

## Fieldwork in Courtroom 53: A Witness to *Delgamuukw v. B.C.*

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Anthropology was integral to the presentation of evidence in *Delgamuukw v. B.C.* The hereditary chiefs of the Gitksan and Wet'suwet'en invited professional anthropologists to witness their feasts, to hear their oral histories, *adaawk* and *kungax*, and to experience the ongoing life of their communities. Anthropologists researched historical and ethnographic literature relevant to the case. They acknowledged a responsibility for sharing ethnographic authority through their participant observation of Gitksan and Wet'suwet'en experience. As "expert witnesses," they attempted to educate the judge about anthropological thinking in relation to the evidence he would hear.

More specifically, anthropologists gave witness to what they had learned about a system of government based on "a marriage of the chief and the land." They did their best to explain an aboriginal law in which "the land, the plants, the animals and the people all have spirit." They tried to make the judge understand that Aboriginal law deserves respect. They tried to tell him about the intelligence of a non-centralized Aboriginal government embedded in "the world view of those living close to nature." They tried to teach him the fundamentals of anthropology as a tool for bridging the gap between his culture and that of the Gitksan Wet'suwet'en.

They did their best to explain what they knew, but in the end they failed. The judge did not listen. He did not take them any more seriously than he did the chiefs and elders. He dismissed them as advocates. The world they described was alien to him. He remained closed to it throughout the trial. He even cited the Statement of Ethics of the American Anthropological Association, mentioned by one of the witnesses as a reason for dismissing the relevance of anthropology to the case. The passage in question says:

In research, an anthropologist's paramount responsibility is to those he studies. When there is a conflict of interest, those individuals must come first. The anthropologist must do everything within his power to protect their physical, social and psychological welfare and to honor their dignity and privacy.

I am an anthropologist, although not one of those who testified as an expert witness. I was, however, witness to some of the events that took place as the case unfolded between 1987 and 1990. In being a witness to the trial rather than a witness in it, I engaged in a kind of fieldwork. In this case, "the field" was Courtroom 53 of the Vancouver Law Courts, and the people I studied there were chiefs, elders, lawyers, experts, fellow anthropologists, and a judge named Allan McEachern. As a field anthropologist, I am ethically bound "to do everything in my power to protect the physical, social and psychological welfare of the people I studied and to honor their dignity and privacy." I understand my responsibility to include speaking with honesty and intelligence about what went on in a public forum to which I had legitimate access. I wish them all well. I honour their dignity and privacy.

I hope for a just solution to the situation that brought these people to Courtroom 53. I hope that such a solution will also contribute to their physical, social, and psychological welfare. But good wishes in this regard do not preclude a personal and professional reaction to what I observed in the courtroom and an equally candid evaluation of what the judge wrote in relation to the information available to him. Elsewhere, I have spoken with candour about events to which I was witness in the lives of aboriginal people. As a witness to *Delgamuukw*, I will speak with equal candour.

Following the release of Mr. Justice McEachern's opinion, I experienced a deep sense of shame at the judge's failure to understand the teachings that the chiefs and elders had so generously given him. I knew they would feel deeply wounded by the callous and disrespectful language of his decision, above and beyond their distress at the decision itself. As Maas Gak (Don Ryan) later reported (Vancouver Sun, 13 July 1991), the elders told him, "this is the last time that the sacred boxes of our people will be opened for the white man to look at." I was ashamed and sad at the judge's failure to understand the power of these "sacred boxes," but I was also grateful to have glimpsed their contents myself. As a way of expressing my own feeling of shame about the decision, I wrote the following piece as a submission to the *Vancouver Sun* Op-Ed page. Although the paper declined to publish the piece, it explains both the source of my information about the case and the quality of my reaction to it.

