OF DR.  
14                               DALY)  
15

16      MR. WILLMS: My Lord, one thing that should be noted, there  
17                   appears to be handwriting throughout this. It looks  
18                   like it's Neil Sterritt's copy from the first page,  
19                   but there is handwriting in there, which I am sure  
20                   isn't part of whatever this is.

21      THE COURT: No. All right. I shall disabuse my mind of  
22                   whatever it says.

23      MR. GRANT: Yes.

24           Q     That -- from your knowledge is any of the handwriting,  
25                   was it on the original or --

26           A     It was on the copy I saw in the Tribal Council  
27                   library.

28      MR. GRANT: Okay. I concede that it -- My Lord, I don't think  
29                   any of the handwriting is corrections. I think the  
30                   only thing would be if there is some typographical  
31                   correction. I don't think there is though.

32      THE WITNESS: I don't think there is at all.

33      MR. GRANT: So the handwriting should be disregarded. Yes, My  
34                   Lord, the best way of dealing with it in part is to  
35                   take the entire first page out, which is the cover,  
36                   and then you still have the title page there. That  
37                   would be more appropriate.

38      MR. WILLMS: Well, My Lord, I would rather have it in just the  
39                   way it is with us disabusing ourselves of the  
40                   handwriting, except to note that it is Neil Sterritt.

41      MR. GRANT: Well, I am not prepared to make that admission that  
42                   it's Neil Sterritt's. I don't know whose handwriting  
43                   it is, and I think it should be deleted. If my friend  
44                   doesn't want the handwriting he referred to, that page  
45                   should be taken out. If he wants it referred to, then  
46                   he should have made his objection.

47      THE COURT: I think in this connection the party tendering the

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 exhibit is dominus litus, and if he doesn't want to  
2 tender this page, I think can be deleted.  
3 MR. WILLMS: If that's the case, My Lord, I object to my friend  
4 cherry picking. So if he is going to take the page  
5 out with handwriting on it, he should take all of them  
6 out with handwriting on them. I don't think that he  
7 can pick and chose his way through the document. I  
8 think he should go one way or the other.  
9 THE COURT: Where is another item with handwriting?  
10 MR. WILLMS: There is handwriting on -- underlining on 13, there  
11 is handwriting on 141. There is handwriting on 176.  
12 THE COURT: There is an underlining of a word here, isn't there,  
13 of 13?  
14 MR. WILLMS: I am just looking at alterations, My Lord. And  
15 then there is on the other pages that I mentioned,  
16 184, and then on page 134, which is describing the  
17 wars of Medeek and the feud, somebody has very  
18 helpfully put in "about 1440 to 1450" on the first  
19 page to help us all date this. Now, my friend should  
20 take all of the handwriting pages out or leave them  
21 all in, subject to the comment that Your Lordship  
22 made.  
23 MR. GRANT: My Lord, I appreciate when you say you are not going  
24 to refer to it, that's fine. I thought the cover page  
25 was sort of something that was -- clearly would be in  
26 the realm of hearsay, and there was just no necessity  
27 to have it in. I have no difficulty with ultimately  
28 replacing any pages with handwriting in them,  
29 substituting them with clear pages, if that's  
30 necessary.  
31 THE COURT: Well, in the first page, there is a second one which  
32 is exactly the same.  
33 MR. GRANT: That's why I suggested it.  
34 THE COURT: Without marks on it, with slightly different typing  
35 but exactly the same wording, I think.  
36 MR. WILLMS: My Lord, may I just say one thing. My friend has  
37 tendered this as something that -- the basis for the  
38 admissibility is that this is a document that the  
39 witness reviewed, and if that's the basis for the  
40 admissibility of this document, then the document that  
41 the witness reviewed should go in in its entirety in  
42 my submission.  
43 THE COURT: Well, if you can take that first page off, you have  
44 got the document in its entirety.  
45 MR. WILLMS: I don't know how the notes on the front of the page  
46 affected this witness's views about how old --  
47 THE COURT: You are the one that didn't want them in. You



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                   didn't want the note -- you made a reservation about  
2                   the notations.

3       MR. WILLMS: That is in light, My Lord, of my friend's  
4                   discussion of the adaawk, that is, that those hand  
5                   notes cannot be part of -- if it is an adaawk, that  
6                   they clearly can't be part of that, but in terms of  
7                   the basis that my friend sought to tender this, as  
8                   something that the witness reviewed.

9       THE COURT: Well, I certainly wish this was a more important  
10                  point. Mr. Frey, do you want to make a contribution  
11                  to this?

12       MR. FREY: No submission whatsoever, My Lord.

13       THE COURT: I think we will take out that first page and I'll  
14                  give it back to Mr. Grant, and I will -- if Mr. Willms  
15                  insists, Mr. Grant will replace the pages with  
16                  notations on them with clear pages.

17       MR. GRANT: Thank you, My Lord. I will await for my friend to  
18                  clarify with me outside of court.

19               Q    Now, to go on, My Lord. Now, on page 423, doctor, you  
20                  rely on -- of your report again -- you rely on  
21                  Drucker, and you refer and quote Drucker specifically,  
22                  and where he states that according -- he states, after  
23                  referring to certain adaawk, referring to Temlaxham,  
24                  he says halfway down in that quote:

25  
26                                        "It seems reasonable to accept these tales  
27                                        in a general sense. The Tsimshian had to  
28                                        reach their historic home by moving either  
29                                        from the interior or along the coast, and  
30                                        there is no evidence to support the  
31                                        possibility of coastal migration. After  
32                                        suffering ennumerable vicissitudes, the  
33                                        ancestral Tsimshian began to establish  
34                                        themselves in villages below the Skeena  
35                                        River Canyon. These villages were associate  
36                                        with salmon fishing grounds on streams  
37                                        entering the Skeena, and continued to be  
38                                        important economic sites to the Tsimshian  
39                                        until modern times."

40  
41                                        Now, with respect to -- with respect to that  
42                                        statement, do you adopt that statement as your own  
43                                        opinion?

44       MR. WILLMS: I object, My Lord. Its got to be an assumption.

45       THE COURT: In your discipline, Dr. Daly, is this an assumption  
46                  you have made?

47       THE WITNESS: No, this is not an assumption. This is something

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1           which is parallel with my findings, and it's -- it's  
2           something which people who work in the general area,  
3           they cite Drucker very frequently, because he makes  
4           sense in an overview -- in an overview context of  
5           their own data from their own findings in the field in  
6           the different cultures. It's very consistent. It's  
7           not an assumption, it's something based on our common  
8           experience as part of the discipline, part of our  
9           training.  
10        THE COURT: But isn't this an archaeological opinion?  
11        MR. GRANT: No, Drucker was an anthropologist, My Lord.  
12        THE COURT: And wasn't he accepting what archaeologists had  
13           found?  
14        THE WITNESS: He was -- his opinion was informed by it to some  
15           extent, but his main work was participant observation  
16           on the coast looking at the comparative work of others  
17           before him and reading all of the adaawks and the  
18           Barbeau Beynon material. He was familiar with all of  
19           that.  
20        THE COURT: So what you are just telling me is that your  
21           anthropological opinion is the same as Druckers?  
22        THE WITNESS: More or less.  
23        MR. GRANT: On this point.  
24        THE COURT: Yes, on this point.  
25        MR. GRANT: And, My Lord, just the introduction is that Drucker  
26           comments on the coastal migration of the Tsimshian in  
27           the oral records as follows, and Drucker here is  
28           relying on the oral record, which is -- and this  
29           witness also has referred to the oral record.  
30        THE COURT: All right. Well, I am going to treat, for the  
31           moment anyway, this as an anthropological opinion,  
32           coincides in this point with Drucker.  
33        MR. GRANT: Yes.  
34        THE COURT: Based upon oral -- what he calls the oral record. I  
35           suppose he means oral information or information  
36           received orally.  
37        MR. GRANT: Maybe I can clarify that with him.  
38        THE COURT: Or based orally or based on oral recollections of  
39           some kind.  
40        MR. GRANT:  
41           Q   Well, you state oral record. What are you referring  
42           to there?  
43           A   It refers to the living oral record and the written  
44           form. The written form is basically the body of  
45           Barbeau Beynon material. There is a few that are not  
46           within that group, such as the Medeek adaawk that we  
47           just talked about that have come to light separately.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 Q Just one point about that Medeek adaawk, doctor, while  
2 we are on it. Did you rely on any of the handwritten  
3 notations on the copy that you looked at in terms of  
4 your conclusions?
- 5 A I wasn't really aware of them until this interaction  
6 here, except that I did note that the age of whoever  
7 had written that on the front page, but it didn't have  
8 any bearing on anything. This chief isn't even in the  
9 Gitksan area. It was just the content of the adaawk  
10 in terms of the relations between the people on the  
11 land which I thought was very interesting.
- 12 Q So you relied on the typed script of the adaawk --
- 13 A Yes.
- 14 Q Now, on page -- in page 424 you state in the middle  
15 paragraph:
- 16
- 17 "On the basis of these findings ..."
- 18
- 19 And those findings -- you are referring to  
20 archaeological findings that you have referred to  
21 previously; is that right?
- 22 A Yes.
- 23 Q And that's -- you assume that they are correct.
- 24
- 25 "... and the sequences of events that occur  
26 in the oral histories, it is safe to  
27 conclude that trading and raiding occupied  
28 an important role in the socio-economic life  
29 of the Northwest Coast in general, and even  
30 in the more easterly hinterlands during the  
31 last three thousand years. The development  
32 of trade relations in the region has  
33 probably been unfolding during this whole  
34 lengthy period."
- 35
- 36 And that is an opinion that you have reached from  
37 your own research as well as a reliance on the  
38 archaeological record?
- 39 A Yes, that's correct.
- 40 Q And when you say the easterly hinterlands, what are  
41 you referring to?
- 42 A I am referring to the area adjacent to the coastal  
43 belt of cultures, the peoples in the mountains and on  
44 the edge of the interior plateau. So that in, say, in  
45 relation to Bella Coola it would be the adjacent  
46 Carrier peoples on the edge of the Chilcotin Plateau.  
47 In relation to the Gitksan-Wet'suwet'en area it would

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1           be the -- that region in relation to the peoples of  
2           the mouth of the Nass and the mouth of the Skeena and  
3           to some extent the mouth of the Stikene, and the  
4           relationship between the people at the mouth of the  
5           Stikene, the very hierarchically organized coastal  
6           people with the Tahltan and Tset'saut and other  
7           interior groups of that region, and farther south the  
8           Thompson people with the coastal people in this  
9           general area.

10          Q    You then go on in your report to deal with the  
11               proto-contact period. And you state on page 426 and  
12               427, the middle paragraph:

13  
14                       "Protection of trade privilege, trade routes  
15                       and partners entailed the expenditure of  
16                       hospitality to build and renew trust and  
17                       credit, as well as the readiness to form  
18                       alliances to take up arms to defend trading  
19                       privileges."  
20

21               You then say at the bottom of that page:

22  
23                       "One such spiral of trading and raiding  
24                       appears to have been in process in  
25                       proto-contact and early contact times."  
26

27               And that is -- just a moment. And that is a  
28               conclusion that you've -- that is your opinion?

29          A    Yes.

30          Q    And on what do you rely in support of that opinion?

31          A    Well, a lot of it is from my reading of the adaawk  
32               histories. There is a real tempo of raiding and  
33               trading in the period which -- where you begin to get  
34               interweavings of European goods being mentioned, for  
35               example, in the later -- in the later part of this  
36               upsurge of trading and raiding that's reflected in the  
37               stories that are told.

38          Q    Okay.

39          A    And they have been sequenced that way in the volumes  
40               that I looked at by Barbeau himself.

41          Q    Okay. So in the way -- Barbeau sequencing in those  
42               four volumes was -- he sequenced them in a time order?

43          A    Chronological order.

44          Q    Okay.

45          A    He didn't take sections of adaawk and put them in any  
46               linear fashion, but he took each adaawk and assessed  
47               the events a long time continuum, and then seemed to

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 follow that format for presenting them.

2 Q Okay. Now, I would like to go onto page 427 in which  
3 you state that:

4  
5 "The trade practices of the coastal peoples  
6 affected the inland social life in the same  
7 way that it affected the coast, but to a  
8 lesser degree. In terms of pre-European  
9 trade the coastal peoples obviously looked  
10 on the inlanders as important but  
11 exploitable trade partners."

12  
13 And then you refer to "Oberg". Now, the first  
14 statement, why do you conclude that the trade  
15 practices affected inland social life to a lesser  
16 degree, that is the trade practice of the coastal  
17 people?

18 A I gave my reasons a bit earlier. The amount of  
19 accumulable wealth and the ease of transportation were  
20 much less in the mountainous regions, and that's quite  
21 common in other regions of the world as well. If,  
22 however, the coastal people are subsumed by another  
23 power, because they are also accessible to attack from  
24 the sea, then the inland peoples can come to an  
25 ascendancy as brokers between the new force on the  
26 coast and the hinterland. That was the situation with  
27 the Ashanti I mentioned before, and in a way with the  
28 Iroquois as well between -- who worked in the hills of  
29 upstate New York, and they were controlling trade  
30 between the coast and the Great Lakes basin.

31 Q Why do you conclude that the coastal peoples looked on  
32 the inlanders as important but exploitable trading  
33 partners?

34 A Well, it's a general finding of cross-culturally,  
35 anthropologists looking at economies find that one  
36 cannot really exploit one's relatives to a significant  
37 degree. If one is going to exploit one's relatives,  
38 one has to do it in terms of the kinship ideology and  
39 the give and take of the local community. So to turn  
40 a profit through trade, as we know it, you have got to  
41 go into another social context. And one way is to go  
42 somewhere where you are not so closely related. But  
43 again you are going to another kinship society, so you  
44 have to use ties of kinship to initiate your trade and  
45 exchange, but if you take advantage of people there,  
46 there is less repercussions for your own local social  
47 relations than if you try to do it in your home area.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 Q You state on page 430 that:

2

3

4

5

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8

9

"As a whole, the Gitksan have retained more of their pre-European cultural past than have their coastal neighbours for the coast had been subject to more missionary activity and governmental administration by the non-Native society."

10 And that is a conclusion that you have reached?

11 A Yes.

12 Q And why do you -- why do you come to that conclusion?

13 A Because, as I said yesterday, the documentation of the  
14 fur trade reports and the ships' captains and ships'  
15 logs at the end of the 18th and early part of the 19th  
16 century attest to the use of the European trade goods  
17 in the existing economy and system of social status  
18 seeking and so on. It didn't -- there was no evidence  
19 of it breaking down. The new features of the new  
20 economy were fed right into an existing system, and  
21 this led to the -- it appears to have led to a -- its  
22 whole inflation of the feasting system and the  
23 development of the potlatch and the bloating of the  
24 potlatch processes into something that it hadn't been  
25 before.

26 Q Where did that occur?

27 A Along the coast.

28 Q Okay. Then you state on the bottom of page 430 that:

29

30

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47

"It is unlikely that the Gitksan and Wet'suwet'en economy in itself could have generated the accumulated volume of subsistence trade goods (mainly foods and hides) necessary to set off such a spiral of trading and raiding characteristic of the coast in proto-contact times. However, the Gitksan and Wet'suwet'en, like other inland peoples adjacent to the Northwest Coast, became enveloped in these spirals of trading that flooded north and south along the sea coast, and then inland along the arterial rivers and the capillaries of trails that connected villages from the coast, for the Coastal Range to the Interior Plateau and onto the Rocky Mountains."

Now, this is a conclusion that you have arrived at

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 from your research?
- 2 A It is, yes.
- 3 Q Now, why do you say that it's unlikely that the
- 4 Gitksan and Wet'suwet'en economy in itself could have
- 5 generated an accumulated volume of subsistence trade
- 6 goods necessary to set off such a spiral of trading
- 7 and raiding?
- 8 A Given the rough estimation of population in the
- 9 Gitksan-Wet'suwet'en area, the goods available for
- 10 trade, there wasn't a very big margin that would have
- 11 been available for enormous -- significantly large
- 12 accumulation for expenditure in trade. They were
- 13 needed for the local round of subsistence activities
- 14 in the course of the year, as I discussed earlier.
- 15 Q Okay. If I can go to page 435. The bottom paragraph,
- 16 doctor, on that page you state:
- 17
- 18 "Still, the chief obtains a modicum of power
- 19 and influence through the proper hosting of
- 20 feasts, but this standing is seldom allowed
- 21 to build up and accumulate for more than
- 22 lifetime of the individual chief."
- 23
- 24 And then you go on to say:
- 25
- 26 "This local authority and this influence by
- 27 example are unable to expand beyond the
- 28 boundaries of the kinship group and
- 29 effectively lead to the consolidation of
- 30 power in a broader and wider arena.
- 31 Attempts to do so, even at the height of the
- 32 so-called fur-trade era met with failure."
- 33
- 34 And this is a conclusion that you've actually
- 35 referred to, the reasoning for it in your explanation
- 36 of the hierarchy?
- 37 A Yes.
- 38 Q Is that right?
- 39 A Yes.
- 40 Q And --
- 41 A And in this region it's also impeded by the fact that
- 42 these are matrilineal societies which have their own
- 43 checks and balances against nodules of power going
- 44 from father to son over the generations.
- 45 Q Okay. Well, in fact from your reading of adaawk you
- 46 have seen examples of coastal chiefs, there are adaawk
- 47 that show the coastal chiefs that did develop a

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 hierarchy.

2 A Yes. Yes.

3 Q And this would be Legaix?

4 A Particularly Legaix. Classic example among the  
5 Tsimshian.

6 Q Okay. I will return to that in the next chapter on  
7 trade, doctor.

8 Now, going to page 437 -- 37 -- sorry, if I could  
9 just ask you. I won't read it, but if you refer on  
10 page 436 to Eric Wolf with respect to -- in support of  
11 this proposition as well as the oral history; is that  
12 right?

13 A Yes.

14 Q I would ask the Court to note that section. I don't  
15 see the point in -- I won't read it, My Lord.

16 THE COURT: Thank you.

17 MR. GRANT:

18 Q On page 437 you state:

19  
20 "Since the Gitksan and Wet'suwet'en do not  
21 possess institutions which reinforce chiefly  
22 exploitation of non-chiefly persons, they  
23 have never been at ease with enduring  
24 hierarchical leaders."

25  
26 That is your opinion?

27 A Yes.

28 Q You then go on to make an analogy with the Iroquois,  
29 which you already referred to in your oral evidence?

30 A Yes.

31 Q And that whole description goes, My Lord, goes from  
32 page 438 through to 441. And then at page 442 you  
33 conclude:

34  
35 "It is my opinion that long before the  
36 arrival of Europeans, the large summer  
37 labour force of Gitksan and Wet'suwet'en  
38 people who gathered along the river ..."

39  
40 Then you say:

41  
42 "... much as they do today ... required a  
43 very large territory to fulfill its overall  
44 winter needs (that is, in addition to stored  
45 summer foodstuffs). Over-population led to  
46 resource depletion, famine conditions and  
47 social upheaval as recorded in oral



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1 histories like the Madeek narrative of the  
2 Giskaast dispersal from Temlaxamid."

