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Docket Entry 255 - Filed Deposition of John Robert Brown

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
- - - - -

UNITED STATES OF AMERICA,)	No.: Civ. No. 9213
et al.,)	PRETRIAL ORAL DEPOSITION
)	
Plaintiffs,)	OF
)	
vs.)	<u>JOHN ROBERT BROWN</u>
)	
STATE OF WASHINGTON, et)	220 Bellingham National
al.,)	Bank Building
)	Bellingham, Washington
Defendants.)	
)	May 17, 1973.
)	

FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JUN 14 1973

EDGAR SCOFIELD, CLERK

By eh Deputy

(Original)

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255

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1
2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 - - - - -
5

6 UNITED STATES OF AMERICA,)
7 et al.,)

8 Plaintiffs,)

9 vs.)

10 STATE OF WASHINGTON, et)
11 al.,)

12 Defendants.)
13
14

No.: Civ. No. 9213

PRETRIAL ORAL DEPOSITION

OF

JOHN ROBERT BROWN

220 Bellingham National
Bank Building
Bellingham, Washington

May 17, 1973.

15
16 APPEARANCES:

17 ALVIN J. ZIONTZ, of Messrs. Ziontz, Pirtle
18 & Morisset, 3102 Seattle-First National Bank
19 Building, Seattle, Washington (98154),

20 For the Plaintiff Intervenor
21 Lummi Indian Tribe.

22 DAVID E. RHEA, of Messrs. Asmundson, Rhea &
23 Atwood, 220 Bellingham National Bank Building,
24 Bellingham, Washington (98225),

25 For the Defendant Intervenor
Washington Reef Net Owners
Association.

1 Deposition of JOHN ROBERT BROWN, a witness of
2 lawful age, taken in the above-entitled cause, wherein
3 UNITED STATES OF AMERICA, et al., are plaintiffs and
4 STATE OF WASHINGTON, et al., are defendants, pending
5 in the United States District Court for the Western
6 District of Washington, pursuant to oral stipulation
7 between counsel, at the instance of Plaintiff Intervenor
8 Lummi Indian Tribe, before Basil D. Rasmussen, a Notary
9 Public in and for the State of Washington, County of
10 Whatcom, residing at Bellingham, at 220 Bellingham
11 National Bank Building, Bellingham, Washington, on the 17th
12 day of May, 1973, commencing at the hour of 2:30 o'clock
13 p.m.

14
15 (It was stipulated by and between counsel,
16 Mr. Rhea and Mr. Zlontz, that the deposition
17 was being taken on oral stipulation, and that
18 oral notice of said deposition had been
19 given to defendants' liaison counsel, counsel
20 for the Department of Game and the United
21 States of America.)

22
23 JOHN ROBERT BROWN,
24 a witness of lawful age, and being first duly sworn
25 in the above cause, testified on his oath, as follows:

1 BY MR. ZIONTZ:
2 Q State your name and address, please.
3 A John Robert Brown, 4098 Legoe Bay Road, Lummi Island.
4 Q And how long have you lived at that address?
5 A I built my home there in 1950.
6 Q Before that where did you live, Mr. Brown?
7 A Bellingham, Whatcom County. My --
8 Q What is your -- excuse me.
9 A -- (continuing) my grandfather was a homesteader in
10 the 1880's at Nooksack, Washington, and I was born on
11 that homestead.
12 Q What is your present age?
13 A Sixty-five. It was January I was sixty-five, in
14 January, 1973.
15 Q What is your occupation?
16 A Lummi Island reefnet fisherman.
17 Q Do you pursue any other occupation during the remainder
18 of the year when you're not reefnetting?
19 A I'm retired.
20 Q Before you retired what was your occupation?
21 A Logger.
22 Q When you were logging were you also a reefnetter?
23 A Yes.
24 Q And were those the only two occupations during the
25 year -- logging and reefnetting?

1 A Yes. They are both seasonal. I was a faller and a
2 buckler.

3 Q And when did you begin reefnetting?

4 A 1939.

5 Q I can't do the arithmetic that fast. Just tell me how
6 old you were then.

7 MR. RHEA: It would have been forty-four
8 years ago, wouldn't it? Thirty-four.

9 A I've been fishing out there approximately thirty-seven
10 years, I think it figures out roughly.

11 Q All right.

12 A Owned my own boats; built them with my own hands.

13 Q According to my calculations, you would have been about
14 twenty-nine years old at that time?

15 A That's just about right.

16 Q Okay.

17 Now, when you began, what site or location did you
18 begin at?

19 A Well, I can only state that Mr. Largaud from Point
20 Roberts --

21 MR. RHEA: That's spelled L-a-r-g-a-u-x, too.

22 A G-a-u-d.

23 MR. RHEA: Oh. Sorry. You're right.

24 A --(continuing) he owned a little sawmill and he used to
25 cut the lumber for us to build our boats, but this

1 instance I worked for him. A man by the name of
2 McFarland brought three sets of reefnet boats down from
3 Point Roberts that year, 1939, and I fished for Mr.
4 McFarland as supervisor foreman for Mr. Largaud. Just
5 as a share member, share crew member.

6 Q Now, you technically were not responding to the question
7 I asked you. The question was, where did you fish?

8 A You mean how far offshore, like that?

9 Q No. Was this at Legoe Bay?

10 A Yes, Legoe Bay, Lummi Island.

11 Q Okay.

12 A That's right.

13 Q Have you ever reefnetted anyplace else except Legoe
14 Bay?

15 A Never have.

16 Q Do you know of any other reefnet fisheries in the State
17 of Washington besides those at Lummi Island, on the west
18 side of Lummi Island?

19 A Oh, yes.

20 Q Where are the other major reefnet fisheries located?

21 A Well, Point Roberts used to be a very good reefnet
22 fishery. Today it's --

23 Q Don't get into other comments. Just confine yourself
24 to the answer to the question.

25 A All right.

1 Q The question is, where are the other reefnet sites in
2 the State of Washington within your knowledge?
3 A Well, the Fisheries Department has a full record of
4 it. Let's see. Stuart Island, Open Bay -- it's on
5 San Juan -- Lopez Island, Cherry Point and Point
6 Roberts.
7 Q All right.
8 Now, you have never reefnetted anywhere else except
9 Legoe Bay?
10 A Never.
11 Q All right.
12 Now, when you first went out as a supervisor, was
13 it, for Mr. McFarland, or for Mr. Largaud?
14 A No, I was merely a working crew member.
15 Q Oh, I see.
16 On one of his boats?
17 A On one of Mr. Largaud's boats.
18 Q And he had three?
19 A Three sets of boats.
20 Q Three sets.
21 A Six:
22 Q Right. Double, two boats?
23 A Two boats is one set.
24 Q When you first went out in 1939 were there any
25 Lummi Indians operating boats on the Legoe Bay site?

1 A Part of the crews that I worked with were Lummi Indians.
2 Q All right.
3 So your answer is, yes, they were operating?
4 A Oh, certainly, but --
5 Q How about owning boats?
6 A I have never known a Lummi Indian to own a set of
7 boats, or any other Indians. They always worked for
8 somebody else to my knowledge.
9 Johnny Lewis today is working for Warren Granger.
10 He has been his foreman for twenty-five or thirty
11 years probably. Twenty years at least.
12 Q When did you first acquire ownership of a boat?
13 A I built my first set of boats in 1940.
14 Q How expensive is it to build a set of boats?
15 A Then or today?
16 Q Then.
17 A Approximately three hundred dollars for a pair of
18 boats.
19 Q And then, of course, you had to get nets?
20 A Yes. We used cotton nets in those days.
21 Q Did you purchase the nets or were they provided by the
22 cannery?
23 A I purchased the web, sewed it together and hung it on
24 a rim line to make my first net. We all do that even
25 today.

1 Q You mean the nets are all handmade?

2 A You buy the web, just like a purse seiner does or a
3 gillnetter does, and you hang it on a rim line.

4 Q All right.

5 Now, when you first went out there approximately
6 how many sets of boats were on the reefnet site at
7 Lummi Island?

8 A I don't think I know. The Fisheries Department would
9 have those figures.

10 Q Well, do you remember --

11 A According to the number of licensees.

12 Q Were there approximately the same number as there
13 are today?

14 A That I wouldn't know.

15 Q Well, were there rows of boats as there are now?

16 A Oh, yes.

17 Q Were there as many as eight or ten rows?

18 A I don't know. There was I would say a minimum of five
19 rows, six rows.

20 Q Now, when you first went to work for Mr. Largaud did you
21 know how the locations were assigned?

22 A No. I was hired as a crew member.

23 Q Well, let me rephrase the question.

24 A I don't know what you mean.

25 Q How were the locations assigned in 1939 and 1940?

1 A They were never assigned as far as I'm concerned, or
2 so far as I have ever known.

3 Q How did anyone know what location he could occupy?

4 A Oh, by agreement with his fellow fishermen. He said,
5 "I want to fish here," and the fellow says, "Okay,
6 you're the first one that said that; you're the one that
7 has the right." That applied to anybody.

8 Q You mean one applicant would talk to one master
9 controller?

10 A No. No, no.

11 Q Well, how could one person say, "You have the right
12 since you were the first one who asked?"

13 A He merely agreed on the -- I don't think you'd call it
14 a right. It was just an ethical agreement among
15 fishermen that "You're the first one that signified
16 a desire to fish there, and no one is fishing on it,
17 no one else has filed an intention to fish there, so
18 as far as I'm concerned or anyone else is concerned, --

19 Q I see.

20 A -- (continuing) you can fish there; no objections."

21 Q I take it you're telling me this is a first come, first
22 serve plan?

23 A Right.

24 Q And you said something about signifying your desire by
25 filing your intention. Does that refer to some formal

1 filing of a document?

