

S. Williams (for Plaintiffs)
Commission Evidence 1

Vancouver, B.C.

June 14, 1988

(PROCEEDINGS RECONVENED AT 10:00 a.m.)

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6 THE REGISTRAR: Order in court. In the Supreme Court of British
7 Columbia, this Tuesday, June 14, 1988. Calling
8 Delgamuukw versus Her Majesty the Queen at bar, My
9 Lord.

10 THE COURT: Ms. Mandell.

11 MS. MANDELL: Thank you, My Lord. I have had an opportunity
12 last night of consulting with Peter Grant after your
13 suggestion that perhaps the proceedings might be done
14 on a more selective basis, and having considered the
15 matter, we have of the 18 tapes remaining, there has
16 been three selected for your Lordship's viewing: tape
17 three, tape eight and tape nine.

18 THE COURT: These are of Mr. Williams?

19 MS. MANDELL: This is of Mr. Williams.

20 THE COURT: Yes.

21 MS. MANDELL: And then if my friends are themselves inclined
22 after that to introduce to you a portion of the
23 cross-examination or the redirect, that would be for
24 them to advise.

25 THE COURT: Yes.

26 MS. MANDELL: And your suggestion as to whether or not then
27 there could be further viewings on Your Lordship's
28 part of other commission witnesses, that suggestion
29 was also taken up and it will be our intention to have
30 Your Lordship use the remainder of the week, if
31 possible, to view more of the Gitksan commission
32 witnesses, and I'll advise at a later date as to the
33 ones on the tapes.

34 THE COURT: Yes.

35 MS. MANDELL: We are having a difficulty, just to advise Your
36 Lordship, as to the -- locating the tapes that we need
37 in Vancouver. I believe that at the present time they
38 are in Hazelton.

39 THE COURT: All right. Well, I can say that I think that it's
40 useful to see some of the tape of the witnesses. It
41 wasn't too useful with Mr. Williams because as I
42 mentioned last evening, I spent a greater part of the
43 day with Mr. Williams on our view, and the video is
44 not much help from the point of view of assessing the
45 demeanour of a witness. They sit at the table with
46 their full face to the camera rather like Mount
47 Rushmore. And while Mr. Williams showed signs of his

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jovial good nature

on video, I had already seen that

2 in real life. It may be that other witnesses will not
3 be quite as sphinx-like as Mr. Williams was like,
4 except for --

5 MR. PLANT: Part of the problem with Mr. Williams is that he
6 wore his glasses and the light reflected off the
7 glasses.

8 THE COURT: Yes, he did, yes. He looked a bit like a space
9 cadet at times but I know what he looks like and so I
10 wasn't misled by that. But as I said, I am in
11 counsel's hands and I will watch whatever counsel tell
12 me they think I should see, and I have set aside a
13 whole week for this. I would like to go off and hear
14 a sore neck case or a broken neck case but I know
15 that's not my role in life, and I am here for this
16 whole week and longer as counsel think is necessary.
17 So do proceed and show me whatever you think I should
18 see.

19 MS. MANDELL: Thank you. We'll proceed then, now, with the tape
20 three which is the continuation of what -- of what you
21 were watching yesterday. It's found at page 41 of
22 volume 1 of the commission.

23 THE COURT: Yes, all right. And we will watch the end of that
24 and then go to something else?

25 MS. MANDELL: And then go to tape eight.

26 THE COURT: Yes, all right.

27 MS. MANDELL: And tape nine. I might advise, My Lord, that this
28 is my first opportunity to press the go button, and if
29 it doesn't work I have no other techniques.

30 THE COURT: Miss Mandell, before you turn the machine on, I
31 notice the jury are still here and I think I should
32 just say to them that I am in the midst of a trial in
33 which two nations of Indian people in north-western
34 British Columbia are claiming aboriginal title or
35 rights to a vast tract of the province, comprising of
36 about 22,000 square miles. And today is the 105th day
37 of this trial, and we are now viewing the evidence of
38 some witnesses that were taken up in Smithers on video
39 tape, and I have a transcript of what they said and I
40 am now watching selected parts of their evidence to
41 give me an idea of what sort of people they are, and
42 to see them give their evidence by video so that I can
43 better understand it when I read it. And if you want
44 to come forward, this is not church, you don't have to
45 sit at the back of the room. If you want to come
46 forward where you can see the monitor, you are welcome
47 to do so. I am not sure how interesting you'll find

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it but you might --

you might find it worth watching

2 for as long as you are able to. If you have to be
3 here in the building you might as well be here as
4 anywhere else, I suppose.