3

4 Now, stopping there. You are referring there to  
5 the Medeek, the "Men of Medeek" that's just been  
6 tendered this morning?

7 A Yes.

8 Q Exhibit 897, I believe. Now, you then state:

9

10 "The territories claimed by the Gitksan and  
11 Wet'suwet'en in their court action - about  
12 20,000 square miles - with an estimated  
13 population of 10,000, would approximate the  
14 human population density that hunting  
15 societies in other parts of the world have  
16 been able to sustain; two to five persons  
17 per square mile."

18

19 And you rely there on Birdsell and Professor Lee.  
20 Now, first of all, is Birdsell -- who was Birdsell?

21 A Birdsell has done -- is an anthropologist who has done  
22 a certain amount of work among the aborigines of  
23 Australia. Richard Lee we already referred to.

24 Q Yes.

25 A I came to this realization of two to five from  
26 Professor Lee, when he said to me he was --

27 Q Just a moment. Did he publish anything relating to  
28 these figures? That is, did Professor Lee publish  
29 anything of which he relied on Birdsell?

30 MR. WILLMS: Maybe my friend could ask whether this personal  
31 communication has now been published.

32 MR. GRANT: Well, maybe I can deal with it.

33 THE COURT: Well, does it matter -- surely the question is, did  
34 anybody publish it and is he reliable.

35 MR. WILLMS: Well -- yes, but we have got one publication,  
36 Birdsell on the aborigines of Australia, and now there  
37 is Richard Lee personal communication. Now, if that  
38 hasn't been published, we don't need to get into at  
39 all what Richard Lee said to the witness.

40 MR. GRANT: And I am not, My Lord. I asked the witness, when he  
41 started to describe that, if he would refer to any  
42 reference of it. But I think I can even go back to  
43 the step that you raised.

44 Q This calculation of two to five persons per square  
45 mile has been published by Birdsell; is that right?

46 A It has, and --

47 THE COURT: But, doctor, surely that makes a huge difference

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1           what your climate is and what your vegetation is and  
2           what your food supplies are, doesn't it? Surely there  
3           is a comparison here which is not much assistance.  
4    THE WITNESS: This is what they find statistically around the  
5           world, though, with hunting and gathering societies,  
6           that the level of technology has a lot to do with the  
7           population density across the face of the land, and  
8           people tend to spread themselves out according to the  
9           worst possible conditions, that they may have good  
10          returns in one season and poor returns in the other,  
11          so they budget their relationship between people and  
12          land in relation to that.  
13   THE COURT: Are you saying that a two to five ratio in tropical  
14          Australia equates to a two to five ratio in northern  
15          British Columbia, where the ground is covered with  
16          snow for half the year and temperatures are in the  
17          very low range for a good part of that year?  
18   THE WITNESS: Yes, but in Australia much of the area is of a  
19          desert nature, so that cancels out against the  
20          tropical portion.  
21   THE COURT: Is it any use at all to know that they happen to  
22          have a two to five ratio?  
23   THE WITNESS: Well, it's quite an important index in  
24          cross-cultural studies among anthropologists of an  
25          ecological bent.  
26   THE COURT: He says oh, look, here is a comparison, therefore we  
27          will base a proposition on it. My own common sense  
28          tells me that that's a meaningless comparison, but if  
29          you tell me as an anthropologist that that's the sort  
30          of thing you rely on it, I have to accept that  
31          opinion.  
32   THE WITNESS: Well, when I was doing work on historical  
33          reconstruction of the Huron society, I relied on an  
34          archaeological estimate of 20 people per square mile,  
35          and Professor Lee immediately said to me, well, this  
36          signals an entirely different social structure,  
37          because of the population density. It's used as a  
38          ready reckoner for what you can expect to find in  
39          terms of the complexity of the society, the density of  
40          the population on the face of the land.  
41   THE COURT: Well, if that's your opinion. I want to make sure  
42          that you really mean that.  
43   MR. GRANT: Maybe I can -- if I may pursue it.  
44   THE COURT: Yes.  
45   MR. GRANT:  
46          Q   The Huron example you gave, that's an agricultural  
47          society?

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 A Yes.
- 2 Q Now, this Birdsell reference, the two to five persons
- 3 per square mile for hunting societies, has that been
- 4 relied upon by other anthropologists studying other
- 5 hunting societies or studying other societies in
- 6 concluding that they are hunting societies?
- 7 A That's one of the features. I mean, it's not the only
- 8 feature that you would use, but yes, it's part of the
- 9 data that you would use to establish the general
- 10 contours of the nature of that type of society.
- 11 Q Okay. Do you recall -- can you think of others who
- 12 have relied on this as one indicator, as you say?
- 13 A Well, there is a volume of papers edited by David
- 14 Damass, an anthropologist at McMaster University,
- 15 talking about the hunting groups right across northern
- 16 Canada, and it's very much -- the population density
- 17 question is very much at issue in that, as I recall.
- 18 Off the top of my head I don't know. But there is a
- 19 volume edited by Richard Lee and Irvine Devore called
- 20 "Man the Hunter", and it's dealt with in a number of
- 21 articles in that book as well. And it's dealt with in
- 22 the whole field of ecology and human geography as
- 23 well. It's quite a common one.
- 24 Q And in this volume about northern hunting societies in
- 25 Canada, is the two to five persons per square mile
- 26 relied upon for analysis of hunting societies?
- 27 A I believe it is, yes.
- 28 Q And in the articles in "Man the Hunter" is the two to
- 29 five persons per square mile relied upon for -- as an
- 30 indicator of hunting societies?
- 31 A Yes, I think -- I am not sure whether Birdsell has an
- 32 article in there or not. He may very well.
- 33 Q Now, you go on to describe the basis upon which you
- 34 assume the population of the Gitksan and the
- 35 Wet'suwet'en; is that right?
- 36 A Yes.
- 37 Q And you set that out at page 442 and 443?
- 38 A Yes.
- 39 Q And then you go on to say that, on the bottom of page
- 40 443, My Lord:
- 41
- 42 "With such a population - 10,000+ - there
- 43 would have been considerable demands placed
- 44 on the local resources by the people of the
- 45 region - both directly for harvesting
- 46 foodstuffs and materials, and indirectly for
- 47 exchange of goods with inland and coastal

R. Daly (for Plaintiffs)  
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1 neighbours, respectively to the east and the  
2 west. Despite the fact that for at least  
3 part of each year the bulk of the population  
4 lived clustered in a number of fishing  
5 centres in the Hazelton Variant of the  
6 Interior Cedar-Hemlock biogeoclimatic zone,  
7 the resources located there would not  
8 sustain this many people. In other words,  
9 the population required a territory of much  
10 vaster proportions to maintain itself  
11 through all seasons and all potential human  
12 and ecological crisis. It also required a  
13 clearcut system of control, ownership and  
14 management of territorial resources, due to  
15 the human demands placed upon these lands  
16 and resources."

17  
18 Now, just breaking that opinion down, can you  
19 explain why you concluded that the resources within  
20 the Hazelton variant would not have sustained 10,000  
21 people?

22 A Well, certainly the villages within this variant  
23 contained the very important cedar and the constricted  
24 rivers where the salmon were caught.

25 Q Yes.

26 A But I don't -- it is my opinion that people could not  
27 live on just the salmon as a foodstuff.

28 Q Yes.

29 A They required access to a variety, quite a wide  
30 variety of other species at all different elevations.  
31 A smaller population that just used the surrounding  
32 areas, the sides of the valley, perhaps, would have --  
33 could have survived and may have at some point. I  
34 don't know. But to have a balanced diet and a  
35 balanced material culture with, grant it, some trade  
36 from the interior and from the coast to supply more  
37 diversity and/or certain luxury goods and certain  
38 alternatives to the diet, it's my opinion that it  
39 required these hunting territories, much like the  
40 hunting territories of the adjacent Athabaskan  
41 regions, fairly large regions which took into account  
42 all the different ecological zones at the different  
43 altitudes.

44 Q Okay. Now, then you say at the end of that statement  
45 that it required a system --

46  
47 "A clearcut system of control, ownership and

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 management of territorial resources due to  
2 human demands placed upon these lands and  
3 resources."  
4

5 Can you explain why you have come to that  
6 conclusion?

7 A I raised before the work of Frank Speck in Ontario.

8 Q Yes.

9 A With regard to the husbanding of resources of the  
10 peoples of Northern Ontario. It's the same concept,  
11 as I see it, and there is a citation here from another  
12 writer from B.C. studies, who has reviewed all of the  
13 literature on this field about the nature of land  
14 holding in relation to the fur trade right across  
15 Canada.

16 Q Okay. Now, you state there that Ball -- this is  
17 Georgina Ball?

18 A Yes.

19 Q And first of all maybe if you could look at tab 1 of  
20 the third document book I have given you. Is that the  
21 article upon which you are quoting from?

22 A Yes.

23 Q And who is Georgina Ball? What is her background?

24 A I don't know her background.

25 Q Okay. It indicates at the bottom that she -- footnote  
26 one that she's --

27  
28 "This is an extract of the author's M.A.  
29 thesis, A History of Wildlife Management  
30 Practices in British Columbia to 1918,  
31 University of Victoria, 1981."  
32

33 That -- do you know what she does now?

34 A I believe she works in some capacity as a government  
35 researcher in Victoria.

36 Q Okay. Now, the quote in your report is from the first  
37 page of that, isn't it?

38 A Yes.

39 Q And she is referring, amongst others, to the Gitksan  
40 group and the Wet'suwet'en group?

41 A Yes.

42 Q Okay.

43 A A part of the quote is from the footnote.

44 Q Okay. Just a moment, just so that we can be clear on  
45 that. Well, that quote appears to be all on the first  
46 page, doctor. I think there is another quote --

47 A This actual quote, yes, but I also -- I believe I

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1                   cited another passage.

2       MR. GRANT:   We'll come to that.   Possibly that could be marked  
3                   as the next exhibit, My Lord.

4       THE COURT:   899.

5       THE REGISTRAR: 899, Tab 1.

6

7                               (EXHIBIT NO. 899 - TAB 1 - WITNESS BOOK  
8                               THESIS EXTRACT OF GEORGINA BALL)

9

10      MR. GRANT:  I am not going to -- I'll just refer you to that  
11                   reference, My Lord.

12           Q     Now, page 445 you state your conclusion, and I'm  
13                   looking at halfway down there, you say:

14

15                               "In other words production and distribution  
16                               activities in the course of the annual cycle  
17                               of the economy dictated, in general, the  
18                               overall scope of Gitksan and Wet'suwet'en  
19                               territories and the system of land tenure  
20                               with its particular type of kin-based  
21                               ownership."

22

23                   Then you state, after referring to Sheila  
24                   Robinson, and she is a -- you reviewed her report,  
25                   which was a report of the defendants, the provincial  
26                   defendants; is that right?

27           A     Yes.

28           Q     After referring to her report you state:

29

30                               "My view is, however, that indeed this body  
31                               of rules did exist and was an essential  
32                               feature of the economic and ecological  
33                               survival, and of pre-contact regional trade  
34                               and social interaction."

35

36                   And that's your conclusion?

37           A     That's right.

38           Q     And in support of that you -- and I am just going to  
39                   refer you to these, My Lord.  I don't want to take the  
40                   time to read them.  On page 446 you refer to the  
41                   archaeological record?

42           A     Yes.

43           Q     And you rely on that and assume that that is accurate?

44           A     Yes.

45           Q     And just to say this, that archaeology is a branch of  
46                   the field of anthropology, isn't it?

47           A     Yes, it's one of the four main branches of

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 anthropology.

2 Q As an anthropologist, as a social cultural  
3 anthropologist in that field, archaeology is referred  
4 to and relied on --

5 A We all have some training to varying degrees in  
6 archaeology. I have taken some introduction work and  
7 have participated in some excavation work under  
8 direction of the archaeologists, but I don't profess  
9 to be an expert in it by any means.

10 THE COURT: I don't see any reference to archaeology in page  
11 446.

12 MR. GRANT: That next paragraph:

13  
14 "The fur trade could only have intensitified  
15 a process which had long been in place -  
16 which, according to the archaeological record  
17 had in fact been developing over the past  
18 two to three millennia."

19  
20 MR. WILLMS: My Lord, I am assuming that that means Fladmark and  
21 Borden, because that's what the witness said  
22 archaeological record meant earlier on. I don't know  
23 if it's any different this time around.

24 MR. GRANT: That's not what the witness said archaeological  
25 record was. He relied on the archaeologist. The  
26 archaeological record is much broader.

27 THE COURT: What is the archaeological record upon which you  
28 relied on for this passage on page 446, please?

29 MR. GRANT:

30 Q Which authors?

31 A I would add George MacDonald to the list.

32 Q So Borden, Fladmark and MacDonald. Any others?

33 A Sylvia Albright.

34 Q Yes. Coupland?

35 A Coupland's work, yes. I am trying to think of --

36 THE COURT: Allaire.

37 THE WITNESS: The work at Namu. The name slipped my mind for  
38 the moment.

39 THE COURT: I am going to take the morning adjournment now.

40 THE REGISTRAR: Order in court. Court will recess.

41

42 (PROCEEDINGS ADJOURNED FOR A SHORT RECESS)

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R. Daly (for Plaintiffs)  
In chief by Mr. Grant

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I HEREBY CERTIFY THE FOREGOING TO BE  
A TRUE AND ACCURATE TRANSCRIPT OF THE  
PROCEEDINGS HEREIN TO THE BEST OF MY  
SKILL AND ABILITY.

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LORI OXLEY  
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R. Daly (for Plaintiffs)  
In chief by Mr. Grant

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(PROCEEDINGS RESUMED PURSUANT TO MORNING RECESS)

38  
39  
40 THE REGISTRAR: Order in court.

41 THE COURT: Mr. Grant?

42 MR. GRANT:

43 Q Thank you, my lord.

44 You thought this over at the break, and as well as  
45 Borden, Fladmark, MacDonald and Albright, you rely on  
46 the -- Ames and Coupland --

47 A Yes.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 Q -- in respect to your report? And also there was an  
2 archaeologist who did finds and digs at Namu whose  
3 name you can't quite recollect, but you rely on that  
4 as well?  
5 A Yes.  
6 Q Now, as well as -- that's the archaeological record on  
7 which you rely. You also rely, in support of your  
8 opinion, that the "body of rules governing access to  
9 resources or for extensive and defined areas of land  
10 for their exploitation", existed, and "was an  
11 essential feature of the economic and ecological  
12 survival, and of pre-contact regional trade and social  
13 interaction."  
14 I'm referring to the top of page 446, my lord.  
15 You rely as well, in support of that proposition, on  
16 anthropological work; is that right?  
17 A Yes.  
18 Q And you rely on the work of Dyen and Aberle?  
19 A Yes. Well, that's not directly related to this  
20 proposition.  
21 Q Okay. Rosman and Rubel?  
22 A Rosman and Rubel and Dyen and Aberle is a different --  
23 it indirectly supports these propositions, but it's  
24 not directly relevant here.  
25 Q Okay. And you rely on the ethnohistorical record in  
26 support of this proposition?  
27 A Oh, certainly. Yes.  
28 Q And there you are referring to Harmon?  
29 A Yeah, the descriptions that the fur traders both at  
30 sea and on the land, on the coast and inland, gave of  
31 the nature of the economy and the use of the land at  
32 the time of contact.  
33 Q Okay. And -- okay. And you also rely on the work of  
34 Eric Wolf in support of this?  
35 A I do. Yes.  
36 Q And Fisher, Robin Fisher?  
37 A Yes.  
38 Q La Violette?  
39 A Yes.  
40 Q "Struggle for Survival". And Ruby and Brown, "The  
41 Chinook Indians"?  
42 A That's right. That's quite a good historical account  
43 of the whole development of the fur trade along the  
44 coast. You know, the Chinook language was the lingua  
45 franca for the whole nineteenth century virtually, and  
46 also the ethnographic accounts of the whole -- of the  
47 whole region; Garfield's work on the Tsimshian,

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 Swanton on the Haida, Oberg and Krauss, their work  
2 among the Tlingit, De Laguna in the north, the work of  
3 Robert Adlam on the Tahltan; various studies in the  
4 general region, McIlray's work on Bella Coola.  
5 Q Now, you also rely in support of this thesis on the  
6 evidence that you have determined about the  
7 matrilineal kinship and inheritance system among the  
8 Gitksan and Wet'suwet'en; is that right?  
9 A Yes.  
10 Q And that's referred to at page 450.  
11 You also rely on the oral histories, that is,  
12 the -- the oral histories of the Gitksan and of the  
13 Wet'suwet'en as reflected in the adaawk and the  
14 Kungax?  
15 A That's right.  
16 Q And finally, you rely on the role of women which you  
17 have determined from your research, and you refer to  
18 that at page 449, "Position of women in the society";  
19 is that right?  
20 A Yes.  
21 Q And you state at page 449 that:  
22  
23 "The position of women in the society is  
24 an important indicator of the degree to  
25 which economic accumulation and political  
26 centralization have changed the reciprocal  
27 relations of a kinship society."  
28  
29 And this is a proposition that is cross-cultural?  
30 A Yes. And it's being explored by a number of  
31 particularly women anthropologists today, assessing  
32 the position of women in different types of societies  
33 and the effect of colonization and first contact with  
34 Europeans, the position that -- the actions of the  
35 women in relation to these changes. And people like  
36 Christine Gayly, working on the development of the  
37 Tongan state, in --  
38 Q Tonga?  
39 A Tonga.  
40 Q Yes.  
41 A Tongan state in Polynesia. And I can't remember the  
42 author now, but there's another interesting one about  
43 the women who resisted the Spanish conquistadors  
44 incursions into the Inca empire by taking to the  
45 altiplano and fighting to try to maintain the old  
46 kinship system of the Inca state, even though the men  
47 had found their -- many of the men had found their

