

In the Matter Of:  
The Chippewas of Saugeen First Nation et al v.  
Attorney General Of Canada et al

---

DAY 1 / VOL 1  
April 25, 2019

---



77 King Street West, Suite 2020  
Toronto, ON M5K 1A2  
1.888.525.6666 | 416.413.7755

1 Court File No. 94-CQ-50872CM

2 ONTARIO  
3 SUPERIOR COURT OF JUSTICE

4 B E T W E E N:

5 THE CHIPPEWAS OF SAUGEEN FIRST NATION, and THE  
6 CHIPPEWAS OF NAWASH FIRST NATION  
7 Plaintiffs

8 - and -

9 THE ATTORNEY GENERAL OF CANADA,  
10 HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,  
11 THE CORPORATION OF THE COUNTY OF GREY, THE  
12 CORPORATION OF THE COUNTY OF BRUCE, THE CORPORATION  
13 OF THE MUNICIPALITY OF NORTHERN BRUCE PENINSULA,  
14 THE CORPORATION OF THE TOWN OF SOUTH BRUCE PENINSULA,  
15 THE CORPORATION OF THE TOWN OF SAUGEEN SHORES, and  
16 THE CORPORATION OF THE TOWNSHIP OF GEORGIAN BLUFFS  
17 Defendants

18 Court File No. 03-CV-261134CM1

19 A N D B E T W E E N:

20 CHIPPEWAS OF NAWASH UNCEDED FIRST NATION and  
21 SAUGEEN FIRST NATION  
22 Plaintiffs

23 - and -

24 THE ATTORNEY GENERAL OF CANADA and HER MAJESTY THE  
25 QUEEN IN RIGHT OF ONTARIO  
26 Defendants

-----

27 --- This is Volume 1/Day 1 of the transcript of the  
28 trial proceedings in the above-noted matter, being held  
29 at the Superior Court of Justice, 330 University Avenue,  
30 Courtroom 5-1, Toronto, Ontario, on the 25th day of  
31 April, 2019.

-----

32 B E F O R E:

33 The Honourable Justice Wendy M. Matheson

1 A P P E A R A N C E S :

2

3 H. W. Roger Townshend, Esq., for the Plaintiffs,  
4 & Renée Pelletier, Esq., The Chippewas of  
5 & Cathy Guirguis, Esq., Saugeen First Nation,  
6 & Benjamin Brookwell, Esq., and the Chippewas of  
7 & Scott Franks, Esq., Nawash First Nation.  
8 & Christopher Evans, Esq.,

9

10 Michael Beggs, Esq., for the Defendant,  
11 & Michael McCulloch, Esq., The Attorney General  
12 & Barry Ennis, Esq., of Canada.

13

14 David Feliciant, Esq., for the Defendant,  
15 & Peter Lemmond, Esq., Her Majesty the  
16 & Richard Ogden, Esq., Queen in Right of  
17 & Julia McRandall, Esq., Ontario.  
18 & Jennifer Le Pan, Esq.,

19

20 Jill Dougherty, Esq., for the Defendant,  
21 & Debra McKenna, Esq., The Corporation of the  
22 Township of Georgian  
23 Bluffs.

24

25 REPORTED BY: Judith M. Caputo, RPR, CSR, CRR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

PAGE

Administrative/Housekeeping.....5 - 9  
..... 128 - 136

OPENING STATEMENTS BY THE PLAINTIFFS:

BY MR. TOWNSHEND.....9  
BY MS. PELLETIER.....36  
BY MS. GUIRGUIS.....60

OPENING STATEMENTS BY THE DEFENDANTS:

BY MR. BEGGS.....88  
BY MR. FELICIAN.....103  
BY MS. DOUGHERTY.....115

INDEX OF EXHIBITS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NO.	DESCRIPTION	PAGE/LINE NO.
U:	Illustrative Map showing the location of the Defendant Municipalities.	131:8
V:	Book of Legislative Documents.	131:10
W:	Illustrative Map entitled, General Chart of the Great Lakes.	134:20

1 -- Upon commencing at 10:01 a.m.

2

10:01:51 3 THE COURT: Good morning.

10:01:54 4 I am Justice Matheson. This is the

10:01:57 5 trial of two actions commencing this morning.

10:02:01 6 Action 94-CQ50872 and 03-CV-261134.

10:02:12 7 I'm going to call on lead counsel to

10:02:17 8 each party to indicate the parties for whom their

10:02:23 9 counsel group acts, and to introduce the group of

10:02:26 10 counsel that they have in court today; beginning

10:02:29 11 with Mr. Townshend.

10:02:32 12 MR. TOWNSHEND: Thank you, Your Honour.

10:02:34 13 My name is Roger Townshend, counsel for

10:02:38 14 the Chippewa of Nawash Unceded First Nation and the

10:02:42 15 Saugeen First Nation, the Plaintiffs in this

10:02:43 16 action.

10:02:44 17 With me are Ms. Pelletier.

10:02:44 18 MS. PELLETIER: Good morning, your

10:02:44 19 Honour.

10:02:48 20 MR. TOWNSHEND: And Ms. Guirguis.

10:02:48 21 MS. GUIRGUIS: Good morning, your Honour.

10:02:51 22 MR. TOWNSHEND: Mr. Franks and Mr. Evans.

10:02:51 23 MR. EVANS: Good morning, your Honour.

10:02:54 24 MR. TOWNSHEND: And Mr. Brookwell.

10:02:54 25 MR. BROOKWELL: Good morning, your

10:02:54 1 Honour .

10:03:00 2 MR. TOWNSHEND: And a little further  
10:03:01 3 back, my documents manager is Dan Shaule, who I  
10:03:05 4 will be asking that he sit at counsel table when  
10:03:08 5 we're giving evidence.

10:03:10 6 THE COURT: That's satisfactory, sir.

10:03:12 7 MR. TOWNSHEND: And Ms. Prokos is also  
10:03:14 8 present, and she may be assisting with documents on  
10:03:16 9 some days as well. And my clients are here.

10:03:18 10 THE COURT: Thank you, sir.

10:03:20 11 And we have a number of counsel here  
10:03:29 12 for Canada. Is Mr. McCulloch or Mr. Beggs, who is  
10:03:34 13 introducing this morning?

10:03:36 14 MR. BEGGS: Yes. Good morning, Your  
10:03:36 15 Honour.

10:03:38 16 I am Mr. Beggs for the Attorney General  
10:03:40 17 of Canada, and I have with me, Barry Ennis.

10:03:40 18 MR. ENNIS: Good morning, your Honour.

10:03:46 19 MR. BEGGS: And Michael McCulloch.

10:03:46 20 MR. MC CULLOCH: Good morning, your  
10:03:46 21 Honour.

10:03:48 22 MR. BEGGS: As well, we have two  
10:03:50 23 counsel in the gallery, Carole Lindsay and Alex  
10:03:58 24 Colizza.

10:03:58 25 THE COURT: All right. Thank you, sir.

1 Mr. Feliciant?

2 MR. FELICIAN: Good morning, Your  
3 Honour.

4 David Feliciant, counsel for Her  
5 Majesty The Queen in Right of Ontario.

6 With me is Richard Ogden, Peter  
7 Lemmond. Julie McRandall, Jennifer Le Pan, and  
8 seated next to Ms. Le Pan, is our law clerk, Amanda  
9 Benson.

10 THE COURT: And then we have Ms. Dougherty.

11 MS. DOUGHERTY: Good morning, Your  
12 Honour.

13 I am Jill Dougherty, counsel for the  
14 Corporation of the Township of Georgian Bluffs.  
15 And I have with me my colleague, Deborah McKenna.

16 And I'm appearing on behalf of Georgian  
17 Bluffs and as agent for Errol Treslan, who is  
18 counsel for The Corporation of the County of Grey.

19 Tammy Grove-McClement, who is counsel  
20 for the corporation of the County of Bruce.

21 And Greg Stewart, who is counsel for  
22 the Municipality of Northern Bruce Peninsula,  
23 The Corporation of the Town of South Bruce  
24 Peninsula, and The Corporation of the Town of  
25 Saugeen Shores.



1 The Municipal Defendants, collectively  
2 referring to those municipalities and counties, are  
3 seeking permission from Your Honour to allow them  
4 to be represented at various stages of the trial by  
5 one or two of the counsel of record for the  
6 Municipal Defendants in an effort to minimize costs  
7 and avoid duplication.

8 Following the opening statements, we  
9 are going to be seeking to be excused from the  
10 trial. The Municipal Defendants are proposing to  
11 have various counsel monitor the trial, and then to  
12 provide advanced notice to the Court and other  
13 counsel where they wish to actively participate in  
14 a portion of the trial; provided, of course, that  
15 that's acceptable to Your Honour.

16 THE COURT: That is acceptable, please  
17 communicate to the other counsel that may appear  
18 from time to time, that they do not need to seek  
19 additional permission.

20 MS. DOUGHERTY: Thank you.

21 THE COURT: Thank you, Ms. Dougherty.

22 Each party has filed a written opening  
23 statement for this trial, those opening statements  
24 were filed last week. And as the counsel are  
25 aware, the oral opening statements today need not

10:06:53 1 repeat those written documents.

10:06:56 2 The oral opening statements, however,  
10:06:58 3 provide each party with an opportunity to emphasize  
10:07:01 4 key aspects of their opening statements. And so I  
10:07:05 5 now move forward to each opening statement,  
10:07:11 6 beginning with counsel to the Plaintiffs.

10:07:14 7 Mr. Townshend, please go ahead.

10:07:17 8 MR. TOWNSHEND: Thank you, Your Honour.

10:07:20 9 The two First Nations I represent refer  
10:07:26 10 to themselves collectively as the Saugeen Ojibway  
10:07:30 11 Nation, and we talk about them for short as  
10:07:34 12 "S-O-N", or sometimes "SON". So I will be  
10:07:36 13 referring to them throughout.

10:07:37 14 SON people are identified as being  
10:07:42 15 Anishinaabe, and plural of that is Anishinaabek.  
10:07:46 16 And they say they have occupied and had a  
10:07:50 17 relationship with their territory for thousands of  
10:07:52 18 years.

10:07:53 19 I asked one of them once what it would  
10:07:57 20 mean to leave their territory, and he said, "it  
10:08:00 21 would be the same as death." And we'll be calling  
10:08:03 22 that witness later.

10:08:04 23 They also have a strong moral  
10:08:06 24 obligation to care for the graves of their  
10:08:09 25 ancestors. So in some ways, leaving the territory

10:08:12 1 permanently, would be immoral in their worldview.