5 This witness is a Mr. Stanley Williams who is a
6 native chief of a house of the Gitksan nation,
7 originally from Gitsegukla which is on the Skeena
8 River, 25 miles or so west of Hazelton, although I
9 think he now lives -- yes, I now know he lives at
10 Gitwingax, which is a slightly larger village another
11 15 or 20 miles west on the Skeena where Westar has a
12 large sawmill.

13 THE REGISTRAR: Is the court reporter excused?

14 THE COURT: I see no reason for the reporter to remain, unless
15 counsel think otherwise?

16 MS. MANDELL: I don't, My Lord.

17 THE COURT: Thank you, Madam Reporter, you are excused.

18

19 (REPORTER EXCUSED AT 10:10 a.m.)

20

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

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Toni Kerekes,
O.R., R.P.R.
United Reporting Service Ltd.

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S. Williams (For Plaintiffs)
Commission Evidence 1

Vancouver, B. C.

June 15, 1988.

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THE REGISTRAR: In the Supreme Court of British Columbia, this
Wednesday, June 15th, 1988. Delgamuukw versus Her
Majesty the Queen at bar, my lord.

THE COURT: Thank you. Ms. Mandell?

MS. MANDELL: My lord, I am mindful of the time constraints. I
was, at this point, wanting to direct your lordship's
attention to passages of the commission evidence which
begin at page 148, volume three. And which then --
this one Adaawk --

THE COURT: Still Stanley Williams?

MS. MANDELL: Still Stanley Williams. This one Adaawk I was
going to have you view to page 152, where the
proceedings were adjourned. And then to have you read
the transcript with respect to page 154, volume three
from there. This is all one Adaawk and it's very
lengthy. I think that it would take you the better
part of the afternoon to see the tape and I have
reviewed some of it and I am satisfied that you can
get the content of it by yourself simply reading the
transcript.

THE COURT: All right. I will make a note. Asks me to read
volume three, page 148 --

MS. MANDELL: 148 to 154.

THE COURT: And the one, it starts at line seven, I guess.

MS. MANDELL: Well, yes, the question is starting at line three,
that's right.

THE COURT: To page 154, was it?

MS. MANDELL: Yes.

THE COURT: I will be glad to do it. When do you want me to do
it?

MS. MANDELL: I am satisfied that your lordship will do it at a
time convenient to you. That's the -- that was going
to be the afternoon portion of the transcript which we
were going to ask you to view.

I am not saying not to read the rest of the
transcript --

THE COURT: I will be reading it all anyway.

MS. MANDELL: I wanted to draw to your lordship's attention that
passage. Having said that, there was no further other
passage from this witness that we would be drawing to
your lordship's attention. My friend, Mr. Plant,
advises that although he does have portions of the
cross-examination which he wishes to draw to your

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attention, I

understand he hasn't located them

2 precisely on the tape. The tapes were provided late
3 in the day yesterday and I believe my friend from the
4 federal Crown may also have some, although not lengthy
5 portions, to draw to your lordship's attention,
6 although those two, as I understand it, haven't been
7 identified as to their whereabouts on the tape. I
8 might advise that following the completion of my
9 friend's sections with respect to cross-examination,
10 we intend to take your lordship into the commission
11 evidence of David Gunanoot and I have certain selected
12 passages from that commission to bring to your
13 lordship's attention and following that we will
14 proceed to take sections from as many of the Gitksan
15 witnesses as we can for the balance of the week. I am
16 now going to have to rely on my friend to say how he
17 wants to logically proceed.