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 place within the new situation. The women had this  
2 sort of Amazonian guerrilla warfare movement for about  
3 a 200-year period. They took to animal husbandry with  
4 Alpacas and so on, and raided the valleys against the  
5 Spanish.
- 6 Q And is that in a book called "Women of the Puna"?  
7 A That's "Women of the Puna". Yes.  
8 Q Okay. And there's a --  
9 A There's another anthropologist who has worked a lot  
10 along this line, Eleanor Leacock.  
11 Q Yes.  
12 A Among the Montagnais-Naskapi in Labrador, and with  
13 some of her students in relation to Iroquois women and  
14 the central nature of the -- or the central -- the  
15 standing and position of the women at the time of  
16 contact and then what happened to this and whether or  
17 not it is still a feature today. And they treat it as  
18 a sort of diagnostic feature of the degree to which  
19 the kinship system is still intact. If the women have  
20 lost their equality, the finding -- the hypothesis is,  
21 this is an anthropological hypothesis, is that they  
22 don't retain their standing if the society is  
23 significantly shifted into a patriarchal hierarchical  
24 social system. Montagnais, M-o-n-t-a-g-n-a-i-s,  
25 Naskapi, N-a-s-k-a-p-i.  
26 Q You go on to say on page 449, after setting out this  
27 thesis, that:  
28  
29 "At the time of contact, Gitksan and  
30 Wet'suwet'en women maintained control over  
31 their household labour, their reproductive  
32 rights, their annual produce, and their  
33 specific rights and responsibilities in the  
34 production process through the seasons. No  
35 matter where they lived after marrying,  
36 women retained their status and authority in  
37 their own matrilineal house group. They  
38 were able to ensure their children's access  
39 to names, history, and territory, as  
40 inheritance is reckoned through the mother."  
41  
42 Now, in respect of that opinion, do you -- do you  
43 rely on -- what do you rely on? What have you relied  
44 on to form that opinion?  
45 A I've relied on my observations in the community in the  
46 present day.  
47 Q Yes.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1           A    And my comparative knowledge of the Iroquois where the  
2                   standing of the women is based -- is very closely tied  
3                   to their control of their own productive labour within  
4                   the system.
- 5           Q    Okay. Just what I guess I should focus on because the  
6                   next paragraph you talk about the contemporary  
7                   situation, you refer to what I've just referred to as  
8                   at the time of contact. Are you relying here on the  
9                   oral histories?
- 10          A    I'm sorry, I don't --
- 11          Q    Well, you say you relied -- you've observed this  
12                today, and you go on to deal with that on the bottom  
13                of 449, but at the top, this description you give  
14                right after setting out the hypothesis is that at the  
15                time of contact Gitksan and Wet'suwet'en women  
16                maintained control, and you go on to what I've quoted.  
17                In support of that opinion, do you rely upon the  
18                ethnohistorical, ethnographical, and oral histories?
- 19          A    It's the overall -- the overall documentation that I  
20                have read backs up my understanding of the situation  
21                today, particularly in relation to the role of the  
22                women in the fishing sites and so on.
- 23          Q    Okay. And I think that's what you have -- you state  
24                at the bottom.
- 25
- 26                                "Chiefs still today consult their  
27                                descent group, their mothers, aunts and  
28                                wives, before making decisions.";
- 29
- 30                And this is where you're referring to -- you made  
31                observations of this yourself?
- 32          A    Yes.
- 33          Q    And observed what's happened in terms of the  
34                management of the fishing site as an example?
- 35          A    Oh, yes. Well, usually the authority of running the  
36                fishing site is delegated, sometimes publicly, in the  
37                feast hall to one of the women and she's responsible  
38                for all the fishing. That's the case with Art  
39                Matthew's mother for example.
- 40   MR. GRANT:   I'd just like to quote page 452 and 453, Doctor.
- 41                You state in that middle paragraph --
- 42   THE COURT:   452?
- 43   MR. GRANT:
- 44                Q    452. That's where I'll start, my lord.
- 45
- 46                                "It is interesting to note that many  
47                                economies which combine hunting with some

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1                   other quite different economic pursuit, such  
2                   as already noted with the Iroquois, follow a  
3                   system of matrilineal kinship and descent."  
4

5                   You then go on to describe the situation with the  
6 Iroquois and make a cross-cultural comparison, and  
7 then you also refer to the Ashanti.

8                   Now, going over to -- I'm sorry, the bottom of  
9 that page, you say:

10  
11                   "In all of the North American examples of  
12                   these hunting combination economies,  
13                   matrilineal peoples devised a local  
14                   organization of summer economic activity  
15                   which was largely under the direction of  
16                   women, and that of the winter season  
17                   (hunting, trapping, ice-fishing, and trade  
18                   pursuits) which was under the direction of  
19                   men. This division of labour necessitated  
20                   reciprocity between men and women, between  
21                   siblings and their in-laws. These societies  
22                   accumulated large amounts of foodstuffs for  
23                   winter use, and used a portion of this  
24                   accumulation for trade and diplomatic needs.  
25                   In both instances, matrilineal inheritance  
26                   gave great emphasis to local reciprocity, to  
27                   the 'sensitivity to issues of personal  
28                   dominance ', described by Wallace and  
29                   militated against enduring power blocks."  
30

31                   And that analysis that you've made of where you  
32 refer to a number of societies, does that last  
33 statement apply to the Gitksan and Wet'suwet'en in  
34 your opinion?

35                   A    Yes, it does. It's consistent with the experience of  
36 the anthropologists right across what's called the  
37 matrilineal belt of central Africa as well.

38                   Q    Thank you. I'd like to now move on to the next  
39 chapter, my lord. That is the chapter on trade. I'm  
40 sorry, my lord, if you could just bear with me. In  
41 reference to this chapter, I'd like to -- ultimately  
42 it will be a shortcut -- refer to page 96 of Volume 1,  
43 which is a section that I left out. Yes, if the  
44 witness could have it.

45                   Do you have it, Doctor?

46                   A    Yes.

47                   Q    Okay. On page 96 you state:

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1  
2 "The peoples' oral histories indicate  
3 that there have been definite periods of  
4 intense barter, raiding and diplomacy across  
5 the region. Probably the seventeenth and  
6 nineteenth centuries constituted one such  
7 era when trade goods, always important to  
8 the subsistence economy, now began to take  
9 on an existence of their own, as  
10 increasingly exchangeable commodities, the  
11 control of which led to wars and intense  
12 competition through the North Pacific area."  
13

14 And that is your opinion?

15 A Yes.

16 Q Okay. And then you --

17 A I would qualify that a bit because I --

18 Q Go ahead.

19 A I believe that the facts are such that we can conclude  
20 that there was a degree of trade along the --  
21 commodity trade along the coast at the time of  
22 contact, especially in the area of the Columbia River.  
23 And from my feelings in the -- from having read the  
24 migrations described in the adaawk and the wars, and  
25 so on, there was a -- anthropologists normally see  
26 raiding and trading very closely interlinked. And the  
27 whole period of raiding and trading along the coast,  
28 it's very hard to know whether this -- to what degree  
29 it was the result of early contact, and to what degree  
30 the existing trade was already intensifying. It's  
31 been a question under investigation in other areas.  
32 The Christine Gayly work I mentioned tried to assess  
33 this and most of the data she found was that the  
34 system was already in place, it just intensified with  
35 the coming of the British.

36 Q Okay. Maybe this is -- I just want to refer you to  
37 page 97 at this point, and 98. You state there that:

38  
39 "Competition and conflict with  
40 neighbouring peoples in periods of intense  
41 trade no doubt strengthened and reinforced  
42 the Gitksan and Wet'suwet'en system of  
43 clearly defined, House-owned hunting  
44 territories and fishing sites, a system  
45 which articulated with ownership and  
46 management of territory among the  
47 neighbouring peoples. The ranking and

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1 stratification, and the clearly defined  
2 system of property rights which have been  
3 associated with trade activities existed in  
4 proto-contact times and, as discussed in  
5 Chapter 1, both the oral culture and  
6 archaeological records affirm that such  
7 stratification is of considerable antiquity.  
8 Having said this I would argue that property  
9 ownership evolved not simply from trade  
10 between different ecological zones, but also  
11 from the need to regulate resource use,  
12 given the population and technology of the  
13 times."

14  
15 You go on then to refer to Ball, who is at Exhibit  
16 899, and she says that:

17  
18 "Ball outlines the debate which has occurred  
19 in Canadian anthropology over the past four  
20 decades concerning the nature of land tenure  
21 in pre-contact Canada, and adds her voice to  
22 those who see the Pacific Northwest being an  
23 area marked by well-defined ownership due to  
24 population density, regular salmon runs and  
25 indigenous trade."

26  
27 And I'd just like you to go half-way down that  
28 quote where it's stated:

29  
30 "'...I contend that there is convincing  
31 evidence that the Indians of British  
32 Columbia developed land tenure systems  
33 within recognized territories during  
34 aboriginal times...I can offer three  
35 possible reasons why: the first reason is  
36 that the comparatively dense Indian  
37 population on the Pacific watershed put  
38 pressure on the resources; the second is  
39 that the Pacific watershed Indians relied  
40 heavily on anadromous fish for sustenance  
41 and trade items - consequently they lived  
42 rather sedentary lives compared to many  
43 eastern tribes; and the third is that the  
44 Indians did not exploit the resources solely  
45 for local and tribal use but also for  
46 intertribal trade. For archaeological  
47 evidence that this trade went back as far as



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1                   ten thousand years ago, see Roy L. Carlson's  
2                   paper on "Prehistoric Trade in British  
3                   Columbia: Obsidian" that he presented to the  
4                   B.C. Studies Conference in Vancouver in  
5                   February, 1984.'"   
6

7                   You then go on to state -- and that is of course  
8                   referred to in exhibit -- that's the first footnote in  
9                   Exhibit 899, isn't it?

10                  A    Yes.

11                  Q    Or part of it?

12                  A    Carlson was the name that I forgot in relation to the  
13                       site at Namu.

14                  Q    Thank you.

15                       Then you say that:

16  
17                       "There is no evidence to suggest that  
18                       ownership evolved from endemic conflict  
19                       which arose from any scarcity of resources  
20                       in pre-contact times. There is no doubt  
21                       that periods of conflict occurred during the  
22                       long, pre-European history of the continent;  
23                       however, it is more likely that the system  
24                       of land tenure developed at the time of  
25                       original settlement in the area."  
26

27                       Now, firstly, you adopt that -- the conclusions or  
28                       the opinions of Georgina Ball as your own with respect  
29                       to that statement that I have read to you?

30                  A    Yes, I do.

31                  MR. GRANT:   And I'd like you to go -- my lord, that's the -- I  
32                                   won't be dealing with that sector or volume again.  
33                                   I'll go back to Volume 2, Chapter 7.

34                       Now, just to put your opinion on trade in context,  
35                       you state at page 455 that:

36  
37                       "The approach adopted here, is to view  
38                       exchange and distribution as governed by the  
39                       way people own and control their economic  
40                       potential (resources, skills and labour); by  
41                       the way they organize their production  
42                       activities and satisfy their material needs;  
43                       and by the way they expend their labour and  
44                       wealth to maintain other social institutions  
45                       (such features as family, political  
46                       activity, religious and social welfare)  
47                       which are involved in the functioning of the

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1 community and its affairs. At the broadest  
2 level, the form of distribution of valued  
3 goods and services is integral to the way  
4 the community maintains itself through  
5 time."  
6

7 That's the middle paragraph there, my lord.

8 THE COURT: Thank you.

9 MR. GRANT:

10 Q That is a synopsis of the approach and why you're  
11 dealing with trade here and how you relate trade to  
12 your own raw analysis of the economy?

13 A Of the economy.

14 Q Now, on page 456, Doctor, you refer to economizing,  
15 and maybe you can just, in your own words, tell his  
16 lordship what -- at the bottom of page 456 what you  
17 mean when you talk about economizing?

18 A Basically what I mean is the accumulation of goods and  
19 services which can subsequently be used deployed in  
20 various ways as investments in further economic,  
21 political, and other ventures. It's an essential  
22 feature of the standard economics textbooks on the  
23 nature of economy in our society, the allocation of  
24 scarce resources to alternative ends.

25 Q Well, within the Gitksan and the Wet'suwet'en systems,  
26 at what level does the economizing occur within the  
27 social structures?

28 A It occurs within the -- at the level of the house  
29 group.

30 Q Okay.

31 A I mean, in the hierarchical societies this is the --  
32 this is governed by the market. Here in -- it's  
33 highly constrained in kinship systems so that the  
34 accumulation is limited to the kinship groupings and  
35 their boundaries, so people within the -- to whom  
36 you're related by blood, the blood line which is  
37 socially recognized which is matrilineal in these  
38 situations with the Gitksan-Wet'suwet'en.

39 Q Is this how your -- what you reflect on page 457, the  
40 middle of the first paragraph:

41  
42 "The decentralized Gitksan and Wet'suwet'en  
43 do not have a tradition of central  
44 administration, but their House chiefs,  
45 nonetheless engage in the allocation of  
46 values to alternate ends within the context  
47 of the House system of ownership and

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1 control, especially regarding the deployment  
2 of land and labour."  
3

4 A Yes.

5 Q Okay.

6 A Or the deployment of labour on the land that they  
7 control.

8 MR. GRANT: My lord, I just refer you to the next paragraph on  
9 457, and the other paragraph on 458 starting "The  
10 society..." I don't see the need to amplify on that  
11 with the witness, but for your reference.

12 THE COURT: Thank you.

13 MR. GRANT:

14 Q Can you go to 459, Doctor? You state there, and again  
15 after referring to Sheila Robinson, you state that  
16 your opinion is different where you say:

17  
18 "It is my opinion, however, that trade,  
19 competition and conflict, pre-dated the  
20 modern era of European market relations, as  
21 did the social factors which militated  
22 against competitive hierarchy within the  
23 society: The institutions of matrilineal  
24 kinship groups, collective property-holding,  
25 feast-giving and the laws of sharing and  
26 reciprocity. Both competition and its  
27 regulation are and were implicit in the  
28 economy, society and culture of the Gitksan  
29 and Wet'suwet'en."  
30

31 And that is your opinion?

32 A Yes.

33 Q And in support of that opinion you rely and assume the  
34 accuracy of archaeological finds of obsidian?

35 A Yes.

36 Q You rely on the -- your own findings of the -- in the  
37 ethnohistorical record of the existence of trails and  
38 bridges which you refer to later in this chapter?

39 A Yes.

40 Q You rely on the regional specialties which you have  
41 analysed from the ethnographic and ethnohistorical  
42 records, as well as the oral histories, and you  
43 actually chart later in this chapter?

44 A Yes. And in the peoples' assertions and the logic of  
45 what they say in an overall sense from the course of  
46 my actual work in the field.

47 Q Okay. Which -- to use your own phrase, do those



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1 "While the rules of reciprocity governed  
2 exchanges between groups in the region this  
3 is not to say that there has been no seeking  
4 of maximum benefit between peoples, and  
5 their respective chiefs. The seeking of  
6 economic advantage was limited by  
7 considerations of kinship obligation and the  
8 ritualized rules of chiefly interaction in  
9 the feast hall. In other words, sectional  
10 interests had to be weighed against the  
11 costs of jeopardizing ongoing relations  
12 between Houses, villages or distant trade  
13 partners with whom one interacted through a  
14 common, shared cultural medium of kinship  
15 reciprocity."  
16

17 Doctor, in light of what you -- that is a  
18 conclusion that you arrived at, or an opinion with  
19 respect to the Gitksan and the Wet'suwet'en?

20 A Yes.

21 Q Now, you go on to explain the types of reciprocity at  
22 pages 462, 463, and maybe rather than reading that,  
23 you can just summarize what you mean by reciprocity in  
24 anthropological terms, and the types of reciprocity  
25 that you deal with?

26 A The whole discussion was -- came to the floor in  
27 the -- in the late 1920's with the work of Marcel  
28 Mauss, M-a-u-s-s.

29 Q Yes.

30 A A French anthropologist, who analysed the potlatch  
31 material of Franz Boas, and it was in effect a  
32 detailed analysis of what happens when someone gives  
33 someone else a gift, the whole thing about gift giving  
34 and repayment of gifts, which is in many ways a  
35 prototype for the nature of social relations in band  
36 and tribal societies. Since then --

37 THE COURT: Prototype of what?

38 THE WITNESS: Of the way social relations are conducted in band  
39 and tribal societies; a give and take. You do it to  
40 me and I'll do it to you, or we'll behave well to you  
41 if you'll behave well to us, or the eye for an eye and  
42 a tooth for a tooth is the same concept. So since  
43 then the anthropologists have tried to refine this  
44 concept, and they generally use these today in terms  
45 of a balanced reciprocity or generalized reciprocity,  
46 or negative reciprocity. And it entails different  
47 types of social relations which are seen to be

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1 dominant in any one society being studied.  
2 Generalized reciprocity is everyone in the group  
3 involved gives from time to time and it all balances  
4 out in the end, or that's the common assumption.  
5 Balanced reciprocity is an expectation of return  
6 roughly equal to what you have given. And a negative  
7 reciprocity is seeking a gain without -- seeking to  
8 gain something which will -- you hope you will not  
9 have to repay, or where you can maximize your values  
10 at the expense of someone else, so that the give and  
11 take of the gift metaphor is negated.

12 MR. GRANT:

13 Q Now, you refer, for example, on page 462 that a  
14 generalized reciprocity would be, for example, a --  
15 services of parents to offspring, giving of goods and  
16 services in the course of the older generation  
17 nurturing the younger one. That's an example of  
18 generalized reciprocity?

19 A Yes.

20 Q And balanced reciprocity, what would be an example of  
21 that?

22 A Well, if you invite me for dinner and I arrive with a  
23 bouquet of flowers, when I invite you for dinner you  
24 would arrive with a bottle of wine. That's a balanced  
25 reciprocity. It's according to the common etiquette  
26 of our society.

27 Q And negative reciprocity, what would that be?

28 A Negative reciprocity would be taking a certain amount  
29 of goods and -- or buying a certain amount of goods  
30 cheap and selling them at a high rate somewhere else  
31 and achieving a modicum of value which is not going to  
32 be repaid. It's an imbalanced situation, and that  
33 entails a whole different type of accumulation of  
34 wealth and so forth.

35 MR. GRANT: Now, I'd like to give you an example from the  
36 ethnohistorical material you've referred to, and I'd  
37 like to refer you to the green book, tab -- Exhibit  
38 895, the John Brown report, at tab 87. You recall  
39 this is the 1826 report in which he discusses, amongst  
40 other things, dealings with the Wet'suwet'en.

41 Now, on page -- my lord, there's a page that's on  
42 the right -- every second page I think is stamped on  
43 the right-hand side with the page number, and right  
44 after the page that's stamped 17 -- I apologize that I  
45 didn't get an opportunity to -- I didn't have this  
46 numbered at the top. The page immediately following  
47 that.

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1 THE COURT: Yes.

2 MR. GRANT:

3 Q Now, in this area of the description, I believe that  
4 Mr. Brown was referring to meetings with the Indians  
5 at the Forks?

6 A Yes.

7 Q And just about two, four, the sixth line up from the  
8 bottom -- the Forks being the -- around the area of  
9 the Bulkley and Skeena junction?

10 A Yes.

11 Q

12

13 "When I went there the first time in 1823  
14 several of the chiefs made me presents of  
15 furs, in return for which I made them what I  
16 considered very handsome presents consisting  
17 of cloth blankets, shirts, et cetera. But  
18 the following day they brought back the  
19 whole and informed me that it was not to  
20 receive such articles as these that they had  
21 given me their furs. One of them,  
22 Smuggletrum..."

23

24 S-m-u-g-g-l-e-t-r-u-m, or it may be t-s-u-m.

25

26 "...from whom I had received about twenty  
27 skins, I had given two yards of red..."

28

29 A "Stroud".

30 Q

31 "...stroud, one anah shirt..."

32 A-n-a-h.

33 "...one awl, one fire still, one gun flint."

