EDITORIAL

On 26 June 2014, as we were compiling this issue of *BC Studies*, the Supreme Court of Canada (SCC) recognized that the six communities and three thousand people of the Tsilhqot'in (previously Chilcotin) Nation held Aboriginal title to 1,750 square kilometres of Crown land some one hundred kilometres southwest of Williams Lake. Basing its decision on earlier and foundational cases from British Columbia – including *Calder* (1973), *Guerin* (1984), *Sparrow* (1990), and *Delgamuukw* (1997) – the court concluded that "Aboriginal title confers the right to use and control the land and to reap the benefits flowing from it" (*Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44).

In doing so, the court rejected the BC government's narrow "postage-stamp" or "site-specific" view of Aboriginal title (restricting it to traditional village or resource procurement sites). Instead, the Tsilhqot'in held Aboriginal title over "tracts of land that were regularly used for hunting, fishing or otherwise exploiting resources and over which the group exercised effective control at the time of assertion of European sovereignty." According to Xeni Gwet'in (Nemaiah Valley) chief Roger William, who initiated the litigation when his people were unable to resolve a dispute with the provincial government over its allocation of a tree farm licence in Tsilhqot'in traditional territory, "this changes everything."[1] Although the court was careful to note that economic development could still take place on Aboriginal land, it established that it could only proceed with the consent of the relevant First Nation or if the government could establish that the projects "are justified by a compelling and substantial public purpose and are not inconsistent with the Crown's fiduciary duty to the Aboriginal group." As Joe Alphonse of Tl'etinqox (Anahim Reserve, Alexis Creek), tribal chairman of the Tsilhqot'in National Government, told CTV News: "If they want big projects, they are going to have to come through our doors, work with us."[2]

Instead of following the approach taken by the BC Court of Appeal, which would have confined Aboriginal title to small parcels of land with the possibility of Aboriginal rights to hunt and fish elsewhere, the SCC

[1] William is quoted in http://commonsensecanadian.ca/REPORTED_ELSEWHERE-detail/tsilhqotin-first-nations-landmark-legal-victory-game-changer/.

[2] Alphonse is quoted in http://www.ctvnews.ca/canada/from-oil-to-forestry-projects-what-the-land-title-ruling-means-and-what-comes-next-1.1887505.

adopted the findings of the trial judge, David Vickers, who recognized title to a large, contiguous territory. In his 2007 decision, Justice Vickers took Tsilhqot'in oral history into account in determining "a continuous Tsilhqot'in presence in the claim area." To this point, there had been much debate about the admissibility of oral history as evidence in Canadian courts, a debate neatly summarized in the title and content of Bruce G. Miller's book on this subject, *Oral History on Trial* (Vancouver: UBC Press, 2011). This issue of *BC Studies* extends that analysis. Several of the articles make use of or reflect upon oral histories and demonstrate, in very different contexts, both their reliability and their usefulness in illuminating the past.

The piece most closely connected to the legal debate and context is a reflection by Robin Ridington on "Dane-zaa Oral History: Why It's Not Hearsay." Ridington, a UBC anthropologist, has worked with the Dane-zaa people of northeast British Columbia since 1964, when they were known as the Beaver Indians, and here he challenges the work of scholars and expert witnesses who diminish the authority of First Nations oral historians by describing oral histories as "hearsay" and oral traditions as "historical gossip." He argues that oral sources are sometimes richer than written records. Researching the Doig and Blueberry treaty land entitlement claim, he discovered that the records of the Department of Indian Affairs failed to document the names of a significant number of eligible people who were alive in 1914 and who should have been on its annuity pay-lists. Their existence was demonstrated by Dane-zaa oral history, Roman Catholic Church records, and Hudson's Bay Company journals. To further this point, Ridington considers the story of a man named Duuk'isachin, whose life "illustrates the richness and complexity of the narrative that Dane-zaa oral historians constructed regarding the complex relations of the early fur trade period." Informant Tommy Attachie told Ridington that Duuk'isachin, whom the fur traders knew as L'Homme Seul, was involved in an incident at the North West Company's Fort Vermillion and Rocky Mountain Fort in the first decade of the nineteenth century. Here, Ridington notes that Attachie's "story describes events for which we have some Western documentary evidence, but he tells them from a Dane-zaa perspective. His rendition is far richer and more nuanced than the simple entries of a trader's journal." Ridington concludes that Dane-zaa oral histories are both useful and reasonably reliable: "They are primary documents of Peace River history during the last two centuries, and they exemplify the best of First Nations historiography."

Oral history also underpins "The Journey of a Ts'msyen Residential School Survivor: Resiliency and Healing in Multi-Ethnic Milieus," a collaboration between Kamala Elizabeth Nayar, a sociologist from Kwantlen Polytechnic University, and 'Liyaa'mlaxha (Leonard Alexcee), a Ts'msyen (Tsimshian) man from Lax Kw'alaams (Port Simpson) on the north coast of British Columbia. This is a poignant and important story of a man brought up on a small "postage stamp" Indian reserve within his traditional territory, the vast bulk of which, as Crown land, had been appropriated and alienated for settlement and industry at the same time as its First Nations residents had been marginalized, Christianized, and subjected to the strictures of the Indian Act, residential schools, and a racist settler culture.