18 MR. PLANT: Well, my lord, I very carefully made a note of where
19 the three particular passages were that I wanted your
20 lordship to see and then equally carefully left that
21 note back at the office. I know where they are in
22 terms of the transcript and I know that the second of
23 the excerpts will be easy to find because I timed it,
24 the beginning of a tape. But I think it would
25 probably take me about five minutes to find the first
26 one and I say there are three extracts that I would
27 ask your lordship to see and I anticipate that it
28 would take the balance of the afternoon, roughly
29 speaking, to see those three.

30 THE COURT: Yes. Well, what do you want to do, do you want to
31 start at the one you can find or do you want to make
32 your phone call and get your other references?

33 MR. PLANT: My concern is that the time it would take to
34 instruct someone as to the particular place that I
35 left the note, since I don't know where it is --

36 THE COURT: What are you suggesting?

37 MR. PLANT: If your lordship would bear with me for about five
38 minutes, whether here or elsewhere --

39 THE COURT: I will go for a short walk and come back in five or
40 ten minutes.

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43 (PROCEEDINGS ADJOURNED FOR SHORT RECESS)

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46 THE COURT: Do we need the reporter?

47 MS. MANDELL: No, my lord.

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1 THE COURT: You are excused

for the day. Thank you.

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

Wilf Roy
Official Reporter

Proceedings

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JUNE 16, 1988

VANCOUVER, B.C.

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THE REGISTRAR: Order in court. In the Supreme Court of British Columbia, this Thursday, June 16, 1988. Calling Delgamuukw versus her Majesty The Queen at bar, My Lord.

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MS. MANDELL: Thank you.

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THE COURT: Ms. Mandell.

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MS. MANDELL: If I could address you with respect to two matters briefly before we proceed with the viewing of David. The first is a matter for which I don't have a clear proposal. It deals with the problems with which we saw clearly last night with respect to the transcription, and I think that the Court Reporter did a terrific job, given how difficult it is for the accused to be understood, although I did notice that for many of the places that there were difficulties arising, as I saw it, where Mr. Gunanoot would slip into Gitksan and mumble his English around that, and the breaks between where he went into Gitksan and where he resumed in English, that segment didn't get either transcribed or translated, and the transcript is showing those problems.

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We are prepared to have the videos viewed by somebody who is Gitksan speaking and are in a position to make recommendations regarding how to fill in some of the problems with respect to Mr. Gunanoot's transcription, although I don't at this time ask that there be anything finally determined about this. My friends both have been advised by me of our offer, and they would like to consider it. And I bring it to Your Lordship's attention, and perhaps it can be resolved at that time when they have had a chance to do that.

THE COURT: Well, that's very satisfactory. My sense of all of this is that the transcript, for perfectly understandable reasons, is not perfect.

MS. MANDELL: That's true.

THE COURT: And that must be so, given the circumstances you have already mentioned, but that the transcript is perfectly adequate to provide the court with, and any subsequent court that has to deal with the matter, with the burden of the evidence of the witnesses. I have serious doubt if any of the errors or omissions, if I can call it that, for want of a better term, are going to make any difference at all in the assessment

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that's made of the

evidence or the outcome of the

2 trial.

3 I'm going to have to adjourn at quarter to 11 for a
4 matter.5 But subject to that, by all means, if you and your
6 friend can work out some arrangement, make suggestions
7 for alterations in the transcript, and if you well
8 agree, then by all means that's the perfectly
9 acceptable way to proceed.

10 MR. PLANT: I should advise Your Lordship that Mr. Grant and I
11 corresponded in the fall of 1987 with respect to some
12 changes to the transcript, and my recollection is that
13 I received his list, and in some cases did check
14 against the transcript, comparing the transcript of
15 the video, but in most cases checked against the
16 transcript for what might be called a gross error, and
17 I understood that the product of our joint efforts was
18 a list of agreed upon corrections that should be filed
19 with the court. It only dealt with volume one. I
20 don't know if that was filed last night. I don't
21 think its been filed before now. That will address
22 some matters where the transcript is really just --
23 for example, the Reporter heard the word Luce and
24 wrote it down L-u-c-e, and it's clear from the context
25 that Mr. Gunanoot was referring to the chief Luus,
26 L-u-u-s. It doesn't respond exactly to my friend's
27 concern. I was at this commission, and it was a
28 struggle at times to --

29 THE COURT: Obviously.

30 MR. PLANT: -- to understand in precise words what Mr. Gunanoot
31 was saying. It was never difficult to understand the
32 substance of what he was saying. And we did have the
33 assistance of Mr. Ralph Michell as a translator there
34 on hand, but my recollection was he wasn't used as
35 often as he could have been. And I guess I have a
36 logistical concern at this point about going back --
37 speaking of someone who spent several hours going back
38 through the transcript at Mr. Grant's request to get
39 these errors -- some errors corrected, I have, I
40 guess, a concern about going back through it all over
41 again, but otherwise, I guess, I am happy to consider
42 my friend's proposal.