34 A "One fire steel".

35 Q I'm sorry. Thank you. "...two..."

36 A "Two needles".

37 Q

38 "...two needles, two hanks thread, two yards  
39 gartering..."

40

41 A "Gartering" it looks like.

42 Q

43

44 "...ten bales, one half pound powder, one  
45 pound shot, and one six pound tobacco.  
46 Acquitted me to take..."

47

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- 1 A No, "requested me".  
2 Q Oh, "...requested me...", thank you, "...to take back  
3 the whole again and give him a..."  
4 A "Dressed skin".  
5 Q  
6  
7 "...dressed skin in the place. On which I  
8 took the articles and in their stead gave  
9 him two middling moose skins as an  
10 equivalent for his furs. And the same  
11 arrangement I was obliged to make with the  
12 others, after which they were all well  
13 pleased."  
14  
15 Now, it may be out of place, Doctor. I just  
16 wondered if with respect to that description Mr.  
17 Brown, with the Wet'suwet'en chief, how that fits into  
18 what you've described with respect to reciprocity; if  
19 that's an example of the reciprocity relationship?  
20 A It's a reciprocity, of course, from the Hudson Bay  
21 perspective. The trader is seeking goods at as cheap  
22 a rate as possible which will be sold on an  
23 international market, and the native people involved  
24 are seeking what they consider to be a value  
25 equivalent to what they have given, more or less a  
26 balanced reciprocity. But I think that this is  
27 significant for other reasons as well.  
28 Q Okay. And I'll come back to it. Can you go back to  
29 your report then? I'll return to that.  
30 At page 462 at the bottom you say:  
31  
32 "In terms of local community affairs,  
33 the chiefs claim that what is expended by  
34 one house is ultimately repaid by others,  
35 and in this way a roughly balanced  
36 reciprocity is achieved."  
37  
38 Now, when you talk about -- you're talking here  
39 about the Gitksan and the Wet'suwet'en?  
40 A Yes.  
41 Q And when you talk about local community affairs, what  
42 are you talking about? What is the community you're  
43 referring to?  
44 A Within the -- within the village or groupings of  
45 nearby villages, such as the ties between Gitseguekla,  
46 Kitwanga, Kitwancool, or between Hagwilget and  
47 Moricetown, or between Hagwilget and Gitanmaax or





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1  
2 "From my experience of present-day  
3 Gitksan and Wet'suwet'en feasts, and from  
4 information elicited from members of these  
5 societies, I do not believe that the  
6 accumulation of prestige through lavish and  
7 competitive giving is an important feature  
8 of the transactions that occur."  
9

10 And you say at the beginning of the previous  
11 paragraph:

12  
13 "This process, as I've experienced it,  
14 appears to be motivated throughout by the  
15 need to repay and clear the name of the  
16 chief and House from all indebtedness."  
17

18 And that is your conclusion based on your  
19 observations and your research?

20 A Yes.

21 MR. GRANT: And can you explain why you've come to that  
22 conclusion in that second -- the lower of the two  
23 references on page 465?

24 THE COURT: Isn't that explained by what he just said, that the  
25 purpose is to repay and clear the name of obligation  
26 of indebtedness? Surely that's already been  
27 explained, hasn't it? Hasn't it, Doctor?

28 THE WITNESS: I think so, and --

29 MR. GRANT:

30 Q Okay.

31 A -- the force and adamancy with which the participants  
32 explain it makes it very vivid in my mind.

33 Q Now, on the contrary, just on the bottom -- or on page  
34 466, you refer to the middle paragraph there. You  
35 state that chiefs:

36  
37 "...can, however, remove blots and stains  
38 that previous holders may have allowed to  
39 form on the lustrous image of the name.  
40 This is achieved by demonstrating their  
41 commitment and sense of responsibility to  
42 the feast system. It is not achieved by  
43 striving to maximize economic returns so as  
44 to be able to organize unusually lavish  
45 feasts."  
46

47 Now, can you -- what do you mean by "unusually

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- 1           lavish feasts", and why do you include that?
- 2           A    Well, the basis for using the word "unusually" is that
- 3               there's a standard on what is appropriate for a
- 4               different type of feast and for the standing of the
- 5               participants. For example, every high chief is
- 6               accorded the same status. On the books every chief
- 7               has the same status. Every high chief has the same
- 8               status. Every deniize' and every simoogit in the two
- 9               languages. And they're seated with deference in the
- 10              feast hall and people listen to them and don't
- 11              interrupt when they speak, and so on. But the thing
- 12              is, each house has different fortunes at any one time,
- 13              and they may not live up to the status of their
- 14              chief's name. So in a de facto sense they're not very
- 15              high at one time because they're not -- they don't
- 16              have their act together economically or in terms of
- 17              the feasting exchanges, but they're still treated
- 18              with -- with the respect -- with the ceremonial
- 19              respect. If they're going to turn that ceremonial
- 20              respect into living political force, they have to be
- 21              very good at the feast-giving and mobilize all their
- 22              forces, but they can only go to a certain height.
- 23              They can't go above any other -- potential of any
- 24              other chief. If they do, this is considered to be not
- 25              just bad form but a sign of aggression that someone
- 26              wants a big competitive fight, and that's not --
- 27              that's not accepted.
- 28           Q    And you're talking here about the Gitksan and
- 29               Wet'suwet'en feasts?
- 30           A    The Gitksan and Wet'suwet'en feasts that I've seen and
- 31               that people have talked about in the present
- 32               generation.
- 33           Q    And those described in the evidence of witnesses such
- 34               as Mary McKenzie and --
- 35           A    Yes, that's right.
- 36           Q    And you also rely on the Beynon account of the 1945 --
- 37           A    Certainly do. It's very rich material.
- 38           Q    Then you talk about, just at the bottom of that:
- 39
- 40                        "In the history of the
- 41                        Tsimshian-speaking area there have been
- 42                        aberrations to this procedure where balanced
- 43                        reciprocity (paying back) is converted into
- 44                        competitive accumulation of values. These
- 45                        values are realized by attempts to out-give
- 46                        other chiefs. Such activities are
- 47                        remembered in the ada'ox histories because

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                   they are such blatant violations of feasting  
2                   principles."

3  
4                   And then you state:

5  
6                   "The majority of examples of 'negative  
7                   reciprocity feasting' derive from the  
8                   market-distorted period of nineteenth  
9                   century potlatching."

10  
11                   And you then -- you use both terms, feasting and  
12                   potlatching, and if you can explain if there's a  
13                   difference between the two in anthropological terms?

14           A       Well, the Gitksan and Wet'suwet'en people are  
15                   adamantly opposed to the word potlatch. They don't  
16                   like it at all. They say it's -- first of all, it's a  
17                   foreign word. And I understand it's -- it comes from  
18                   a Chinook word. And they refer to -- when they do  
19                   refer to the word, it's referred to a competitive  
20                   giving of massive amounts of goods or sometimes it's  
21                   referred to as power potlatching. But it's referred  
22                   to in relation to the coastal people not among their  
23                   own ranks.

24           Q       And in the coastal ethnographies -- I'm sorry, in the  
25                   ethnographies of the Tsimshian-speaking area, and here  
26                   when you say that, are you referring to the area  
27                   encompassing the Gitksan, or a more limited area, at  
28                   the top of that paragraph?

29           A       I'm sorry, where?

30           Q       You say "In the history of the Tsimshian-speaking  
31                   area"?

32           A       This is -- this is the area rough -- as I said before,  
33                   roughly the -- the Nass and Skeena drainage system.

34           Q       Okay.

35           A       Of course the Bulkley portion of the Skeena drainage  
36                   system is the Wet'suwet'en people, but --

37           Q       Okay.

38           A       And the Upper Babine is the Babine-Carrier people.

39           Q       Why do you conclude that these power potlatches  
40                   referred to in the oral histories are "blatant  
41                   violations of feasting principles"?

42           A       Because the morality of feasting and of day-to-day  
43                   relations between house groups is a give and take of a  
44                   balanced reciprocity. That's the morality and the  
45                   ideology. So when this -- when this is violated in an  
46                   amazingly large scale, it is cause to be remembered.  
47                   It's something that gets passed on.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 Q Can you turn to the next page?
- 2 A Just as historians seldom write very much about
- 3 peaceful times, but you get a lot of accounts about
- 4 war.
- 5 Q Okay. Can you turn to page 467? And you -- I'm
- 6 sorry, I'll just -- I'll go from the bottom of 466, my
- 7 lord. You say:
- 8
- 9 "The Eagle Clan ada'oxs of the trading chief,
- 10 Legyeex provide examples of competitive
- 11 feasting which present-day Gitksan consider
- 12 to be in violation to the Native law."
- 13
- 14 Legyeex was the Tsimshian -- coastal Tsimshian
- 15 chief; is that right?
- 16 A Yes.
- 17 Q Okay. Now, then you go on to say -- and you make a
- 18 contrast from the ethnography that:
- 19
- 20 "In the anthropological literature,
- 21 these very anomalies are frequently treated
- 22 as the standard form of feasting or
- 23 potlatching all over the culture area.
- 24 Franz Boas, for instance, argued that the
- 25 underlying principle of potlatching is a
- 26 market relationship: '...the interest
- 27 bearing investment on property', and Codere
- 28 has stated that 'Potlatches were planned
- 29 like campaigns against an enemy.'"
- 30
- 31 Now, what was the basis -- from your reading of
- 32 these authors and the ethnographies of the area, what
- 33 was the basis for their conclusions about this
- 34 feasting?
- 35 A The basis for their conclusions, it was an analysis of
- 36 potlatches which have been seen and recorded at the
- 37 end of the nineteenth century and the early years of
- 38 the twentieth century.
- 39 Q Where?
- 40 A A lot of it was based on Boas' own work in the
- 41 Kwagulth or Kwakiutl area on the north end of
- 42 Vancouver Island and the adjacent mainland and island
- 43 around what is today Alert Bay.
- 44 Q Was this -- were these in any proximity to trading
- 45 centres?
- 46 A Yes, they were.
- 47 Q And did that affect the situation?



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 MR. GRANT:

2 Q Okay. And you then contrast Codere and Boas'  
3 descriptions with Drucker, and Drucker, you state:

4  
5 "...quite rightly characterizes feast-giving  
6 among the north coast peoples as essentially  
7 concerned with the veneration of the  
8 deceased chief, and the long process of  
9 properly installing a new one. He argues  
10 that the competitive potlatch recorded in  
11 the nineteenth century was most pronounced  
12 at the fur trade centres of Fort Rupert and  
13 Port Simpson where a number of chiefs from a  
14 wide area gathered in unusual circumstances  
15 engendered by the trading posts, and feasted  
16 competitively in an effort to establish an  
17 order and structure of precedence in these  
18 new social conditions. Yet even under these  
19 conditions of rivalrous feasting in the  
20 nineteenth century, the fruits of trade and  
21 profit-seeking could only be socially and  
22 morally validated in the framework of  
23 reciprocal gift-giving."  
24

25 And do you --

26 A There's another anthropologist who is of the same  
27 position.

28 Q Who's that?

29 A Who was working back in the 1920's and 30's -- Homer  
30 Barnett -- among the Coast Salish.

31 Q Okay.

32 A And he is -- his general assessment of the feasting is  
33 in accord with Drucker and it rings true to what I  
34 have learned from -- directly from the people and from  
35 the reading of their oral traditions --

36 Q And --

37 A -- in the Gitksan-Wet'suwet'en area.

38 Q And is Marcel Mauss, who you've already referred to,  
39 does he take a similar position?

40 A Yes. He's consistent. Yes.

41 Q And that --

42 A He adds another dimension as well, which is the  
43 psychic and spiritual power which is being  
44 reciprocated between the chiefs in the course of the  
45 events.

46 Q And you adopt this opinion on 467? You agree with  
47 that opinion, at the bottom?

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1           A    Yes, I do.

2           Q    Which is set out as a summation of the Drucker  
3                opinion.

4                Now, at page 469, you make reference to the Winter  
5                Ceremonies, and I'd just like to refer you to it. You  
6                just say half-way through that first paragraph:

7  
8                "That is to say, even in periods of greatest  
9                competition and aggression - for instance,  
10               during the period when the Winter  
11               Ceremonies, with their expression of  
12               ritualized property relations, diffused  
13               northward from the central British Columbia  
14               coast and reached the periphery of Gitksan  
15               and Wet'suwet'en society, there were actual  
16               limits to competition imposed by the  
17               structure of the kinship order itself.

18               These limits were defined by the  
19               principle of reciprocity. Reciprocal  
20               gift-giving and debt-paying is an indigenous  
21               feature of the social relations of the  
22               culture area."

23  
24               And you rely here on -- or, I'm sorry, I just  
25               wanted to ask you, with respect to that, that's your  
26               opinion and a further elaboration of what you've  
27               earlier described?

28           A    Yes.

29           Q    Now, can you just explain, because here you refer to  
30                the Winter Ceremonies, what you're referring to there  
31                and what influence that has on this dynamic you're  
32                describing?

33           A    The Winter Ceremonies were a set of events very -- I  
34                shouldn't say "were" because they're still -- they're  
35                still in existence in the middle of the coast and in  
36                the southern area, the Coast Salish area. It's a  
37                spiritual and religious as well as hospitality event  
38                that occurs after the end of the growing season when  
39                the people say the spirits come out of the land. And  
40                there's a whole system of dance societies that have  
41                grown up around this concept that has involved the  
42                hosting and guesting of members of different  
43                societies, where the guests who would come to a dance  
44                would bring a lot of goods to present to the host in a  
45                very competitive fashion. I'm not familiar with the  
46                history of this whole movement or set of social  
47                events, but it seemed to have been spreading all over



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 the coast because at the time of contact there are  
2 mentions of it, and some of the people I've talked to  
3 have memories of certain aspects of this having been  
4 practised in the Wet'suwet'en area and in some of the  
5 Gitksan villages. So some of the same features, some  
6 of the same types of reciprocity, existed in those  
7 Winter Ceremonies as in the feasting.

8 Q Okay. I'd like to refer you to page 470 where you  
9 state:

10  
11 "The mobilization of goods through trade  
12 in the nineteenth century was targeted upon  
13 the legitimization of this activity in the  
14 feast hall. The reverse never occurred:  
15 the feast did not become the avenue to  
16 straightforward market relations. Leading  
17 trader chiefs were indeed able to mobilize a  
18 retinue of support by means of feasting, but  
19 feasting has never been a vehicle for  
20 accumulating goods and services that can be  
21 expended in trade - beyond the sphere of  
22 feast-giving."  
23

24 Do you wish to comment on that opinion or -- first  
25 of all, I just wasn't sure if you had any modification  
26 to it? That's what I'm referring to.

27 A I'm afraid my mind was wandering a bit. Sorry.

28 Q You say at the end:

29  
30 "...feasting has never been a vehicle for  
31 accumulating goods and services that can be  
32 expended in trade - beyond the sphere of  
33 feast-giving."  
34

35 A Feasting -- no, I think I would stand by that. In the  
36 high -- in the high period of power potlatching, goods  
37 were accumulated for the feasting and for the  
38 establishing of status between high chiefs, but it --

39 Q Okay. Now, you refer to leading trader chiefs. Are  
40 you referring here to persons such as Legeeyx?

41 A Yes.

42 Q And Shakes?

43 A Chief Shakes on the mouth of the Stikine River was a  
44 very big --

45 THE COURT: How do you spell that?

46 THE WITNESS: -- Tlingit chief. S-h-a-k-e-s.

47 MR. GRANT:

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 Q And are you referring also to Nekt?  
2 A To some extent Nekt as well. Yes, he was --  
3 Q Okay. Was Nekt a Gitksan?  
4 A He was a Gitksan through his mother.  
5 THE COURT: Nekt is N-e --  
6 THE WITNESS: N-e-k-, underlined, t.  
7 MR. GRANT:  
8 Q Uh-huh.  
9 A Who came to prominence -- well, there's a whole series  
10 of oral narratives about his origins.  
11 Q Okay.  
12 A But was very prominent in the -- in the defence of the  
13 Kitwanga area against incursions by coastal peoples up  
14 through the Gardiner Canal and through Kitimat into  
15 the Kitwanga area, and the fort that George MacDonald  
16 excavated and his artefacts of which are on display in  
17 Ottawa.  
18 THE COURT: And when was that? Is it dated?  
19 MR. GRANT: When was Nekt or the fort?  
20 THE COURT: No, Nekt?  
21 THE WITNESS: It's in the general contact period, just on the  
22 fringes.  
23 MR. GRANT:  
24 Q You earlier said there was more than one Legeeyx. Was  
25 there more than one Nekt?  
26 A There's more than one Nekt too. Yes.  
27 Q Okay. Just --  
28 A The personalities are reborn through reincarnation  
29 over a long period of time, or the -- that's one way  
30 of saying it. Another is that people are socialized  
31 into a personality of a famous name when they're being  
32 trained to be a chief.  
33 Q Okay. Tab 68, 69 and 70, which will be exhibits, and  
34 you don't need to refer to them, my lord, except to  
35 note them. It would be Exhibit 896. 68, 69 and 70,  
36 refer to adaawks or oral histories of Nekt.  
37  
38 Q Now --  
39 A I'm not sure that's the limit of the adaawks on Nekt.  
40 Q No, that was just a sampling of the adaawk that you  
41 had. And MacDonald in his writings on the fortress  
42 refers to Nekt; is that right?  
43 A Yes. Yes.  
44 Q Now, can you explain, if Nekt was a Gitksan through  
45 his mother and was a trading chief, how -- and you've  
46 explained that the Gitksan were not generally as  
47 directly involved with this --

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1           A    He was a trading and raiding chief very much involved  
2                in the economic and political process of that general  
3                period, both on the Nass and down into the Kitimat  
4                area, as well as out to the Queen Charlottes, which  
5                was his origin.
- 6           Q    Yes.
- 7           A    So he was very much in that matrix, one of the fingers  
8                of that coastal trend, if you like, which was actually  
9                in the Gitksan area.
- 10          Q    Now, you go on to talk about gambling on the bottom of  
11                page 470, and you say:
- 12                        "A further aspect of the feasting  
13                        complex also worked against the principle of  
14                        negative reciprocity; that aspect was the  
15                        gambling which generally occurred after the  
16                        conclusion of a major feast."
- 17                        Then you say:
- 18
- 19
- 20
- 21                        "In many cultures around the world gambling  
22                        is a highly important institution where  
23                        social relations between persons and groups,  
24                        and between persons and nature, are markedly  
25                        reciprocal. Gambling is one of the few ways  
26                        members of such societies can engage  
27                        actively in negative reciprocity - in  
28                        seeking to win or obtain values at the  
29                        expense of others - without provoking  
30                        immediate social discord, vengeance and  
31                        feuding."
- 32
- 33                        Now, that's your opinion with respect to gambling  
34                        and its interconnection to the Gitksan and  
35                        Wet'suwet'en society?
- 36          A    Yes.
- 37          Q    And you say that this is -- that gambling is a highly  
38                important institution in many cultures around the  
39                world. Is this part of the study of anthropology?  
40                Has this been found by anthropologists?
- 41          A    It's certainly been found by anthropologists. It  
42                strikes anthropologists in many many situations, the  
43                adherence to gambling, and it has been analysed as a  
44                way of seeking negative reciprocity or seeking gain  
45                which is outside the strictures of kinship. So you  
46                can -- you can strike it rich and nobody will be able  
47                to retaliate because you end up wearing their shirt.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 That's the sort of situation that results.
- 2 Q Okay. Now, can you give some examples of --
- 3 A Oh, there's gambling in all the cultures of this
- 4 coast, as far as I know, and we -- when I worked in
- 5 the museum we had gambling stick games from the Inuit
- 6 areas in northern Canada, and the forest areas, right
- 7 across -- and very significant parts of the ceremonial
- 8 cycle of the Iroquois are dependent on who wins the
- 9 gambling game in the middle of the ceremonies.
- 10 Hunting societies engage in a lot of gambling.
- 11 Q Okay. You just cut yourself off. You said "forest
- 12 societies across", across Canada are you talking
- 13 about?
- 14 A Across Canada.
- 15 Q Has there been a major work done by Woodburn regarding
- 16 gambling?
- 17 A Yes, on the group of hunters in the centre of Africa
- 18 called the Hadza, H-a-d-z-a, where he analysed in some
- 19 detail this function of gambling in a decentralized
- 20 society.
- 21 Q What about with respect to European peasant societies
- 22 that are kinship based?
- 23 A Oh, yes. A colleague of mine by the name of Michael
- 24 Hurzfeld, H-u-r-z-f-e-l-d, has recently brought out an
- 25 interesting book on the card-playing gambling among
- 26 the peasants of Crete as a significant way of
- 27 unravelling the relation -- the kinship relations of
- 28 this mountain peasant village. And I've certainly
- 29 noticed it personally in my travels in that part of
- 30 the world as well.
- 31 MR. GRANT: Possibly, my lord, we should stop at this moment.
- 32 I'm going to another phase of this particular part of
- 33 evidence.
- 34 THE COURT: Yes. How are you getting along?
- 35 MR. GRANT: I'm -- well, I think I'm doing fairly well, if I
- 36 could just -- I think we've got through Dr. -- we've
- 37 covered about almost 60 pages and, my lord, I think
- 38 that in light of the pace, that I would anticipate
- 39 completing this whole -- all of this chapter on trade.
- 40 And if I can, I think what I would like to do is that
- 41 I would -- if I organize myself and I can severely
- 42 edit and -- deal with the other matter in less than
- 43 half an hour when we next sit, that is, that chapter
- 44 on feasting, and complete. I'd like to be able to
- 45 just do it very quickly and not the -- the bulk of the
- 46 material you will now have, and that's what I would
- 47 anticipate. In other words, I think I would

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 ultimately save time by doing that.