2 A Just in this way that "To Whom it May Concern: I, so
3 and so, would like to fish in such and such an area
4 and location, subject to the laws of the State of
5 Washington."

6 Q Where -- excuse me; go ahead.

7 A Yes, that's it.

8 Q Where is that document found?

9 A I don't know. They were quite informal.

10 Q Were they posted anywhere, or filed in Olympia, or
11 filed at the local courthouse?

12 A Oh, not in Olympia. Just among ourselves as fishermen.

13 Q Well, you said you had to give notice to your fellow
14 fishermen in some way.

15 A Had it posted "Let it Be Known," and if there was no
16 objection filed by anyone saying, "No, I was there
17 first," why, --

18 Q Well, --

19 A -- (continuing) we agreed he could have it.

20 Q But you keep talking about posting as though this were
21 a piece of paper put up somewhere. Is it a piece of
22 paper?

23 A Oh, we had organizations. We had a union in which
24 gear owners and fishermen all belonged, and I think it
25 was posted with them.

1 Q I see.
2 Was it a union?
3 A Yes.
4 Q Or an association -- which?
5 A The union at that time.
6 Q What was it called?
7 A Puget Sound Reefnetters Union, Local No. 4.
8 Q Was it affiliated with any national labor organization?
9 A The International Fishermen and Allied Workers Union,
10 which was later dissolved.
11 Q Now, to pin this down in time, we're talking about 1939,
12 1940, 1941?
13 A Un-huh. Right.
14 Q And you're telling me that there was a union structure?
15 A Yes.
16 Q Approximately how many members were in this Local 4?
17 A Every reef net fisherman and gear owner that existed.
18 If there was any exceptions I don't know any. Everybody
19 seemed to want to belong to our union where we could
20 discuss our problems.
21 Q Did that union exist before you came into it?
22 A I think there was a skelton of it but it was formally
23 set up after I came out there as a crewman.
24 Q All right.
25 You say every reefnetter belonged to this, so

1 therefore the total membership of the local was what?

2 A Well, it took in all of Puget Sound, as the name

3 signified. Possibly four or five hundred members.

4 Four hundred.

5 Q How many --

6 A I don't know exactly.

7 Q -- (continuing) how many members were reefnetting

8 at Lummi Island?

9 A Well, when you say reefnetters, the union included

10 the owners and the boat pullers, the web pullers --

11 everybody else. We all work on shares.

12 Q I see.

13 A I would say there was possibly two hundred, two fifty.

14 Q Two hundred to two hundred and fifty men?

15 A Yes.

16 Q Who were involved in the Lummi Island reefnet fishery?

17 A Anywhere from a hundred and fifty to two fifty. I

18 couldn't be exact, but it's approximate.

19 Q And your testimony is that within this union structure

20 owners would file a document, or post a notice somehow,

21 stating that they desired a certain location, and

22 whoever was first to post it would be acknowledged to

23 have the right to occupy that location?

24 A Right.

25 Q Now, I take it that some locations are more valuable

1 than others?

2 A The tidal currents seem to favor one location area over
3 another at times. Depends on the vagaries of the
4 weather.

5 Q Well, let me ask you to answer my question. Is it
6 true or is it not true that as a matter of choice some
7 locations are more choice than others?

8 A Well, we didn't know that when we signified our desire
9 to put a set of boats there and fish it. We didn't
10 know anything like that. I'm sure I didn't.

11 Q You mean in 1939 you considered every location about
12 the same as any other location?

13 A To a large extent. It was water, nobody is using it.
14 The fish jump and pass through that area on their way
15 to the Fraser River.

16 Q Well, has your position on that changed over the
17 years? Do you now think you would have a choice; that
18 if you had a preference there would be some sites that
19 you would prefer?

20 A Well, I can only say that I would like to have a high-
21 line purse seiner that makes all kind of money. I
22 think it comes with skill and knowledge developed over
23 the years of hard knocks and mistakes that we make.

24 Q Well, you're not dealing with the question. The
25 question is, are all sites equal in terms of access to

1 the fish or are some sites better in terms of the
2 statistical chances of getting fish?

3 A Some sets of reef nets do better than others, subject
4 to the vagaries of the tide and wind.

5 Q Why don't you answer it yes or no and then explain your
6 answer. Are some sites better than others? Yes or
7 no?

8 MR. RHEA: If you can answer with a yes or no.

9 A In practice, in return; that's what you're asking?

10 Q Yes.

11 A Yes, there's some make more, catch more fish than
12 others.

13 Q All right.

14 Now you can explain your answer. Why are some
15 sites better than others?

16 A That I don't know. I have nothing to do with the tides
17 and wind. Some years it will be good inside. Some
18 years -- I mean in closer to the beach where the old-
19 timers used to fish -- and some way out, sometimes some
20 years the fish are way out. Since the saturation of
21 gill nets it has just been like a picket fence leading
22 them out.

23 Q I was informed at one time that the Village Point row
24 was one of the more desirable ones; especially the
25 positions furthest out. Do you agree with that?

1 A Well, the ones that have built heavy strong equipment
2 and fished out in that swift tide, which is about a
3 12-knot tide, they do quite well when the tide slacks
4 off so they're permitted to fish. A lot of times they
5 have the net out of the water and they can't fish because
6 of the velocity; it's terrific, it's dangerous.

7 Q Well, why don't you try to answer my question first.
8 You're saying, yes, they do quite well when the
9 conditions are right?

10 A I can say yes to that.

11 Q All right.

12 Now, has the organization of reefnetters changed
13 its structure or identify from the time you first
14 became affiliated with it in 1939, and would you
15 take us through those changes and bring us up to
16 date?

17 A Well, it was Local 4 of Puget Sound Reefnetters Union,
18 affiliated with the International Fishermen & Allied
19 Workers. The IFAWA, it was dissolved or it dissolved
20 itself, and voted -- the fishermen, purse seiners,
21 gillnetters, crab fishermen, reefnetters, Alaska
22 fishermen and other types of fisheries in the State
23 of Washington and Alaska -- voted to dissolve and go
24 into the Longshoremen's Union.

25 Q When was that?

1 A Well, I think it was in the 1940's, early '40's. No,
2 early '50's. Here we are (perusing document).
3 Q Let the record show that counsel, Mr. Rhea, has handed
4 Mr. Brown a document which he is examining.
5 A This is the charter that Local 4, Local 3-4, Reef Net
6 Fishermen's Organization, affiliated July 1st, 1950,
7 with the Longshoremen, as the Fisheries Department of the
8 Longshoremen's Union -- I.L.W.U.
9 Q All right.
10 And how long did it remain in the Longshoremen's
11 Union?
12 A Until 1954, I would suppose.
13 Q What happened then?
14 A Well, since then the Washington Reef Net Owners
15 Association was formed after an order came from the
16 Labor Board, National Labor Relations Board, ordering
17 the owners to get out of the union or they would
18 dissolve the union. This was Mr. Curry caused that
19 through legal --
20 Q Who is Mr. Curry?
21 A I don't know. Mr. Kinley referred to him in here. He
22 was, he was a reefnet fisherman, a gear owner at that
23 time. He is now a gillnetter.
24 Q He's a non-Indian?
25 A Non-Indian, yes.

1 Q And he objected to the owners being in the same
2 organization?

3 A That's right.

4 Q Was he an owner at that time?

5 A Yes, he was an owner.

6 Q I see.

7 Do the workers on the reefnet boats presently
8 belong to any union?

9 A I think some of them do belong to Local 3 of the I.L.W.U.
10 Longshoremen.

11 Q That's the same local that existed before, before the
12 separation of 1954?

13 A Uh-huh. I think so.

14 Q About how many of your reefnet workers are union
15 members?

16 A I have no way of knowing.

17 Q Are there any negotiations or contracts made with them
18 governing conditions, shares, or anything like that?

19 A No, due to the fact that we have historically worked
20 on a share basis, there's no negotiations possible or
21 necessary.

22 Q Has there ever been a strike by the workers against the
23 owners?

24 A None ever.

25 Q Has there been any formal sessions to handle grievances

1 or set up grievance machinery procedures?

2 A Only on a very local area basis.

3 Q Do you have any idea then why these men pay dues to
4 a union?

5 A I don't know whether they have continued to do that
6 or not. I don't have any knowledge about any union.

7 Q Wouldn't it be correct to say that the bulk of the
8 union membership before the separation consisted of the
9 boat owners?

10 A No, it wouldn't because I was one union member and I had
11 three other crew members. They belonged to the union
12 and I belonged to the union, so I was just one-fourth
13 of my crew.

14 Q What incentive was there for crew members to belong to
15 the union?

16 A Choice, matter of choice.

17 Q But the question was not whether they were free
18 but why would they have any incentive; what benefits
19 did they obtain from being in the union?

20 A Seniority, job -- well, why does any member belong to
21 a union, why does any man belong to a union? I can't
22 answer that in any specific way.

23 Q Well, presumably there would be some benefits. You
24 say something about job seniority. Does that mean that
25 the union operated a hiring hall practice?

1 A No, no. None.

2 Q Did it have any kind of retirement benefits or health
3 and welfare benefits?

4 A No.

5 Q Well, what incentive then did any owner have or any
6 member, any boat puller have, for being in the union?

7 A Oh, I think we all felt, the feeling then was, like any
8 union you would have something to say about the price
9 of salmon that the canneries paid, and we would present
10 a stronger group or a close-knit group that presented
11 our acceptance of the canneries price for salmon.

12 Q I see.

13 A And we all worked on a share basis, still do.

14 Q When you -- well, strike that.

15 After you began reefnetting and from that time
16 to the present time have you known of any friction
17 or conflict between individuals over who shall have
18 what positions on the reefnet grounds?