10:08:16 2 Now I want to refer to the maps we have  
10:08:19 3 here. The larger map is one of the schedules in my  
10:08:27 4 opening statements, it's also one of the lettered  
10:08:30 5 exhibits. The map of the Great Lakes, we have an  
10:08:33 6 electronic copy of that, and will be putting that  
10:08:36 7 in as a lettered exhibit shortly. We don't have  
10:08:43 8 that all teed up yet.

10:08:45 9 THE COURT: That's all right.

10:08:46 10 MR. TOWNSHEND: So SON says their  
10:08:48 11 territory is this area, the whole central area,  
10:08:54 12 land and water.

10:08:55 13 It includes the Saugeen, or Bruce  
10:08:57 14 Peninsula; and it includes the area in light green  
10:09:00 15 to the south and east of it; and it includes the  
10:09:03 16 waters surrounding it.

10:09:08 17 They say they've been in their  
10:09:10 18 territory forever, or have always been in their  
10:09:13 19 territory. They were and still are a fishing  
10:09:16 20 people. And fishing is central to their economy,  
10:09:19 21 and their way of life, and their spirituality. And  
10:09:23 22 in fact, they were, I believe, the first First  
10:09:26 23 Nation in Canada to have recognized by the court an  
10:09:29 24 Aboriginal Commercial Fishing Right in 1993.

10:09:32 25 The water is very important to them and

10:09:42 1 some of them will say it's at least as important,  
10:09:45 2 if not more important than the dry parts of their  
10:09:48 3 territory. Now, looking at the map, did they spend  
10:09:53 4 a lot of time ancestrally in the middle of the  
10:09:56 5 lakes? No, they did not. But they controlled the  
10:10:00 6 territory, is our theory, and that we will push as  
10:10:06 7 evidence of possession.

10:10:07 8 Now, I'm not saying, either, that they  
10:10:09 9 patrolled these straight lines, linear boundaries  
10:10:12 10 we've drawn with flotillas and canoes ancestry;  
10:10:16 11 that's not how they controlled the territory.  
10:10:19 12 That's not how Canada controls its territories now.  
10:10:22 13 If one is on the Great Lakes and crosses the  
10:10:25 14 international boundary, one checks in with Customs  
10:10:28 15 and Immigration when one docks, not out at some  
10:10:32 16 floating barge in the middle of the lake.

10:10:34 17 So how did SON control their territory?  
10:10:38 18 Well, that depends on whether we're talking about  
10:10:41 19 in relation to other Anishinaabek peoples, or  
10:10:45 20 outsiders. Between Anishinaabek, there was a  
10:10:49 21 custom of asking permission to be in someone else's  
10:10:53 22 territory. And it was also a custom that if it was  
10:10:57 23 a friendly, another friendly Anishinaabek person or  
10:11:00 24 group that was asking, that permission would  
10:11:03 25 routinely be given. So that's sort of the internal

1 way of controlling territory.

2 With outsiders, it's different. It's  
3 outsiders, the SON, together with their Allied --  
4 their allies around the edges of Lake Huron and  
5 Georgian Bay, controlled that territory in relation  
6 to outsiders.

7 And there were only about five or six  
8 entry points into Lake Huron and Georgian Bay.

9 There was the mouth of the French River; there was  
10 the St. Mary's River, Sault Ste. Marie; there was  
11 Michilimackinac at the mouth of Lake Michigan;  
12 there was the St. Claire River, down at Sarnia;  
13 there was the Nottawasaga River and the Severn  
14 River in the east, sort of the eastern part of  
15 Georgian Bay. And Allied Anishinaabek groups  
16 controlled all of those places, ancestrally. And  
17 I'll be talking in a few minutes about four key  
18 historical events that show that.

19 So to outsiders, it probably looked  
20 like a declared territory which -- you had the  
21 Anishinaabek of Lake Huron Georgian Bay controlling  
22 the entrances to Lake Huron; but inside it's a  
23 different picture. There are different groups  
24 around Lake Huron Georgian Bay, who each have their  
25 own territories, and they understand where those

1 territories are and respect each others

2 territories.

3 That's also somewhat similar to  
4 national boundaries. Canada will patrol its  
5 national border, but that doesn't mean Canada is  
6 the landowner everywhere. There are provinces are  
7 landowners, there are individuals who are  
8 landowners. But collectively, the territory is  
9 controlled by the large aggregate.

10 So how did we come up with these  
11 boundaries? A short answer is, I was guided by a  
12 resolution my clients passed in 1976, and that will  
13 be going into evidence at some point.

14 More detailed on the east and west,  
15 these lines are just the centre of the lakes. Now  
16 they may not have thought of it as straight line  
17 boundaries, but when you're on the lake, you  
18 generally know which side of the lake you're  
19 closest to.

20 THE COURT: I'm going to just interrupt  
21 you for one moment.

22 Unfortunately, there's more members of  
23 the public who wish to come in. We have notified  
24 counsel previously about the Fire Code maximums,  
25 and we have reached that, every seat is filled

1 stage already at around 10:15. That is a  
2 limitation that we have to respect for safety  
3 reasons.

4 So I wonder, Counsel, if anyone is  
5 unable to attend in person, hopefully, they could  
6 ask for copies of the written material if they wish  
7 to read the positions of the parties. And it may  
8 be that that's at least a part solution to our fire  
9 code situation. Does that sound satisfactory to  
10 everyone?

11 So I will ask my court staff to let  
12 people know, if they aren't able to come in that  
13 that's an option for them.

14 MR. TOWNSHEND: Thank you, Your Honour.  
15 We do have a number of copies of our opening  
16 statement available. We can offer them to those  
17 who are outside and unable to get in, depending how  
18 many they are.

19 THE COURT: Right now I see three or  
20 four people. If you did bring copies for that  
21 purpose, you should certainly feel free to make  
22 them available. Maybe one of your team could take  
23 care of that while you're making your statement.

24 MR. TOWNSHEND: I'll ask Ms. Prokos to  
25 do that.

10:15:09 1 THE COURT: All right, thank you.

10:15:11 2 Please go ahead, sir.

10:15:22 3 MR. TOWNSHEND: I was going around the  
10:15:25 4 boundaries of the lake. And the east and west are  
10:15:26 5 the middle of the lake.

10:15:27 6 At the south, there is some overlap  
10:15:29 7 with First Nations to the south of them, and they  
10:15:35 8 reached a formal agreement about that overlap in  
10:15:38 9 2011; and we'll be offering that in evidence at  
10:15:44 10 some point. It was with Walpole Island, Kettle and  
10:15:48 11 Stoney Point, and Aamjiwnaang First Nation.

10:15:52 12 At the north, there's a boundary with  
10:15:55 13 the First Nations of Manitoulin, the First Nations  
10:15:59 14 of Manitoulin, or a number of them, do have a  
10:16:03 15 similar claim, which has been launched and is in  
10:16:08 16 advance at the moment. But the boundaries of those  
10:16:11 17 claims about each other, they do not overlap.

10:16:15 18 And finally, at the southeast, we know  
10:16:21 19 there is some overlap with the nations -- to First  
10:16:25 20 Nations to the east, and we haven't yet been able  
10:16:27 21 to reach an agreement about being precise about  
10:16:31 22 where that is. My clients are still trying to do  
10:16:33 23 that, and we hope we will be able to do that before  
10:16:37 24 this trial ends.

10:16:38 25 So now I want to speak historically.



10:16:49 1 The first European to reach was Champlain. He  
10:16:56 2 reached the mouth of the river in 1615, and he was  
10:16:59 3 met by 300 Anishinaabek warriors, and they were  
10:17:03 4 from all around Georgian Bay. And we know that,  
10:17:06 5 because he met some of the same people the next  
10:17:08 6 year, down around what's now Collingwood, which is  
10:17:13 7 within the territory.

10:17:16 8           Once Champlain had reached a diplomatic  
10:17:22 9 and trading relationship with Anishinaabek, he was  
10:17:25 10 allowed to go in. It's not that clear that he  
10:17:27 11 understood the significance of what he was doing,  
10:17:29 12 but he did offer a gift, and that was taken as a  
10:17:34 13 establishing a trading relationship. They realized  
10:17:36 14 his intentions were friendly, and he came in.

10:17:42 15           In 1648, the Haudenosaunee, which are  
10:17:48 16 an Aboriginal group whose homeland is south of Lake  
10:17:55 17 Ontario, began some large military adventures going  
10:17:59 18 up to the north. And in fact, some of them seemed  
10:18:02 19 to have gone as far as James Bay, so they came sort  
10:18:06 20 of through this territory. There's a matter of  
10:18:11 21 there will be some debate in the evidence about the  
10:18:14 22 extent to which the Anishinaabek were displaced,  
10:18:17 23 there was some displaced, there was some movement,  
10:18:21 24 but how long it was, and how complete it was is --  
10:18:27 25 would be a matter of evidence.

1 But by 1701, at the very latest, the  
2 Haudenosaunee were all back south of Lake Ontario,  
3 and the Anishinaabek were in the SON territory and  
4 we say, having driven the SON back to the south of  
5 Lake Ontario, and there will be evidence about the  
6 battles and that war.

7 Going ahead to 1760, the British then  
8 had conquered the French in North America, and they  
9 began to move into Lake Huron and Georgian Bay,  
10 which until then, they had not, there were some  
11 French fur traders there.

12 And the English were met in 1761 by a  
13 chief at Michilimackinac, at the mouth of Lake  
14 Michigan, who told them -- and I quoted this word,  
15 because his words are fairly striking -- at  
16 paragraph 15 of my opening statement. He was told:

17 "Englishman, although you have  
18 conquered the French, you have not  
19 conquered us. We are not your  
20 slaves. These lakes, these woods  
21 and mountains were left to us by our  
22 ancestors, they are our inheritance,  
23 we will part with them to none."

24 Following this, the British related to  
25 the Anishinaabek in some significantly different

1 ways than they had to the French.

2 The Anishinaabek were displeased with  
3 that. And as a result, in 1763 there was an  
4 alliance led by Chief Pontiac, which captured many  
5 British forts and besieged a couple more. And,  
6 effectively, for the summer of 1763, kept the  
7 British out of Lake Huron and Georgian Bay.

8 There was a Fort at Detroit which was  
9 under siege, and a fort at Michilimackinac was  
10 captured by the Anishinaabe. And at that point in  
11 1763, there were no British in SON territory.  
12 That's one of the key events of controlling  
13 territory.

14 I didn't point this out as we were  
15 going through it, but the first event, key event of  
16 controlling territory, collectively with their  
17 allies, was meeting Champlain in 1615. The second  
18 was driving Haudenosaunee out of the territory.  
19 The third was the Pontiac War.