2 THE COURT: How long do you think you'll take to finish the  
3 chapter period, the whole afternoon?

4 MR. GRANT: Yes, I will finish -- that's my objective, and I'm  
5 going to now over the noon hour work, reorganize if  
6 it's -- if I need to. I would complete the chapter on  
7 trade this afternoon.

8 THE COURT: Well, I was going to suggest that, if necessary, we  
9 come back at 1:00 -- I'm sorry, at 1:30, and that we  
10 go until five. Could you finish it all then if we  
11 worked until five, or you say if you had the week-end  
12 you could finish in half an hour?

13 MR. GRANT: Yes. What I would do is I would reorchestrate myself  
14 to do that, so I may be able to do that, but I think  
15 that ultimately I would save time if I had time over  
16 the week-end.

17 THE COURT: All right. Well, I think I'll make an offer you  
18 can't refuse, Mr. Grant. We'll go as long as we have  
19 to this afternoon to finish this chapter you're  
20 talking about, and we'll give you an hour on Monday  
21 morning from nine to ten. Yes, Monday morning from  
22 nine to ten.

23 MR. GRANT: You would be available then?

24 THE COURT: From nine to ten, yes. We start in the Court of  
25 Appeal at 10:15.

26 MR. GRANT: That I think would be -- that would give me the day  
27 tomorrow to organize it.

28 THE COURT: You'll have to finish at ten o'clock sharp, and not  
29 only do I mean that we will adjourn at that time, but  
30 you'll have to be finished by that time.

31 MR. GRANT: That's an offer I certainly can't refuse, my lord.

32 THE COURT: All right. Is 1:30 convenient?

33 MR. GRANT: Yes, that's fine.

34 THE COURT: Madam reporter? All right. Thank you.

35 THE REGISTRAR: Order in court. Court will recess until 1:30.

36

37 (PROCEEDINGS ADJOURNED FOR LUNCH RECESS)

38

39 (PROCEEDINGS RECONVENED PURSUANT TO ADJOURNMENT)

40

41 THE REGISTRAR: Order in court.

42 THE COURT: Thank you. Mr. Grant?

43 MR. GRANT:

44 Q Thank you, my lord. Page 470.

45 Doctor, I was referring you to the institution of  
46 gambling you refer to on page 470. Among the Gitksan  
47 or the Wet'suwet'en, is gambling referred to in the

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1 oral histories?
- 2 A Yes, it is. It's quite prominent. There's instances  
3 of people losing everything they possess through  
4 gambling, which sets off a whole chain of subsequent  
5 actions in the family history. It's part of the  
6 ongoing culture too. It's reflected in the name of  
7 one of the high chiefs of the Gitsequekla village.
- 8 Q Who's that?
- 9 A Guksan. His name means gambler, the gambler, and his  
10 nax nox -- when he had his pole-raising feast he  
11 performed the -- his spirit power, which is called nax  
12 nox, and it involves throwing his gambling sticks down  
13 in front of the other chiefs and challenging their  
14 spiritual power with his spiritual power. And this  
15 whole thing was acted out with each of the high chiefs  
16 who came as guests in that event.
- 17 Q And you saw -- that's one of the feasts you  
18 attended --
- 19 A Yes.
- 20 Q -- and you saw?
- 21 A The whole institution astounded the fur traders who  
22 thought people would be better guided saving their  
23 possessions so they could go out hunting for furs, and  
24 there was a lot of gambling around the forts, as I  
25 understand it, in the Carrier regions, and also I know  
26 from my research in Ontario, all the forts there  
27 had -- people were gambling whenever they would -- it  
28 would be -- it's a form of redistribution, as I've  
29 argued here, where people can seek to make windfall  
30 profits without the consequence of someone putting  
31 demands on those profits through their ties of  
32 kinship, or taking umbrage that they have suffered  
33 from an imbalanced reciprocity.
- 34 Q Is -- within the context of kinship societies, is  
35 gambling viewed as a negative feature of the society?
- 36 A You mean morally?
- 37 Q Well, in any way, in terms of anthropological terms?
- 38 A No, it's just -- it's treated as a feature of the  
39 society and it's avidly entered into by all the actors  
40 at one time or another in their life.
- 41 Q You --
- 42 A And it's integrated right into their public and  
43 ceremonial lives as well as the day-to-day.
- 44 Q You described earlier that the power potlatches that  
45 are referred to in some of the oral histories were  
46 exceptions or aberrations, and that's why they were  
47 set out in those oral histories. Is that the same

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 with the gambling events that are described in the  
2 oral histories?  
3 A Well, I would surmise so, yes, when it comes to the  
4 level where the man has gambled away everything, all  
5 the clothes and the possessions of his whole house  
6 group, and whole village sometimes, the extended  
7 wilnat'ahl family. In some of the earlier adaawk  
8 there are two groupings sometimes in one village or  
9 sometimes across from each other on the other side of  
10 the river, where they were completely impoverished,  
11 and this would be considered an extreme. And you  
12 must -- in any of these things, you mustn't go to  
13 extremes, like any institution. And when people do go  
14 to extremes, the consequences are remembered as points  
15 in their oral history. Like the story of the revenge  
16 of the mountain goats for the lack of respect. Those  
17 things are kept in mind.  
18 Q Have you -- is gambling still conducted in the modern  
19 context among the Gitksan and Wet'suwet'en?  
20 A Yes, it is.  
21 Q And is it viewed negatively as a negative activity?  
22 A Well, there's -- there's discussion on it always that  
23 people -- but it's not that there shouldn't be any  
24 gambling, it should be -- it should be engaged in  
25 under -- to a certain modicum. There should be a  
26 happy balance, but no, they -- there's no -- they're  
27 not opposed to gambling, the people in the villages,  
28 is my understanding, throughout that region.  
29 MR. GRANT: Can I refer you to page 472 of your report? I'm  
30 sorry, I'm going to have to --  
31 THE COURT: 472?  
32 MR. GRANT:  
33 Q 471 initially. Half-way down that first paragraph, my  
34 lord, it says:  
35  
36 "These differences can be classified broadly  
37 into two types: those where the recruitment  
38 of wealth-producing labour follows strict  
39 laws of succession and inheritance,"  
40  
41 That's the first type.  
42  
43 "and..." secondly, "...those where only the  
44 outline of the system remains - where the  
45 ideological idiom of kinship may be  
46 preserved but the actual chiefly lineage has  
47 effectively broken the strictures of kinship

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                                reciprocity - "

2

3                                Then going to the next page, 472:

4

5                                "The Gitksan and Wet'suwet'en social  
6                                system conforms to the first type of chiefly  
7                                grouping, although undoubtedly its features  
8                                have fluctuated and changed through the  
9                                centuries, as the oral histories indicate."

10

11                                And that's your conclusion with respect to those  
12                                two types of chiefly groupings; is that right?

13                                A    Yes.    However, within -- the danger of making any  
14                                typology is there are always exceptions and usually  
15                                there will be an overlay of the features of one within  
16                                the other.    So it always bears further investigation  
17                                and further analysis and further collection of data.  
18                                But a type of society or a type of institution is  
19                                generally identified by its dominant features, but it  
20                                may have some of the features of the other type within  
21                                it, but they're not of a dominant nature.

22                                Q    Now, is there any, within the Gitksan social system  
23                                and the Wet'suwet'en social system, is there any  
24                                aspects of the hierarchical situation of overarching  
25                                paramount chiefs?

26                                A    No, there are no overarching paramount chiefs, to my  
27                                knowledge.    Are you speaking of today?

28                                Q    Today, yes.    I'm saying in any aspect of the society.

29                                A    Well, within the houses, yes, certainly.

30                                Q    Yes.

31                                A    There's a hierarchy of authority and there are people  
32                                of higher statuses in one lineage perhaps than -- than  
33                                in another.

34                                Q    Okay.    What -- is that the same with the Wet'suwet'en  
35                                and the Gitksan?

36                                A    Yes, it is.    Some -- to some extent it can be extended  
37                                to the level of the whole clan with the Wet'suwet'en,  
38                                and they're more at home with having been -- having  
39                                one chief speak on behalf of the whole clan.

40                                Q    Okay.    On the bottom of 472, or half-way down, you  
41                                refer to:

42

43                                "The Madeek Ada'ox tells of the forays of the  
44                                Kitselas people by canoe, to Kitimat,  
45                                Kitlope and even Bella Bella in ancient  
46                                times (p.64 to 78), and later in wars with  
47                                the coastal Tsimshian, which were said to



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1                   have occurred over several centuries (p.  
2                   184)."

3  
4                   That reference is -- that is one of the references  
5                   that you refer to and that is the Madeek Ada'ox that  
6                   we filed this morning?

7                   A    Yes.

8                   Q    Exhibit 899.

9                   And your conclusion is on page 473, that:

10  
11                   "The Gitksan and Wet'suwet'en social  
12                   system possessed a degree of hierarchy  
13                   before the coming of Europeans, but the  
14                   hierarchy was not consolidated into a  
15                   self-perpetuating aristocracy."

16  
17                   And that is your conclusion; is that right?

18                   A    Yes. And this was explained to me by informants again  
19                   and again, that no house can -- is allowed to have a  
20                   status higher than other houses, but you in the course  
21                   of paying off your debts and doing it with regularity  
22                   and with proper decorum, you can rise to the level of  
23                   a high -- what a high chief should really be. So it's  
24                   a question of each generation being assessed against  
25                   the history of their -- of their house and the history  
26                   of their peers, but not everyone can fulfil the equal  
27                   status that is ascribed to them. They have to achieve  
28                   as much of that as they can within the course of their  
29                   lifetime.

30                   Q    Now, you state -- you go into the next session of gift  
31                   and reciprocity, and you describe just before that --  
32                   this is at the bottom of page 473 and going to 474:

33  
34                   "To understand the normative principles which  
35                   govern this process, and which militate  
36                   against social class formation over the  
37                   generations, it is important to examine the  
38                   nature of gift-giving which is central to  
39                   the reciprocal feast system."

40  
41                   And this is the reason you begin to deal with the  
42                   gift and reciprocity; is that right?

43                   A    Yes.

44                   Q    One term that I just wanted to be -- you referred to,  
45                   which is prestations. It's in that first paragraph  
46                   under that gift of reciprocity.

47                   A    Yes.

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1 Q What do you mean by that?  
2 A This is a term that's in use by anthropologists as an  
3 analytical term for analysing the two sides of the  
4 relationship in relation to a gift. It simply refers  
5 to the thing that is given. So the -- you have your  
6 original gift and that entails a set of expectations  
7 in the part of the receiver, and when the receiver  
8 returns he doesn't return a gift, he returns a  
9 different prestation. So it's a generic -- it's a  
10 general term for the thing given in a transaction.  
11 Q Okay.  
12 A Two-way transaction.  
13 MR. GRANT: Can you go to the top of 475, please?  
14 THE COURT: Does it have to be the same thing when you're giving  
15 a gift back? Is it the same thing, or can prestations  
16 refer to exchanged gifts; one gives a cow and the  
17 other gives a horse?  
18 THE WITNESS: They're both prestations in both instances, yes.  
19 THE COURT: In that case there's two prestations?  
20 THE WITNESS: Yes. Yes.  
21 THE COURT: What's the difference between a prestation and a  
22 gift?  
23 THE WITNESS: Well, the gift refers to the initial thing that  
24 is given, and then you may have a series of  
25 transactions flowing between the two people, but the  
26 gift is the initial thing that kicks it off.  
27 THE COURT: It's a noun instead of an adverb.  
28 THE WITNESS: Sorry?  
29 THE COURT: It's a noun.  
30 THE WITNESS: It's a noun. Yes.  
31 MR. GRANT:  
32 Q On the top of the next page you state:  
33  
34 "In the Gitksan and Wet'suwet'en system the  
35 receiving side ensures that it repays 'with  
36 interest' or 'tops off' the prestation it  
37 has received, and it does so with something  
38 extra, thereby eliminating the possibility  
39 of prestige accruing to the creditor."  
40  
41 Now, can you explain that by example within the  
42 Gitksan and Wet'suwet'en system?  
43 A Well, when -- when one chief gives another chief a  
44 gift and it's not repaid, then the giver is a creditor  
45 of the receiver. And the receiver, to get out of  
46 debt, a social debt, so to speak, will find the  
47 correct opportunity to make a repayment and he'll give

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1 something a little extra. It's like the baker's dozen  
2 concept at the bakery and -- well, one example, when  
3 the chiefs who are going to host a feast invite their  
4 fellow chiefs as guests, they send out a party called  
5 the Te'ts, that's T-e-'-t-s, and the Te'ts goes out  
6 and invites the chief -- this is all done standing in  
7 the chief's house. Nobody sits down. It's a very  
8 formal relationship. Sometimes today a younger chief  
9 will try to do it by telephone and will be censured.  
10 They go there and in some cases they actually  
11 spread-eagle down over the chief who's going to be  
12 invited.

13 Q Right.

14 A I've seen that. And the chief who is being invited  
15 will say whether -- whether he's coming or not.  
16 Either he says right away or he says "I'll let you  
17 know tomorrow or shortly." And to register that he's  
18 going to arrive, he gives usually these days \$20,  
19 something like that. When he gets to the feast, at a  
20 certain period in the transactions there are all sorts  
21 of things that go on there.

22 Q Yes.

23 A The host gives back the \$20 to all the high chiefs, or  
24 whatever the specific sum is, plus something a little  
25 bit extra, two or three dollars, five dollars. But if  
26 they were to give back \$40, this would be considered  
27 as shaming all these chiefs and really a non-U thing  
28 to do.

29 THE COURT: Is that what Boas talked about in the gift of  
30 blankets?

31 THE WITNESS: It's related, yes, but he's analysing what I call  
32 the power potlatching.

33 THE COURT: Yes.

34 THE WITNESS: Where there would be literally thousands of  
35 blankets exchanged.

36 THE COURT: And you would give an enemy a lot of blankets so he'd  
37 have to give you more back?

38 THE WITNESS: To shame him, yes. To show that -- to work out  
39 the status between you.

40 MR. GRANT:

41 Q That's actually what I was just going to lead to. The  
42 description you gave of the Te'ts, for example, where  
43 you give a little bit more to top it off, is there a  
44 distinction between that and the power potlatches  
45 where -- that you've described earlier?

46 A Well, the power potlatches, you're giving all you can  
47 to -- and then you -- at the end the giver is

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1           challenging the receiver to up the ante. So you're --  
2           if you want to challenge the other person's material  
3           wealth and accumulation, then that's the sort of route  
4           that is taken.

5           Q   And that's the situation that Boas was describing?

6           A   Yes.

7           Q   I'd like to take you to page -- I'm sorry, do you have  
8           something more than that?

9           A   No, it's really to do with feasting I guess.

10          Q   Okay. On page 477 -- well, I guess I have to start on  
11          476 to put this in context, Doctor. It says:

12  
13                   "Fourth, the chiefly exchanges are  
14                   elaborated by the extra giving, receiving  
15                   and counter-giving of the finest foodstuffs  
16                   and items of clothing and adornment which  
17                   the chief's kin group and in-laws have been  
18                   able to secure for the occasion. From the  
19                   available evidence, most of the exchange of  
20                   goods across the region in pre-contact times  
21                   was initiated and usually carried out by  
22                   means of such ceremonial giving. As Gunther  
23                   notes in reference to a Nootkan chief that  
24                   Captain Galiano encountered in the 1780's:

25  
26                   'He offered to entertain the visitors if  
27                   they would come to his village, but he  
28                   did all his trading under the guise of  
29                   exchanging presents. This was a  
30                   frequent practice among the important  
31                   chiefs, who said they did not want  
32                   common barter but offered the commanders  
33                   of expeditions presents, usually of sea  
34                   otter skins, and in return expected  
35                   gifts of value.'

36  
37          A    "Of equal value".