19 A There has been -- no, I don't know of any strong
20 disagreements. The reason we have our association, and
21 the reason we had our union in the former days, was
22 if there was any strong opinions that were -- someone
23 cared to voice, we had a place to go and we'd say, well,
24 we'll have a special meeting and let's talk about it
25 and then we'd arrive at some kind of an agreement among

1 ourselves.

2 Q So I take it there were situations that came up from

3 time to time when there were disagreements among the

4 members?

5 A They weren't vicious or dangerous disagreements.

6 Q Well, try to answer my questions. Were there

7 situations that came up from time to time where there

8 were disagreements among the members as to occupation

9 of reefnet locations?

10 A I don't know of any.

11 Q Well, you just finished telling me that if something

12 like that did come up, it was taken up at a meeting

13 and talked over.

14 A Well, let's see. I don't --

15 Q If it didn't happen, how was it talked over? Which

16 way is it? Did it happen or didn't it happen?

17 A There has been differences of opinion, yes.

18 Q Well, I used the word disagreements. Is that the wrong

19 word; would you characterize it differently?

20 A I would call it disagreements in my words.

21 Q All right.

22 Well, that's what I asked you. You said it

23 never happened. Now I take it you're changing; that

24 it did happen?

25 A No, I'm not changing. There never has been any shooting,

1 I have never heard of anything like that, --

2 Q Well, I didn't ask you about that.

3 A Well, I heard it mentioned.

4 Q I just asked if there were any disagreements.

5 A Yes. Disagreements, differences of opinion.

6 Q All right.

7 And you said that there was a mechanism for
8 handling that within the union?

9 A Yes.

10 Q Now, what was the mechanism; what was the procedure by
11 which you would take care of those disagreements?

12 A We would have a special meeting where everybody
13 would turn out in the local grange hall or wherever
14 it was, what locality, whether Point Roberts or Cherry
15 Point or Lopez Island or Friday Harbor. We'd generally
16 vote to set up a committee to investigate the dis-
17 agreement or the misunderstanding or whatever it was,
18 difference of opinion, and to bring back a report for
19 another meeting if we had to hold it two or three days
20 later, and attempt to arbitrate, get an agreement among
21 the people that were at a difference of opinion.

22 Q Now, you used the word arbitrate.

23 A Yes.

24 Q Now, I take it you're not using it in its legal meaning,
25 meaning that the decision of that committee is binding

1 on both parties?

2 A No.

3 Q You mean mediate.

4 A All right, mediate. I don't know the difference.

5 Q Well, in other words, my question would be was the
6 decision of that committee binding, absolutely bind-
7 ing?

8 A No.

9 Q All right.

10 A The vote of the members, a vote of the people. All
11 members had a right to vote on the recommendation of the
12 committee, or if the committee came in without a
13 recommendation and just a report of the facts as they
14 found them, that's what happened.

15 Q I see.

16 A It's always by decision of a vote of the members
17 fishing in the area.

18 Q All right.

19 Now, when the committee would take up a problem
20 like that and they would go out and they would
21 investigate it and prepare a report, would you tell me
22 just roughly what kind of investigation it was; what
23 did they check into?

24 A They would ask both parties that had a difference of
25 opinion would be brought together before this committee,

1 and each party to the disagreement or the difference of
2 opinion would have a right to express themselves
3 before the committee. Generally the committee of five
4 or seven, or something like that, so there wouldn't be
5 any small responsibility, but always the attempt was
6 to mediate -- bring the parties together.

7 Q Would it be wrong to say you served on such committees
8 during your long membership?

9 A I have served on those committees.

10 Q About how many times have you been on these
11 committees?

12 A Oh, at least six or more.

13 Q And does the committee have a chairman?

14 A The committee chooses its own chairman.

15 Q Have you ever served as chairman of this committee?

16 A I don't recall, but I may have.

17 Q What is the name given to this committee?

18 A I would say mediation committee.

19 Q You're saying that now but was it -- did it have a
20 name then?

21 A The committee had no special name. A meeting was
22 held, a committee was chosen by a vote of the members
23 and instructed by a vote of the members to -- let me
24 see -- bring the parties together, the contending
25 parties together, and attempt to mediate or have an

1 agreement.

2 Q All right.

3 Now, on these six cases on which you served, --

4 A Uh-huh.

5 Q -- (continuing) could you pick any one of them and
6 without mentioning names just describe -- or I don't
7 care if you do mention names, but if you wanted to
8 keep it anonymous, that's fine with me -- but I just
9 want you to explain, take anyone of these six cases
10 which is typical and explain what the case was about
11 as you remembered it when you were on the committee.

12 A Well, only one that I can recall and that's a fellow
13 setting his gear alongside of me and he got over on
14 top of my, part of my gear, that would have sawed my
15 cables in two; endangered my fishing opportunity.

16 Those were generally the disagreements and they were
17 quite, quite sharp. There was no threats. It was
18 just you got to move your anchor away from my cable,
19 because my cable costs me money and I don't want anybody
20 to drift back in the rush tide and tear my gear out so
21 I can't fish.

22 Q Why would there be any disagreement; why wouldn't the
23 guy just move his anchor?

24 A Well, he figured he had it in the right place and he
25 didn't want to move it. He generally made excuses that

1 his cable was old and if he picked that anchor up he
2 might break it and lose his chance to fish the next day's
3 tide.

4 Q Anybody ever accuse you of having your anchor in the
5 wrong place?

6 A Oh, I imagine. I don't recall any specifically, but
7 I imagine.

8 Q All right.

9 Now, I asked you to tell me about a typical case
10 and you told me about a man who had a conflict with
11 you, but I was referring to a case where you served
12 on the committee to mediate between two other people.

13 A Oh. Well, all these committees that I served on we
14 didn't have any specific -- I don't know -- specific
15 instructions. We just tried to get them to agree among
16 themselves so it wouldn't go any further.

17 Q Maybe I'm not making my question clear, Mr. Brown.

18 I'm asking you to relate to me a typical case --

19 A Oh.

20 Q -- (continuing) that your committee considered. What
21 was A's complaint against B and what was B's complaint
22 against A, and what did you fellows ask these fellows?
23 How did you go about mediating it and deciding who
24 was in the right?

25 A All right. I can only recite -- can I use me? --

1 Q Yes. Well, you were acting as a mediator now, so
2 explain it in the terms of the people that you were
3 listening to, not your own complaints.

4 A All right. It was a similar case to the fellow
5 that placed his anchor over, cable over the top of
6 mine, when I was on this committee. "Did you place
7 your anchor cable over so-and-so's anchor cable?"
8 "Well, I may have," and if we could get one, the
9 fellow to admit that he had placed his cable
10 over there accidentally or on purpose over the top of
11 another fellow's cable, then we would all agree that
12 you shouldn't have done it and ask him to move his
13 anchor, and we would even help him to move anchors
14 and said, "Well, I've got an extra anchor on the
15 beach myself; I'll loan it to you if you break your
16 cable, but please get rid of this contention between
17 your neighbor here, the fellow fishing right alongside
18 of you."

19 Q All right.

20 Now, you keep referring to this as a common
21 source of grievance.

22 A Yes.

23 Q Was there any other kind of grievance that came up?

24 A Not that I know of.

25 Q You never had a complaint about site preference,

1 location preference?

2 A Not that I recall.

3 Q Now, you've been in this thirty-nine years, is it,
4 thirty-seven years?

5 A Thirty-seven or thirty-six years, or whatever it is.
6 I don't know.

7 Q And in thirty-seven years you have never heard of
8 any disagreement between two reefnetters over who ought
9 to have which position?

10 A I don't know how to answer that except if there was
11 disagreement sometimes we threw names in the hat and
12 drew out the name and said, "Well," and everybody
13 agreed before they put their name in the hat that,
14 "May the best man win," --

15 Q All right.

16 Now, --

17 A --(continuing) and whosever name come out of the hat
18 he got the site.

19 Q I thought you told me that this was all decided on the
20 basis of filings, or public notice -- first come, first
21 served?

22 A This was the exception, it could have been, what I'm
23 referring to now. You asked me another question.

24 Q Well, all right; here. When does the reef net
25 season ordinarily begin?

1 A Every year according to the regulations set by the
2 International Pacific Salmon Fisheries Commission and
3 enforced by the State Department of Fisheries, State
4 of Washington.

5 Q Well, you're not answering my question, Mr. Brown. It's
6 just taking us a lot longer to go over it this way.
7 The question is usually when it begins; not who sets
8 the regulations.

9 A All right. The seasons vary and this year it starts
10 the 25th of June.

11 Q All right.

12 Now, before the 25th of June every reefnetter knows
13 where his boat is going to be, doesn't he?

14 A Yes.

15 Q At the present time is that because every man owns
16 a location or claims he owns a location?

17 A Well, he leaves his anchors out there and his cables
18 on and he fishes his cables three, four years. He
19 fishes it every year.

20 Q Locations never change, unless a man buys somebody
21 else's location; is that it?

22 A You can't buy a location. Never could.

23 Q All right.

24 Going back to the early years, from 1939 to '45,
25 say, until the end of the Second World War, --

1 A All right.

2 Q -- (continuing) was there any kind of shifting around

3 of locations, people saying, "I want to change; I want

4 a location over here?"

5 A Well, people have signified a desire in the past, through

6 this procedure that I have outlined with the union,

7 that this water is not being used, nobody is fishing

8 there; I would like to build a set of boats this winter

9 and fish there.

10 Q Oh, you're saying the filing was only if there was

11 a vacant location?

12 A Yes.

13 Q Well, once a location was occupied it belonged to

14 that individual for as long as he wanted it; is that

15 right?

16 A We all try to fish that same spot consecutively every

17 year. I know I do.