20 Now, the actions of Pontiac alarmed the  
21 British, who in response to that, enacted the Royal  
22 Proclamation of 1763, which is a landmark in  
23 Aboriginal law. And it provides, among other  
24 things, the protection of Indigenous land. And  
25 peaceful relations between the Anishinaabek and

10:21:34 1 British, were restored in 1764 at Niagara. There  
10:21:40 2 was a Council attended by about 2000 Aboriginal  
10:21:43 3 people from the Upper Great Lakes region. And our  
10:21:47 4 account of what happened at Niagara, was the  
10:21:51 5 Anishinaabek agreed the British could come back  
10:21:54 6 into Lake Huron, Georgian Bay, and in return, the  
10:21:58 7 British promised alliance, trade and protection of  
10:22:01 8 lands.

10:22:02 9 So we call that the Treaty of Niagara,  
10:22:07 10 most academic scholars call it the Treaty of  
10:22:11 11 Niagara, the Ontario Court of Appeals has called it  
10:22:14 12 the Treaty of Niagara. Canada however says it was  
10:22:16 13 not a treaty. So that is something that may come  
10:22:19 14 up as this litigation unfolds.

10:22:22 15 For the next 50 years, the British, we  
10:22:30 16 say, relied on Anishinaabe Military assistance and  
10:22:34 17 navigational assistance in order to sustain their  
10:22:37 18 presence in Lake Huron and Georgian Bay. And the  
10:22:40 19 centre piece of that is the War of 1812 to 1814, in  
10:22:44 20 which the Anishinaabek and the British together,  
10:22:47 21 resisted the United States Army -- Navy.

10:22:53 22 And that is the fourth event of the  
10:22:57 23 collective control of the Great Lakes. This time,  
10:23:01 24 the British warned their allies, and with their  
10:23:04 25 allies, the Anishinaabek were keeping the Americans

10:23:07 1 out. And without the Anishinaabek assistance, the  
10:23:12 2 result of the war could well have been very  
10:23:15 3 different; and there will be evidence coming about  
10:23:17 4 that.

10:23:18 5 It wasn't until the 1830s, that  
10:23:24 6 Europeans began to enter the SON territory, for  
10:23:28 7 reasons -- anything beyond trade or mission  
10:23:34 8 activities. One of the first things that happened  
10:23:36 9 was European fishermen came into the territory.  
10:23:39 10 And when they came in, they leased fisheries from  
10:23:47 11 the Anishinaabek. And the fisheries especially  
10:23:50 12 are -- they're called "The Fishing Islands",  
10:23:53 13 they're just off the west side of the Peninsula  
10:23:55 14 here. They're especially productive fisheries  
10:23:59 15 there. There's fishing all around the Peninsula  
10:24:01 16 and you will be hearing evidence about that. But  
10:24:03 17 the Fishing Islands were one of the centre pieces  
10:24:06 18 of that.

10:24:07 19 By 1836, some foreign settlers were  
10:24:16 20 beginning to enter the territory, the southern part  
10:24:20 21 of the territory, in the green on the map here.

10:24:23 22 And the Crown told SON that they could  
10:24:25 23 not prevent these settlers from getting into their  
10:24:28 24 lands. And what the Crown suggested was, "well,  
10:24:32 25 stay north of Owen Sound, let the settlers have

10:24:37 1 land south of Owen Sound, and we will protect the  
10:24:42 2 Peninsula for you." And that's Treaty 45 ½. And  
10:24:46 3 the promise the Crown made was to "forever protect  
10:24:50 4 for you from the encroachments of the white in the  
10:24:53 5 Peninsula".

10:24:53 6 However, it wasn't long after that that  
10:24:58 7 settlers were then beginning to encroach on the  
10:25:01 8 Peninsula. The Crown took some measures on paper,  
10:25:04 9 it did very little on the ground to enforce those,  
10:25:07 10 and generally speaking, condone squatting on  
10:25:13 11 Aboriginal lands in general, and even had some ways  
10:25:15 12 that it acted characteristically that encouraged  
10:25:18 13 it. And we'll have evidence about that as we go  
10:25:22 14 on.

10:25:22 15 So when it came to 1854, this is just  
10:25:27 16 18 years after the Crown had promised to protect  
10:25:31 17 the territory forever, the Peninsula forever, the  
10:25:34 18 Crown again said, "settlers are coming onto your  
10:25:37 19 land. We can't keep them out. And, therefore,  
10:25:43 20 what you're going to have to do is surrender most  
10:25:47 21 of the Peninsula." This would be the yellow on the  
10:25:49 22 map, except for some small, small bits of land.

10:25:57 23 And the Crown negotiator, as he  
10:26:00 24 expressed it, what he was trying to do was to ring  
10:26:04 25 from the SON, some ascent to the Treaty, however,

10:26:08 1 reluctant. So the result of this was Treaty 72,  
10:26:13 2 which covered most of the Peninsula, the yellow  
10:26:15 3 part of the map.

10:26:16 4 Now, the next day, the Crown negotiator  
10:26:23 5 wrote to the sheriff and said, "we now have a  
10:26:27 6 surrender of the Peninsula, keep squatters off."  
10:26:33 7 That was the "aha" moment for me in this case. To  
10:26:38 8 me it said, the Crown was deceiving the SON into  
10:26:43 9 this treaty. And that is reinforced by what  
10:26:48 10 happened after, that most of the land was, and  
10:26:53 11 still is, rocky and unsuitable for farming, and the  
10:26:59 12 Crown knew that at the time. And we have some  
10:27:01 13 documentary evidence of that. And the demand for  
10:27:05 14 the land did not prove to be nearly as high as it  
10:27:11 15 was pitched at the time, and 17 years after the  
10:27:14 16 Treaty, almost half the land was still unsold. And  
10:27:17 17 it was 50 years after the Treaty before the unsold  
10:27:21 18 land portion dropped below 3 percent.

10:27:33 19 Now following on that, SON reached  
10:27:36 20 several other Treaties dealing with some of the  
10:27:39 21 other smaller parcels of land. There was one  
10:27:42 22 treaty dealing with the Fishing Islands and many  
10:27:44 23 other islands. There were Treaties dealing with  
10:27:47 24 each of these three islands off the east coast,  
10:27:51 25 Hay, Griffiths and White Cloud Island. There was a

10:27:54 1 surrender in 1857 of a reserve which is now just  
10:27:58 2 north of Owen Sound, and the Colpoy's Reserve was  
10:28:05 3 also surrendered in 1861.

10:28:07 4 None of these Treaties, none of the  
10:28:11 5 Treaties I mentioned at all, dealt with the  
10:28:15 6 lakebeds or the water of Lake Huron and Georgian  
10:28:18 7 Bay. And in contrast, when you looked at the  
10:28:21 8 Treaties on the U.S. side, you know, throughout  
10:28:24 9 Lake Superior and Lake Huron, the Treaties with  
10:28:29 10 Aboriginal nations on the U.S. side, came right up  
10:28:34 11 to the international border, that's how the Treaty  
10:28:37 12 boundaries were drawn.

10:28:43 13 So that's the outline of the history.  
10:28:47 14 Based on that history, we have three claims. One,  
10:28:52 15 is Aboriginal title to that parts of SON territory  
10:28:57 16 that were never subject to the Treaty, and that's  
10:29:00 17 what was never touched: The water, the beds of  
10:29:04 18 Lake Huron and Georgian Bay.

10:29:05 19 And we need to prove that SON  
10:29:07 20 exclusively occupied those at the time of the  
10:29:12 21 assertion of British Sovereignty. And for the  
10:29:14 22 purposes of this litigation, all parties agree to  
10:29:17 23 take that as 1763.

10:29:21 24 Behind this issue of Aboriginal title  
10:29:25 25 is the question of how that relates to the Public



10:29:31 1 Right of Navigation. That's mostly a question of  
10:29:32 2 law, and it will be dealt with in the final  
10:29:36 3 argument. And we will be saying that neither  
10:29:39 4 Aboriginal title, nor Public Right of Navigation  
10:29:41 5 are so exclusive that they cannot be reconciled.

10:29:45 6 I do want to talk about some evidential  
10:29:49 7 points on this. In response to our pleading about  
10:29:54 8 the U.S. Treaties coming up to the borders, at the  
10:30:00 9 international border in the middle of the lake,  
10:30:03 10 Lake Superior and Lake Huron, Ontario put in a  
10:30:05 11 report by Mr. Chartrand, more or less trying to  
10:30:15 12 explain that away, and hinting that that wasn't  
10:30:16 13 because the U.S. really recognized Aboriginal  
10:30:19 14 title.

10:30:21 15 So we then got a report and replied to  
10:30:24 16 that by Mr. Greene, who is a U.S. lawyer, saying  
10:30:29 17 that, yes, U.S. law does recognize Aboriginal title  
10:30:33 18 to the beds of the Great Lakes.

10:30:35 19 A second factual part of reconciliation  
10:30:38 20 is the Treaty of Niagara, as we call it, by which  
10:30:42 21 the Anishinaabek allowed the British into Lake  
10:30:46 22 Huron, for the purposes of commerce. They wanted  
10:30:49 23 to trade with the British, the British wanted to  
10:30:52 24 trade with them; that was part of the deal.

10:30:54 25 There's a further factual aspect of

10:30:58 1 reconciliation, and that's there were statutes  
10:31:01 2 passed giving the citizens of the U.S. and Canada  
10:31:07 3 free passage throughout any of the boundary water,  
10:31:10 4 which include all the territory. And that was a  
10:31:16 5 legislative limitation or modification.

10:31:23 6 After 1982, if there are competing  
10:31:26 7 rights, the appropriate way to reconcile is through  
10:31:29 8 the Doctrine of Justified Infringement and that  
10:31:32 9 again will be a matter of legal argument when we  
10:31:34 10 get to that.

10:31:42 11 The second major part of the claim is  
10:31:46 12 we are saying the Crown breached its fiduciary duty  
10:31:48 13 to protect the Peninsula. The duty it had taken on  
10:31:53 14 in 1836 when they said they will protect it forever  
10:31:57 15 from the encroachments of the whites. We say that  
10:32:00 16 is a fiduciary duty.

10:32:02 17 There's an interesting point raised  
10:32:04 18 about the scope of that duty. We say it's a duty  
10:32:09 19 to protect the land, Canada's opening is suggesting  
10:32:14 20 it's to protect a legal interest; which could be  
10:32:19 21 done by selling the land and giving SON the money.

10:32:23 22 So think about that for a minute. One  
10:32:29 23 of the iconic quotes from the Vietnam War is from a  
10:32:32 24 U.S. Major who justified bombing civilians by  
10:32:37 25 saying, "It became necessary to destroy the town to

10:32:41 1 save it."

10:32:42 2 I would say the legal interest concept  
10:32:45 3 reveals the same kind of thinking. Getting money  
10:32:49 4 in return for land is not preserving an interest,  
10:32:52 5 it's compensating someone for the loss of an  
10:32:55 6 interest; that is a very different thing. And that  
10:32:58 7 is not what the duty was undertaken at Treaty 45 ½.