38          Q    "Expected gifts of equal value". Thank you.  
39               Then back to what you state:

40  
41                   "The ceremonial giving itself did not,  
42                   and does not constitute economic exchange  
43                   and distribution. It is a public ceremonial  
44                   celebration of social relations, kinship  
45                   positions, political process, ranking and  
46                   the demonstration of House and clan honour."  
47

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- 1                   And there you're referring in all parts, except  
2                   your reference to Capital Galiano, to the Gitksan and  
3                   Wet'suwet'en; is that right?
- 4           A     Yes.
- 5           Q     Now, are there -- I would like to ask you, is there  
6                   any cross-cultural examples, other than what Captain  
7                   Galiano says, of similar relationships with other  
8                   groups?
- 9           A     Oh, certainly. It was the whole medium of interaction  
10                  between the British and the Iroquois, for example, and  
11                  all the surrounding peoples in Eastern Canada and the  
12                  Eastern Seaboard of the States.
- 13          Q     Okay.
- 14          A     The same sort of ceremonial gift-giving initiated and  
15                  sealed all the agreements.
- 16          Q     Now, I referred you this morning to Brown's account --
- 17          A     In fact, the -- sorry, but the events that led to the  
18                  Royal Proclamation of 1763 were instigated or were  
19                  precipitated to a large degree when the British  
20                  decided to stop this reciprocal gift-giving with their  
21                  Indian allies who -- after the cessation of  
22                  hostilities with the French. And it had been a whole  
23                  way of trade and interaction for a very long time  
24                  around the Great Lakes and suddenly it stopped, and it  
25                  precipitated -- it was one of the main factors  
26                  precipitating the Pontiac Rebellion of 1763.
- 27          Q     And that was part of what you were looking at when you  
28                  did your Iroquois work?
- 29          A     Yes. Yes.
- 30          Q     Now, you recall this morning that I referred you to  
31                  the William Brown report of 1826, Exhibit 895, and  
32                  there was a description there where Smogelgem was  
33                  dissatisfied with his -- the goods he had. Is that  
34                  connected to this or analogous to?
- 35          A     Oh, certainly. It's a description of a giving and a  
36                  receiving and a returned prestation. The trader  
37                  gave -- or the Indians gave furs and the trader  
38                  responded with trade goods, but then he found out the  
39                  following day it wasn't quite what they expected and  
40                  the process had to be -- had to be altered. The  
41                  perceptions of the native people on what was an  
42                  equivalent value was different from his perceptions  
43                  related to similar trade in other parts of the Hudson  
44                  Bay Company's realms at that time.
- 45          Q     Okay. Can you go to page 479 of your report where you  
46                  talk -- where you refer to Oberg. Oberg was an  
47                  anthropologist as well, wasn't he?



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1 greater value at the risk of causing  
2 insult."  
3  
4 And that's your opinion, that latter part I've  
5 read?  
6 A Yes.  
7 Q And is that where you are referring, for example, to  
8 the description of William Brown?  
9 A Yes.  
10 MR. GRANT: I just note that that's referenced at Exhibit 895,  
11 pages 17 to 19, my lord.  
12 THE COURT: 895, pages 17 to 19?  
13 MR. GRANT: Yes.  
14 THE COURT: Thank you.  
15 MR. GRANT:  
16 Q That's tab 87.  
17 Now, you make reference on the top of 480 to  
18 another reference of William Brown. It's the same  
19 William Brown?  
20 A Same William Brown, I believe from his diary.  
21 MR. GRANT:  
22 Q Okay. Page 480. You refer again to Oberg on page  
23 481, and there you -- Oberg states that:  
24  
25 "'The great man...'"  
26  
27 -- with reference to the Tlingit.  
28  
29 "...was not a successful fisherman or hunter  
30 as was true of the Eskimo or the Athapaskan  
31 of Northern Canada, but a man who used these  
32 goods not for immediate consumption, but  
33 exchanged them for such things as slaves and  
34 coppers which were given away at potlatches.  
35 He was eminent not because he was rich in  
36 food, but because he had acquired honour  
37 through the distribution of goods derived  
38 from food.'  
39 Oberg here reveals..."  
40  
41 -- this is your statement.  
42  
43 "Oberg here reveals the two influences which  
44 are blended in the Gitksan and Wet'suwet'en  
45 cultures - coast and inland - in a manner  
46 which is at the once hierarchical and  
47 egalitarian, that involves both the

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1                   sectional maximization of benefits and the  
2                   reciprocal obligations of each and every  
3                   House."  
4

5                   I wonder if you could explain those last two  
6                   phrases in your conclusion there, the "maximization of  
7                   benefits and the reciprocal obligations of each and  
8                   every house."

9           A   Well, it's -- I'm referring to the structure of  
10           relations within the houses and between the houses.  
11           You have the hierarchical structure within the house,  
12           and the ideology of reciprocal relations between the  
13           houses. In the quote above, you have -- from Oberg,  
14           discussing the house system of the Tlingit, in his  
15           last line he explains, to me anyway, how this whole  
16           system of power potlatching evolves out of the  
17           reciprocal giving of food in the conventional feasting  
18           system.

19          Q   Now, I'd like to refer you to page 482, the Gitksan  
20           and Wet'suwet'en trade, and you start by referring to  
21           Wolf. And this is Eric Wolf that you're referring to  
22           here?

23          A   Yes.

24          Q   And if you could -- the black book, that is the latest  
25           document, I think that the -- well, I'll go through  
26           it. This is an excerpt from that book; is that right?

27          A   Yes.

28          Q   And the first part is with respect to Wolf's concepts  
29           of kin-ordered mode of production in which he analyses  
30           the kinship-ordered modes of production which you've  
31           already referred to?

32          A   Yes.

33          Q   And you relied in part upon him and his analysis in  
34           your own research?

35          A   Yes, I did.

36   THE COURT: What's the date of this book or paper?

37   THE WITNESS: I believe it's -- it's in the cited bibliography.

38   THE COURT: All right. Thank you, fine.

39   MR. GRANT:

40          Q   1982 University of California.

41               Now, I'd like to refer you to page 185. Do you  
42           have that?

43          A   I do.

44          Q   Okay. Now, I'm going to read from the article, my  
45           lord, because there's more in the article than was in  
46           this report that I think is relevant. The first  
47           statement is that:



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"The newcomers quickly realized that they were dealing with trade partners as astute and calculating as any they had encountered on their voyages. They had, in fact, entered an area of extensive native trade."

Now, this is his comment with respect to the Northwest Coast; is that right?

A That's right.

Q During the fur trade era?

A Yes.

Q And do you agree with that opinion and adopt it as your own?

A I agree with that opinion, particularly as it applies to the coastal -- the coastal peoples.

Q Okay. What about with respect to the Gitksan and/or the Wet'suwet'en? Now, of course, I'm not -- of course the early ships didn't come there. I'm saying would it be fair to say that the Gitksan were trade partners as astute as any -- as the Europeans would have encountered on their voyages?

A I don't think so, from that citation of William Brown, for example.

Q Yes.

A The people were preoccupied with another evaluation system than that of turning a profit through trade.

Q Okay. My lord, I -- then you go -- I'm sorry?

A They were demanding the dressed hides because they were necessary or useful for them in their feasting cycles rather than for turning a direct profit in terms of maximizing goods that they could sell in another market at a mark-up.

Q Okay. Now, this book "Europe and the People Without History" analyses different aspects of that -- of contact?

A It's -- it's an interesting account. It's written by an anthropologist who has been studying all the ethnohistorical work of the last 50-odd years in relation to the effects of the expansion of the European economy into the rest of the world between 1400 and 1800, in terms of what we now know or have some idea of in terms of the social structure at the time of contact in the different parts of the world, and then how the various phases of the unfolding of the European economy affected that social structure;

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R. Daly (for Plaintiffs)  
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1           such as the fur trade and the slave trade and  
2           settlement and growth of industry.

3           Q    Okay.

4           A    Or beginnings of industry.

5           Q    Now, Professor Wolf goes on to state, and I will quote  
6           here from your report, which is the -- follows  
7           immediately after the two sentences I've just read,  
8           that:

9  
10                    " 'Since resources in the Northwest Coast area  
11                    were often localized, there had long been  
12                    trade between islanders and mainlanders, as  
13                    well as between coast-dwellers and inland  
14                    populations. Thus olachen ran only in  
15                    restricted areas, such as the Nass and  
16                    certain rivers and inlets along Queen  
17                    Charlotte Sound; people came from far away  
18                    with goods to trade for olachen oil, a  
19                    monopoly held by groups with rights held  
20                    over the fishing tracts. Hunting for land  
21                    animals was especially important in the  
22                    upriver communities. The northern Tlingit  
23                    made the Chilkat blankets woven with  
24                    mountain goat wool and cedar bark.' "

25  
26           THE COURT: That's C-h-i-l-k-a-t?

27           THE WITNESS:   K-a-t.

28           MR. GRANT:

29           Q    Capital C.

30  
31                    " '...Copper was brought from the Copper River  
32                    area to the Chilkat and taken south from  
33                    there. The Haida and Nootka were especially  
34                    known for their fine canoes....The islanders  
35                    supplied the mainlanders with dried venison,  
36                    seal oil, dried fish, shellfish, green stone  
37                    for tools, cedar bark, cedar bark baskets,  
38                    cedar wood for ceremonial artifacts, and yew  
39                    wood for bows and storage boxes. The  
40                    mainlanders furnished the islanders with  
41                    hides and furs, cloth and clothing, olachen  
42                    and olachen oil, cranberries, horned spoons,  
43                    baskets of spruce roots, and Chilkat  
44                    blankets...The mainlanders also traded with  
45                    the Athabaskan speakers of the interior,  
46                    bringing cedar bark baskets, fish oil, iron  
47                    and shell ornaments to them and returning

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1                   with hides, moccasins, thongs and placer  
2                   copper.'"
3

4           A    This is -- that citation is an abbreviation of the  
5                whole passage in here which deals with the goods from  
6                the whole of the B.C. and southern Alaskan coast.

7           Q    That's that whole paragraph?

8           A    Yes.

9   MR. GRANT:  Oh, I see.  It's a couple of paragraphs.  Yes.  
10               Possibly tab 3 could be marked as the next exhibit  
11               number, my lord?

12   THE COURT:  All right.

13   THE REGISTRAR:  Exhibit 900.

14  
15               (EXHIBIT 900: Tab 3, "Europe and the People Without  
16               History", by Eric R. Wolf")
17

18   MR. GRANT:  I don't know if I win a prize or not.

19   THE COURT:  I wouldn't push your luck too hard on that one.

20   MR. GRANT:

21           Q    I almost closed up my notes.  I suggest I was  
22                rewarding myself.

23                Now, Doctor, you go on to say:

24  
25                       "Trade networks between coast and  
26                       interior were much used in the fur trade  
27                       period for conducting barter and trade, and  
28                       transporting cargo.  The oral histories  
29                       indicate that trails and river systems used  
30                       in this trade were used for regular  
31                       communication, social intercourse and the  
32                       exchange of goods prior to the advent of  
33                       Europeans.  Even today members of House  
34                       groups still obtain coast foods for their  
35                       own consumption and to give away to friends  
36                       and neighbours and to people who live out of  
37                       the area.  Most enduring, indigenous trade  
38                       in the region consisted of barter in  
39                       subsistence goods and equipment between  
40                       islands, the mainland coast, and the  
41                       interior.  The Gitksan and Wet'suwet'en by  
42                       virtue of their location at the conjunction  
43                       of three major North American climatic and  
44                       biotic zones - coast, interior plateau and  
45                       boreal forest described in Chapter IV.4.a.,  
46                       and located between the coastal and interior  
47                       peoples - were actively engaged in barter

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1 long before the arrival of the Europeans."

2

3 And that is your conclusion with respect to the  
4 continuity of trade?

5 A Yes. Unfortunately, many of these things don't show  
6 up in the archaeological record because of the acidity  
7 of the soil and the fact that they're made of organic  
8 materials that just don't last. It's consistent with  
9 all the other available source material. There have  
10 been some interesting finds in the Olympic peninsula  
11 where mud covered a large village for 700 years, and a  
12 lot of very fine cedar work and carved wooden work and  
13 skin and hide artefacts were preserved by that mud,  
14 give us some indication of the organic material at  
15 that period.

16 Q Now, I go to 485 and a statement that you make there,  
17 fifth line down:

18

19 "Between 1876 and roughly 1960, much of the  
20 trade with coastal people took place during  
21 the weeks when cannery work brought Native  
22 groups together from all over the region."

23

24 And here you're talking about work at coastal  
25 canneries; is that right?

26 A That's right.

27 MR. GRANT: Now --

28 THE COURT: Where did you find that passage, Mr. Grant?

29 MR. GRANT: I'm sorry, my lord, 485.

30 THE COURT: Oh, all right. Thank you.

31 MR. GRANT: Four lines down from the top.

32 THE COURT: Yes. Thank you.

33 MR. GRANT:

34 Q Doctor, yesterday you described the annual seasonal  
35 round, and now you're talking about trade, and you  
36 refer to the fact here that the trade took place when  
37 cannery work brought native groups together.

38 Canneries were developed after contact; is that right?

39 A Canneries were developed after contact. Yes.

40 Q What is your opinion as to the impact of the  
41 involvement in the coastal fishery and canneries on  
42 the annual seasonal round of the Gitksan and  
43 Wet'suwet'en?

44 A Well, I would say that the cannery work is -- fits in  
45 to one of the slots in the seasonal round. It's  
46 analogous to the annual travel out of the  
47 Gitksan-Wet'suwet'en area into the Nass and the

R. Daly (for Plaintiffs)  
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1           Kitimat areas for the oolichan run, when they would  
2           take in, according to the oral histories and peoples'  
3           accounts and so on, they would take their local  
4           specialties for -- to give as gifts to have the right  
5           to fish. They just followed the same procedure when  
6           people were drawn out to the coast to work for that  
7           six weeks in the summer during the fishing season  
8           putting up fish in the canneries in the Nass and in  
9           particularly in the lower Skeena.

10          Q   Well --

11          A   It was -- sorry.

12          Q   Can you comment whether the involvement of the  
13               Gitksan -- the Wet'suwet'en were also involved in the  
14               canneries; is that right?

15          A   Yes.

16          Q   Can you comment on whether the involvement of the  
17               Gitksan and Wet'suwet'en in the coastal commercial  
18               fishery in the period you've described here, 1876 to  
19               1960, had a detrimental effect on their social  
20               structure and seasonal round?

21          A   I don't think it would have much effect at all because  
22               it's not disruptive of the basic flow of the -- of the  
23               season, except that a portion of each family had to --  
24               had to find access to salmon if -- they had to either  
25               divide their family members so that some stayed home  
26               to put up salmon along the river, or else to get  
27               permission around the lower river to do food fishing  
28               in the times when they were not working in the cannery  
29               or working with their fish boats. And that procedure  
30               still goes on today and it fits in within the slot  
31               when, before canneries, they would be gathered  
32               together at their fishing sites along the river in  
33               their territories.

34          Q   Now, you state on the same page that:

35  
36                       "One of the most important features..."

37  
38               This is the next paragraph, my lord.

39  
40               "...of trade for the Gitksan and Wet'suwet'en  
41               was, and is, occasioned by the annual spring  
42               run of oolichan, on the Nass and Gardiner  
43               Canal."

44  
45               And then you cite as -- the contemporary concern  
46               by Tenimgyet, now in evidence here, as an example.  
47               Why do you conclude, other than that reference, that

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1           this was -- this was and remains one of the most  
2           important features of trade? You may want to take the  
3           historical statement first.  
4           A   Well, I've laid it out on one of the diagrams in here  
5               showing the flow of goods between the coast and the  
6               interior.  
7           Q   Uh-huh.  
8           A   Very -- it's -- one of the nodules or the nodes of  
9               trade was the oolichan fishing grounds.  
10          Q   Uh-huh.  
11          A   It funnelled in gift produce from the islands, the  
12               Queen Charlotte Islands, and the down coast islands,  
13               and the islands of the Alaskan Panhandle. It  
14               funnelled in produce from the northern part of the  
15               Alaskan Panhandle, such as copper and Chilkat  
16               blankets, all the cedar products and sea mammal  
17               products from the island belt. These all came into --  
18               for trade and exchange to the oolichan -- main  
19               oolichan places. The same thing about the hides and  
20               the furs and the dried berries were brought down by  
21               the people by the box load on their backs when they --  
22               that's -- it was an efficient system like a railway.  
23               You didn't have empty box-cars in either direction.  
24               People were lugging their gift foods when they went to  
25               put up their oolichan oil, and then they would come  
26               home with the oil on their backs, relaying their packs  
27               back and forth --  
28          Q   Okay.  
29          A   -- two and three loads at a time, so that they say  
30               they walked to the Nass three times before they got  
31               there and three times before they got home.  
32          Q   That's reflected in the ethnographies as well as your  
33               own research?  
34          A   Oh, yes. Yes. And in the commission evidence of the  
35               elders and those land claim transcripts, and so on.  
36   MR. GRANT:   I'd refer you to page 486 and I'll --  
37   THE COURT:   How far a walk is that if you're -- from Moricetown,  
38               first, and how would they go, down to Kitwanga?  
39   THE WITNESS:   The route -- from Moricetown there was one trade  
40               route which went over -- went through the Gitseguekla  
41               Valley behind that big massif which is -- which Roche  
42               de Boule is the centre of.  
43   THE COURT:   Yes.  
44   THE WITNESS:   And then they would go from there to Kitwanga and  
45               Kitwancool and into the Nass.  
46   THE COURT:   What would that be, 50 miles?  
47   THE WITNESS:   It would be a little more than that.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 THE COURT: More than that?  
2 THE WITNESS: Yes.  
3 THE COURT: And you can walk with that kind of work 25 miles a  
4 day?  
5 THE WITNESS: Well, packing fairly heavy loads. I forget the  
6 amount of time. There is in the -- in Horetzky's  
7 accounts of the trails at the end of the century he  
8 does explain how many days it took.  
9 THE COURT: It would be a five or six-day walk probably?  
10 THE WITNESS: It would be, and then you have added days because  
11 of all the relaying of the weights.  
12 THE COURT: Yes. All right. Thank you.  
13 MR. GRANT:  
14 Q Can you just refer to the map that you put in after  
15 page 496?  
16 A However, I'd like to say one other thing, that the --  
17 I don't think that most of the oolichan oil went  
18 directly by the -- on the feet of the Wet'suwet'en  
19 from Moricetown -- or to Moricetown. It went through,  
20 for the most part, through the Gitksan and then was  
21 traded. It was a main item of trade between the two  
22 peoples.  
23 THE COURT: I see.  
24 MR. GRANT:  
25 Q Now, if you --  
26 A However, when the -- when the Wet'suwet'en were at  
27 Hagwilget they did certainly make the journey to the  
28 Nass.  
29 Q There's an adaawk about that?  
30 A Yes. And Jenness talks about his experiences of  
31 getting this information too. And I believe Johnny  
32 David talks about it in his commission.  
33 Q Okay. Can you refer to figure 9 there? Now, this  
34 is -- is this the same map as George MacDonald had in  
35 his article?  
36 A Yes, it is.  
37 Q Have you --  
38 A With a few modifications.  
39 Q Okay. Can you explain those modifications?  
40 A Well, I think that Dr. MacDonald put it together  
41 rather rapidly because I followed the listing of  
42 trails that he described and, for example, the  
43 Kitwancool trail, the first one, had no number, so I  
44 gave it number 0, which was -- is right on the map  
45 above where it says "Kitwanga Fort". There's a little  
46 circle with a "0". And there were a couple of others  
47 that I understood from the description, but were

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- 1                   either not noted or noted wrong on the map. So I  
2                   think I've adjusted where it says number 19 and 20,  
3                   and maybe number 15, I can't remember, down by Port  
4                   Simpson.  
5           Q       So what you did was took appendix E, the description  
6                   which we've referred to earlier, my lord, of the  
7                   George MacDonald trails, you took that and then you  
8                   compared it with the map and you made corrections in  
9                   numbering to reflect --  
10          A       I think with number 15 there's one numbering way up at  
11                  Meziadin Lake.  
12          Q       Yes.  
13          A       But this was a route down to Port Simpson, so I put a  
14                  15 down to that area.  
15          Q       So on your map there's two 15's, but the one --  
16          A       I'd have to check that, but basically it's his map. I  
17                  just tried to make it consistent with his description.  
18          Q       Yes.  
19          A       And these anomalies are all cleared up in the version  
20                  of it that came out in the Canadian Historical Atlas.  
21          Q       Which has been filed?  
22          A       Yes.  
23          Q       And then you have -- on the top there is a mileage  
24                  chart and a kilometre chart of 20 miles is shown as --  
25                  appears to be a half inch, there's a scale there,  
26                  which would indicate the distances between -- along  
27                  the trails?  
28          A       Uh-huh.  
29          Q       Now, can I take you back for a moment to page 486?  
30                  Now, here I'd like to refer you, you say at the top  
31                  there:  
32  
33                                "It is unlikely that oolichan grease  
34                                amounted to more than 5 % of the annual fat  
35                                intake of the Gitksan and Wet'suwet'en in  
36                                pre-contact times."  
37  
38                                And that is your conclusion?  
39          A       Yes.  
40          Q       And you used the calculations that are found below in  
41                  appendix D, and in appendix D you narrate your  
42                  calculations?  
43          A       Yes, I did a rough estimate based on the -- the  
44                  specific gravity of pure fat and how much caloric  
45                  content it has and how to obtain a volume figure, a  
46                  thousand grams. The way it's done is that --  
47   THE COURT:   Excuse me, haven't we been through all this?