18 Q Well, I'm talking about rules or understood principles

19 or agreements or ethics, or whatever you want to call

20 it, in 1940 let's say.

21 A All right.

22 Q Are these locations numbered?

23 A No.

24 Q Are the rows numbered?

25 A Only by reference in local language -- Row 1, Row 2,

1 Row 3, Row 4.

2 Q Well, so they are numbered by common custom?

3 A Yes. To prevent anarchy in the industry.

4 Q All right.

5 That's a good way to put it, to prevent anarchy
6 in the industry the rows are numbered.

7 Are the positions in each row numbered?

8 A No, only by local reference.

9 Q What kind of local reference is that? Tell me,
10 please.

11 A Well, I have my landmarks, I know my anchors are
12 there, and I know I can go out and pick up my
13 cables and hook on my boats and fish that same spot.

14 Q All right.

15 In nineteen -- when did you first put your own
16 boats out? In 1940?

17 A Yes.

18 Q All right.

19 In 1940 how did you get a location? You didn't
20 have any anchors out of your own before that.

21 A Oh, 1940. My first boats that I built myself was
22 1942.

23 Q All right.

24 Let's take 1942. How did you get them on a
25 location?

1 A I was already using a location.

2 Q Who did it belong to?

3 A I bought a set of boats and a net, anchors, everything,

4 in 1940 from Mr. Collett, C-o-l-l-e-t-t, and I

5 built better boats, replaced the old boats.

6 Q So when you built your better boats, you put them on

7 Collett's location?

8 A He had assigned whatever interest he had to me. No

9 money changed hands in regard to locations ever.

10 We agreed that you take my boats. Of course, he wasn't

11 interested where I fished.

12 Q Did you pay him for his boats?

13 A Oh, yes.

14 Q How much did you pay him?

15 A Three hundred and fifty dollars for the boats, net,

16 anchors, and all equipment -- a skiff and oars, work

17 skiff.

18 Q All right.

19 And then you went and built your own boats any-

20 way?

21 A Later on. I replaced the boats two years later because

22 those were old and decrepit, and unsafe.

23 Q Now, since 1942 when you acquired Collett's boats

24 have you continued to fish the same position that

25 Collett did?

1 A Only -- yeah. I fished it until 1955. I sold my
2 boats and anchors and everything to another fellow.

3 Q And then what did you do? Did you get out of the
4 reef net fishery altogether?

5 A No. No. I kept, like today I have one set of
6 reef net, and I kept that. I still have it; still
7 fish it myself. Operate it and fish it myself.

8 Q Well, my question was, did you keep Collett's sites?
9 What do you call these, locations or positions or
10 what among the reefnetters -- what terminology?

11 A Locations, positions, yes.

12 Q All right.

13 I asked you if you kept Collett's positions from
14 the time you bought it from him in 1942 to the present
15 time, and you said, no, in 1954 you sold them, you
16 sold his equipment -- you sold your own equipment --

17 A Yes.

18 Q -- (continuing) which was located on the same positions
19 he had.

20 A But I didn't buy the site from him.

21 Q Well, I know you've said that.

22 A I never bought a site.

23 Q Well, I'm asking you if you changed positions at all,
24 and you said, yes, you did in 1954; is that right?

25 A I sold the boats and anchors and equipment to another

1 fellow and he is fishing in the same place today.

2 Q At the same place that Collett fished back in 1942 and

3 you fished in 1942 to 1954?

4 A Right.

5 Q And you moved to a different position?

6 A Let's see. I moved up in Row 9 in 1949, or I set a

7 gear up there, and several others did.

8 Q In Row 9?

9 A Yes.

10 Q Would that be the row furthest to the south?

11 A Cable crossing, yes.

12 Q And when you set that boat up in that spot was anybody

13 there; had anybody been there that season or the

14 previous season?

15 A None.

16 Q It was open water?

17 A Absolutely.

18 Q All right.

19 Are you still occupying that position?

20 A I sold the equipment that I set up there to fish that

21 position. Sold that -- let's see -- six years ago.

22 Q All right.

23 What position do you have now?

24 A Row 2. About in the middle of Row 2, about the center

25 of Row 2.

1 Q All right.

2 Now, that's not Collett's position, is it?

3 A No, no. That was Gaskill's.

4 Q Who?

5 A A fellow by the name of Gaskill, G-a-s-k-i-l-l.

6 Q All right.

7 When did you get that position?

8 A 1945.

9 Q How did you get it?

10 A I bought his boats and anchors and equipment and

11 continued to fish the same place he had.

12 Q All right.

13 Now, if you were to tell me all the positions

14 you have fished from the time you began in '42, just

15 go down the list and tell me what they are. You

16 started out in Collett's position. That was in Row --

17 A Two.

18 Q -- (continuing) Row 2, and then the next one you got

19 was Row --

20 A Row 9.

21 Q -- (continuing) Row 9?

22 A Yes.

23 Q The next one was what, in the order in which you got

24 them?

25 A Oh. In 1945 I got the Gaskill gear.

1 Q And this is Row 1?

2 A And then -- Row 2, --

3 Q Row 2.

4 A -- (continuing) and then in 1949 I started Row 9 by

5 fishing a certain spot up there with my boats and

6 anchors.

7 Q Did you post some kind of notice?

8 A I filed an intent, a request, that asked if anybody

9 had any objection to me setting up there. Nobody

10 objected, so first come, first served again.

11 Q So you have over the years only occupied three

12 sites; is that right?

13 A I had one in Row 2 that I sold -- or Row 1 that I

14 sold.

15 Q When did you buy it, when did you sell it?

16 A I operated my boats and anchor, boats and equipment,

17 from 1955 until 1969 -- could be 1970 -- in Row 1.

18 I bought the boats and equipment from a man by the

19 name of Unick who had fished on that same site, same

20 location.

21 Q Do you presently hold a bottom land's lease from the

22 State of Washington? Any kind of lease of tidelands

23 or bottom lands from the State of Washington?

24 A No. I only, I only have my own home on the beach at

25 Lumai Island.

1 Q No, I'm talking about the land that your anchors are
2 setting on, --

3 A Oh, no.

4 Q -- (continuing) submerged lands.

5 A The State, the State wouldn't, wouldn't even listen
6 to us having anything like that. I do not.

7 Q Okay.

8 And I take it that the association does not and
9 no member of the association leases his anchor
10 positions from the State of Washington?

11 A Absolutely not. It would be illegal.

12 Q All right.

13 Now, you were telling me about these disagree-
14 ments and how they would come before a mediation
15 committee and the mediation committee would call the
16 guy in and ask him, a typical kind of situation, "Do
17 you have your anchor line over the other guy's anchor
18 line?" and the guy says, "Well, maybe I do," and the
19 committee would say, "Well, that's a no-no; you
20 shouldn't do that, take your line off." Is that
21 typical of the kind of problems that came up?

22 A Yes, it is.

23 Q Well, if a guy knew it was a no-no, that he wasn't
24 supposed to do it, why would it even be worth his time
25 to go and argue it before a committee?

1 A Because it appeared to me when he was talking before
2 the committee he said he didn't want to move it if
3 he just didn't have to only as a last resort.

4 Q I see.

5 A Maybe the other fellow would move them or something.

6 Q Well, wasn't there a question as to whose anchor line
7 ought to move?

8 A Yes. And then the fishermen in the area would hold a
9 meeting and decide who was right.

10 Q All right.

11 On what principle did you make that decision?

12 A Just a gentlemen's agreement all the way around.

13 Q Well, now, let's say you've got two lines crossing,
14 --

15 A Yes.

16 Q -- (continuing) and somebody is going to have to back
17 off. How did the committee decide who backs off?

18 A Well, they couldn't force him to but they would certain-
19 ly recommend that he had done something wrong and should
20 correct it. Generally he did.

21 Q Well, was this also first come, first served; that
22 is, whoever put his line down first had a right to
23 have it there and not have it crossed by somebody
24 else?

25 A Yes.

1 Q Okay.

2 Was that the principle you used to find out who put
3 his line down first?

4 A You mean -- how do you mean?

5 Q Well, if you say that when the lines are crossed the
6 committee is faced with the problem of trying to decide
7 who ought to back off, well, in making that decision
8 what principle guides you?

9 A Ethics, gentlemen's agreement.

10 Q All right.

11 Well, let's say you and I have got our lines
12 crossed and I say, "You're over on my side," and you
13 say, "No, I'm not; you're over on my side." Now
14 that we're arguing to this committee over here, how
15 does the committee supposed to decide who is in the
16 right?

17 A Well, I think I have known, seen instances where the
18 committee members went out and made an investigation
19 at low tide, picked the two cables up and seen who
20 was crossing and who was in the wrong.

21 Q Well, how do you know who's in the wrong? The
22 lines crossed; they're in an "X" (illustrating).

23 A Well, the guy that put it there last.

24 Q Oh, I see. The top line has to back off?

25 A Right.

1 Q All right.

2 A He should, if he's ethical.

3 Q All right.

4 A That would be the decision.

5 Q Okay.

6 Now, do you have any idea, any knowledge from
7 hearsay or otherwise, as to whether the reefnetters
8 have always used this system of buying locations, or
9 buying the boats that were on locations; has there
10 ever been any other method used?

11 A None that I know.

12 Q Do you know how --

13 A They do not buy locations.

14 Q All right.

15 You've said that they do not buy locations, they
16 buy --

17 A Boats and equipment.

18 Q -- (continuing) boats and equipment.

19 Well, how is it established then that when you
20 bought a man's boat that you'll have a right to go
21 back to that same place next year?