43 THE COURT: As I said, I am perfectly agreeable to what Ms.
44 Mandell is suggesting. I don't require it. I'm not
45 convinced it's necessary, but I certainly won't stand
46 in the way of counsels' relentless pursuit for
47 perfection.

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1 MR. PLANT: I think Miss

Harper had the videos. I know she had

2 an audio tape. I know she struggled long and hard
3 with these transcripts to get them into the shape that
4 they are in.

5 THE COURT: I think she's done a commendable job.

6 MS. MANDELL: It's very difficult, I really agree with you.

7 My Lord, the second matter that I would like to
8 address is to do with the selection of passages for
9 Your Lordship to view regarding the cross-examination.
10 This matter troubled me after we adjourned last night,
11 and if I could identify the concern this way. I -- it
12 had to do with the selection of passages made by the
13 Federal Government with respect to the Commission of
14 Stanley Williams. We agree that passage selection may
15 be for many purposes, but to the extent that one
16 purpose is to permit Your Lordship to view the
17 demeanour of the witness, it appeared that what
18 happened last night was that we viewed a selection of
19 12 and-a-half minutes selected randomly through the
20 cross-examination of the Federal Crown showing Mr.
21 Williams angry, and that's what we saw. And it seems
22 that it's -- there is something faulted about the
23 procedure. It seems unbalanced to me that we should
24 have Your Lordship view the demeanour of a witness
25 under cross-examination with the selection process
26 that way.

27 THE COURT: Ms. Mandell, I don't think you need be concerned.
28 In every case, certainly in this one, the demeanour of
29 the witness is completely different in chief and on
30 cross-examination.

31 MS. MANDELL: That's exactly the concern that I had, that after
32 many days of cross-examination, which Your Lordship
33 isn't exposed to, you are exposed to a selection of 12
34 and-a-half minutes where the accused is angry, and I
35 say that if the purpose of the passage selection on
36 cross is to permit Your Lordship to view the demeanour
37 under cross-examination, that there should be some
38 bound put to the way in which the selection of
39 passages may be made. And it's our suggestion that
40 the -- there be a unit of time selected, whether it be
41 for break to break or several topics in total, and
42 that within that you will see more than simply
43 selection of passages at random over many days of
44 cross-examination, and you will get a balanced view of
45 what the witness was like under cross-examination.
46 And I raise this now, not expecting that the problem
47 is going to be necessarily repeated for the future,

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but hoping that

Your Lordship will assist in the

2 parties putting some reasonable limits to this
3 problem, so as that we don't have to have it revisited
4 every time that we end up into a cross-examination
5 viewing situation.

6 Our suggestion is that there be a unit of time
7 played, within which the passages which the Crown
8 wishes to present to Your Lordship for
9 cross-examination get viewed, and that within that
10 we'll live with the fact that hopefully within that
11 unit of time there will be some balanced
12 cross-examination capable of being viewed. But we do
13 think that the process is wrong, that we should be
14 exposed to selected clips of many, many days of
15 cross-examination for the purposes of drawing out one
16 emotion which they would like Your Lordship to view
17 that the witness expressed.