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 MR. GRANT:

2 Q He had alluded to it. Just -- if you can just wait a  
3 moment, Doctor, I'd like you to go to appendix D.  
4 There was -- I just had referred to him -- just have  
5 very few questions about this.

6 First of all, on page 2 there you say: It would  
7 require 55,000 boxes of grease. Should that read  
8 45,000?

9 A Yes, that should read 45,000 boxes of grease.

10 MR. GRANT: That's a typographical error. And then the second  
11 point I have --

12 THE COURT: Still phenomenal?

13 THE WITNESS: It's still phenomenal, yes, but not quite as  
14 phenomenal.

15 THE COURT: Yes.

16 MR. GRANT:

17 Q Yes. That doesn't change your opinion at all?

18 A No.

19 Q And then you say -- you utilized analysis of specific  
20 gravity which were published and which other  
21 anthropologists have used; is that right?

22 A Yes. Yes.

23 Q And those include, as well as Dr. Richard Lee, they  
24 include I believe it's Dr. Rappaport?

25 A Dr. Rappaport has used his caloric count and analysis  
26 in his work in New Guinea among the Tsembaga,  
27 T-s-e-m-b-a-g-a, in a book called "Pigs for the  
28 Ancestor".

29 Q And he's a renowned anthropologist?

30 A He's the president of the American Anthropological  
31 Association.

32 Q Okay. And the only other question I have from this,  
33 Doctor, is that in the bottom of page 658, you say  
34 this would entail -- after you explain how much were  
35 carried -- this would entail something like 4,000  
36 boxes of grease carried inland from the Nass and the  
37 Gardiner Canal by the Gitksan and Wet'suwet'en  
38 annually; roughly half of which would be traded and  
39 given as gifts to easterly neighbours.

40 Now, my question to you, Doctor, is why do you say  
41 that roughly half of that would be traded and given as  
42 gifts to easterly neighbours?

43 A Well, I have no hard facts in relation to the distant  
44 past, but from asking my informants in the community  
45 and observing what they do today, and how -- asking  
46 them how much of their -- the grease that they have in  
47 the family they give away, and where it goes. I

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In chief by Mr. Grant

1 think -- I'm just arguing from the present on this  
2 one.  
3 Q Okay. But then you -- so today about half of it is  
4 given away or bartered?  
5 A Yes. Yes.  
6 Q Okay. And that appendix forms part of your opinion  
7 doesn't it?  
8 A Yes.  
9 Q Appendix D. Okay. Can I refer you now to -- my lord,  
10 I don't think it's necessary to read this, but I'd  
11 like to refer you for reference to page 488, and the  
12 section about starting, "Traditionally, the Gitksan  
13 who go to the Nass for oolichan are hosted by  
14 kinsmen."  
15 And you go on to describe that, Dr. Daly, in the  
16 balance of that page, and you refer to and rely on  
17 Jenness and also on certain of the adaawk which you've  
18 cited; is that right?  
19 A Which specific time period? Which part of the --  
20 Q Okay. You're -- maybe I should read it to you.  
21  
22 "Traditionally, the Gitksan who go to the  
23 Nass for oolichan are hosted by kinsmen."  
24  
25 This seems to be --  
26 A This is contemporary.  
27 Q -- contemporary?  
28 A Uh-huh.  
29 Q  
30 "They give their local food specialties to  
31 their hosts and receive in return certain  
32 coast foods. Gitksan without kinship links,  
33 and the Wet'suwet'en who travelled to the  
34 Nass at this time of time would arrive in  
35 groups and be formally met by Nishga chiefs,  
36 who would come out onto the river ice as  
37 these inlanders approached the Nishga  
38 village."  
39  
40 In this you rely on Jenness; is that right?  
41 A Oh, this is the period of roughly around contact or  
42 the -- after the time that the Wet'suwet'en for the  
43 most part had moved to Hagwilget due to the slide and  
44 they were going down, according to Jenness, to engage  
45 in the trade. The adaawk certainly talk about lots of  
46 incidents and sometimes the people who went down from  
47 Kitwancool and Kitwanga were very -- had their noses

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 put out of joint because they were not -- if they  
2 weren't closely connected by kinship ties, they were  
3 ascribed a host and they couldn't choose who they  
4 wanted to fish with and interact with while they were  
5 there, and that's recorded in the adaawks.

6 MR. GRANT: Okay. Now, you state that:

7  
8 "The Nishga took the initiative to welcome  
9 the Gitksan to their territory and to lodge  
10 them with allotted House groups. These  
11 Gitksan had no say as to whom they would  
12 have as their hosts. This sometimes led to  
13 a degree of animosity."  
14

15 And there you refer to one of the adaawk -- that's  
16 at tab 66, my lord, of the second document book. I  
17 won't refer to it, but you may want to note it there.

18 THE COURT: 66?

19 MR. GRANT: It's tab 66. Yes.

20 THE COURT: Okay.

21 MR. GRANT:

22 Q So it would be Exhibit 896 - 66.

23  
24 "The inlanders would reciprocate for the use  
25 rights to the river and to the  
26 grease-rendering sites, cooking stones and  
27 firewood. They gave their hosts foodstuffs,  
28 hides, horn spoons, and furs. Thereafter  
29 the Gitksan worked together with their hosts  
30 to harvest the oolichan. They also engaged  
31 in barter with other Nass visitors."  
32

33 And you've relied as well -- you've concluded that  
34 this is a historical event and also contemporary? It  
35 goes on today?

36 A Yes.

37 Q And you've relied as well on Barbeau and Jenness; also  
38 on Boas for this?

39 A Yes.

40 Q And Poudrier?

41 A Poudrier's account, yes.

42 Q Okay. And in fact on 489 you refer specifically to  
43 Poudrier, and I just note that for reference to the  
44 court.

45 On the top of 489 you rely on Alfred Joseph, Daly  
46 interview notes with respect to the Wet'suwet'en going  
47 to Kitimat, and also up to the Dean Channel. That's



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

- 1                   Wet'suwet'en, whose territories are in the  
2                   transitional zone between the North, Coast  
3                   and Interior Plateau biogeoclimatic zones."  
4  
5                   And just the page before that you have a chart,  
6                   "Figure 5, Pre-contact Skeena and Upper Fraser  
7                   Produce", and there is your -- you drew up that chart;  
8                   is that right?  
9                   A    Yes.  
10                  Q    And in drawing up that chart, you've relied on, with  
11                   respect to the fish, Mike Morrell's opinion?  
12                  A    Yes.  
13                  Q    The game, Dr. Hatler?  
14                  A    Yes.  
15                  Q    The berries, Sybille Haeussler?  
16                  A    Yes.  
17                  Q    The optimum food-drawing Chilton and Haeussler?  
18                  A    Chilton and Haeussler, yes.  
19                  Q    The oolichan grease, the ethnographies, as well as the  
20                   oral histories?  
21                  A    Yes.  
22                  Q    And -- just a moment.  
23                  A    The same for other grease.  
24                  Q    Okay. And the obsidian, the archaeological --  
25                  A    And the reliable winter fish was Morrell too.  
26                  Q    Okay. And the obsidian was the archaeological record?  
27                  A    Yes.  
28                  Q    Okay. And you show -- what you're endeavouring to  
29                   show on this chart is where there's available and  
30                   non-available goods?  
31                  A    Uh-huh.  
32                  Q    Now, then you've --  
33                  A    I've broken it down into coast, mountain, and interior  
34                   basically.  
35                  Q    Okay. And the "G-W transition" is the Gitksan and  
36                   Wet'suwet'en?  
37                  A    Yes.  
38                  Q    Now, just going over two pages, there is a diagram and  
39                   this is based on the Haeussler availability of  
40                   berries, the berry atlas; is that right?  
41                  A    Yes. And I've made the same division there in the  
42                   section on distribution.  
43                  Q    Yes.  
44                  A    On the left -- the left-hand -- left half of the  
45                   columns on "Distribution" are coastal or coast-like,  
46                   and the right half are the Gitksan-Wet'suwet'en area  
47                   roughly, the different biogeoclimatic zones, and the

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In chief by Mr. Grant

1                   breakdown of the species. It's all material from  
2                   Haeussler and is on -- is on the map that was done  
3                   from her work. There's some problems with the -- I'd  
4                   like to qualify in the tentative groupings on the  
5                   right-hand side.  
6                   Q    Okay. This is the chart after page 491, my lord.  
7                   It's the berry distribution chart. Just a moment.  
8                   Now, there's tentative groupings that you have down on  
9                   the right-hand side and you said you'd like to qualify  
10                  that?  
11                  A    Yes, I was loading my argument a bit because --  
12       MR. WILLMS: My lord, I object to those in toto because we know,  
13                   because we heard Miss Haeussler, that not only was  
14                   that evidence not tendered from her on sweetness or  
15                   sourness, but she didn't give any opinion at all about  
16                   drying capabilities of the berries. None. That part  
17                   of her report was explicitly taken out by Miss Mandell  
18                   in leading Miss Haeussler's evidence, so there is no  
19                   foundation whatsoever in the evidence, if all this  
20                   witness referred to was Haessler, for that evidence,  
21                   and it should all go. There's just no foundation for  
22                   it.  
23       MR. GRANT: What is my friend saying when he says this should  
24                   all go? What are you referring to?  
25       MR. WILLMS: Well, the column that you were just referring to  
26                   the witness, "Tentative Groupings", which he said he  
27                   relied on Haeussler.  
28       MR. GRANT:  
29                  Q    Well, I'd just like the witness -- I may well --  
30                   that's what the witness -- I just want the witness to  
31                   explain now, and then we can deal with the objection  
32                   because, you know, I -- we may not even be in  
33                   opposition on this position if my friend would just  
34                   bear with me for a moment.  
35                   The reference to "Tentative Groupings", was that  
36                   based on Haeussler?  
37                  A    No, I was -- I rather loaded the argument before --  
38                   before I really considered the matter, and I tend to  
39                   agree with the objection because the berries in the  
40                   first -- of the first three berries, from the  
41                   perception of the people on the coast, there's no  
42                   problem with sweetness in their eyes.  
43                  Q    Right.  
44                  A    However, the one where -- which is marked sweet  
45                   berries in the middle, the huckleberry.  
46                  Q    Yes.  
47                  A    Sim maa'y or digee, d-i-g-e-e, and sim maa'y is s-i-m

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1 m-a-a-'-y, that is a highly sought-after berry for  
2 trade wherever it grows because it is noted for its  
3 sweetness all up and down the British Columbia coast.  
4 Q Okay.  
5 A And of course anyone who's tasted one knows that soap  
6 berry is not sweet at all.  
7 Q Right. So what you're saying, basically, is that his  
8 lordship should disregard that last column --  
9 A Yes.  
10 Q -- in considering that chart?  
11 A Yes.  
12 MR. GRANT: Okay. That's exactly what I was getting to when my  
13 friend jumped in, my lord.  
14 MR. WILLMS: I was just trying to help my friend by cutting it,  
15 my lord, but he can take his time.  
16 THE COURT: I've drawn a line through it. It's as good as  
17 striking something from the record.  
18 MR. GRANT:  
19 Q Just -- I just would like to ask you about two of the  
20 species, the huckleberry and the soap berry in terms  
21 of -- based on your research, the significance they  
22 have as examples for trade and trade patterns.  
23 A Well, they grow in the areas of the Gitksan and  
24 Wet'suwet'en. They don't -- basically they don't grow  
25 on the coast.  
26 Q Yes.  
27 A And they're highly prized in both areas, so from that  
28 you can surmise that they're an item of trade in terms  
29 of foodstuffs.  
30 Q Okay.  
31 A And they're -- on the coast as well when there's a  
32 feast or potlatch, they're considered a respectable  
33 thing to serve your guests because you can froth them  
34 up like whip cream.  
35 Q Now, you refer on the next page, 492, to how chiefs --  
36 and you rely here on Tenimgyet's evidence as well as  
37 other --  
38 A They're very particular about the quality of the  
39 berries they eat.  
40 Q And they -- and the quality that they bring into the  
41 feast hall?  
42 A Yes. And they make fun of each other's berries behind  
43 their backs too. Well, some people are known to have  
44 high quality berries, but if the host doesn't give  
45 berries that are considered to be up to scratch,  
46 there's talk about it.  
47 Q Okay. Now, you state there that -- the description on

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 the top of page 492:

2

3 "Their description of the berry qualities is  
4 not unlike that of the vintner discussing  
5 wines."

6

7 And then you refer to Tenimgyet's difficulties  
8 with respect to certain berries?

9

A Yes.

10 Q Now, just at the bottom of that page you say -- state:

11

12 "The summer village areas of the  
13 Gitksan, Wet'suwet'en, like those of the  
14 neighbouring Tahltan and Carrier-Sekani are  
15 highly favourable for the rapid and  
16 efficient drying of foodstuffs to be  
17 preserved for winter storage and trade,  
18 especially for trade with the more moist  
19 coastal areas."

20

21 And here this is partly based on what has been  
22 described to you and what you have observed --

23

A Yes.

24

Q -- at the smokehouses?

25

A And also I have in mind such reports as that Heller  
26 and Scott one I mentioned this morning, that in  
27 certain years on the coast the conditions can be the  
28 same as the interior. In other years they can have  
29 disastrous wet summers and nothing dries, so --

30

Q Okay. And you quote Heller and Scott in fact on the  
31 next page, and you rely on that. And Heller and  
32 Scott, what are they? What's their fields?

33

A They're nutritionalists.

34

Q Okay. And then you go to page 493. You state that:

35

36 "The evapotranspiration rates of the  
37 Gitksan-Wet'suwet'en territories, thus have  
38 repercussion for the longstanding Gitksan  
39 and Wet'suwet'en trade in foodstuffs with  
40 coastal peoples."

41

42 And here you're relying upon evapotranspiration  
43 rates as described by --

44

A By Chilton.

45

Q By Chilton in his report?

46

A Uh-huh. It's just a general guide-line for the -- for  
47 the difference in the products between coast and



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 interior.  
2 Q Okay. Now, table -- figure 7, which immediately  
3 follows 493, this is a rough map of the region; is  
4 that right?  
5 A Very rough.  
6 Q And you placed the locations of villages in your  
7 handwriting in circles, right?  
8 A Yes.  
9 MR. GRANT: And then you have --  
10 THE COURT: Are you at page --  
11 MR. GRANT: 493, my lord.  
12 THE COURT: Oh, yes. All right.  
13 MR. GRANT: There's a map immediately following it.  
14 THE COURT: After 493?  
15 MR. GRANT: Yes. It's "Figure 7, Local Specialty Products".  
16 THE COURT: Yes, I have it.  
17 MR. GRANT:  
18 Q Then you have listed certain species or goods under  
19 each of these names?  
20 A Yes.  
21 Q And this is a summary which you describe in the  
22 following pages of certain specialties of certain  
23 villages?  
24 A Certain specialties. It's certainly not exhaustive,  
25 but it gives some idea of the specialties in the local  
26 regions for which people were famous in the area. And  
27 these would be -- the things that they would produce  
28 in these different villages were the things that they  
29 would hold high when they came into the feast hall and  
30 they would announce the territory that it came from.  
31 Q Yes.  
32 A And when they were away from home, they would just  
33 have to say the name of their village and people would  
34 know because the degree of specificity diminishes the  
35 farther away from home you go.  
36 Q Yes.  
37 A Or the level of generality increases.  
38 Q Okay. On page 494 you refer to the Tsimshian adaawk  
39 as a basis for part of this information?  
40 A Yes.  
41 Q And then you refer in the second paragraph to Boas  
42 and, in fact, you reiterate what Boas describes  
43 through pages 494 and 495, and you rely in part on  
44 Boas' ethnography?  
45 A Yes. Yes.  
46 Q Now, going to your figure 8, Doctor, after page 495,  
47 here you have circled certain species with arrows or

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                   certain goods with arrows going between. Do each of  
2                   these names and circles refer to different groups,  
3                   that is, different aboriginal groups?  
4           A        Pretty well they do, yes.  
5           Q        Okay. Could you indicate for his lordship which of  
6                   the groups -- which of the circles would reflect the  
7                   goods, the trade goods, of the Gitksan?  
8           A        Well, they're the two moccasin-shaped figures right in  
9                   the middle. The first one starts "dried salmon", and  
10                   the one below it "hides, pelts, moccasins, bags".  
11           Q        And which one is the Wet'suwet'en?  
12           A        The lower one is the Wet'suwet'en, and the upper one  
13                   is the Gitksan.  
14           Q        Okay.  
15           A        And the oolichan, just to the left of them, is the  
16                   lower Nass-Nishga area, and the oolichan below that is  
17                   the Gardiner Canal around Kitimat.  
18           Q        Okay.  
19           A        And then you have the Haida out offshore. You have  
20                   the coastal island Tlingit up where it says "seal,  
21                   seal oil" up in the margin, and where the "copper" is  
22                   it's the copper Indians and Ayak from the top of the  
23                   Panhandle. And the Chilkat blankets come from the  
24                   Chilkat-Tlingit people of the -- of the Chilkat and  
25                   Taku River region.  
26           Q        Okay. Now, the arrows indicate the trade -- back and  
27                   forth trade between the different groups?  
28           A        Yes.  
29           Q        And --  
30           A        I didn't put any arrows in for the obsidian because it  
31                   flowed into many of these areas over a long long  
32                   period of time.  
33           Q        Okay. And --  
34           A        And we don't actually know the actual routes of who it  
35                   went to, although there are some references by  
36                   informants and people I've talked to that suggest that  
37                   it was still being collected and passed on into  
38                   Wet'suwet'en and Gitksan areas 100 or 150 years ago.  
39   MR. GRANT:     Now --  
40   THE COURT:     Should we take a short adjournment?  
41   MR. GRANT:     Certainly, my lord.  
42   THE COURT:     All right. Thank you.  
43   THE REGISTRAR:  Order in court. Court stands adjourned for a  
44                   recess.  
45  
46                   (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)  
47

12358

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

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

---

Tanita S. French  
Official Reporter

12359

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

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R. Daly (for Plaintiffs)  
In chief by Mr. Grant

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(PROCEEDINGS RECOMMENCED AFTER A SHORT RECESS)

3

4

THE REGISTRAR: Order in court.