10:33:05 8 And we say the Crown breached that duty  
10:33:07 9 by failing to effectively protect the land, by  
10:33:11 10 threatening to take the land without SON's consent,  
10:33:14 11 and by saying there was nothing that the Crown or  
10:33:17 12 SON could do to stop the squatters. Which we say  
10:33:22 13 is not the case, was not the case, and there will  
10:33:24 14 be evidence about that.

10:33:26 15 So in the result, SON is seeking a  
10:33:33 16 constructive trust over the lands that were lost in  
10:33:36 17 Treaty 72, as a result of the breach of the Crown's  
10:33:40 18 fiduciary duty, that are not in the hands of a bona  
10:33:43 19 fide purchaser for value, that's taken right out of  
10:33:46 20 the claim. And we're seeking compensation for  
10:33:50 21 lands that cannot be returned, and compensation for  
10:33:55 22 loss of use, from which is offset the value of  
10:33:58 23 money received already historically by SON for  
10:34:03 24 those lands.

10:34:05 25 So to clarify, we're not trying to

1 invalidate the Treaty. We're not seeking to  
2 rewrite the Treaty. But we are seeking equitable  
3 remedies, premised on breach of fiduciary duty,  
4 that would change the effect of the Treaty  
5 through --

6 THE COURT: Just so I'm clear. Are you  
7 speaking about Treaty 72?

8 MR. TOWNSHEND: Yes.

9 THE COURT: Thank you. As opposed to  
10 Treaty 45 ½?

11 MR. TOWNSHEND: Yes. We've changed the  
12 effect of Treaty 72 through the remedies of  
13 constructive trust and compensation. And that is  
14 something that equity can do.

15 The very basis of a constructive or a  
16 resulting trust, is that equity can vary or reverse  
17 the effect of common law when that is necessary to  
18 do justice.

19 And a third point of SON's claim, is  
20 that their Harvesting Rights were not extinguished  
21 by Treaty 72. And we'll be having evidence about  
22 hunting and fishing were so central to SON's  
23 economy, to their identity and their spirituality,  
24 that it would be unthinkable for them to have  
25 surrendered that, or intended to surrender that.

10:35:23 1 And also, that neither would it have been the  
10:35:27 2 Crown's intent, because then SON would not have  
10:35:30 3 been able to support themselves. That could not  
10:35:32 4 have been the Crown's intent of Treaty 72. In  
10:35:36 5 fact, Ontario agrees with this us on this point,  
10:35:41 6 Canada doesn't; yet, perhaps.

10:35:44 7 It will also have some evidence  
10:35:47 8 regarding Limitations and Laches. Ontario and  
10:35:52 9 Canada rely on those to different extents. Canada  
10:35:55 10 doesn't rely on limitations at all. We will argue  
10:36:01 11 that neither of these doctrines bar the claim,  
10:36:04 12 largely based on, SON did not have the practical  
10:36:07 13 capacity to launch litigation of this nature,  
10:36:09 14 substantially before this was, was launched.

10:36:15 15 And my colleague, Ms. Guirguis, will be  
10:36:17 16 talking about this in more detail. Some of the  
10:36:19 17 things, you know, the dominating role of the Indian  
10:36:24 18 agent, the regime under the Indian Act, which made  
10:36:28 19 it illegal, for example, for many years to launch --  
10:36:32 20 to raise money to launch Aboriginal claims. And  
10:36:36 21 also, that the state of the law was that the  
10:36:42 22 Treaty 72 claim is based on a breach of fiduciary  
10:36:45 23 duty. And that would have been not really  
10:36:48 24 imaginable in this context until after the Canada  
10:36:53 25 Supreme Court decision of Guerin in 1984. And on

1 title side, it was not until the decision of  
2 Delgamuukw in 1997, that anyone knew what the  
3 requirements for proof of Aboriginal title, or even  
4 what its nature was.

5 So we can also sharpen the issue of  
6 what's in issue and what isn't in issue. I've set  
7 this out in paragraph 38 of my opening. I briefly  
8 note that what isn't an issue is any lands in the  
9 hands of a bona fide purchaser. That's not on  
10 there.

11 We are also not seeking any remedies in  
12 relation to jurisdiction. We will talk about  
13 Anishinaabek customary law, partly to show the  
14 Aboriginal perspective, partly to show evidence of  
15 occupation, and those are purposes which have been  
16 endorsed by the Supreme Court of Canada for  
17 Aboriginal law.

18 Thirdly, we're not making any claims  
19 about whether the terms of Treaty 72 were fulfilled  
20 properly or not. Indeed there were some, a number  
21 of such claims that had been launched before this  
22 litigation was launched, which were stayed, pending  
23 this litigation.

24 The next point is, one of the things we  
25 pleaded was an accounting of revenues from lands in

10:38:33 1 the Aboriginal title claim area, we're not pursuing  
10:38:36 2 that. And another thing that was pleaded was that  
10:38:41 3 in Treaty 72, the internal lakes and shorelines had  
10:38:47 4 not been included in the scope of Treaty 72. That  
10:38:51 5 remains part of the evidence, and will factor into  
10:38:55 6 the remedies, but we're not pursuing that as a  
10:38:57 7 separate and independent cause of action as it was  
10:39:05 8 originally contemplated.

10:39:06 9 I think Your Honour also knows of the  
10:39:14 10 phasing order, and what some matters will be  
10:39:16 11 deferred to a later phase in this litigation. So  
10:39:19 12 I've set out two key issues at paragraph 40 and  
10:39:23 13 they're also in Appendix 3, I'm not going to go  
10:39:25 14 through those, that's how we slice out the issues.

10:39:28 15 Now, I'm going to say a little bit  
10:39:30 16 about the kinds of evidence we're calling. We have  
10:39:34 17 traditional knowledge evidence, we have documentary  
10:39:37 18 evidence, and we have lots of expert evidence from  
10:39:39 19 a wide variety of disciplines; anthropology,  
10:39:43 20 archeology, linguistics, sociology, geology,  
10:39:47 21 history and law.

10:39:48 22 And those witnesses -- all our  
10:39:52 23 witnesses are set out in Appendix 2, and I know  
10:39:57 24 Your Honour has looked at that, and I'm not going  
10:40:00 25 to go through it all, but there were a couple of

10:40:03 1 witnesses I wanted to say a little more about. I  
10:40:08 2 could point out that in Appendix 2, I've kind of  
10:40:11 3 set that out in an order that would sort of seem  
10:40:14 4 logical, as it would unfold. As it happens, the  
10:40:19 5 actual order we're calling our witnesses in, bears  
10:40:22 6 very little resemblance to that, because of  
10:40:25 7 witnesses' availability. But this is the order  
10:40:28 8 that we would like to call the witnesses in if that  
10:40:31 9 was possible.

10:40:31 10 So I want to say one thing about  
10:40:35 11 Professor McCarthy. She is a geologist, and  
10:40:40 12 what -- why one might ask is geology relevant to a  
10:40:45 13 claim like this? Well, we will also be calling  
10:40:49 14 evidence about myths that have been passed down by  
10:40:53 15 our clients. And we'll juxtapose the myth with the  
10:40:58 16 geology. It suggest that, it seems like the myths  
10:41:03 17 relate to geological events that happened 8,000 or  
10:41:06 18 more years ago. It would suggest it had been  
10:41:10 19 passed down for that long.

10:41:11 20 Now, are we going to ask for a finding  
10:41:14 21 of fact that each myth relates to a specific  
10:41:18 22 geological event? No, we're not. We're not even  
10:41:21 23 going to ask for a finding of fact that one or more  
10:41:24 24 of the myths have been passed down for thousands of  
10:41:26 25 years. Neither of those things are necessary, and



10:41:30 1 we misunderstand the way we are trying to use this  
10:41:34 2 evidence.

10:41:34 3 Rather, the traditional knowledge  
10:41:36 4 holders, for my clients, say they've always been in  
10:41:40 5 their territory. We are suggesting that the  
10:41:43 6 correspondence between myth and geology, is some  
10:41:48 7 corroboration of that.

10:41:50 8 And that when you take that together  
10:41:51 9 with the anthropology, the linguistics, the  
10:41:54 10 archeology and the historical evidence, as a  
10:41:59 11 totality, we are pressing that as supporting a  
10:42:03 12 finding that SON was present in their territory at  
10:42:08 13 1763. Which is a -- that is a key finding that we  
10:42:12 14 will be asking for.

10:42:13 15 And we suggest it would be  
10:42:17 16 inappropriate to consider each piece of evidence  
10:42:21 17 separately, find it didn't quite pass a threshold  
10:42:24 18 and dismiss it; because that's not how we're trying  
10:42:27 19 to do it. It's the totality of things that  
10:42:32 20 individually may not be persuasive enough, but when  
10:42:34 21 we have enough of them, the picture becomes  
10:42:38 22 different.

10:42:39 23 The second witness I want to mention is  
10:42:44 24 that Professor Valentine who is a linguist. And  
10:42:49 25 one might have the same question, why is

10:42:52 1 linguistics relevant?

10:42:54 2 Well, Professor Valentine has studied  
10:42:56 3 the dialect of Anishinaabemowin used in my clients'  
10:43:04 4 communities, and he's also studied the dialects of  
10:43:08 5 all the surrounding communities. He has a massive  
10:43:12 6 PhD thesis that had a broad sweep across most of  
10:43:18 7 the Great Lakes area, and looking at all the  
10:43:20 8 dialectical variance.

10:43:23 9 From looking at those variations,  
10:43:25 10 linguists are able to make conclusions about how  
10:43:31 11 long groups have been together, how long they've  
10:43:32 12 been apart, just on the basis of the things that  
10:43:35 13 are embedded in the language.

10:43:37 14 So that evidence is going to show, we  
10:43:42 15 say, evidence of continuity of location and of  
10:43:44 16 identity, from a source embedded in the language.  
10:43:49 17 Which is quite independent of the archeology, of  
10:43:52 18 the history, and the other kinds of evidence we  
10:43:55 19 have. So that's why we're calling the linguist.

10:43:59 20 Now Anishinaabe worldview, Your Honour  
10:44:09 21 will find out, very different from European  
10:44:12 22 worldview. The concept of ownership does not  
10:44:16 23 translate very well. Some Anishinaabe people may  
10:44:19 24 even say they can't own land, because it belongs to  
10:44:23 25 the Creator; that no one can own land. But when

1 one digs a little deeper and asks more questions,  
2 it doesn't mean they're treating land or territory  
3 as no man's land. There is still a matter of a  
4 territory which is controlled by local groups.

5 I wanted to note that in the  
6 Judeo-Christian tradition, there's also a  
7 theological concept that the land belongs to the  
8 Creator. "Psalm 24: The earth is the Lord's and  
9 all that is in it, the world and those who live in  
10 it."