18 THE COURT: I don't know how to respond to that, Miss Mandell.
19 It was obvious that the passages I saw of Mr.
20 Williams' cross-examination last night were marked
21 departures from the demeanour of the witness in chief,
22 and indeed the demeanour of the witness, as I observed
23 him during our view last week, and I think with
24 respect that's fair advocacy. I think it's -- I think
25 it's a right of counsel to show something that they
26 think requires emphasis. When you read the whole
27 thing, you get a sense of whether the witness is being
28 cooperative or being angry or being evasive or
29 something else, but you don't always know -- all I got
30 out of that is that on those brief passages he was
31 clearly not an easy witness to cross-examine, and I
32 think that's all that it shows. I don't think he was
33 the same way throughout the whole of the
34 cross-examination, but I think it's fair for counsel
35 to emphasize the things they think should be
36 emphasized, and in argument you will be able to direct
37 my attention to the passage, if you think that's a
38 serious enough matter, to show that he was being more
39 than helpful, or I will have found that myself. I
40 don't think you need be concerned about that. But I
41 have to say that my sense is that if we are doing it
42 the way we are, which seems to me the only sensible
43 way, counsel have to be entitled to take the passages
44 they think are most useful to them from an adversarial
45 point of view and from the point of view of good
46 advocacy or they got a very good answer. I am
47 expecting they want me to see that. If they got a

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witness out of

control, then I would suspect they

2 would want me to see that too. If you get passages
3 you think are particularly important, you are going to
4 show me those. You are picking a passage you think
5 are most important from your point of view. Shouldn't
6 they do the same?

7 MS. MANDELL: The difficulty that is present for us is that
8 certainly we are not going to be selecting passages
9 from cross-examination to show the demeanour of the
10 witness under cross-examination, and it becomes a one
11 sided -- and I say imbalanced prospective to select
12 the passages as they are for that purpose. Now, if it
13 were an informational or more substantive point, I can
14 see that there is no problem in -- as in fact the
15 Provincial Crown did yesterday, of selecting certain
16 passages which they wanted the substance of the point
17 to be emphasized to you. But if --

18 THE COURT: Ms. Mandell, if it's any assistance to you, I can
19 say -- I direct this mainly at Mr. Frey -- is that I
20 have already noticed those problems, a startling
21 difference of the witness between their demeanour in
22 chief and in cross-examination. Even the mildest of
23 witnesses, such as Mr. Joseph, got quite annoyed in
24 cross-examination, towards the end of the
25 examination. He got quite personal on two or
26 three occasions, as did other witnesses. Mrs.
27 MacKenzie was a model of responsiveness in chief, and
28 in cross she -- her true feelings came through more
29 than I think they did in chief, although her true
30 nature, I think, was more evident during her
31 examination in chief. And I have noticed this not
32 just in this trial but in all trials, and if your
33 friends are worried that I won't notice that, and that
34 I won't pick it up from the transcript, I can tell
35 them now that I am alive to that. Very natural and
36 common occurrence that takes place in trials, and they
37 are not going to interfere. And their choice of the
38 passages that I see, that I can tell them that they
39 don't need to show me those passages, if they are in
40 the transcript, just to show me that there is a
41 difference between the demeanour in chief and
42 cross-examination. I come to expect that.

43 MS. MANDELL: But there is nuances within cross-examination too,
44 where a witness could be at one time particularly
45 expressing of an emotion during cross-examination for
46 one percent of the cross-examination, and the entire
47 rest of the balance of the cross-examination is really

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to be viewed in

another way.

2 THE COURT: Aren't I likely to get that out of reading just as
3 easily out of seeing it?

4 MS. MANDELL: I don't think necessarily that you will. I don't
5 know that, for example, the tenor of the witnesses
6 presentation comes through during the transcript
7 reading at all, and the emphasis and the emotional
8 content is really what Your Lordship is being asked to
9 view at this time.

10 MR. PLANT: I might just add this comment, My Lord, that again
11 speaking as someone who was there in this case for
12 both Stanley Williams and David Gunanoot, that -- and
13 Your Lordship, I'm sure, is well aware of this, that
14 there is a difference between being there and seeing
15 what's on the tape in the first place, so that already
16 one stage removed from the reality of the ambiance of
17 a room where the examination is taking place.

18 THE COURT: Oh, yes. It's like watching an exciting football
19 game in the stadium and in the home. It's all the
20 difference in the world. These aren't the first
21 differences I have ever seen. I am fully alive to the
22 difficulties that arise. As I say, if the defence
23 thinks it's helpful for me to see the witnesses in the
24 majesty of their anger, and that's probably
25 exaggerating it, I won't stop them from doing so, but
26 they don't need to show me that to persuade me that
27 there is often a difference in these witnesses. There
28 is no difference between chief and cross-examination.
29 I noticed that many times already.