*A Day of Shame — Friday, March 8, 1991*

As an anthropologist interested in the history and cultures of aboriginal people in B.C., I was able, from time to time, to attend sessions of the Gitksan

Wet'suwet'en court case. I asked students in my classes to attend as well. We saw many First Nations people there. Some were there because their own hereditary chiefs had initiated this suit against the province. Some were law students. Some came as applied anthropologists to inform themselves about the strange culture that supports the white people's legal system. As the trial dragged on over months and years, I noticed that two individuals were in court every day. They became familiar faces, and I began to nod a greeting to them, without knowing who they were. They seemed to be there as witness to everything that went on during the three years of often torturous legal maneuvering. They reminded me of the chorus of people who are on stage as witness to the events of a classical Greek tragedy.

Then my students suggested that I invite representatives of both plaintiffs and defendants to explain their perspectives on the case to our class. The Ministry of the Attorney General declined our request, but the office of the Hereditary Chiefs of the Gitksan and Wet'suwet'en People agreed. They sent Chief Gisday-wa of the Wet'suwet'en and Chief Yagalahl of the Gitksan to speak to us. These turned out to be the same two people I had seen in court. I came to know them later as Alfred Joseph and Dora Wilson. They told us that they and the other Chiefs brought their suit against the province because of a responsibility they have inherited for what they call "a spirit in the land." They feel it is their duty to educate the white people about their system of government. They saw the court as a place in which they could transfer their traditional knowledge into written documents. They wanted to speak to a representative of the people who claim their land. They wanted to treat him with the respect that is proper in dealing with another human being. They believed that the Chief Justice of the Supreme Court of British Columbia would reciprocate by showing them an equal measure of respect.

I remember one particularly bizarre moment in the trial. Lawyers for the province had gone back to written transcripts of the initial testimony that Chief Gisday-wa gave as one of the plaintiffs at the beginning of the trial. He had used the word "trapline" to refer to territories from which he harvests furs. He had explained that these territories belong to his House. As House Chief, he is responsible for regulating trapping and other activities on lands for which he is trustee. He explained that the House is a group of people related through the maternal line. The hereditary Chief holds his or her title as steward of the lands held by that group of related people. Alfred Joseph holds the name of Gisday-wa, a name that belongs to his House. The Chiefs had made all this abundantly clear at the outset of the trial.

Now, lawyers were attempting to interpret the written record of Alfred's testimony as evidence that access to his territory was sanctioned by a provincial ministry responsible for issuing trapline registrations, rather than by the House to which Gisday-wa belongs. They argued that his use of the word "trapline" was an admission that his people had relinquished their Aboriginal title and had submitted to the authority of provincial government regulation. Alfred and Dora sat in the visitor's gallery listening with increasing disbelief. I was equally incredulous. I felt like standing up and yelling to the court, "Chief Gisday-wa is right here. Why don't you ask him what he meant when

he used the word 'trapline'? But, of course, court procedure precludes such moments of truth. The court is a place of public record like the feasts of the Gitksan and Wet'suwet'en.

I was able to leave Courtroom 53 and return to the security of my classroom at UBC. Alfred and Dora remained. They were there whenever I returned to see how the trial was progressing. I have never in my life encountered such tolerance and respect as these two Chiefs accorded the court in which they sat, day after day, month after month, year after year. I have never seen so much honour and trust given so freely. When the Chief Justice finally released his judgment on March 8, 1991, he dismissed all arguments for Aboriginal ownership of lands in British Columbia. He even went beyond these legal points and volunteered the opinion that Aboriginal people are to blame for their losses because they have "failed to adapt" to the modern world. The judgment stunned me as I am sure it did First Nations people throughout B.C. and Canada. As I listened to first reports of the Judge's opinion that aboriginal people are to blame for their own oppression, I remembered some of the events of our history.

- Following confederation, regulations forbade Indians to pre-empt homestead land like other Canadians.
- A law, passed in 1885 and repealed only in 1951, prohibited the "potlatch" feasts by which the Gitksan Wet-suwet'en and other Aboriginal people validate the transfer of names and title from one generation to another.
- Aboriginal people could not vote in federal elections until 1960.
- A law in effect from 1927 to 1951 allowed the government to jail any person engaged in raising money for legal action on the land question.