11 That was never an impediment to  
12 European societies creating legal systems of land  
13 ownerships. So it should not be too surprising  
14 that there's a similar aspect of Anishinaabe  
15 worldview. So I want to mention briefly the rest  
16 of the appendices, and then I want to -- I'm going  
17 to ask Ms. Pelletier to talk about issue one, about  
18 Aboriginal title. Especially, with reference to  
19 traditional knowledge evidence, and then  
20 Ms. Guirguis will do the rest of the opening.

21 Appendix 1 is the map that you've seen;  
22 Appendix 2 is the list of witnesses; Appendix 3 is  
23 the list of issues; Appendix 4 is an agreed basic  
24 timeline, which is in the agreed statement of fact  
25 and it's already in evidence in one of the

10:46:02 1 exhibits. And then there is appendix five, is the  
10:46:04 2 chart of issues and evidence, showing how we say  
10:46:07 3 the evidence fits into the issues.

10:46:11 4 So I'd like to turn it over to  
10:46:14 5 Ms. Pelletier or would you care for a break?

10:46:16 6 THE COURT: Let's turn it over.

10:46:18 7 Just before you do that. We have two  
10:46:20 8 maps that can be seen by everyone in the courtroom,  
10:46:24 9 and I just want to put on the record, I think  
10:46:27 10 you've said this already, sir, but the map on the  
10:46:30 11 right is the map that is specifically prepared to  
10:46:33 12 show the claims areas for this trial of two  
10:46:38 13 actions?

10:46:38 14 MR. TOWNSHEND: Yes.

10:46:39 15 THE COURT: It isn't otherwise a map  
10:46:41 16 that you'd find out there. Whereas, the map on the  
10:46:44 17 left, is a map made for general purposes.

10:46:47 18 MR. TOWNSHEND: That's correct.

10:46:48 19 THE COURT: To assist the Court in  
10:46:50 20 understanding the issues as we go along in the  
10:46:52 21 trial. Just let me put that on record.

10:46:55 22 Now, which of your two colleagues...

10:46:58 23 MR. TOWNSHEND: Ms. Pelletier.

10:46:59 24 THE COURT: Ms. Pelletier, please go  
10:47:01 25 ahead.

1 Ms. Pelletier, I will want to take a  
2 short break at the regular time, which is 11:30.

3 MS. PELLETIER: Yes, that's fine, your  
4 Honour.

5 THE COURT: Or thereabouts, depending  
6 where you are. Or you may be completed, and I'll  
7 have the same observation for your other colleague.  
8 Please go ahead.

9 MS. PELLETIER: Thank you, Your Honour.

10 Before I begin, I would like to  
11 acknowledge the traditional territory of the  
12 Mississaugas of the New Credit on whose territory  
13 we find ourselves today.

14 As mentioned, my name is Renée  
15 Pelletier, and I will be addressing the Aboriginal  
16 title claim.

17 Now, the Aboriginal title case is about  
18 SON's relationship with its waters. In fact, what  
19 you will see in this case is that the word  
20 "relationship" doesn't even begin to describe what  
21 the waters in SON's territory are to SON.

22 "Relationship" implies that SON and its  
23 waters are somehow separate. What you will learn  
24 from the evidence in this case, Your Honour, is  
25 that the water in SON's territory is a part of who

10:48:01 1 SON is.

10:48:01 2 In asking you to grant SON Aboriginal  
10:48:04 3 title over its waters, SON must, of course, show  
10:48:07 4 that it exclusively occupied its waters at the  
10:48:10 5 assertion of British Sovereignty. As Mr. Townshend  
10:48:13 6 has mentioned, the parties have agreed that the  
10:48:15 7 date of assertion of British Sovereignty was in  
10:48:19 8 1763, and that is when Britain and France signed  
10:48:23 9 the Treaty of Paris ending the seven years war.

10:48:26 10 As you will see, however, this was very  
10:48:27 11 much a quote-unquote "assertion of sovereignty".  
10:48:30 12 At the time, Britain was absent from SON's  
10:48:33 13 territory, except for, at most, a few fur traders  
10:48:36 14 who would have obtained SON's permission to be  
10:48:39 15 there.

10:48:39 16 Now, to the extent that Europeans were  
10:48:41 17 in the area, they produced relatively few written  
10:48:44 18 documents. You can imagine, Your Honour, that  
10:48:46 19 proving that something happened 256 years ago, at a  
10:48:50 20 time when the territory in question was occupied by  
10:48:53 21 peoples that did not keep written documents, well,  
10:48:56 22 this is going to be challenging.

10:48:58 23 Courts have recognized the inherent  
10:49:01 24 evidentiary challenges that come along with  
10:49:03 25 Aboriginal Rights in title cases, which is why

10:49:06 1 courts have adopted the laws of evidence to put  
10:49:09 2 oral traditional evidence on equal footing with the  
10:49:11 3 usual types of evidence, such as documents.

10:49:13 4 And in this case, Your Honour, you will  
10:49:15 5 hear a great deal of traditional knowledge  
10:49:18 6 evidence. You will also hear from SON's western  
10:49:21 7 experts, experts in archeology, history,  
10:49:24 8 ethnohistory, linguistics and geology. This expert  
10:49:29 9 evidence is briefly described in our written  
10:49:31 10 opening statement, and I don't propose to touch on  
10:49:34 11 it today.

10:49:35 12 By way of a roadmap, what I would like  
10:49:37 13 to talk about today is focus on the following:

10:49:39 14 Number one, I would like to explain  
10:49:42 15 what is traditional knowledge evidence, and the  
10:49:45 16 Indigenous perspective.

10:49:46 17 Number two, I'd like to identify some  
10:49:49 18 of the inherent challenges in engaging with the  
10:49:51 19 Indigenous perspective and how to deal with them.

10:49:54 20 And finally, number three, I would like  
10:49:56 21 to highlight for Your Honour some of the  
10:49:59 22 traditional knowledge evidence that you will hear,  
10:50:02 23 that will go to showing exclusive occupation in  
10:50:04 24 1763.

10:50:05 25 So starting then with traditional

10:50:07 1 knowledge. In the agreed glossary of terms, we  
10:50:11 2 have defined traditional knowledge as quote  
10:50:12 3 "knowledge and values which have been acquired  
10:50:15 4 through experience or observation or have been  
10:50:18 5 handed down from one generation to another".

10:50:20 6 Now, wouldn't it be nice if traditional  
10:50:23 7 knowledge evidence was just an oral account of what  
10:50:26 8 could have been written evidence. Wouldn't it be  
10:50:28 9 convenient if when word of the Treaty of Paris  
10:50:32 10 reached SON, it had developed an oral catalog of  
10:50:35 11 where and how exclusively occupied Lake Huron and  
10:50:37 12 Georgian Bay. Wouldn't it be easy if we had Elders  
10:50:41 13 testifying to how their great, great, great  
10:50:44 14 grandfather met the first European. And wouldn't  
10:50:47 15 it fit nicely into our common law box if the  
10:50:50 16 traditional knowledge around that first encounter  
10:50:51 17 had that held Elder's great, great, great  
10:50:54 18 grandfather saying to the first European, "Halt.  
10:50:56 19 Who goes there? These are our waters that you  
10:51:00 20 trespass on and the boundaries are as follows..."

10:51:03 21 But traditional knowledge isn't always  
10:51:05 22 like that. In fact, it almost never is. So what  
10:51:08 23 does traditional knowledge look like? The first  
10:51:10 24 thing to note is that there are different types of  
10:51:13 25 traditional knowledge.



10:51:14 1 There is traditional knowledge that  
10:51:16 2 describes historical events. And in this case,  
10:51:18 3 Your Honour, you will hear this type of traditional  
10:51:20 4 knowledge, such as the counts of the battles fought  
10:51:23 5 in the late 17th century by SON to expel the  
10:51:27 6 Haudenosaunee, sometimes also called the Iroquois  
10:51:32 7 from the Saugeen Peninsula.

10:51:33 8 It is important to note and to  
10:51:33 9 understand that these stories are history and not  
10:51:36 10 the repetition of historical facts. While these  
10:51:38 11 stories do contain historical facts, like all  
10:51:41 12 history, they take their colour from the context,  
10:51:44 13 such as, who is telling the story, to whom, and for  
10:51:48 14 what purpose.

10:51:49 15 Like all history, they involve  
10:51:50 16 interpretation of historical facts and are  
10:51:51 17 reinterpreted over time. For that reason,  
10:51:54 18 different renditions of the story may emphasize or  
10:51:57 19 omit certain aspects, and may differ on  
10:52:00 20 non-essential details. However, narrators do not  
10:52:03 21 have car blanche. You will hear evidence about the  
10:52:06 22 ways that they ensure that traditional knowledge is  
10:52:07 23 passed on accurately.

10:52:08 24 There is also a category of traditional  
10:52:11 25 knowledge that is sometimes described as myths or

10:52:14 1 legends; and they are set in time immemorial.

10:52:17 2 Examples of this type of traditional knowledge that  
10:52:20 3 you will hear in this trial, include the Creation  
10:52:22 4 story and the story of the Great Flood.

10:52:24 5 Now to be clear, we are not tendering  
10:52:26 6 these stories for the proof of their facts, but to  
10:52:30 7 illustrate aspects of SON's worldview.

10:52:33 8 Finally, there is traditional knowledge  
10:52:35 9 that blends these two categories, and you will hear  
10:52:37 10 this type of traditional knowledge in the trial as  
10:52:41 11 well.

10:52:42 12 Understanding any of these types of  
10:52:44 13 traditional knowledge necessarily involves trying  
10:52:45 14 to understand things from the Indigenous  
10:52:47 15 perspective. Since Aboriginal title is a sui  
10:52:52 16 generis right informed by both the common law and  
10:52:55 17 Indigenous law, the task of bridging these two  
10:52:57 18 requires an understanding of the Indigenous  
10:52:58 19 perspective and, necessarily, the Indigenous  
10:53:01 20 worldview.

10:53:02 21 Now, moving into some of the challenges  
10:53:05 22 with this type of evidence. Indigenous perspective  
10:53:08 23 evidence is inherently challenging because it comes  
10:53:11 24 from a different worldview. Indigenous peoples  
10:53:14 25 have a different perception of aspects of reality

10:53:17 1 that are so fundamental, we often take them for  
10:53:20 2 granted. Even after hundreds of years of contact,  
10:53:23 3 western and Indigenous perspectives are still ships  
10:53:26 4 passing in the night more often than not. There is  
10:53:29 5 also a long and dark history of courts finding this  
10:53:32 6 kind of evidence to be inferior because it is  
10:53:35 7 different.