30 MR. FREY: Perhaps I could just briefly address many of these
31 points. Ms. Mandell used randomly selected. I'm not
32 sure that Your Lordship realized that the passages
33 started when Ms. Koenigsberg commenced a topic, and
34 finished when Ms. Koenigsberg finished a topic. We
35 thought, given we only got the tapes at lunchtime
36 yesterday, we did an admirable job to limiting the
37 things to about 15 minutes. Those passages were put
38 in for substantive purposes as well. That's a matter
39 of argument, but those passages weren't put in just
40 for demeanour. I think on the point of demeanour Ms.
41 Koenigsberg's cross-examination didn't go on for days
42 and days, I believe it might have been a day in total,
43 and for our cross-examination we found trouble with
44 Mr. Williams being less than cooperative sometimes.

45 THE COURT: He was also getting towards the end of a long day.

46 MR. FREY: That's exactly the point I wish to make, My Lord. We
47 are always in the on deck circle while the Province is

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going at it, and

you have noticed in witnesses at

- 2 trial, and Mr. Joseph is a good example, where after
3 many days of being dealt with by Mr. Goldie, Ms.
4 Koenigsberg didn't have extended to her the same
5 patience that was extended to Mr. Goldie.
- 6 THE COURT: Mr. Goldie got his share of ropes in
7 cross-examination as well.
- 8 MR. FREY: It's understandable that the witness is tired and
9 weary of the whole process, but we thought, and I
10 believe we will probably continue to put very short
11 passages, to not take up time in those matters and to
12 focus where we think the point of this is, demeanour.
13 You can get the substantive points in the transcript
14 and selected passages where both demeanour and
15 substantive points occur, and we don't think they were
16 randomly selected or unrepresentative, and I don't see
17 how we will do it differently next time.
- 18 THE COURT: Well, I'm not going to purport to or attempt to
19 change the style that you are following. If at the
20 end of the day, Ms. Mandell, you think that it's going
21 to be necessary to get a more balanced view that I
22 can't get from reading, then I will have to consider
23 looking at some more passages that you might wish to
24 bring my attention to.
- 25 MS. MANDELL: Okay.
- 26 THE COURT: But I don't think I should say I require the
27 defendants to apply certain guidelines to the passages
28 they select. I think I have to leave that to counsel.
29 And your remedy is to say I think I should look at
30 some more.
- 31 MS. MANDELL: Well, I would, and I would say that when my friend
32 says that the passages were selected for demeanour, he
33 means the type of attitude that he would like Your
34 Lordship to see. Demeanour is not that.
- 35 THE COURT: Demeanour is a many splendid thing.
- 36 MS. MANDELL: And we have only seen one small section of it.
- 37 THE COURT: I saw a lot of Mr. Williams in his usual jovial self
38 in his evidence in chief. I saw only two very short
39 passages. As I say, I think these aren't the first
40 witnesses I have ever seen.
- 41 MS. MANDELL: My Lord, then with your leave I would like to
42 leave the balance of the viewing to Mr. Adams.
- 43 THE COURT: Can he handle the machine?
- 44 MR. ADAMS: We will find out.
- 45 THE COURT: Very well, Ms. Mandell. I think I need the Reporter
46 for speaking to the list at 10 o'clock.
- 47 MR. PLANT: Perhaps I could rise on one point that I am advised

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by Ms. Sigurdson

that this wasn't dealt with last

2 night. I don't think Your Lordship saw any of the
3 re-examination of Mr. Williams.

4 THE COURT: No.

5 MR. PLANT: Before we began viewing Mr. Williams' video, I argued
6 some objections from the transcript, and I propose to
7 defer arguing objections raised during re-examination
8 to a later date. At that time I anticipated that we
9 would be seeing all of the video of Mr. Williams'
10 examination, and I expected that Your Lordship would
11 have the full context of that examination and the
12 cross-examination in which to rule on the objections
13 made during redirect. Since Your Lordship has not had
14 that opportunity, perhaps I could suggest that
15 argument, if it should be necessary, on objections
16 raised during re-examination be deferred until such
17 time as any evidence given during re-examination is
18 relied on by any party.