22 A A gentlemen's agreement among the fishermen in the
23 area recognize that that man has used it.

24 Q Have you ever had a case where a person came out with
25 a boat and wouldn't abide by the gentlemen's agreement?

1 A Not to my recollection, no.

2 Q Has there ever been a case where a person who is not

3 a member of the Reefnetters Association and wanted

4 to go out there and reefnet with a boat?

5 A There has been lots of people come out there that were

6 not. In fact, before I was a member of the union or

7 the association I said I would like to fish up there

8 because nobody is fishing there. Lots of non-members,

9 because we -- everybody agreed that we could best

10 regulate or get along among ourselves if we all

11 belonged to the same church.

12 Q What church was that?

13 A Well, the union or the association.

14 Q Oh. I see.

15 You agreed it would be best if everybody was in

16 the same organization?

17 A And everybody seemed to agree with us, and they sought

18 membership. They really sought membership in it.

19 We were glad to welcome them as members.

20 Q Glad to welcome who? Anybody that wanted to be?

21 A Anybody that wanted to be a member that owned a reef-

22 net gear or was even a reefnet fisherman before the

23 owners and the union were separated.

24 Q Now, if a Lummi Indian decided he wanted to go out

25 on your reefnet grounds and he didn't belong to the

1 association, would there be any difficulty if he
2 went out there with his reefnet boat?

3 A He could fish any place he wanted to as long as
4 nobody else was using it.

5 Q Well, what establishes that somebody else is using it;
6 the physical presence of the boat out there?

7 A I don't really know how to answer that one except
8 everybody recognizes that it is just ethical that
9 I would go out there and continually fish that same
10 spot every year.

11 Q Well, let's say you got a hundred and fifty non-Indian
12 fishermen right now, --

13 A All right.

14 Q -- (continuing) that are reefnetting out there at
15 Legoe Bay, or Lummi Island. Not a single Lummi owns
16 a boat out there. If next year a Lummi was to buy
17 a set of boats and say, "I'm going out there to reef-
18 net and I want to go out right there in Row 2, the
19 fourth boat from shore," and he went out there, towed
20 his boats out there and started to run his lines down,
21 would he have any difficulty?

22 A I don't know.

23 Q Well, he wouldn't be part of the gentlemen's agreement,
24 would he?

25 A I don't know what his ideas would be in that case.

1 All I know is that at Village Point where the Indian
2 reef nets were historically, that water is absolutely
3 vacant. They could still fish there and we'd help
4 them set their gear.

5 Q Why is that water vacant?

6 A I don't know. Nobody chooses to fish there at
7 present.

8 Q Well, I take it fishermen are in the business to make
9 money. If it were possible to make money fishing
10 there, wouldn't there be any white fishermen fishing
11 there now?

12 A I don't know. It costs money to build boats and set
13 gear. It costs thousand now where it was hundreds
14 before.

15 Point Roberts, there is nobody fishing at Point
16 Roberts with a reef net.

17 Cherry Point there is nobody fishing with a
18 reef net.

19 There might be one at Point Roberts, but he told
20 me two years ago that was his last year.

21 Q Is that because --

22 A Because he went gillnetting. That's the way the
23 Indians, we've seen the Indians get more steady
24 employment. Voluntarily, I don't know, they said, "No,
25 I cannot come back any more." I had crew members that

1 fished with me years and years. One of them is on the
2 Tribal Council.

3 Q Who is that?

4 A Earl Thomas.

5 Q And you're saying that --

6 A He went longshoring.

7 Q I take it there was a financial reason for that?

8 A Just a matter of economics.

9 Q All right.

10 A He had a big family. They sought steady employment.

11 Q All right.

12 Now let's get back to this Village Point. You
13 say that Village Point is completely unoccupied now.

14 When was the last time there were any reefnet
15 boats there?

16 A I don't know. Let's see. Well, I know of some that
17 was there in 1898 before the traps came. The traps
18 didn't come until 1899.

19 Q How do you know that?

20 A Historical records.

21 Q When the traps came the Lumnis abandoned their reef
22 nets there?

23 A I don't know whether they did or not. I wasn't there.

24 Q Well, you did say that you knew something about the
25 historical records; that they were there until the

1 traps came.

2 A I don't know why they didn't fish there any more.

3 Q All right.

4 But, at any rate, the Lummi's stopped fishing at

5 Village Point after 1898; is that it?

6 A No, I fished with lots of Indians that were crew

7 members --

8 Q I'm talking about Village Point sites.

9 A There has been people fished there off and on. White

10 people, non-Indians.

11 Q Well, getting back to about the third question back,

12 it was, how long has it been since you have seen any

13 reefnet boats at the Village Point site?

14 A I don't know. Someone else would have to answer that

15 one.

16 Q More than a couple of years?

17 A Oh, yes. There's one we call -- there's one fished

18 there in about three years ago we called Row Zero.

19 That's about a hundred feet right in the hook on

20 Village Point right next to shore. In fact, his

21 anchor is in about 18 or 20 feet of water at high

22 tide.

23 Q Well, you're not talking about Village Point, you're

24 talking --

25 A Yeah, I am.

1 Q Oh. You said Row Zero was a hundred feet north of
2 Village Point; that's what you mean by the Village
3 Point line?
4 A Yes.
5 Q Okay.
6 So there was one boat that did fish there?
7 A Yes.
8 Q And about how many years back?
9 A Oh, two, three years ago.
10 Q All right.
11 Now, --
12 A It was a non-Indian. He had a license from the
13 State, a fellow by the name of Harold Eldred, E-l-d-r-
14 e-d.
15 Q Now, Mr. Brown, are you saying that the Village Point
16 location is just as good as any other location when
17 the reefnet boats are out?
18 A I don't know. I haven't tried it there. I haven't
19 tried to fish there; not interested in it. I've got
20 enough where I am, if I take care of it and fish it
21 consecutively each year.
22 Q So you don't know. If it turned out, however, that
23 there were no fish there or it was a very poor place
24 to try to get fish after everybody else had had a crack
25 at them, that would explain why there wasn't anybody

1 there?

2 A No, it wouldn't.

3 Q What does --

4 A We have purse seiners by the hundred fishing right in
5 front of us all open season, we have hundreds of
6 gillnetters fishing in front of us all the way from
7 Juan de Fuca to Point Roberts, and we still try to
8 catch fish.

9 Q And of a hundred and fifty fishermen nobody has shown
10 any interest in moving into Row Zero except one
11 fellow and he abandoned it two years ago?

12 A Well, he didn't fish it one year I know. There's
13 only -- now, when you're talking about a hundred and
14 fifty-nine fishermen, are you talking about crew
15 members and all?

16 Q Well, --

17 A You'd have to if you used that figure, a hundred and
18 fifty-nine.

19 Q How many boat owners, then; how many boats, sets of
20 boats?

21 A Sets of boats, about forty.

22 Q All right.

23 Then out of forty sets of boats nobody has shown any
24 interest in permanently setting up in Row Zero year
25 in and year out?

1 A Well, they've fished it off and on. Maybe they
2 set it on a peak salmon year, which is the odd-
3 numbered year.

4 Q But what you did say, then, was that that position is
5 available for Lummi Indians if they wanted to come into
6 the reefnet fishery?

7 A Yes.

8 Q How about Row 2 or Row 9?

9 A I don't know. I'd have to -- I don't know.

10 Q You'd have to what?

11 A I don't know.

12 Q Well, how about being candid and saying that, in fact,
13 they couldn't fish in Row 2 or Row 9 unless they bought
14 somebody's boat?

15 A They never did fish there in history.

16 Q Well, I'm not talking -- you never fished there in
17 history either, did you?

18 A No.

19 Q So you got there by buying somebody's equipment; isn't
20 that what you told me?

21 A Right.

22 Q So if a Lummi wanted to get there the way you got
23 there he'd have to buy somebody's equipment?

24 A If he could find somebody that had equipment for sale
25 that would be one way he could find out.

1 Q You mean that's not often the case?

2 A Well, nobody has asked me if mine's for sale.

3 Q Have you know of any sales? Have there been any

4 sales last year or this year?

5 A Up in Row 9 a man by the name of Pauley bought Mr.

6 Randall's gear, and that gear I used to own.

7 Q How much did he pay for Randall's gear?

8 A I have no idea. Probably in the neighborhood of

9 four or five thousand dollars. He's built new boats

10 since then. Him and his son built new boats this

11 winter.

12 Q How much did you sell your locations for in what was

13 it -- Row 2?

14 A I have never sold a location. I don't have a right

15 to.

16 Q How do you know you don't have a right to?

17 A Well, that water out there I don't think belongs

18 to anyone unless you use it.

19 Q Have you ever, have you or the association, ever

20 tried to get a legal opinion from a lawyer as to

21 some way you could stake a claim on a site?

22 A Not that I know of.

23 Q You have never had a legal opinion from anybody,

24 including the Attorney General?

25 A None that I know of. We just buy a license and then

1 we pick out a place to fish. Just like a purse seiner
2 makes his set.

3 Q All right.

4 Let's go back, then, when you sold your boats
5 that were then located in Row 2, --

6 A All right.

7 Q -- (continuing) how much did you get for them?

8 A You mean the Collett set inside?

9 Q Yes.

10 A In the neighborhood of thirty-five hundred dollars.
11 They were good boats and a nylon net.

12 Q Have there been any sales of reefnet equipment above or
13 in an amount larger than five thousand that you've
14 ever heard of?

15 A I don't know.

16 Q Well, the question was have you ever heard of such
17 amounts passing, changing hands?

18 A I don't know how to answer that except the amounts
19 are decided between the purchaser and the seller.

20 Q Well, I think you're not being --

21 A They're pretty, they're pretty cagey about how much they
22 pay.

23 Q Oh, I see. All right.

24 Now, are you telling me that you have never heard
25 any rumor or gossip about a sale of reefnet equipment

1 in an amount over five thousand?