10:53:35 8 In this case, you make your SON's  
10:53:39 9 witnesses say three things in the same breath:

10:53:41 10 Number one, no one can own lands or  
10:53:44 11 waters, including SON itself.

10:53:46 12 Number two, the lands and waters in  
10:53:49 13 SON's traditional territory belong to them.

10:53:51 14 And number three, by the same token,  
10:53:54 15 SON belongs to the lands and to the waters.

10:53:56 16 One may justifiably find these  
10:54:00 17 statements confusing. The first may sound like an  
10:54:02 18 admission that SON's Aboriginal title claim has no  
10:54:05 19 merit. The second may sound like it contradicts  
10:54:07 20 the first, and it may seem unclear what the third  
10:54:10 21 actually means at all.

10:54:11 22 However, understood in context, these  
10:54:14 23 statements actually explain what Aboriginal title  
10:54:16 24 is from SON's perspective, and how to prove that  
10:54:21 25 SON has it.

1 The first evidence the Court will hear  
2 is the story of the Creation of the World and the  
3 story of the Great Flood. You might wonder how  
4 these stories are relevant to whether SON had  
5 exclusive occupation of the claim area in 1763.  
6 The answer is that these stories show key aspects  
7 of SON's relationship with its lands and its  
8 waters. This context is essential to understanding  
9 the relevance of, and to interpret the evidence  
10 SON's community witnesses will provide. Consider  
11 the following examples:

12 When God created Adam in Genesis, he  
13 breathed into his nostrils the breath of life and  
14 man became a living soul.

15 In the Anishinaabe creation story, you  
16 will hear that the Creator blew his breath not just  
17 into humans, but all creation. Including plants,  
18 and animals, and the lands, and the waters  
19 themselves.

20 Humans are not in a category of their  
21 own, but are only one of many different kinds of  
22 person or spirited being, each with its own name.

23 In Genesis, God gave humans dominion  
24 over the fish of the sea, over the fowl of the air,  
25 and over every living thing that moveth upon the

10:55:33 1 earth.

10:55:33 2 In the Anishinaabe creation story, you  
10:55:35 3 will hear that the gift of life comes with the  
10:55:38 4 responsibility to care for and treat the rest of  
10:55:40 5 creation with respect.

10:55:42 6 Humans are not in a privileged position  
10:55:45 7 over the rest of creation. To the contrary, humans  
10:55:48 8 rely on the help and goodwill of other spirited  
10:55:52 9 beings. For example, in Genesis, Noah built an arc  
10:55:57 10 to save the animals of the world from the Great  
10:55:59 11 Flood.

10:55:59 12 In the Anishinaabe tradition, all the  
10:56:01 13 animals, including Waynaboozhoo, who also sometimes  
10:56:04 14 referred to as "Nanabush", who is the first human,  
10:56:07 15 floated together with all of creation on a great  
10:56:09 16 log, and worked together to dig up the earth buried  
10:56:13 17 underwater to rebuild the land.

10:56:15 18 In his rendition, Elder Karl Keeshig  
10:56:17 19 may refer to them holding a Grand Council, that has  
10:56:20 20 parallels in human society. These include ways for  
10:56:23 21 Anishinaabek groups to collectively work together  
10:56:25 22 on regional issues, while respecting each other's  
10:56:29 23 independence.

10:56:30 24 You will hear evidence about, for  
10:56:31 25 example, protocols between Anishinaabek groups

10:56:37 1 regarding control of their respective territories.

10:56:40 2 It was also not Nanabush, the human,  
10:56:40 3 that succeeded in diving deep into the waters to  
10:56:45 4 reach the earth, but a muskrat; the smallest of the  
10:56:48 5 animals. This speaks to the Anishinaabe worldview  
10:56:51 6 that all beings play a significant role in  
10:56:54 7 creation.

10:56:55 8 From SON stories we can start to see  
10:56:58 9 what Aboriginal title looks like from SON's  
10:57:01 10 perspective. Lands and waters are not property  
10:57:03 11 that humans may appropriate and use as they wish.  
10:57:06 12 They are animate beings with whom one must  
10:57:10 13 cultivate a relationship. The right to live off  
10:57:13 14 them is a gift from the Creator, and comes with  
10:57:16 15 reciprocal obligations.

10:57:17 16 Crucially, there are exclusive  
10:57:20 17 relationships between specific groups of people and  
10:57:23 18 specific lands and waters; lands and waters are not  
10:57:29 19 fungible commodities. Different lands and waters  
10:57:31 20 are different beings with different names. A group  
10:57:34 21 of people does not have a relationship with lands  
10:57:36 22 and waters writ large, but relationships with  
10:57:39 23 specific lands and waters.

10:57:40 24 The nature of these relationships are  
10:57:43 25 specific to the lands, to the waters, and to the

10:57:45 1 people themselves. From SON's perspective, its  
10:57:47 2 relationship with its waters is the basis of its  
10:57:51 3 claim for Aboriginal title.

10:57:52 4 It is important to note that from SON's  
10:58:03 5 perspective, there is no substantive distinction  
10:58:04 6 between Aboriginal title to land versus water.  
10:58:05 7 Water is just as much a gift from the Creator as  
10:58:08 8 land, and SON's relationship with its waters is  
10:58:11 9 just as rich as with its lands.

10:58:13 10 You will also hear evidence that from  
10:58:15 11 SON's perspective, there is no inherent  
10:58:17 12 contradiction between, on the one hand, a group  
10:58:20 13 having exclusive relationship with specific lands  
10:58:22 14 and waters; and on the other, permitting the public  
10:58:25 15 to cross and use water bodies. The gift of lands,  
10:58:28 16 and water, come with the obligation to share those  
10:58:31 17 lands and waters with others. Sharing one's lands  
10:58:37 18 and waters does not undermine one's status as a  
10:58:39 19 titleholder. To the contrary, it reaffirms one's  
10:58:43 20 right to be the titleholder.

10:58:44 21 A final note about SON's worldview that  
10:58:48 22 can create additional challenges if you are  
10:58:51 23 encountering it for the first time. Some  
10:58:52 24 Anishinaabek receive direction or guidance from the  
10:58:54 25 Creator or spirits, by way of visions and dreams.

10:58:57 1 These events are extremely formative, and more  
10:59:00 2 importantly, form very much a part of the lived  
10:59:03 3 reality of those having been blessed with receiving  
10:59:07 4 them.

10:59:07 5 As one of SON's western experts,  
10:59:09 6 Dr. Paul Driben notes in his report:

10:59:13 7 "Anishinaabe live in a world,  
10:59:14 8 in other words, where everything  
10:59:15 9 seems possible. Where the dead  
10:59:18 10 return to life and the living die  
10:59:20 11 only to live again. Where one can  
10:59:23 12 disappear and reappear instantaneously.  
10:59:25 13 Where the 'laws of nature' are  
10:59:27 14 abolished, and a certain superhuman  
10:59:29 15 'freedom' is exemplified and made  
10:59:35 16 dazzlingly present, and where the  
10:59:36 17 relationship between Anishinaabe and  
10:59:37 18 what surrounds them is governed no  
10:59:39 19 less by spiritual considerations  
10:59:42 20 than empirical ones."

10:59:45 21 Your Honour will hear witnesses recount  
10:59:48 22 events that may have happened to them personally  
10:59:49 23 that may seem implausible to someone who does not  
10:59:51 24 share their worldview. Stories that involve  
10:59:54 25 visions, for example. It is important when hearing



10:59:56 1 these accounts, to remember the difference in  
10:59:59 2 perspective.

11:00:00 3 I'd like to move now to highlighting  
11:00:04 4 some of the Indigenous perspective evidence that  
11:00:06 5 you will hear in the Aboriginal title case.

11:00:09 6 SON's Indigenous perspective evidence  
11:00:11 7 will demonstrate it holds Aboriginal title by  
11:00:14 8 establishing the following.

11:00:15 9 Number one, that they were present on  
11:00:17 10 the Saugeen Peninsula in 1763.

11:00:20 11 Number two, that being present on the  
11:00:24 12 Peninsula, necessarily meant that they were present  
11:00:26 13 on the water, because they view themselves, their  
11:00:30 14 waters and their lands as inseparable.

11:00:32 15 This inseparability is demonstrated by  
11:00:36 16 their use of the waters, their deep spiritual  
11:00:39 17 connection with the waters, and their important  
11:00:42 18 responsibilities to them; all of which has  
11:00:44 19 continued into the present.

11:00:46 20 And finally number three, that they  
11:00:49 21 control their territory, often calling on Allied  
11:00:52 22 Anishinaabe groups for assistance, and that  
11:00:54 23 Anishinaabe Law divided jurisdiction over territory  
11:00:56 24 among groups. I'd like to briefly draw your  
11:01:02 25 attention to some of the traditional knowledge and

11:01:04 1 Indigenous perspective evidence that you will be  
11:01:05 2 hearing that go to each of these three points.

11:01:08 3 First to the point that SON was present  
11:01:10 4 on the Peninsula in 1763. The Court will hear  
11:01:14 5 evidence related to SON's cultural memory of very  
11:01:18 6 ancient geological events. Some examples include a  
11:01:23 7 traditional knowledge story to be told by Lenore  
11:01:24 8 Keeshig, a community member at Nawash, about when  
11:01:27 9 Nanabush loses his favourite nephew.

11:01:30 10 Nanabush, also called "Waynaboozhoo",  
11:01:31 11 who I referenced earlier in the story of the Great  
11:01:34 12 Flood, is a cultural hero of the Anishinaabe and  
11:01:37 13 features prominently in oral tradition. In this  
11:01:41 14 particular story, Nanabush's favourite nephews  
11:01:45 15 dies. Nanabush loves his nephew very much, and  
11:01:45 16 cries a lot over his death. When he cries, his  
11:01:49 17 tears fall like rocks and boulders. He cries so  
11:01:53 18 much, that the water in Georgian Bay turns salty.

11:01:56 19 You will also hear geological evidence  
11:01:59 20 that around 7,500 years ago, the waters of Georgian  
11:02:03 21 Bay basin had brackish or slightly saline  
11:02:06 22 conditions.

11:02:07 23 Another traditional knowledge story,  
11:02:08 24 again, to be recounted by Ms. Keeshig, has Nanabush  
11:02:12 25 and his grandmother tracking a giant beaver into

11:02:15 1 the Lake Superior area. They lose his trail along  
11:02:20 2 the southeastern shore of Lake Superior, near where  
11:02:21 3 Sault Ste. Marie is located. They notice the water  
11:02:23 4 level rising and go to investigate. They discover  
11:02:26 5 an enormous beaver dam stretching across the  
11:02:31 6 eastern end of Lake Superior, where it narrows to  
11:02:32 7 join Lake Huron.