19 THE COURT: Yes. Or until I have read the whole transcript,
20 that is the whole of the evidence in chief and
21 cross-examination.

22 MR. PLANT: Either event would be satisfactory to me.

23 THE COURT: You can certainly raise that again whenever it's
24 convenient.

25 MR. PLANT: Perhaps I could just ask Your Lordship if you still
26 have the list that I handed up on Monday.

27 THE COURT: Yes, I do.

28 MR. PLANT: Perhaps that could be kept in some place for
29 reference.

30 THE COURT: I'll put it with -- I'll put it with the transcripts
31 of Mr. Williams' evidence.

32 MR. PLANT: Thank you, My Lord. Counsel can remind me where it
33 is.

34 MR. FREY: While we are tying up loose ends on the Stanley
35 Williams' discovery, there are three objections that
36 Mr. Grant had raised with respect to the
37 cross-examination of the Federal Crown, and the first
38 one he raised related to volume 5 at page 345, and it
39 related to the use of -- well, in reference to an
40 estate, and you may recall Mr. Grant said that he
41 understood there may be a Provincial B.C. Supreme
42 Court probate file with the same documents. Those
43 documents were listed by us and I gave copies to Mr.
44 Grant. And Ms. Mandell may want to check this with
45 Mr. Grant, but he advised me that he had no difficulty
46 now with those passages going in.

47 THE COURT: All right.

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Commission Evidence 1 MR. FREY: Because all of the materials existing -- open for
2 public view in the probate file in the Terrace
3 Registry.
4 THE COURT: All right.
5 MR. FREY: The third point he raised, just rather a mechanical
6 point, it relates to page 351 of the transcript,
7 and --
8 THE COURT: Of Mr. Williams' transcript?
9 MR. FREY: Mr. Williams.
10 THE COURT: I don't have it here.
11 MR. FREY: Simply that Exhibit 31 was a map of Gitwangak fishing
12 sites, but I believe it was used during the evidence
13 of Mrs. Ryan, and we referred to that on the
14 cross-examination. Of course we didn't have the
15 court's filed exhibit copy and had Ms. Koenigsberg's
16 copy, and Mr. Grant simply wanted to see the copy that
17 we were going to file on the commission. That can be
18 done, I believe, probably tomorrow. It's simply that
19 we didn't realize a Reporter would be here today, and
20 wanted to make sure there was a Reporter when we put
21 that in. And I believe the second point may still be
22 outstanding, so I will have to discuss that with him.
23 MR. PLANT: I'm sorry to jump up again myself. Your Lordship
24 should note that there were objections taken during my
25 cross-examination by Mr. Grant to some of my
26 questions. I am referring again to my
27 cross-examination of Stanley Williams. Mr. Grant
28 subsequently in correspondence to me has withdrawn all
29 of those objections.
30 THE COURT: All right. Thank you. Shall the show go on? I
31 think we were on page?
32 MS. MANDELL: 1-48, beginning at line 44.
33 MR. PLANT: My Lord, could I ask Mr. Williams to sit with me
34 or -- in order that he have the ability to try and
35 follow this on the transcript?
36 THE COURT: I'm sure there is no objection to that, is there?
37 MS. MANDELL: No.
38 THE COURT: Okay. If Mr. Williams will undertake to behave
39 himself.
40 MR. WILLIAMS: With difficulty, My Lord.
41 THE COURT: I think, Madam Reporter, you may be excused. You
42 are welcome to stay if you wish.
43
44 (REPORTER EXCUSED AT 10:05)
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I HEREBY CERTIFY THE FOREGOING TO
BE A TRUE AND ACCURATE TRANSCRIPT
OF THE PROCEEDINGS HEREIN TO THE
BEST OF MY SKILL AND ABILITY.

LORI OXLEY
OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.

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June 17th, 1988

VANCOUVER, B.C.

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THE REGISTRAR: Order in court.

THE COURT: Well, my apologies to counsel. As you probably know, I've been discharging some ceremonial duties this morning.