I remembered that Canada never signed a treaty with the Gitksan and Wet'suwet'en. I remembered that Canada never even offered compensation for the lands and resources it took away from the Houses of the plaintiffs in this case. The judgment sounded to me like a declaration of war. It seemed to say that here, finally, was a written document that would serve as an instrument of conquest. Don't try to fight because we have already defeated you. We have done it through the courts which we control.

But most of all, I thought of Chief Gisdaw-wa of the Wet'suwet'en and Chief Yagalahl of the Gitksan, my friends Alfred and Dora. I thought of the hundreds of days they sat in Courtroom 53 in respectful silence. I thought of how they told my class stories of their land in explanation of their ownership of it. I thought of what their own laws expect of them. They came to Courtroom 53 to explain their trust in the land and its resources, its people. They came there to give the Court the dignity of their Chiefly office. They came there as human beings to meet another human being in mutual judgment of one another.

Chiefs Gisdaw-wa and Yagalahl were in Courtroom 53 to judge the court as much as to be judged by it. They have learned a great deal about the white people's law from the thousands of hours they spent in court. I am afraid that the Chief Justice has been less open to an understanding of their law. He

viewed them as "primitive." Now I am asking myself, can this white man named Allan McEachern understand the gravity of the judgment they and Canadian history will make of him?

### *An Anthropological Reading of the Judgment*

One of the tasks I commonly undertake as an anthropologist is evaluating written work by colleagues and students. In an average year I probably review dozens of manuscripts for publishers or academic journals, and in the course of teaching I evaluate hundreds of student essays. My opinions are sought after and respected by peers within my field. What follows is an evaluation of Mr. Justice McEachern's written opinion on topics within my professional area of competence. It is an anthropological reading of the judgment according to criteria generally accepted in anthropology. Despite McEachern's recognition that "Indian culture . . . pervades the evidence at this trial," the judge seemed to believe that aboriginal experience is "cultural," which he took to be different from what he identified as "factual." "Nearly every word of testimony, given by expert and lay witnesses," he wrote, "has both a factual and cultural perspective" (49). Given this simplistic assumption of a separation between culture and fact, it is not surprising that McEachern dismissed anthropology as irrelevant because of its inherently cultural perspective as well as for its ethical code that places the welfare of the people it studies above a fieldworker's personal advantage. He wrote:

. . . apart from urging almost total acceptance of all Gitksan and Wet'suwet'en cultural values, the anthropologists add little to the important questions that must be decided in this case. This is because, as already mentioned, I am able to make the required important findings about the history of these people, sufficient for this case, without this evidence. (51)

The above opinion indicates that the judge was critically unaware of his own bias that Aboriginal culture is "primitive" in relation to what he regarded as the superior "civilization" of the colonial power. More fundamentally, he never questioned the underlying assumption that societies can be ranked as "primitive" or "civilized" in relation to how closely they approximate his own. "Primitive" is not part of an anthropological vocabulary. Anthropology begins with an assumption that Aboriginal people have evolved complex and meaningful adaptations to their environment. It also assumes that culture is a dynamic and living entity that continues to change and adapt to changing circumstances. Aboriginal cultures are no more or less evolved than the colonial power, merely differently evolved. Similarly, Aboriginal cultures do not disappear when they come into con-

tact with modern technology. Aboriginal people do not cease to be Aboriginal by eating pizza, or, as McEachern would have it, by driving motor vehicles, teaching school, or working at skilled wage labour.

McEachern mistook anthropology's underlying acceptance that Aboriginal people have a rich and complex culture for a partisan "urging almost total acceptance of all Gitksan and Wet'suwet'en cultural values." He believed himself "able to make the required important findings" without the benefit of an anthropological perspective. He dismissed anthropology from the very beginning and in so doing revealed the fatal bias that underlies his entire opinion. Like the chauvinist who believes that everyone except people from his own region and class speak with an accent, McEachern showed himself to be singularly blind to the unstated assumptions of his own culture. I suggest that a systemic and unacknowledged ethnocentric bias is, to use McEachern's own phrasing, "fatal to the credibility and reliability" of his conclusions. From my experience evaluating texts from and about a variety of cultures, McEachern's decision stands out as being outside the bounds of normal anthropological discourse. It reveals a sub-text of underlying but unexamined assumptions upon which the more logical edifice of the judgment is constructed.