Sent at the age of eleven to the Alberni Indian Residential School on Vancouver Island, 'Liyaa'mlaxha was prohibited from speaking Nisga'a and experienced physical abuse. At the age of seventeen he was expelled after he and two other boys beat up the principal because, he says, "enough was enough," and "I became a very angry man." Returning to work at Nelson Brothers Cannery in Port Edward, near Prince Rupert, 'Liyaa'mlaxha lived in the cannery's row housing with other workers who "were mostly Natives from the Nisga'a, Haida, Gitxan, Ts'msyen, and Cree nations." This housing, he notes, was "separate from that of the Chinese and whites, who had better living accommodations than we did." He married Mona Morrison (Wiigondaw) in 1952 and had two sons. Prince Rupert in the 1950s had significant numbers of Italian, South Asian, and Filipino residents, and hotels, restaurants, and movie theatres from which First Nations people were excluded or confined to designated areas. It was hard, 'Liyaa'mlaxha recalls, "to see immigrants allowed to speak in their own language after we had been abused for speaking in ours … Our Native culture was at a standstill. Our abuse was buried." Finally, in the 1980s, he started talking about his abuse at residential school and embarked on what he calls his "healing journey." Until recently an elected school trustee in Prince Rupert, 'Liyaa'mlaxha is also an active member of the Kaien Island Elders' Group and helps others with what he calls "residential school syndrome."

Oral history is also employed to good effect in Megan Davies's "Women Unafraid of Blood: Kootenay Community Midwives, 1970-90." A medical historian at York University, Davies conducted thirty-seven interviews with midwives who had been part of the Kootenay Childbirth Counselling Centre in Nelson, and she consulted a variety of other sources to cast new light on the medicalization of childbirth

in the twentieth century, on the importance of self-sufficiency and self-education among members of the counterculture, on the emergence of "a feminist-informed personal belief that the female body is the purview of women, and [on] alternative understandings of nature and health."

Only one article in this issue relies entirely on documentary sources as opposed to oral history, interviews, or surveys. In "'Nonsensical and a Contradiction in Terms':…," University of Victoria historian Richard Rajala argues that, for all their progressive connotations, the terms "multiple use" and "sustained yield," popular with the BC Forest Service in the quarter century after the Second World War, were ideologies masking a regime in which timber interests ranked ahead of all others. Although sustained yield was meant to achieve forest renewal "on a cooperative basis, with corporate self-interest making rigid regulation unnecessary," the parallel introduction of vast consolidated tenure units known as Tree Farm Licences (TFLs) placed control of 54.5 percent of the provincial harvest in the hands of ten large firms by 1974. At the same time, the federal Department of Fisheries and the BC Fish and Wildlife Branch lacked adequate fish protection measures. Many spoke out against the BC government's forest management regime, especially the destruction of salmon runs, and urged, among other things, that the BC Forest Service mandate "leave strips" of timber along rivers and streams. But conservationists such as Roderick Haig-Brown, who argued for riparian buffer zones and more inclusive multiple use, were quickly frustrated as their petitions "ran up against the determination of timber capital and the provincial state to maintain unfettered clearcutting." Real change would only begin after 1969, with the formation of both the Society for Pollution and Environmental Control (SPEC) and a BC chapter of the Sierra Club, which "alerted government and industry elites that environmentalism had arrived in the province" and ushered in an era known as the War in the Woods.

In "Green Noise: Measuring the Value of Agricultural Noise in the Urban Fringe," Tracy Stobbe of the School of Business at Trinity Western University employs a method, devised to place a dollar value on non-market goods, to assess the impact upon local residents of a specific and contentious noise – that emanating from the propane cannons used to scare starlings and other small birds away from the blueberry farms of the Fraser Valley. Economists know her approach, implemented through a random survey of households in the vicinity of twenty-two blueberry farms, as Contingent Valuation. Typically, respondents are asked how much they are willing to pay to do without such things as the noise of

highway traffic or overhead aircraft in order to save endangered species such as the spotted owl or to pay for the cleanup costs associated with oil spills. Earlier studies (in Europe) have concluded that people would pay an average of $26.21 a year to reduce road noise. Stobbe finds that, on average, people in the vicinity of propane cannons in Abbotsford, Chilliwack, Hatzic, and Nicomen would be willing to pay just over seventy dollars a year for the cessation of such noise. Recognizing the limitations of her method, and the possibilities of distortion in the findings it generates, she posits that a ban on cannons would produce an annual societal benefit of between $185,000 and $582,000, depending upon how one defines the affected population. She makes no assessment of the losses to farmers that would result from a ban on cannons. In the end, this approach and the estimates it yields are arguably more useful in provoking thought about the issues involved and assessing the relative (in)utility of particular activities than in calibrating precise levels of concern or distress, but they are nonetheless useful for that. With the other contributions to this issue of *BC Studies* – and the SCC decision in the Tsilhqot'in case – Stobbe's exploration forces us to think hard and again about the weight and balance of authority (and power) in society, about the ways in which we evaluate evidence, and about the types of environments and societies in which we wish to live or hope for British Columbia and Canada to become.

Richard Mackie and Graeme Wynn