

**No. 23646**  
**NELSON REGISTRY**

**IN THE PROVINCIAL COURT OF BRITISH COLUMBIA**  
**(BEFORE THE HONOURABLE JUDGE MROZINSKI)**

**OCTOBER 11, 2016**  
**NELSON, BC**

**IN THE MATTER OF**

**REGINA**

**v.**

**RICHARD LEE DESAUTEL**

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**PROCEEDINGS AT TRIAL**  
**(DAY 11)**

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**APPEARING FOR THE CROWN:**

**G. THOMPSON**  
**A. PEACOCK**  
**M. WORTH**

**APPEARING FOR THE ACCUSED:**

**M. UNDERHILL**  
**E. PENN**

1 that right?

2 A In interviews of 1984/85, around there, and the  
3 affidavits were those that you submitted, and I  
4 don't recall the dates of them.

5 Q Well, I didn't submit any affidavits, but I think  
6 you are -- I think you are referring to the 2009  
7 affidavits that are at least partially in evidence  
8 now. Is that what you are referring to?

9 A They are the only affidavits I know of, so I'll  
10 agree with you.

11 Q And so again, just I have your evidence -- and  
12 we'll come back to this this afternoon, but your  
13 evidence is that -- we may get to it this morning  
14 actually. Your evidence is that the Lakes people  
15 were just too busy farming to hunt anymore in the  
16 Arrow Lakes; is that right?

17 A Yes. I think there was hunting available closer  
18 to home and they took on a different lifestyle.

19 Q Now, you are aware, aren't you, that a law was  
20 passed in 18 -- make sure I get that right, 1896  
21 that prohibited non-resident Indians from hunting  
22 in British Columbia?

23 A Can you say that again.

24 Q You are aware, I assume, because it's referenced  
25 in your report, that a law was passed in 1896 that  
26 made it illegal for non-resident Indians to hunt  
27 in British Columbia?

28 A There was that motion in the House saying that  
29 they -- it wasn't -- I didn't think it was made  
30 illegal. It was -- the motion was to ask the  
31 US government to not allow the American hunters to  
32 come north because the game should be left for the  
33 Canadian Kootenays.

34 THE CLERK: Your Honour, shall I enter the last exhibit  
35 as exhibit 71, the invoice, one page invoice?

36 THE COURT: Yes, please.

37 MR. UNDERHILL: I am sorry. Thank you very much, Madam  
38 Clerk.

39 THE COURT: Thank you, Madam Clerk.

40  
41 **EXHIBIT 71: Invoice 5 for services rendered by**  
42 **Bouchard & Kennedy Research Consultants on behalf**  
43 **of the Ministry of Justice, Province of BC, dated**  
44 **June 30, 2015**  
45

46 MR. UNDERHILL:

47 Q Have you seen this statute before?

- 1 A No, I haven't. I've only seen it referred to.  
2 Q Can you have a look, please, at section 6.  
3 A Yes.  
4 Q And you'll see there, essentially as I've said,  
5 that's a provision dealing with the prohibition  
6 against non-resident Indians hunting. Do you see  
7 that?  
8 A Yes, I do.  
9 Q So this is news to you? This is the first time  
10 you've seen this?  
11 A Well, I see that it would be what likely came out  
12 of the motion in the House.  
13 Q But you weren't aware that this law was in  
14 existence until today?  
15 A I think I was. I've just forgot it.  
16 Q Forgotten about it?  
17 A Yeah.  
18 Q Do you concede that this law might have had an  
19 impact on Lakes people hunting in British  
20 Columbia?  
21 A Yes, it could have had an impact.  
22 Q Might have made their choice something less than  
23 voluntary; wouldn't you agree?  
24 A I assume that they are not just talking about  
25 Indians from Alberta, but ...  
26 Q I think you can safely assume that. And we know  
27 that's true if we look at your report, isn't it?  
28 Let's go to page 175.  
29 A 140 ...  
30 Q 175.  
31 A 175.  
32 Q And over to the top of page 176. You in fact  
33 reference this very provision, as I understand it,  
34 here at the top of page 176, don't you?  
35 A Well, it's mentioned in another -- in a newspaper  
36 article.  
37 Q No, fair enough. And we are going to come to  
38 these newspaper articles in a minute, but  
39 certainly as I understand your report and what you  
40 are suggesting at 175 and 176, or what you are  
41 recalling, is that following the -- what I think  
42 you've conceded to at least be harassment but not  
43 oppression -- you are very careful about that.  
44 The harassment of Lakes people hunting led in fact  
45 to this provision; isn't that fair?  
46 A I think that's fair.  
47 Q It's also fair to say, then, as I've said, isn't

- 1           it, that the choice for Lakes people to hunt in  
2           British Columbia may not have been voluntary  
3           because it was illegal to come up and hunt?  
4        A     Well, we do have incidents of people hunting.  
5        Q     We certainly do, don't we?  
6        A     After this time.  
7        Q     Despite it being illegal?  
8        A     Yes.  
9        Q     Wouldn't that suggest to you that it was quite  
10       important to them to keep on trying to do it?  
11       A     Well, I think for people like Mr. Christian, it  
12       was a necessity.  
13       Q     Well, wasn't it important to everybody else too?  
14       Despite the fact that it was illegal, they still  
15       came up to hunt, didn't they?  
16       A     Some did, yes.  
17       Q     And that doesn't suggest to you that maybe hunting  
18       was really, really important to the Lakes people  
19       in the Arrow?  
20       A     I don't agree with that statement, that it was  
21       important to the Lakes people. I'm suggesting  
22       that there may have been less of it going on over  
23       time.  
24       Q     Have you talked to a single Lakes person about  
25       whether they want to hunt in the Arrow today?  
26       A     I don't think I've ever asked that specific  
27       question.  
28       Q     No, you haven't, have you?  
29       A     No.  
30       Q     You have no idea what the Lakes people -- whether  
31       it's important for them to hunt in the Arrow, do  
32       you? You have no idea whether that's important to  
33       them or not?  
34       A     I think that if it were not, we wouldn't be here  
35       today.  
36       Q     Well, let's put it this way: you haven't talked  
37       to a single person about whether it's important  
38       for them to hunt?  
39       A     That's true.  
40       MR. UNDERHILL: Again, I'm not sure if it's appropriate  
41       to mark a statute as an exhibit.  
42       THE COURT: I think we'll mark it. It's an old  
43       statute. I'll mark it as the next exhibit.  
44       MR. UNDERHILL: Thank you, Your Honour.  
45       THE CLERK: Exhibit 72, Your Honour.  
46  
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