In *Delgamuukw*, Mr. Justice McEachern revealed a worldview and an ideology appropriate to a culture of colonial expansion and domination. The judgment is well suited to be an apology for that culture. It is not well suited to find a place where Aboriginal law and Canadian law can reach accommodation. It does not acknowledge the possibility of a law based on respect for "the spirit in the land and in all living things." It reflects the colonial culture's needs rather than those of the land. It sustains that culture's belief in dominating nature rather than adapting to it. Despite McEachern's apparent respect for objectivity, his opinion is fundamentally subjective and relative to the historical circumstances of the colonial experience. In my reading of the judgment, I have abstracted seven unstated but underlying assumptions that the judge makes without question. I will list them in order and, after each one, quote relevant passages from the judgment that exemplify each one. I have underlined key words and phrases for emphasis.

### *Assumptions Underlying the Delgamuukw Decision*

1. Societies can be ranked on a "scale of progress" from "primitive" to "civilized." Civilized societies are inherently superior to primitive ones and have a natural evolutionary right to dominate and replace them. They

are more complex overall and more "developed" in every way. The idea of development is accepted uncritically as an absolute measure of superiority.

... it would not be accurate to assume that even pre-contact existence in the territory was in the least bit idyllic. The plaintiffs' ancestors had no written language, no horses or wheeled vehicles, slavery and starvation was [sic] not uncommon, and there is no doubt, to quote Hobbs [sic], that *aboriginal life in the territory was, at best, "nasty, brutish and short."* (13)

It is worth noting that Dr. Ray [UBC historian] believes the natives were located in villages, that they lived off the land, principally the fishery, and hunted in the surrounding lands which were partly controlled by nobles or chiefs, or on some more distant unidentified lands, and that they had established trade patterns or relations with other villages. The foregoing must be considered in the context of the larger picture which emerged from the evidence. First, it would be incorrect to assume that the social organization which existed was a stable one. Warfare between neighboring or distant tribes was constant, and *the people were hardly amenable to obedience to anything but the most rudimentary form of custom.* (73)

2. Primitive societies were tiny, weak, and unorganized in their relation to the land in which they lived. They were all but lost in an otherwise *pristine wilderness*. Primitive people were more like animals in their relation to the land than like civilized people. Primitive societies are becoming a thing of the past.

It is common, when one thinks of Indian land claims, to think of Indians living off the land in pristine wilderness. Such would not be an accurate representation of the present life-style of the great majority of the Gitksan and Wet'suwet'en people who, while possibly maintaining minimal contact with individual territories, have largely moved into the villages. *Many of the few who still trap are able to drive to their traplines, and return home each night.* (13)

In their opening, counsel for the plaintiffs asserted that the plaintiffs have formed a distinctive form of confederation between their Houses and clans and that they have always enjoyed a level of civilization which is at least equal to many others which have received much greater prominence. *The defendants, on the other hand, point to the absence of any written history, wheeled vehicles, or beasts of burden, and suggest the Gitksan and Wet'suwet'en civilizations, if they qualify for that description, fall within a much lower, even primitive order.*

*I have no doubt life in the territory was extremely difficult, and many of the badges of civilization, as we of European culture understand the term, were indeed absent.*

*The evidence satisfies me that most Gitksan and Wet'suwet'en do not now live an aboriginal life. They have been gradually moving away from it since*

contact, and there is practically no one trapping and hunting full time, although fishing has remained an important part of their culture and economy. *As early as the 1850s the Gitksan, who had not previously seen a horse, quickly became adept at packing for the construction of the Collins Overland Telegraph.*