2 A Oh, yes. Milt Jensen at Point Roberts. I don't know,
3 he must have been a very unexperienced person because
4 he agreed to pay fifty thousand dollars for the
5 Largaud site in the kelp beds at Point Roberts, but
6 he later -- he built boats and set the gear and
7 fished there that summer. He replaced Largaud's old
8 boats that he bought, and I think he paid three or
9 five thousand dollars down -- now, this is what he
10 told me himself -- he forfeited that money, took his
11 boats back and cancelled the deal, so there was never
12 a reef net paid for in the amount of fifty thousand
13 dollars, I can assure you of that.

14 Q All right.

15 Again you're not answering the question. The
16 question was have you heard of any such amounts greater
17 than five thousand?

18 A Yes, seven thousand.

19 Q You have?

20 A Yes.

21 Q When was that transaction supposed to have occurred?

22 A 1965, along there. 1965; 1968, maybe.

23 Q How many boats? How many sets?

24 A Just one set.

25 Q I see.

1 A That's the highest I've ever heard, --
2 Q All right.
3 A -- (continuing) actually.
4 Q What's the most recent sale you've heard about?
5 A I just recited the Pauley.
6 Q Pauley was the most recent one?
7 A Yes.
8 Q And that was thirty-five hundred?
9 A I don't know what amount he paid to Mr. Randall.
10 It was in the neighborhood of thirty-five hundred
11 and he --
12 Q And who was the man that bought the equipment?
13 A Pauley, Ralph Pauley.
14 Q Does he live here in Bellingham?
15 A Yes.
16 Q P-o-l-l-e-y?
17 A Yes.
18 Q Okay.
19 And he paid Mr. Randall --
20 A I say in the neighborhood of thirty-five hundred
21 dollars.
22 Q What's Randall's first name?
23 A Charles.
24 Q And where does he live?
25 A Bellingham.

1 Q Okay. All right.

2 A These are seasonal people. Some of them are school

3 teachers and like that. Fishing season fits in good.

4 The purse seiners couldn't operate without the school

5 teachers and the school kids.

6 Q When you have to buy a new net, what does that usually

7 run?

8 A Oh, around four hundred dollars and then I make the

9 net up myself. That's nylon.

10 Q All right.

11 And then I understand these boats have some kind

12 of power equipment, a power winch or power reel?

13 A Yes.

14 Q That pulls the net in?

15 A Uh-huh.

16 Q Are these commercially purchased or do you build

17 them yourself?

18 A Build them ourselves.

19 Q And what does one of those cost?

20 A Oh, each winch costs around five hundred dollars and

21 there's three to four of those winches on each set of

22 boats.

23 Q And are the boats themselves sold commercially?

24 That is, can you go out and buy a reefnet boat somewhere

25 in a boatyard?

1 reefnetting, and add them all up and divide them by
2 five, what would you come up with?

3 A Possibly sixty-five hundred or seven thousand after
4 all expenses and taxes are paid -- licenses and so
5 forth.

6 Q Now, that's the owner's share?

7 A Yeah.

8 Q Is there another share for the boat?

9 A No, that would be his total take, including the boat's
10 share.

11 Q I see.

12 And ordinarily how many crewmen does he split
13 with?

14 A Three besides himself.

15 Q So it's a four-man crew?

16 A Four-man crew.

17 Q How much does -- in a season where the owner takes out
18 seven thousand, how much does the boat puller take?

19 A Oh, probably twenty-two hundred or something like
20 that, twenty-three hundred.

21 Q And that's a season that commences around June 26th?

22 A That is only this year. There's a Stuart run this
23 year we're going to fish four days on, two days one
24 week and two days the next week. Generally the season
25 starts after the middle of July.

1 A No. You generally order it made to your specifications,
2 if you buy it that way. Most of us build our own.

3 Q I take it it's not such a difficult thing that a
4 skilled man can't build one?

5 A Right. A do-it-yourselfer can do it himself. We
6 have always.

7 Q All right.

8 If you were to go out and give the specs to a
9 boatyard and have one built, do you have any idea what
10 it would run?

11 A Now? Well, Mr. Schuler can answer that one later on.
12 I don't know. Around two to three thousand dollars
13 each boat. That would be around six thousand dollars
14 for a set of boats. That's before you make any
15 anchors or buy any cable.

16 Q Yes. All right.

17 Now, about how much money can a skillful
18 experienced reef net operator expect to take from
19 his share and the boat's share in an average season?

20 A Oh, it varies so it would be hard. I can only cite
21 my own. You mean on an average season?

22 Q Average season.

23 A Not the bonanza year like the Adams River sockeye
24 run next year?

25 Q If you were to take a 5-year period, five years of

1 reefnetting, and add them all up and divide them by
2 five, what would you come up with?
3 A Possibly sixty-five hundred or seven thousand after
4 all expenses and taxes are paid -- licenses and so
5 forth.
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22 A That is only this year. There's a Stuart run this
23 year we're going to fish four days on, two days one
24 week and two days the next week. Generally the season
25 starts after the middle of July.

1 Q So from mid-July until when?

2 A On a straight sockeye year, which is the even-numbered
3 year, the season would be over by the first of
4 September, or the 10th of September at the very latest.

5 Q I see. All right.

6 Will you describe the gear which reefnetters are
7 using to catch fish? Describe reefnet gear to me
8 now.

9 A Well, 40-foot boats, or barge scow type, that have a
10 lot of beam, ten-foot beam. The wooden boats are all
11 built out of straight grain cedar. The scows are
12 built out of very high grade cedar lumber, like car
13 decking or planking.

14 There are some of the reef net boats, scows, that
15 have styrofoam in the bottom for flotation; some of them
16 are watertight.

17 The reason these beamy boats are being built in
18 preference over the little things that we used to try
19 to fish out of, that would tip over in a hard tide,
20 the trend and desire, of course, is for safety and
21 ability to cope with the swift tide, the velocity.

22 Well, these winches that have been referred to
23 are -- well, I can cite mine and they're fairly typical
24 -- a Model A transmission in the two head winches,
25 and rigged up, shafted into a flywheel or a sprocket.

1 -- two sprockets, a small one and a large one -- that
2 makes the power, reduction in power. Then you have
3 the reduction of power in the transmission itself -- low,
4 high and second -- in order to cope with the terrific
5 velocity of tide out there; especially at Lummi. Point
6 Roberts you don't have the velocity to contend with.
7 Lopez and Iceberg you don't have the velocity.

8 Q Please try to confine yourself to the straightforward
9 description of equipment.

10 A All right.

11 You have an outboard motor and a work skiff to
12 come and go from the beach to your gear. Generally a
13 15-foot small square-ended work skiff for buoyancy.
14 Thirty-horse motor, outboard motor. Numerous batteries.
15 Probably each gear owner for each gear has about eight
16 or nine hundred dollars worth of batteries. He has one
17 set charging on the beach while he's using the other set.
18 And replaceables. Sometimes a battery blows up.

19 The chain drive, geared winches, skiff, outboard
20 motor, two reefnet boats that are up to 10-foot beam.
21 The average is seven feet. The boat is seven feet and
22 the scow the average is eight or ten.

23 Q When you say the boats and the scows, do you mean in the
24 set there's a difference in the beam of the two boats?

25 A Yes.

1 Q Using one to dump the fish and the other --

2 A No. No. The difference between -- I know I'm
3 ambiguous -- the scows are a matter of preference
4 of the gear owner, what type of boats he cares to
5 build or use.

6 The boats which I have, they are boats. I have
7 never used scows.

8 Q And how do you define the difference between a boat
9 and a scow?

10 A One is built like a boat and the other one is built
11 like a scow. The scow is flat and beamy. Flat,
12 shallow-drafted and beamy. And the boat is not quite
13 as beamy, only it's more buoyant and will ride the
14 tide better.

15

16 (Short recess at request of court
17 reporter.)

18

19 BY MR. ZIONTZ:

20 Q All right.

21 You were in the process of describing your gear.

22 A Yes.

23 Q And I think you were describing the boat and the
24 accessory equipment aboard the boat, you have finished
25 describing the two boats, you have described the skiff,

1 the outboard motor, the winches, the reduction gear;
2 you've described the difference between a scow and a
3 boat. Is there anything more that you have left out?
4 A I mentioned the cost of the batteries.
5 Q And the batteries.
6 A They're special built heavy duty marine. We have them
7 custom-made here in Bellingham.
8 Q All right.
9 A You have twenty-four volts run through these chain
10 drive geared winches on each winch.
11 Q When you first began in '41, --
12 A Yes.
13 Q -- (continuing) were they using the same batteries?
14 A Oh, no.
15 Q What were they using?
16 A We had an old car drum with a --
17 Q What's a car drum?
18 A It's a hand-made, hand-operated winch.
19 Q I see. All right.
20 Now, getting back to the gear now in use, what
21 else is there that you haven't covered in the way of
22 boats and accessories? How about the tower?
23 A We used to build it out of wood and now most of us
24 build it out of pipe.
25 Q How tall is the tower?

1 A Twelve, fourteen feet. Your head is that high from
2 the deck. There's another four feet down to the
3 water. Sixteen feet.
4 Q All right.
5 Now, will you please describe the anchors and the
6 methods by which the boats are anchored?
7 A Well, the anchors are made on the beach by hand or
8 readymix dumped into forms. They are generally about
9 eight tons each. Takes two of those for each set of
10 gear. Then there are the two side anchors or two
11 breast anchors that weigh about three or four tons
12 each.
13 Q Excuse me, Mr. Brown. What name is given to the two
14 8-ton anchors?
15 A Head anchors.
16 Q Head anchors?
17 A Uh-huh.
18 Q And then you call the 4-ton anchors breast anchors?
19 A Uh-huh.
20 Q And what positions are they placed in with respect to the
21 boat?
22 A Immediately out to the side and to the rear of the
23 boats to keep the ebb tide from turning you inside
24 out.
25 Q All right.