5

THE COURT: Mr. Grant.

6

MR. GRANT: Thank you, My Lord.

7

Q With respect to figure eight, the -- all of the arrows going in towards the oolichan and coming out from the oolichan for the Nass that you referred to there, is this what you were referring to His Lordship earlier as --

10

11

12

A That's what I mentioned earlier, yes. It's also very evident in the adaawks, the amount of fighting and friction over that region through history has been considerable. Its been a focal point for all sorts of animosities and competitions.

17

THE COURT: Which area are you talking about?

18

THE WITNESS: The big circle where it says "oolichan" just above where it's written Skeena.

20

THE COURT: Yes.

21

MR. GRANT:

22

Q Now, after the -- on page 496 it starts after the reference to figure 9, which you have already described, you state that:

25

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"Sinuous trails linked pre-contact Native communities across the breadth of northwest British Columbia and southeast Alaska. These trails formed a conduit for trade and communications between the different native villages and settlements. The trails are old. George Chismore spent a summer furlough from the U.S. Army exploring the trail up the Nass Valley and across to Kispiox in 1870. His observations as to the age of the trail are interesting."

38

And you quote Chismore.

39

40

41

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"In one place the trail leads over the top of a hill denuded of soil and is worn deeply into the solid granite by the feet of succeeding generations.

George McDonald also states these trails were very old.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                   The Kitwancool trail was begun in  
2                   prehistoric times but it is impossible to  
3                   say when. As a hunting trail it is  
4                   undoubtedly many thousands of years old, but  
5                   as a major trade route it probably came into  
6                   importance between two or three thousand  
7                   years ago."

8  
9                   And you have relied on these as well as other  
10                  authors. Chismore is for your ethnohistorical  
11                  analysis of the time depth of trails and also as well  
12                  George MacDonald's analysis?

13                A    Yes.

14                Q    Now, I would like to refer you to page 498 with  
15                      respect to the trails, where it said:

16  
17                    "In 1870 the Nass-Kispiox trail was much  
18                    used, even in the summer months, long after  
19                    the annual oolichan run. Chismore states:

20  
21                    The trail was a constant source of interest.  
22                    Daily we passed parties bending under their  
23                    burdens, or met others hurrying back to  
24                    seek a load. This highway is broad and  
25                    clear and very old."

26  
27                    And this would be one of the main oolichan trails?

28                A    Yes, that's -- after the one between Kitwancool and  
29                      the Nass, this is probably the most used in that  
30                      region, the one between Kispiox and the Nass. They  
31                      actually converge at the junction of the Cranberry  
32                      River, as you can see roughly the spot from Highway 37  
33                      today.

34                Q    Okay.

35  
36                    "This description also includes the  
37                    trail-side facilities for the freight  
38                    packers who will be carrying freight for  
39                    gold prospectors in the Omineca area, as  
40                    well as produce for local use:

41  
42                    Sweat-houses were built at frequent  
43                    intervals, where with a cup of water and a  
44                    few heated stones, the tired native might  
45                    assuage his aching limbs by a steam bath.  
46                    Rude huts of bark afford shelter to him who  
47                    needs it, and large sheds built of the same

12360

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 material mark the spots where different  
2 tribes meet to trade."

3

4

Then you say:

5

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12

13

And Chismore was an eyewitness to these bridges;  
is that right?

14

15

A That's right.

16

Q

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26

Chismore describes the bridge he saw and  
crossed at the confluence of the Cranberry  
and Nass River (which was also described by  
Horetzky in 1872). The construction  
Chismore describes is not unlike that  
employed by the Gitksan and Wet'suwet'en to  
establish canyon-side fishing platforms. He  
describes the bridge he crossed on the  
Cranberry River when he travelled the  
Kispiox:

27

28

Bridges span the wider stream; one, a  
suspension bridge crossing the Har-keen."

29

Do you know where he is referring to there?

30

A This is -- this is -- I think this is the one at the  
Cranberry junction to the Nass.

31

32

Q Okay.

33

34

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"... long ago, replacing a still older one,  
has a clear span of 92 feet. It is located  
at a point where opposing cliffs form  
natural abutments, and is thus constructed.  
From each bank two tapering logs, parallel  
to each other - some 10 feet apart and with  
points elevated to an angle of 10 degrees -  
are pushed out over the stream towards each  
other as far as their butts will serve as a  
counterpoise. Then two more are shoved out  
between the first, but nearer together and  
almost horizontal. The ends on shore are  
then secured by piling logs and stones upon  
them. Then a man crawls out to the end of

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1                   one of the timbers, and throws a line to  
2                   another in the same position opposite. A  
3                   light pole is hauled into place, lashed  
4                   securely and that arch completed. The three  
5                   remaining sets of timbers are treated in the  
6                   same manner. The upper and lower arches are  
7                   then fastened together by poles,  
8                   cross-pieces put in, footplank laid, and  
9                   handrail bound in proper position to steady  
10                  the traveller in crossing the vibrating,  
11                  swaying structure. No bolt, nail or pin is  
12                  used from first to last. Strips of bark and  
13                  tough, flexible roots form all the  
14                  fastenings."

15  
16       THE COURT: Where did you say Har-keen is?

17       THE WITNESS: It's across the -- it's on the Cranberry River  
18                   just very close to its junction with the Nass. So  
19                   that's north of Kitwanga some ways up the road, about  
20                   half an hour drive up the road.

21       THE COURT: Yes.

22       MR. GRANT:

23           Q     Now, with respect to this photograph, which is Exhibit  
24                  122 from the Madeline Alfred document book, can you --  
25                  you have said that the bridge is analagous to the  
26                  fishing platforms. Can you explain that, what you are  
27                  referring to for His Lordship?

28       THE COURT: I'll come down.

29       THE WITNESS: This is a fishing platform, I believe, at  
30                   Moricetown Canyon, but the platform, it sticks here  
31                   and it is cantilevered and braced here behind where  
32                   the fish trap basket is. You would have this  
33                   structure on both sides of the canyon, and they would  
34                   push out poles from either side and lash them across  
35                   and then build the superstructure. But it was this  
36                   cantilever effect which he thought was quite -- he was  
37                   quite impressed by it, that it was same the basic  
38                   principles as bridge building in the European world of  
39                   the 19th century.

40       MR. GRANT: Just a moment, My Lord. I'll leave it, My Lord. I  
41                   may come back to one photograph, but I will just leave  
42                   it for a moment.

43           Q     The next section on page 500, doctor, relates to the  
44                  exchange between the Gitksan and the Wet'suwet'en. I  
45                  would just like to quote you your opinion there, where  
46                  you state:

47



R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 "The frontier between Gitksan and  
2 Wet'suwet'en has been remarkably peaceful  
3 over a very long period. In many ways this  
4 testifies to the balanced nature of the  
5 trade within the region. Both peoples  
6 utilize similar ecological niches; both  
7 occupy choice positions vis-a-vis coast and  
8 inland trade, and while both peoples share  
9 the salmon resources of the upper Skeena  
10 system, their respective hunting territories  
11 fan out from the mainstem rivers in opposite  
12 directions. Thus, when the people complete  
13 their salmon harvest and processing, and  
14 turn to their hunting grounds, the  
15 possibility of conflicts developing over  
16 access to land are minimized."

17  
18 Now, you have described -- this is your conclusion  
19 that this is a peaceful frontier between these two  
20 peoples?

21 A Yes.

22 Q And is there any evidence in the oral histories or any  
23 other references that --

24 A Well, there is surprisingly little discussion in the  
25 Kungax songs of the Wet'suwet'en or the adaawk of the  
26 Gitksan of animosities between the two peoples.

27 Q Uh-huh. On page 502 you state:

28  
29 "Transactions and agreements between the two  
30 people are often conducted by consulting  
31 with counterparts of one's own clan."

32  
33 A I gave the example of the arrangement made at the time  
34 of the slide on the Bulkley River, which effectively  
35 blocked the salmon from getting up to Moricetown, and  
36 it was an interclan arrangement. The Wet'suwet'en  
37 delegated two chiefs to speak on their behalf, one of  
38 them was a Frog, one of them was a Wolf, and they went  
39 to speak to the Frog and Wolf chiefs of Gitanmaax who  
40 they had had interaction with through the years, and  
41 worked out an agreement for the use of Hagwilget.

42 Q Did you also -- you referred earlier in your evidence  
43 to the example of Daniel Skawil and Knedebeas.

44 A Yes.

45 Q Is that another example?

46 A Cooperation within the same clan, yes, between the two  
47 nations.

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1           Q    Okay.  You then say that:

2

3                               "Cultural difference provide for a certain  
4                               amount of goods exchange between the two  
5                               peoples."

6

7                               My Lord, this is on page 502 as well.  And there  
8                               do you -- you refer to an example of the eel described  
9                               by Art Matthews in his evidence.

10          A    Yes.

11          Q    Then you go on on the next page to indicate that:

12

13                               "Probably the greatest bone of contention in  
14                               terms of the exchange of goods between the  
15                               two peoples, however, has been access to the  
16                               oolichan fishery on the Nass.  While the  
17                               Wet'suwet'en obtained some grease from  
18                               Kitimat and Kemano, and from Kimsquit on  
19                               Dean Channel, a far greater volume was to be  
20                               had on the Nass, or if need be, from the  
21                               neighbouring Gitksan, who obtained hides and  
22                               furs in exchange for oolichan grease which  
23                               they themselves obtained on the Nass or at  
24                               Kitimat."

25

26                               Then you state:

27

28                               "The Wet'suwet'en appear to have been on  
29                               foreign territory when they visited the  
30                               Nass.  Unlike the Gitksan, the Wet'suwet'en  
31                               had only formal trading relations with the  
32                               Nishga.  Their Nass relations were not  
33                               generally reinforced by kinship and marriage  
34                               ties the way that Gitksan-Nishga relations  
35                               tended to be.  Consequently, visits to the  
36                               coast were stressful, potentially dangerous  
37                               undertakings, as recounted by Jenness and by  
38                               Johnny David in his Commission Evidence."

39

40          A    This is a common feature of -- in areas where there is  
41                               a transition between major ecological zones.  The  
42                               Huron and the Iroquois had the same attitude towards  
43                               their surrounding people.  They wanted to control the  
44                               access to the lucrative furs, both before and after  
45                               contact.  They traded them down to the southern  
46                               states, and when the first Europeans came in they  
47                               fought tooth and nail against the Europeans going any

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 further, because they had established an intermediary  
2 role and wanted to, of course, maintain that trading  
3 edge. And there was a certain degree of muted  
4 middlemanship held, I think, by the Gitksan in  
5 relation to the trade of the Wet'suwet'en and the  
6 produce of the eastern Carrier and the Sekani people.  
7 Q The next section is contact and proto-contact trading  
8 monopolies. Now, My Lord, if I just could refer you  
9 at the bottom of page 504, just for your reference,  
10 where it says in that Frog Raven adaawk. Number 47 is  
11 Exhibit 896-69, green book, and number 79 is Exhibit  
12 896-84.

13 THE COURT: Thank you.

14 MR. GRANT: And one other correction, My Lord. The fourth line  
15 on page 505 should read "valid" instead of a-l-i-d.

16 THE COURT: Thank you.

17 MR. GRANT: And then I would refer you for reference to page  
18 505, that second paragraph, My Lord, but I am not  
19 going to read it. You may wish to note it.

20 THE COURT: All right.

21 MR. GRANT:

22 Q In this section you -- and also, I'm sorry, My Lord,  
23 page 556, that entire page.

24 In this section you deal with the -- what you have  
25 already described about the coastal chiefs and the  
26 power potlatches which you have already given evidence  
27 of; is that right?

28 A Yes. And the expansion of aggressive trading.

29 Q In the coast?

30 A From the coast toward the interior.

31 Q Okay. Can you turn to page 507, please. You state  
32 that:

33  
34 "As George MacDonald has argued, it appears  
35 that the trade in European metal goods along  
36 the grease trails preceded the European  
37 explorers on the Northwest Coast by at least  
38 a century."

39  
40 And that is your opinion as well, is it?

41 A Yes.

42 Q And then you state that:

43  
44 "It is my opinion"

45  
46 Then you go on to make a reference that there will  
47 be further proto-contact tempo of trade picked up

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 momentum from eastern and southern influences as well,  
2 and that other writers are doing work on that field  
3 now; is that right?  
4 A This is a bit of a general sweeping statement. There  
5 is a certain amount of investigation going on now by  
6 Leyland Donald, who is a professor of anthropology in  
7 Victoria and some of his associates, onto the roots of  
8 the slave -- trading in slaves and captives, and the  
9 effects of the -- or repercussions of the Spanish  
10 being in Central America and California, and the early  
11 influence of the fur trade and in the American west,  
12 but there is not enough material being compiled to  
13 reach any sort of hypothesis even.  
14 Q There is not a hypothesis?  
15 A No.  
16 Q My Lord, I just ask if you could note that I asked Dr.  
17 Daly that question, that that second part of that  
18 first paragraph really shouldn't be regarded in terms  
19 of the report, as it's something that is not  
20 established in the field. He is just commenting on  
21 research that's being done in an ongoing way.  
22 THE COURT: Do you agree with that?  
23 THE WITNESS: I agree, yes. I was a bit too enthusiastic for  
24 the available facts.  
25 THE COURT: All right. Thank you.  
26 MR. FREY: That passage starts "It is my opinion".  
27 MR. GRANT: Yes.  
28 Q You don't have to say anything more about it. It's  
29 your opinion that there is a possibility of finding  
30 further evidence. This would be consistent with what  
31 you found on the east coast?  
32 A Yes. Oh, it certainly pertains to the northern  
33 snowball effect of the fur trade from east to west.  
34 Q Yes.  
35 A That had an effect from east to west.  
36 Q Right.  
37 A Just as the coastal trade had an effect from the west  
38 towards the east.  
39 Q Right.  
40 A But there is not enough data available for the effects  
41 coming up from the south and the southwest.  
42 Q Okay. Now, you state at the bottom of page 507:  
43  
44 "From the adaawk which relate events on the  
45 Tsimshian and Nishga coastal areas, we can  
46 deduce that when European trade began in the  
47 region it meshed with an indigenous process

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 of exchange."

2

3

And that is your opinion?

4

A Yes.

5

Q And you rely, as well as on the other sources, you  
rely on Eric Wolf, who comments on this in --

6

7

A He doesn't just comment on it. He has assessed all of  
the -- or a large body of the work that's been done in  
this region. And I compared what he had done here  
with what he did on the fur trade in the Great Lakes,  
from my knowledge of that region, and it's pretty  
thorough work that he's done, and it's certainly been  
well received in the anthropological journals, that  
book of his.

10

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Q Can you turn to 509. You state there -- this is the  
quote at the very bottom, My Lord, and it's the last  
part of that quote of Professor Wolf's:

16

17

18

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23

24

"The Tsimshian under Chief Legaic at the  
Hudson Bay Company's Fort Simpson engrossed  
the trade on the upper Skeena with the  
Gitksan, who in turn controlled the trade  
with the Sekani."

25

Now, the quote is the Sekani, but if that --

26

A It more accurately would be with the Athabaskan  
people.

27

28

Q Okay. So if that term was changed to trade with the  
Athabaskans, would that be your opinion?

29

30

A Yes.

31

Q Okay.

32

A Legaix wasn't the only trader chief, but he was  
certainly the predominant one. There were other very  
powerful chiefs and rivals of his, both among the  
Tsimshian and the Nishga and the Tlingit.

33

34

35

36

Q Now, on pages 510, 511 and 512 you explain this power  
potlatching feature that occurred at the coast that  
you have already described to His Lordship; is that  
right?

37

38

39

40

A Yes.

41

THE COURT: I'm sorry, where did you say?

42

MR. GRANT: Pages 510 through to 512, My Lord.

43

THE COURT: Yes.

44

MR. GRANT:

45

Q And on page 513 you refer to "Legyeex, Shakes and  
Haimas", and this is part of the description that you  
had already described to His Lordship in evidence?

46

47

R. Daly (for Plaintiffs)  
In chief by Mr. Grant

1 A Yes.

2 Q And it sets out your opinions. On page 516 you state  
3 halfway down, My Lord, start at the beginning, you  
4 state:

5  
6 "In my opinion the new reliance upon the fur  
7 trade for economic well-being and political  
8 strength occurred mainly on the coast among  
9 those chiefs with access to the European  
10 markets. Nonetheless, this commoditization  
11 no doubt began to exert a certain pressure  
12 on the remainder of the region to bend to  
13 the will of the market possibilities. Be  
14 this as it may, the Gitksan and Wet'suwet'en  
15 area was peripheral to competitive feasting  
16 in the nineteenth century, particularly in  
17 the eastern portion of the region.  
18 Undoubtedly the mount of trading increased,  
19 but the feasting relations did not. In  
20 accord with the foregoing argument this  
21 situation prevailed because the upper Skeena  
22 area did not become a central area of  
23 pre-settlement European trade which brought  
24 a number of chiefs into competition and  
25 interaction who generally did not interact  
26 with one another."

27

28 Is that your opinion?

29 A Yes. And I would back up the early statement by  
30 saying that there was, I think, an indicator that  
31 these market relations to some extent were moving into  
32 the region and being played out through conventional  
33 or customary reciprocal relations between distant  
34 chiefs through the development or spread of these  
35 dancing societies, the winter dancing societies I  
36 mentioned before. They were a form of ceremonialized  
37 competition, and it was -- there was some evidence of  
38 it among the Wet'suwet'en and among the Gitksan in  
39 that period of time, but it certainly wasn't developed  
40 the way it was in the middle of the coast and in the  
41 south coast.

42 Q Can I just refer you to page 520. You state at the  
43 bottom there:

44

45 "Be that as it may, the Gitksan and  
46 Wet'suwet'en territories were not on the  
47 front line of European trade, although they