Witness after witness *admitted participation in the wage or cash economy.* Art Matthews Jr., (Tenimyget), for example, is an enthusiastic, weekend aboriginal hunter. But at the time of the trial, he was also the head saw filer at the Westar sawmill at Gitwangak where he had been steadily employed for 15 years, a graduate of the B.C. Institute of Technology, a shop steward, and a member of the Negotiating Committee of the Industrial Woodworkers of America. Pete Muldoe (Gitludahl) has followed a variety of *non-aboriginal vocations* including logging on the lands claimed by another chief; Joan Ryan (Hanamuxw) teaches school in Prince Rupert; and many, many Indians and chiefs have found seasonal or full-time employment in the forest products and coast commercial fishing industry, although unemployment remains a serious problem for both these peoples. (56)

3. Written documents carry far more weight than oral traditions of the Gitksan and Wet'suwet'en. The cultural values and judgments about Aboriginal people expressed by early European observers are accepted uncritically.

In 1822 . . . William Brown of the Hudson's Bay Company . . . reports some *minimal levels of social organization* but the *primitive condition of the natives* described by early observers is *not impressive.* (24)

The evidence suggests that *the Indians of the territory were, by historical standards, a primitive people without any form of writing, horses, or wheeled wagons.* Peter Skene Ogden, the controversial trader-explorer visited Hotset in 1836 and noted their *primitive condition* in his journal. (25)

When I come to consider events long past, I am driven to conclude, on all the evidence, that much of the plaintiffs' historical evidence is not literally true. For example, I do not accept the proposition that these peoples have been present on this land from the beginning of time. (49)

The history of the association of these people with the territory is a crucial part of their case and its proof is replete with difficulties. The plaintiffs undertook to prove amongst other things, the state, 200 years ago, of two separate people who had different, wholly unwritten languages and cultures, *who kept no records*, and who lived in adjacent parts of *a vast, remote and virtually inaccessible territory.* They must also prove the then and continuing use by these peoples of the lands they claim (if such was the case), and they must do all this within the laws of evidence which apply in this province. (53)

4. Primitive societies did not use or even fully occupy the lands surrounding the places where they "eked out a living." More advanced societies

measure their occupation of territory by transforming and altering it. They "make something of it." Primitive societies are slaves to natural forces. Civilized ones are masters of nature.

As will be shown, I do not accept that the immediate and more remote ancestors of some of the plaintiffs were **EKING OUT** [emphasis added] an aboriginal life in all parts of the territory for a long, long time. In fact, I am not able to find that ancestors of the plaintiffs were using all of the territory for the length of time required for the creation of aboriginal rights . . . (49)

. . . the descriptions I heard [of Gitksan Wet'suwet'en government] tended to be both idyllic and universal, neither of which terms, in my view, accurately describe what happened "on the ground" in the day to day life of the people. Life for the Gitksan and Wet'suwet'en has never been idyllic, and universality in practice was seldom seen. (31-32)

5. Aboriginal peoples of North America are all primitive relative to Europeans, although some are more primitive than others. Civilized peoples appropriated unoccupied lands to more advanced purposes (like clearcut logging and other exports of non-renewable resources). Aboriginal peoples are "Indians," the name mistakenly given them by Columbus 500 years ago.

In this judgment I propose to use the term "aboriginal rights" to describe rights arising from ancient occupation or use of land, to hunt, fish, take game animals, wood, berries and other foods and materials *for sustenance and generally to use the lands in the manner they say their ancestors used them*. These are the kinds of "usufructory rights" mentioned in *St. Catherines Milling and Lumber Co. Ltd. v. Attorney General of Ontario*. (15)

Aboriginal life, in my view, was far from stable and it stretches credulity to believe that remote ancestors considered themselves bound to specific lands. (56)

6. Europeans attempted to help the primitive Indians along the road to civilization. Their only error was in the choice of coercive techniques like the potlatch law, rather than an error in the first principles on which they predicated their actions.

There are many relevant, interfluent histories. They include the origins of **OUR** [emphasis added] native peoples, early European discovery, exploration, settlement and development on the east and west coasts of this continent. (17)

Dr. Daly's evidence brings up a painful subject. Historically, feasts often led to the actual or assumed obligation to give away property, and *this sometimes produced exaggerated results when some Indians were persuaded or felt obliged to give away all or much of their property*. This practice was not

confined to the Indians of the territory but was widespread throughout the province.