1 Are there any other anchors?

2 A No.

3 Q All right.

4 And what kind of line is used to tie to the anchor

5 from the boat?

6 A Do you want to go from the anchor up to the head

7 buoy?

8 Q All right.

9 You tell me.

10 A That's three-quarter steel cable.

11 Q And that runs from the anchor up to a buoy?

12 A Yes. It's a Coast Guard metal can buoy or a log. Your

13 buoy line or cork line is attached to that and runs

14 two hundred feet back to the boat, each boat, to make

15 this trough (illustrating).

16 Q A V shape?

17 A Somewhat V shape. There's two hundred feet out in

18 front between the two head buoys and sixty feet between

19 the boats. The net itself is fifty to fifty-five

20 feet across, --

21 Q Well, let me get --

22 A -- (continuing) in length.

23 Q -- (continuing) these dimensions straight.

24 There are two head anchors?

25 A Un-huh.

1 Q Which serve to hold the buoy in place?
2 A To hold you into the tide, yes.
3 Q And your boat is not tied directly to the anchor but
4 it's tied to the buoy?
5 A Right.
6 Q And what is the purpose of doing that rather than tying
7 to the anchor?
8 A Well, it's part of the placement of your boat in the
9 right -- in relation to the tide. You're heading
10 into the flooding tide; you only fish the flooding
11 tide.
12 Q Yes.
13 Well, what I'm getting at is why don't you
14 simply have a line that goes down to your anchor? Is
15 it your convenience so you don't have to --
16 A Oh, I see what you mean. It's part of our lead, leads, --
17 Q I see.
18 A -- (continuing) back to the boat and into this 50-foot
19 square net.
20 Q Okay.
21 Now, will you describe how the net is rigged with
22 respect to the boats and the bottom?
23 A Flat in front, flat apron in front, and a bunted back
24 end (illustrating).
25 Q All right.

1 And how about your leads? Where are they rigged
2 with respect to the boats and the anchors?
3 A The boats are here (illustrating), the head buoys are
4 out here (illustrating), and two hundred feet leads
5 back to the boat (illustrating). The buoy line,
6 lead line, cork lines, side lines. Well, the side lines
7 are quarter-inch rope.
8 Q Where do the side lines lead to?
9 A Between the net line and the buoy line.
10 Q And they run vertically, up and down?
11 A Yes.
12 Q What function do they serve?
13 A That's your lead, part of your leads.
14 Q This is what funnels the fish into the net?
15 A It's the side, yes, side of the lead.
16 Q I see.
17 Do they have any kind of artificial lure or
18 anything like that along them?
19 A No lures.
20 Q Or I don't mean lure, but anything attached to them?
21 Just straight rope up and down?
22 A Grass. Grass or a piece of plastic. We all use a
23 piece of plastic now.
24 Q Now, these side lines, you say, run vertically up and
25 down; is that right?

1 A Yes.

2 Q You also have lines that run horizontally?

3 A Floor lines.

4 Q Floor lines. And do they also have pieces of plastic

5 fastened to them?

6 A Right.

7 Q Now, once your rigging is in place, that is, these

8 floor lines and your leads, do you leave them there

9 all season?

10 A Yes.

11 Q And the only thing that's movable is your net?

12 A Yes. It's detached at the end of the flood tide

13 each day and placed in the boat, or all during closed

14 season.

15 Q Do you have any knowledge as to what resemblance your

16 gear bears to the gear originally used by the Lummi

17 Indians?

18 A Oh, there's similarities.

19 Q Are there differences?

20 A Oh, yes.

21 Q What are those differences?

22 A Well, according to all the history I can read, the

23 Indians were afraid of velocity and they protected

24 themselves by detaching the gear and running around

25 into the bays. We don't have to do that because we

1 built these 8-ton anchors to hold us into that tide
2 whether it's closed season or open season, and our
3 boats remain attached to our gear all during the
4 season.

5 Q Would you mind explaining to me what you meant by
6 saying the Indians were afraid of the tides or the
7 velocity and they would run into the bays?

8 A Oh. I was reading your anthro --

9 MR. RHEA: Anthropological report.

10 A -- (continuing) anthropological report, and I have read
11 a lot of history on it myself, where they detached
12 their boats from their leads. Some places they took
13 anchors, leads, boats and all and ran around the
14 point when the tide started running real hard for
15 safety and they weren't -- didn't have heavy anchors.

16 Q In other words, then, one difference you're pointing
17 to is the fact that today you're capable of dropping
18 a very large heavy anchor sufficient in weight to hold
19 your boat in position regardless of the strength of the
20 tide?

21 A Right.

22 Q Whereas the Indians didn't have that heavy an anchor
23 available to them?

24 A Well, I don't know if it was available or not.

25 Q But they didn't use it, anyway?

1 A No.

2 Q All right.

3 What other differences are you aware of between
4 your present gear and the gear that was used by the
5 Lummis?

6 A Well, I mentioned the height of the tower.

7 Q No, I don't believe you did. You mentioned your
8 present height is fifteen feet from the deck.

9 A Yes.

10 Q To the head of the observer.

11 A Yes.

12 Q All right.

13 Now, how does that differ from the Lummis?

14 A Well, the historical description and records that I
15 have read and discussed with the Indians who fished
16 with me over the years, they said they just stood on the
17 bow of the boat and looked in the water.

18 Q I see.

19 If you were to do that today would you have
20 difficulty in seeing the fish?

21 A Sure would.

22 Q Why is that? Why is it better to stand fifteen feet
23 above the water?

24 A Well, it's like climbing a tree and looking down into a
25 hole in the river and you can see the bottom. You

1 aren't looking into the sun.

2 We use Polaroid glasses to cut the glare --

3 Q I see.

4 A -- (continuing) of the sun on the water.

5 Q You mentioned that you've consulted certain historical

6 records and books and documents. Can you recall any

7 such records or books or documents?

8 A Stern. I think you have it in your report. That's

9 the main one.

10 Q Do you disagree with Barbara Lane's description of the

11 method by which the Lummi's fished?

12 A Oh, no. I have no reason to disagree, not knowing --

13 Q I see.

14 A -- (continuing) any of the particulars.

15 Q All right.

16 What other differences do you know between modern

17 gear and the gear that the Lummi's used?

18 Mr. Kinley mentioned that you're using nylon

19 webbing instead of --

20 A Cotton.

21 Q -- (continuing) cotton?

22 A Or bark.

23 Q Or bark.

24 A Wood fibers.

25 Q And you're using power gear instead of muscle power

1 to pull the nets?

2 A Well, we still pull the net by hand. We lift it by

3 electric power --

4 Q All right.

5 A -- (continuing) or hand winches.

6 Q All right.

7 Any other differences?

8 A Not that I can recall.

9 Q Well, I would suppose the Lummis didn't have these

10 plastic strips that are strung from the --

11 A The grass and the plastic strips are one and the same

12 purpose.

13 Q To simulate the rising of the floor of the bay?

14 A Yes.

15 Q All right.

16 Now, how many sets of boats did you own at the

17 maximum at any given time?

18 A Four.

19 Q Four?

20 A Uh-huh.

21 Q As far as you know what is the largest number of boats

22 owned by a single person within the association?

23 A Three. Three sets.

24 Q So at one time you were the largest single operator?

25 A Well, I don't know. There might have been somebody that

1 owned more.

2 Q I see.

3 A I was a gambler and tried. Some of them didn't pan
4 out and I had to sell them, get rid of them.

5 Q All right.

6 Now, you obtain a reef net license from the
7 State Fisheries Department; is that right?

8 A Yes.

9 Q Every member of the association, every operator who
10 is a non-Indian, has a license?

11 A Yes.

12 Q Is there any restriction --

13 A That's the law.

14 Q -- (continuing) on who can get a license as far as
15 you know?

16 A None. None.

17 Q Anybody in the State of Washington can go and get a
18 reef net license?

19 A Yes. To fish in the waters of Puget Sound.

20 Q All right.

21 Is it your position that your license combined
22 with your membership in the association gives you a
23 right to go to a particular site?

24 A My license has nothing to do with it. I choose where
25 I want to fish.

1 all kinds of arguments like I told you about crossed
2 cable and time consumed trying to iron out disagreements
3 between members.

4 Q Isn't it a fact, Mr. Brown, that everyone considers
5 they have got a fixed location which is theirs and
6 they have a right to it?

7 A Only by gentlemen's agreement among ourselves.

8 Q No, that means as long as nobody makes trouble?

9 A That's conjecture.

10 Q Well, have you ever gone to court about it?

11 A Never.

12 Q No member has ever gone to court about it?

13 A Not that I know of.

14 Q Any member ever consult an attorney that you know of?

15 A Not that I know of. I've never had to.

16 Q I see.

17 Now, how does one become a member of the Reef-
18 netters Association?

19 A Well, let's say that Mr. Kinley or Mr. Finkbonner, who
20 I've known since we was kids, came out there and said,
21 "I'm going to build a set of boats this year," --
22 now, this is as close as I can get, Mr. Ziontz, and
23 that goes for any non-Indian -- and he says, "Who is
24 the president of your association; I would like to
25 file a notice with him that I intend to come out and

1 Q So then he files his application for a site and then
2 what happens?

3 A He just files his request and intent, and then he comes
4 out there and he sets his gear, and then if he wants
5 to become a member of our association, we would
6 welcome him.

7 Q Oh, you mean you don't have to be a member to go out
8 there?

9 A No. Oh, never have had. Non-members set gear any
10 place they want to and then many of them come and
11 request membership in our association.