THE REGISTRAR: In the Supreme Court of British Columbia this Friday, June 17, 1988, calling Delgamuukw versus Her Majesty the Queen at bar, My Lord.

THE COURT: Where I might add Mr. Macaulay was featured in some of the remarks made regarding some activities with Mr. Guile and Mr. Hollinrake in a former era.

MR. MACAULAY: I hope there was no court reporter present.

THE COURT: Well, there was, but there were no particulars given. All right. Are you ready to proceed?

MR. ADAMS: My Lord, we're just picking up where we left off yesterday afternoon in Mr. Johnson's commission.

THE COURT: All right. Mr. Macaulay, did you have something you wanted to say?

MR. MACAULAY: Yes. Yesterday we were served with a notice of motion and an affidavit regarding, amongst other things, the manner in which the Attorney-General of Canada has been listing documents these past years, and the application is returnable Monday morning. I'm applying for an order that the application not be heard Monday morning, but some convenient date convenient to counsel later in the week. I have just been told that Mr. Goldie has written to Mr. Rush suggesting that the application be heard next Monday. I don't know the reason for that, picking that day, and Mr. Adams has suggested and I agree with him that perhaps it should be adjourned from Monday to a day to be fixed after counsel has had a -- counsel have had an opportunity to discuss the day that would be best suited to the plaintiffs of course who will be leading evidence from another witness, and Mr. Goldie.

THE COURT: What day do you suggest Mr. Adams?

MR. ADAMS: I didn't have a day to suggest, My Lord, I just suggested that I would agree with Mr. Macaulay that it wouldn't be Monday and that was his immediate concern.

THE COURT: All right. Should I arbitrarily fix a date such as --

MR. MACAULAY: Well --

THE COURT: -- or would you rather just leave it generally?

MR. MACAULAY: I think Mr. Adams' point is he would like to discuss this with counsel who will be speaking to the

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application if he's

not.

2 THE COURT: Yes. I'll adjourn it generally and either counsel
3 can bring it back on in two days' notice or at any
4 time.

5 MR. MACAULAY: Any time. I don't think it should be fixed at two
6 days' notice so long as we know we don't have to cope
7 with this on Monday morning.

8 THE COURT: I'm just protecting the position of one party if
9 they say the other side won't agree to anything and
10 they want to bring it back, but any time that counsel
11 can agree upon, otherwise on two days' notice and it
12 won't go ahead on Monday. Thank you.
13 Anything else for which we should have the
14 assistance of madam reporter?

15 MR. PLANT: Well, I'd just like to note as a housekeeping matter
16 that my understanding is that at present the tapes 9
17 through 20 from the Stanley Williams commission have
18 not yet been filed as exhibits, nor have any of the
19 tapes from the David Gunanoot or Fred Johnson
20 commissions.

21 THE COURT: Yes.

22 MR. PLANT: And I would hope that could be done soon. I'm in my
23 friend's hands there because he has the tapes.

24 THE COURT: Yes. Well, are you ready to deal with that Mr.
25 Adams or do you want to do it some other time?

26 MR. ADAMS: I started inquiries yesterday afternoon about the
27 location and the state of all the tapes and I don't
28 have the answer to that.

29 THE COURT: All right. Well, you can bring it up again any time
30 Mr. Plant.

31 MR. PLANT: Thank you, My Lord.

32 THE COURT: All right.

33 THE REGISTRAR: How will they all be marked?

34 THE COURT: In the same sequence as the transcripts and the
35 exhibits.

36 THE REGISTRAR: So whenever they come in they can be marked.

37 THE COURT: Actually, if counsel can agree on the numbers it can
38 be done privately, madam registrar. It needn't even
39 be spoken to, but after that someone should make a
40 statement for the record as to what's been done.

41 THE REGISTRAR: Because I'll have to have them marked.

42 THE COURT: But mechanically counsel can arrange that with madam
43 registrar. All right. Anything else or shall we
44 relieve madam reporter of her court responsibilities
45 to this case for today? You're welcome to stay madam
46 reporter if you wish or you may also depart.
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I hereby certify the foregoing to
be a true and accurate transcript
of the proceedings herein to the
best of my skill and ability.

Tanita S. French
Official Reporter