As is so often the case in these matters there are two sides to the story. The Indians believe this aspect of feasting was and is a part of their tradition. THE AUTHORITIES [emphasis added] regarded it differently. I do not find it necessary to attempt to pronounce on this question.

There were also some Aboriginal practices associated with feasting which some persons of different cultural backgrounds classified as barbaric. These were some of the causes of an insult suffered by Indians which is still deeply resented.

These alleged excesses in feasting practices during the last century attracted the critical attention of both the clergy and the federal civil authorities. The clergy reacted predictably to what they regarded as heathonism; *the civil authorities*, on the other hand, *found the practice of giving away all or most of one's property harmful to the Indians and to the community generally*. Each authority, for different reasons, sought without success to eliminate feasting. As a result, the federal government imposed a legislative ban on feasting which is seldom a useful way to control or reform cultural practices.

(34-35)

7. Indians must ultimately become civilized. Their problems have to do with their lack of progress toward this end, not with their loss of lands and resources. Indians who use machines and otherwise participate in contemporary society are by definition no longer primitive and therefore can no longer claim Aboriginal rights. These rights exist only as the right to continue lives that are "nasty, brutish and short."

Being of a culture where everyone looked after himself or perished, the Indians knew how to survive (in most years). *But they were not as industrious in the new economic climate as was thought to be necessary by the newcomers in the Colony*. In addition, the Indians were a greatly weakened people by reason of foreign diseases which took a fearful toll, and by the ravages of alcohol. They became a conquered people, not by force of arms, for that was not necessary, but by an invading culture and a relentless energy with which they would not, or could not compete.

Many have said *with some truth*, but not much understanding, that the *Indians did not do as much for themselves as they might have done. For their part, the Indians probably did not understand what was happening to them*. This mutual solitude of misunderstanding became, and remains, a dreadful problem for them and for everyone. (129)

### Conclusions

1. Allan McEachern is not an unintelligent man. He is merely the prisoner of his own culture's colonial ideology. His judgment, though, could be

persuasive to someone who shared his initial acceptance of the proposition that Aboriginal societies were primitive and have inevitably been replaced by civilization.

2. McEachern discounts anthropological evidence as of little value in making his judgment. He regards his views of culture as "common sense." The logic of this proposition is the same as saying that psychiatric evidence would be of little value to the court because it is common sense that mental illness is caused by demon possession. In this case, he asserts as common sense that Aboriginal societies are primitive in relation to his own society which is civilized. The self-serving nature of such an assertion should be transparent to anyone with a cross-cultural perspective.

3. McEachern's judgment states views that have deep roots in colonial thought generally and in B.C. specifically. Joseph Trutch, an author of British Columbia's Terms of Union and the person most influential in establishing the new province's policy on Aboriginal land, used almost identical language more than a century ago. He used it to justify the alienation of Aboriginal lands at a time when Aboriginal people still constituted a majority of the population in British Columbia. McEachern used the same argument to sustain that alienation and to provide a legal rationalization for it more than a century later.

I would like to conclude with a few quotes from Joseph Trutch. I have placed them within the context of a chronology of how the province developed its policy on Aboriginal issues. Further information on Trutch and his views may be found in *Contact and Conflict* by Robin Fisher. The quotes from Trutch show that he used language that is virtually identical to that used by Mr. Justice McEachern in *Delgamuukw v. B.C.* The language is the same because both writers served the needs of a colonial regime. Trutch needed to view Aboriginal people as "utter savages" who "make no real use" of their territories in order to alienate their land without purchase of treaty. Like Trutch, McEachern's views serve the purpose of dispossessing Aboriginal peoples from their territories in the absence of purchase, treaty, or other instrument of surrender. McEachern needed to view "aboriginal life [as] brutish and short" in order to justify and continue his government's claim to Aboriginal land.