11:02:32 8 Nanabush leaves his grandmother at the  
11:02:36 9 dam and hurries off to find the giant beaver.  
11:02:37 10 While the young man is away, the grandmother  
11:02:40 11 catches the beaver. The giant beaver, in the  
11:02:42 12 struggle to get free, destroys the dam and causes a  
11:02:46 13 huge flood.

11:02:47 14 Nanabush realizes that something is  
11:02:48 15 happening, because of the change in the water level  
11:02:51 16 and hurries back to his grandmother. Together they  
11:02:55 17 surveyed the flooded land and discovered new  
11:02:57 18 islands. Nanabush and his grandmother track the  
11:02:58 19 giant beaver along the shores of Lake Huron up to  
11:03:02 20 the saltwater sea.

11:03:02 21 You will hear geological evidence that  
11:03:05 22 there was actually a major flood event where Lake  
11:03:09 23 Superior flooded into Lake Huron. This chain of  
11:03:11 24 islands in the story, is said to be a reference to  
11:03:13 25 the 30,000 islands located mainly along the east

1 side of Georgian Bay.

2 Now Mr. Townshend has already discussed  
3 how some of these stories, when juxtaposed with the  
4 geological evidence, shows evidence of continuity.  
5 I raise these stories here to make another point.  
6 Separate and apart from whether you find there is  
7 actually any link between the stories and the  
8 geology of the area, what these stories demonstrate  
9 is that SON has stories about the place where they  
10 live.

11 Stories about them having been in their  
12 territory for thousands of years; that is their  
13 traditional knowledge, that is their history, that  
14 is their perspective.

15 You will also hear from Paul Nadjiwan,  
16 a former Chief of Nawash, who will describe how  
17 traditional Anishinaabemowin names of many  
18 locations within SON's territory have been  
19 preserved within SON, demonstrating a long-term  
20 knowledge of these locations.

21 Many Anishinaabemowin place names will  
22 be described by Elder Karl Keeshig, in his telling  
23 of the Mediwin migration story, which is set in  
24 time immemorial. These places are of broad  
25 significance to the Anishinaabe, and many of the

1 places are significant to SON in particular.

2 You will hear local traditional  
3 knowledge of specific historical events prior to  
4 1763, such as the Huron requesting help from the  
5 Anishinaabe when the Huron were being attacked by  
6 the Haudenosaunee in the mid-17th century.

7 You will hear traditional knowledge  
8 evidence of battles that were fought between the  
9 Anishinaabe and the Haudenosaunee in the 17th  
10 century, including specific sites in SON's  
11 territory where those battles were fought.

12 Finally, you will hear traditional  
13 knowledge evidence of SON's reoccupation of their  
14 territory after those conflicts.

15 You will hear community witnesses speak  
16 of their deep connection to sacred places in the  
17 territory, such as Nochemowenanig, and how these  
18 sites have been important places since time  
19 immemorial.

20 Finally, you will hear community  
21 witnesses speak to ancient burial practices, and  
22 the responsibility they have to ensure the bones of  
23 their ancestors do not get disturbed. The  
24 Anishinaabek, Your Honour, believe they have two  
25 souls. When they die, one soul joins the ancestors

11:05:25 1 and the other stays with the body. The living have  
11:05:29 2 a sacred duty to ensure that the resting place is  
11:05:30 3 not disturbed or desecrated and to carry out  
11:05:35 4 ceremonies. You will hear evidence that for  
11:05:36 5 members of SON, their responsibilities to the  
11:05:38 6 deceased bind them to their territory.

11:05:42 7 Moving now to the point of the  
11:05:47 8 inseparability of land, and water and SON. Having  
11:05:51 9 demonstrated that SON has occupied its territory  
11:05:54 10 since the time that certainly predates the  
11:05:57 11 assertion of sovereignty, SON will demonstrate that  
11:05:59 12 this occupation necessarily included its waters,  
11:06:02 13 because they view themselves, their waters and  
11:06:04 14 their land as inseparable.

11:06:06 15 This inseparability is demonstrated by  
11:06:09 16 their use of the waters, their deep spiritual  
11:06:11 17 connection with the waters, and their important  
11:06:14 18 responsibilities to them; all of which continue to  
11:06:17 19 this day.

11:06:18 20 You will hear evidence of how water  
11:06:20 21 was, and is especially central to SON's world and  
11:06:23 22 require very special care. SON community witnesses  
11:06:27 23 will share their understanding that the water is  
11:06:29 24 not separate from the land, as both have spirits  
11:06:32 25 from the Creator and are a part of mother earth.

11:06:36 1 Everything is connected to water. All things rely  
11:06:38 2 on it for life and movement. Water is, therefore,  
11:06:42 3 also associated with birth and women.

11:06:43 4 Community witnesses will testify that  
11:06:47 5 in terms of their territory, land is only second to  
11:06:50 6 water in terms of the importance it is given. The  
11:06:52 7 water also provided for fishing, the mainstay of  
11:06:56 8 SON's economy historically and in the present day  
11:06:58 9 for food and trade.

11:06:59 10 But SON's use of its water territory is  
11:07:03 11 not limited to fishing, quite the contrary. The  
11:07:06 12 responsibility SON has to its waters, and the way  
11:07:09 13 in which SON must fulfill that sacred  
11:07:12 14 responsibility, are key uses of its waters. In  
11:07:15 15 order to appreciate how these uses can sufficiently  
11:07:18 16 demonstrate exclusive occupation, Your Honour will  
11:07:20 17 of course have to try to view the evidence through  
11:07:23 18 the lens of SON's Indigenous perspective.

11:07:25 19 For example, community witnesses will  
11:07:27 20 testify as to the importance of water spirits, and  
11:07:30 21 their connection to creation and SON's ceremonies  
11:07:33 22 and practices. These ceremonies and practices  
11:07:37 23 include tobacco offerings before fishing, and birth  
11:07:40 24 ceremonies. Through these practices, SON holds  
11:07:42 25 relationships with water spirits.

1 As spirits are connected intimately  
2 with the land and waters, they are also important  
3 as to how SON relates to its territories, and how  
4 others are expected to relate to SON's territory as  
5 well.

6 You will hear community witnesses  
7 testify about the spirits that reside in SON's  
8 waters, and the specific ceremonies that are aimed  
9 at gaining their favour. You will hear from  
10 Marshall Nadjiwon, who is a pipe carrier, a very  
11 honored and sacred position among the Anishinaabe.  
12 As a pipe carrier, he has specific responsibilities  
13 to care for SON's waters in both spiritual and  
14 secular ways.

15 You will hear from Mr. Nadjiwon about  
16 the role he plays in protecting SON's waters on  
17 behalf of the community. You will also hear about  
18 the role of women and water. You will hear about  
19 water is connected to Women's child bearing roles,  
20 and how women have corresponding obligations to  
21 care for the water, including by conducting special  
22 ceremonies.

23 Now, on the third point of SON's  
24 control of their territory and the role of  
25 Anishinaabe Law. Community witnesses will testify



11:08:45 1 about Anishinaabe land use laws related to access  
11:08:48 2 and trespass in its territory. These laws ground  
11:08:52 3 SON's exclusive occupation and control of its  
11:08:55 4 territory.

11:08:56 5 In 1763, the Great Lakes were  
11:08:59 6 controlled by the Anishinaabek. Within the larger  
11:09:02 7 family of the Anishinaabek were local groups.  
11:09:05 8 Anishinaabe Law provided that the local groups  
11:09:07 9 controlled their respective territories by, for  
11:09:10 10 example, having decision-making control over the  
11:09:12 11 territory to decide things like how resources were  
11:09:15 12 to be used, and who could access those resources,  
11:09:18 13 and who could or could not join the community.

11:09:20 14 Local groups also had spiritual  
11:09:23 15 responsibilities towards their territory. You will  
11:09:25 16 hear how SON had exclusive control over its  
11:09:29 17 territory, including its water, in accordance with  
11:09:31 18 this Anishinaabe Law. As you will quickly learn in  
11:09:34 19 this trial, Your Honour, the Anishinaabe Law with  
11:09:37 20 respect to territory is essential to understanding  
11:09:40 21 the Indigenous perspective related to exclusive  
11:09:42 22 control and occupation.

11:09:45 23 The Court will hear from community  
11:09:46 24 witnesses about how Anishinaabe Law provides that  
11:09:49 25 resources and territory could be shared between

11:09:52 1 Anishinaabe groups, as long as respect was properly  
11:09:56 2 shown.

11:09:57 3 This did not, however, undermine a  
11:09:59 4 particular Anishinaabe group's exclusive occupation  
11:10:02 5 in that territory. Occasionally, portions of an  
11:10:05 6 Anishinaabe group's territory overlapped with  
11:10:07 7 another's. Anishinaabe Law provided for the  
11:10:09 8 sharing of territory in such instances.

11:10:12 9 Mr. Randall Kahgee, a former Chief of  
11:10:17 10 Saugeen First Nation will describe a declaration  
11:10:19 11 SON entered into with neighboring First Nation  
11:10:21 12 communities in the south, dealing with a small area  
11:10:23 13 of overlap.

11:10:24 14 This declaration is a modern exercise  
11:10:26 15 of the Anishinaabe legal tradition. The Court will  
11:10:30 16 also hear that protocols around sharing territory  
11:10:33 17 and resources equally applied to non-Anishinaabe  
11:10:36 18 Aboriginal groups.

11:10:36 19 As the Court will hear, occasionally  
11:10:39 20 permission was granted to non-Anishinaabe groups to  
11:10:41 21 share in the territory, such as to the Huron and  
11:10:45 22 the Petun. The Court will also hear that when  
11:10:49 23 protocols around permission were not followed, such  
11:10:51 24 as by the Haudenosaunee, the Anishinaabek would  
11:10:53 25 call on allied groups to defend their territory if

11:10:56 1 necessary.

11:10:56 2 The Court will hear about such an  
11:10:59 3 alliance called the "Three Fires Confederacy",  
11:11:01 4 which was a military and political alliance of  
11:11:04 5 which SON was a part. SON, along with other  
11:11:07 6 members off the Three Fires Confederacy  
11:11:10 7 collectively defended their occupation of Lake  
11:11:14 8 Huron and Georgian Bay.

11:11:14 9 The Court will also hear about SON's  
11:11:16 10 laws relating to sharing resources and territory  
11:11:18 11 with Europeans. The laws of permission apply to  
11:11:21 12 Europeans as well, and provided their intentions  
11:11:24 13 weren't hostile and gifts were provided, that  
11:11:25 14 permission to enter to use the territory was often  
11:11:28 15 granted. Europeans were also permitted entry when  
11:11:31 16 they were seeking to trade, or engage in any other  
11:11:34 17 type of activity that would have equally benefited  
11:11:38 18 SON.