12 Q If a person chooses not to become a member of the
13 association and chooses not to be a gentleman and
14 simply went out on the site and dropped his own
15 anchors, what would the association do?

16 A The association wouldn't have much to do about it.
17 I don't, I don't know what would happen. I have no
18 idea. I don't think anybody is that unethical.

19 Q Well, at the present time the locations produce six
20 or seven thousand dollars a year for somebody who has
21 got the gear and wants to work it, or more, and
22 regardless of how you choose to characterize it,
23 you have told me that you go out to the same location
24 year after year and nobody will bother you, so that
25 there is a recognition that you have a right to that

1 fish there." We say, "Fine. You're the first one
2 that has signified your desire to fish there." All
3 right, --

4 Q Fish where?

5 A Wherever that --

6 Q You mean he would have to file a notice not that he just
7 intends to reefnet but where he intends to reefnet?

8 A In order so no one would assume they could set at the
9 same place he did at the same time he wants to set
10 there.

11 Q Or so that he couldn't occupy a position that somebody
12 else has from the prior year?

13 A Well, I don't think he would want to.

14 Q Because he's a gentleman?

15 A That's what are agreements are, a gentleman's agree-
16 ment.

17 Q All right.

18 So he files and he has to file for a new location;
19 is that right?

20 A Right, or one that's been abandoned, nobody is using,
21 been abandoned. That happens all the time. People
22 go broke and abandon. People quit and abandon. This
23 Earl Thomas went longshoring so he could make a
24 living for his family. He couldn't make a living, so
25 he told me, on seasonal fishing.

1 location.

2 A Yes, just like the -- that compares in my mind with
3 the historical way the Indians say they did it. So-
4 and-so fished there, so so-and-so fishes there
5 every year.

6 Q Is that what is meant by the allegation in your
7 counter-claim in this lawsuit, Mr. Brown, to the
8 effect that the reefnetters of Puget Sound,
9 particularly those in the area of Lummi Island,
10 Cherry Point and Point Roberts have enjoyed historic
11 fishing rights in said waters for many decades and
12 are entitled to continue and enjoy the same under
13 appropriate licensing and closure regulations
14 promulgated by the State of Washington; is that what
15 you meant by historic rights?

16 A Historic use and gentlemen's agreement rights.

17 Q Are you --

18 A Historic use and consecutive use. If I don't use it,
19 don't fish there every year, I lose it, it's
20 abandoned by me and somebody else can have it.

21 Q Where does it say that?

22 A That's one of our agreements among ourselves. Just
23 a gentlemen's agreement among ourselves. I have to
24 fish that every year.

25 Q And so what you're saying is that there is no claim of

1 legal right, no claim of property ownership, no
2 coercion whatever, if any outsider came to any site
3 presently occupied and came there the next year before
4 a member put his gear out, and that stranger came in
5 and put his gear out, there would be nothing except
6 raised eyebrows?

7 A I wouldn't say that.

8 Q What would be the results?

9 A I would feel sad that somebody was so unethical after
10 I had recognized his right to fish in his spot for
11 so many years that he would come and do that to me.

12 Q Well, supposing it's a man who has never fished out
13 there at all?

14 A I don't know.

15 Q All right.

16 You heard Mr. Kinley say he has heard stories
17 of shots being fired. Have you ever heard any such
18 stories?

19 A Absolutely nothing. I have not.

20 Q Never heard --

21 A Oh, I've heard stories that some -- let's see. I
22 heard one once a long time ago, I don't know when it
23 was, but somebody fired a shot up in the air and he
24 was asked why he did and he said, "I thought I would
25 just show him something," I don't know. I don't know

1 why he shot up in the air, but it's never been anything
2 like that between us. I've never shot at these two
3 boys (indicating), I've never shot at anybody else. I
4 don't believe that's the way to settle things in the
5 United States.

6 Q All right.

7 A I'm a firm believer in that, Mr. Ziontz. I think this
8 case that you referred to --

9 Q No, just a moment. Are you answering the last question
10 I asked you about the shots?

11 A Uh-huh.

12 Q Okay; go ahead.

13 A The story I heard was he thought that somebody was
14 tampering with his gear, might injure his boats or
15 something. Somebody was up to his boats with a skiff
16 and he was afraid they would steal something, so he
17 just shot up in the air. That's the story I heard.

18 Q Now the answers to our interrogatories regarding the
19 position of your association regarding entry of Lummi
20 Indians to the reefnet fisheries was given to me
21 as follows: "They are equal before the law with all
22 others, and hence have the right to acquire either
23 by construction or purchase all of the necessary gear,
24 acquire a license, and thereafter fish on an equal
25 basis with others, observing the same conservation

1 requirements and principles that apply to the other
2 owners and crew members."

3 Is that correct, as far as you know it, to be the
4 position of the association?

5 A Oh, yes.

6 Q In other words, Lummi Indians are equal to all other
7 persons and they have the right to acquire gear by
8 either building it or buying it?

9 A Yes.

10 Q And acquire a license, that's your opinion, if they
11 need one?

12 A Oh, yes. The State decides who gets the license, but
13 only -- everybody that fishes, non-whites, or non-
14 Indians, at least, have to buy a license.

15 Q But it is not your position that the Lummi Indians
16 have a right to occupy any site they choose?

17 A Any site that nobody is fishing on we support their
18 right to choose water that's unused.

19 Q Okay.

20 Water which is used, however, you would insist
21 that it would be wrong of them to try to occupy such a
22 site?

23 A I would consider it unethical, just like I couldn't go
24 and dislodge them from a place they chose to fish. I
25 wouldn't do it.

1 Q If it turns out, however, that all of the practical
2 reefnet sites are presently completely occupied, then
3 the Lummi doesn't have any right, does he, as a
4 practical matter?

5 A Oh, yes, he does. Point Roberts is nobody there.

6 Q Oh. He can go up to Point Roberts?

7 A He can go to Cherry Point. There's nobody fishing
8 there; everybody went gillnetting.

9 Q But he cannot go to Lummi Island unless he wants to
10 try to set up at Row Zero out at Village Point?

11 A Oh, there's other places at Lummi Island that he can
12 set within the law.

13 Q Which are practical both in terms of opportunity to
14 take fish and velocity of current?

15 A That he would have to decide himself.

16 Q Ah, well.

17 A He would make a choice on whether he wanted to fish there
18 or not. It's there if he wants to fish there. It's
19 wide open, if he wants to fish there.

20 I can take another set of boats and fish someplace
21 at Lummi Island.

22 Q Well, we know about the theoretical possibilities,
23 but I would assume that all the men who are out
24 there operating reefnet boats are in the positions
25 they are because their experience tells them that's the

1
2 STATE OF WASHINGTON
3 COUNTY OF WHATCOM

} ss. C E R T I F I C A T E

4
5 I, JOHN ROBERT BROWN, the witness in the fore-
6 going deposition, do hereby certify that I have read
7 the foregoing deposition, being pages 1 to 78 in-
8 clusive, and that the answers as given by me there-
9 in, are true and accurate save and except for
10 corrections, if any, as indicated by me on the
11 correction flyleaf sheet attached hereto.
12

13
14
15
16 John Robert Brown
17 JOHN ROBERT BROWN

18 Subscribed and sworn to before me this 7th day
19 of June 1973.
20

21
22 Basil R. Harrison
Notary Public in and for the State
of Washington, residing at

23 Bellingham
24
25

1 STATE OF WASHINGTON)

2 COUNTY OF WHATCOM)

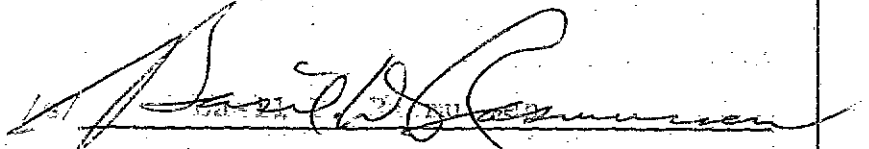
ss. C E R T I F I C A T E

3
4 I, BASIL D. RASMUSSEN, a notary public
5 duly commissioned and qualified in and for the State
6 of Washington, County of Whatcom, residing at
7 Bellingham, do hereby certify that, pursuant to oral
8 stipulation of counsel, there came before me on the
9 17th day of May, 1973, at 2:30 o'clock p.m., at 220
10 Bellingham National Bank Building, Bellingham, Wash-
11 ington, the following named person, to-wit: JOHN
12 ROBERT BROWN, who was by me duly sworn to testify to the
13 truth and nothing but the truth of his knowledge
14 touching and concerning the matters in controversy
15 in this cause; that he was thereupon carefully examined
16 upon his oath and his examination reduced to writing
17 by me; that the deposition is a true record of the
18 testimony given by the witness; and that the said
19 witness read the same and subscribed his name thereto
20 before me.

21 I further certify that I am neither attorney
22 or counsel for, nor related to or employed by, any of
23 the parties to the action in which this deposition is
24 taken, and further that I am not a relative or
25 employee of any attorney or counsel employed by the

1 parties hereto or financially interested in the
2 action.

3 In witness whereof I have hereunto set my
4 hand and affixed my notarial seal this 9th day
5 of June, 1973.
6

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9 BASIL D. RASMUSSEN
10 Notary Public in and for the State
11 of Washington, residing at
12 Bellingham.
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CORRECTION SHEET

PAGE LINE

CORRECTION

47 2

"Pink" for "peak."

51 16

"Pauley" for "Folley."

71 15

"our" for "are."

John Robert Brown
JOHN ROBERT BROWN

Subscribed and sworn to before me this 7th day of
June 1973.

Basil W. Hansen
Notary Public in and for the
State of Washington, residing at
Bellingham.