Like McEachern, who wrote that the Gitksan Wet'suwet'en "were, by historical standards, a primitive people" merely "eking out" a living and not "using all the territory for the length of time required for the creation of Aboriginal rights," Trutch described Aboriginal people as "savages" who "really have no right to the lands they claim, nor are they of any actual

value of utility to them." The views Trutch expressed may be understood, if not excused, by the context of nineteenth century British imperialism. Trutch did not have the benefit of an anthropological perspective. McEachern had no such excuse. He rejected both Aboriginal and anthropological evidence in favour of an ideological mind-set virtually unchanged from the time of Trutch.

JOSEPH TRUTCH (Quotations taken from Robin Fisher, *Contact and Conflict*)

1864 — Joseph Trutch, a surveyor and developer, is appointed Chief Commissioner of B.C. Lands and Works. He begins a policy of taking Indian lands for development, justified by racist ideas that Indians are "utter savages" incapable of "appreciating any abstract idea." He reinterprets Douglas policy to limit lands reserved for Indians to a maximum 10 acres per family. Lands reserved for Indians by Douglas are referred to as "claims." Trutch writes, "the claims of the Indians over tracts of land, in which they assume to exercise ownership, but of which they make no real use, operate very materially to prevent settlement and cultivation."

1867 — Reserves on the lower Fraser River are "reduced to what is necessary for the actual use of the Natives." Trutch writes in B.C. Legislative Council minutes, "The Indians really have no right to the lands they claim, nor are they of any actual value of utility to them; and I cannot see why they should either retain these lands to the prejudice of the general interests of the Colony, or be allowed to make a market of them either to Government or to individuals."

1871 — Joseph Trutch is appointed Lieutenant Governor of the new province. He goes on record to the Kitkatla people that, "the days are past when your heathenish ideas and customs can any longer be tolerated in this land."

1872 — Trutch writes his friend, Sir John A. Macdonald, "We have here in B.C. a population numbering from 40,000 to 50,000, by far the larger portion of whom are utter savages living along the coast, frequently committing murder and robbery among themselves, one tribe upon another, and on the white people who go amongst them for the purposes of trade, and only restrained from more outrageous crime by being always treated with firmness, and by the consistent enforcement of the law amongst them to which end we have often to call in aid the services of H.M. ships on the station. . . . If you now commenced to buy out Indian title to the lands of B.C. you would go back of all that has been done here for 30 years past and would be equitably bound to compensate the tribes who inhabited the districts now settled and farmed by white people equally with those in the more remote and uncultivated portions." He suggests that "charge of all Indian affairs in B.C. should be vested in the Lt. Governor," i.e. himself.

1880 — Prime Minister John A. Macdonald asks his friend Trutch to suggest a replacement Commissioner. Trutch suggests Peter O'Reilly, his Brother-in-law. Trutch advises Macdonald that reserves laid out by Sproat were "unrea-

sonably large" and "out of all proportion to the actual or prospective requirements of the Indians." Macdonald also accepts his suggestion that decisions of the Reserve Commissioner be subject to confirmation by the Indian Superintendent and the Chief Commissioner of Lands and Works. O'Reilly continues Trutch policy of reducing reserves "for the public interest" and makes land available to settlers without reference to aboriginal systems of land tenure and ownership.

### *Some Final Thoughts*

Not long after Trutch finished writing his ideological justifications for colonial expansion, anthropologists like Franz Boas and James Teit spoke strongly in support of Aboriginal rights. Teit in particular assisted the Nlaka'pamux people (Thompson Indians), with whom he lived and worked for twenty-five years, in drafting declarations of their continuing resistance to colonial domination. Contemporary anthropologists must be even more responsible than their predecessors for speaking out against poorly informed decisions like that of Mr. Justice McEachern in *Delgamuukw*. McEachern says that Aboriginal people "were not as industrious in the new economic climate as was thought to be necessary by the newcomers in the Colony." He says that "they became a conquered people, not by force of arms, for that was not necessary, but by an invading culture and a relentless energy with which they would not, or could not compete." As anthropologists with knowledge of both Aboriginal and colonial history, we cannot allow the continuation of such misinformation to go unchallenged. We must bear witness.