11:11:38 19 In conclusion, Your Honour, as I  
11:11:43 20 mentioned in the beginning of my comments, I've  
11:11:46 21 only today touched on the traditional knowledge and  
11:11:49 22 Indigenous perspective evidence you will hear over  
11:11:51 23 the course of this trial.

11:11:52 24 SON has, of course, obtained several  
11:11:55 25 western experts. Some will expand upon what I have

11:11:57 1 discussed today, and address how the written record  
11:12:00 2 supports and corroborates several of the points I  
11:12:02 3 have made.

11:12:02 4 Other experts will provide evidence of  
11:12:04 5 exclusive occupation, completely separate and apart  
11:12:08 6 of the oral traditional evidence I have just gone  
11:12:10 7 over with you, such as the linguistic evidence we  
11:12:12 8 have and archeology.

11:12:14 9 But what I would like to leave you  
11:12:16 10 with, Your Honour, is this: SON's Indigenous  
11:12:18 11 perspective informs its view of reconciliation,  
11:12:22 12 which is the fundamental purpose of the law of  
11:12:26 13 Aboriginal Rights.

11:12:27 14 For SON, Aboriginal title means more  
11:12:29 15 than a bare interest in real property. You will  
11:12:33 16 hear that for SON, life in the fullest sense of the  
11:12:36 17 term, comes from balanced responsibilities with the  
11:12:38 18 earth and the rest of creation.

11:12:42 19 The unilateral assertion of state power  
11:12:46 20 over SON's waters has strained those relationships.  
11:12:49 21 In this action, SON seeks to reclaim them.

11:12:52 22 Subject to any questions, your Honour,  
11:12:54 23 I would turn it over to my colleague, Ms. Guirguis.

11:12:58 24 THE COURT: Thank you, Counsel.

11:12:59 25 Please go ahead, Ms. Guirguis.

1 MS. GUIRGUIS: Good morning, Your Honour.

2 I'm going to be speaking today about  
3 the subject matter that is dealt in our written  
4 statement starting at page 22 until the end. This  
5 is mainly about Treaty 72, and the breach of  
6 fiduciary duty and harvesting claims. There are  
7 three points that I intend to discuss.

8 First, SON's claim that the Crown  
9 breached its fiduciary duty to SON by failing to  
10 keep its promise to protect the Saugeen Peninsula  
11 or the Peninsula, that's marked in yellow on the  
12 map that we've referred to. And also how it  
13 included Treaty 72.

14 Second, I'm going to speak to SON's  
15 claim about its Harvesting Rights throughout the  
16 territory.

17 Third, that SON did not delay in  
18 bringing its claims forward, both about Aboriginal  
19 title and the Treaty, and should not be barred from  
20 remedy on that basis.

21 So before speaking to each of these  
22 three points, like my colleagues have done already,  
23 I do want to elaborate a bit on SON's perspective  
24 of how that frames these claims, this part of the  
25 claim before this court.

1 As Ms. Pelletier just put it, this is  
2 about SON's relationship to its lands and waters,  
3 the territory. The territory refers to SON's  
4 homelands; that's illustrated on this map that was  
5 prepared for the claim.

6 As you've heard, the territory includes  
7 the lands and waters displayed on this map, and  
8 throughout this claim, we're going to hear  
9 evidence -- you've already heard that we're going  
10 to hear evidence about the relationship SON has  
11 with that territory.

12 And you may hear witnesses use that  
13 phrase "the territory". It's a phrase I've heard  
14 over several years that I've worked with the  
15 Saugeen Ojibway Nation. And I've come to  
16 understand the phrase "the territory" is more than  
17 just referring to the lands and waters where they  
18 live, or that they rely on; it is all of those  
19 things. But it is above all, something that SON  
20 has a responsibility to, that's part of who they  
21 are. It has its own integrity, and it is something  
22 that they are prepared to defend, and that's the  
23 evidence that you're going to hear in this part of  
24 the claim and throughout all the claims.

25 You'll hear evidence about the

11:15:59 1 relationship that SON has, and has had throughout  
11:16:01 2 the years with the territory. The relationship to  
11:16:05 3 the territory is so significant, as Mr. Townshend  
11:16:07 4 put it, one of our witnesses said, "to leave, would  
11:16:12 5 be like death".

11:16:12 6 SON's relationship with the territory  
11:16:16 7 is at the heart of all of SON's claims before this  
11:16:20 8 Court, and it also frames and informs the three  
11:16:23 9 points that I laid out, that I'll turn to discuss  
11:16:28 10 now.

11:16:28 11 The first point is about SON's central  
11:16:36 12 breach of fiduciary duty claim. I'll spend most of  
11:16:39 13 my time on this point before moving on to touch on  
11:16:41 14 the next two very briefly. The central claim, the  
11:16:46 15 central breach of fiduciary duty claim has two key  
11:16:49 16 elements. The claim is made out by first,  
11:16:52 17 establishing that the Crown owed a fiduciary duty  
11:16:54 18 to SON; and then second, that the Crown breached  
11:16:58 19 its fiduciary duty to SON.

11:17:01 20 The Crown in their written opening  
11:17:05 21 statements have discussed the law about the  
11:17:07 22 fiduciary duty, when it arises and about its scope.  
11:17:11 23 While this is something that we intend to go into  
11:17:14 24 in much more detail when it comes to legal  
11:17:17 25 argument, as this stage, in talking about the

11:17:19 1 evidence with you today that you will hear in  
11:17:21 2 support of SON's claim, it bears mentioning that  
11:17:25 3 based on the evidence, we say we can establish the  
11:17:29 4 Crown's fiduciary duty to SON arose under either  
11:17:33 5 and both of the two types. Whether it's ad hoc  
11:17:36 6 fiduciary duty, or whether it's sui generis  
11:17:39 7 fiduciary duty, we say that this evidence  
11:17:44 8 establishes that the Crown had this fiduciary duty  
11:17:46 9 to SON.

11:17:47 10 This is so because the evidence tells  
11:17:49 11 us three things. First, there is an express  
11:17:53 12 promise by the Crown to protect the territory.

11:17:58 13 Second, the Crown's promise was to  
11:18:03 14 protect SON's special interests in respect of the  
11:18:07 15 territory. Including, to protect the territory  
11:18:10 16 from squatters.

11:18:14 17 And third, SON was vulnerable to the  
11:18:17 18 Crown's exercise of discretion and control in  
11:18:21 19 whether and how it kept its promise to protect the  
11:18:25 20 territory. Put very simply, Your Honour, the  
11:18:35 21 fiduciary breach claim is about the Crown's broken  
11:18:34 22 promise.

11:18:37 23 I'd like to discuss how the evidence we  
11:18:39 24 will present fits into the three things that I've  
11:18:41 25 just described about the fiduciary breach claim.



1 So number one, there is a promise by  
2 the Crown to protect the territory. The evidence  
3 you will hear, will establish that there was a  
4 clear undertaking by the Crown to protect the  
5 territory for SON. That undertaking is found in  
6 the Crown's protocols and agreements about how to  
7 deal with Indigenous lands generally.

8 We talk about the evidence of these  
9 protocols that you will hear about from SON's  
10 experts and traditional knowledge holders at  
11 paragraph 69 of our written statement. I won't  
12 review them, what I want to highlight today is how  
13 we find the Crown's undertaking and the promise  
14 made under Treaty 45 ½. So the Treaty for the  
15 surrender of the area in light green on this map,  
16 to the south.

17 I'd like to put up Treaty 45 on the  
18 screen. I'm told I just have to hit a button;  
19 there it is. This is one of our exhibits, one of  
20 the exhibits in the book of documents. And our  
21 experts are going to be talking about Treaties made  
22 in 1836.

23 The evidence is going to include a  
24 discussion of Sir Francis Bond Head, Lieutenant  
25 Governor of Upper Canada, and how he was seeking

11:20:06 1 major land surrenders to satisfy "land hungry  
11:20:11 2 settlers".

11:20:12 3 Bond Head sought surrenders from  
11:20:16 4 Indigenous peoples, often telling them that the  
11:20:18 5 Crown could no longer protect Indigenous lands from  
11:20:20 6 white settlers. This is what he told SON in 1836.  
11:20:26 7 His goal, we will hear, was to remove Indians out  
11:20:30 8 of the way of these settlers and to obtain the good  
11:20:33 9 agricultural lands in Upper Canada to advance  
11:20:36 10 settlement.

11:20:38 11 Bond Head wanted to concentrate  
11:20:39 12 Indigenous peoples on lands apart from these white  
11:20:42 13 settlers to, in his own words, "remove and fortify  
11:20:46 14 them as much as possible from all communication  
11:20:49 15 with whites".

11:20:50 16 He made two Treaties in 1836 to advance  
11:20:54 17 that objective. The first Treaty 45, obtained a  
11:20:59 18 surrender from the Ojibway and Ottawa of Manitoulin  
11:21:03 19 and Georgian Bay, and have them moved to Manitoulin  
11:21:08 20 Island. Bond Head asked the same as the Saugeen  
11:21:11 21 Ojibway, to move to Manitoulin Island. SON  
11:21:16 22 refused. SON would not leave the territory.

11:21:18 23 Instead, SON reluctantly agreed to  
11:21:23 24 Treaty 45 ½. SON agreed to surrender 1.5 million  
11:21:29 25 acres, of the southern part of the territory. It

11:21:34 1 included rich farming lands stretching from south  
11:21:37 2 of Goderich to Arthur to Collingwood. They agreed  
11:21:41 3 to move to the northern part of the territory, the  
11:21:44 4 Peninsula, the Saugeen Peninsula, now referred to  
11:21:46 5 as the Bruce Peninsula, what we call "the  
11:21:49 6 Peninsula".

11:21:50 7 For some promises of proper houses,  
11:21:54 8 assistance with agriculture, and most of all, in  
11:22:00 9 exchange for the Crown's promises to protect the  
11:22:03 10 remaining part of the territory. The text of the  
11:22:05 11 Treaty that we see reads:

11:22:08 12 "To the Sauking, my children.

11:22:11 13 You've heard the proposal I have  
11:22:13 14 just made to the Chippewas and  
11:22:16 15 Ottawas, by which it has been agreed  
11:22:18 16 between them and your Great Father  
11:22:20 17 that the islands Manitoulin, on  
11:22:23 18 which we are now assembled, should  
11:22:25 19 be made in Council, the property  
11:22:27 20 under your Great Father's control of  
11:22:29 21 all Indians whom he shall allow to  
11:22:32 22 reside on them.

11:22:33 23 "I now propose to you that you  
11:22:35 24 should surrender to your Great  
11:22:37 25 Father the Sauking territory you at

1 present occupy, and that you should  
2 appear either to this island or to  
3 that part of your territory, which  
4 lies on the north of Owen Sound,  
5 upon which proper houses shall be  
6 built for you and proper assistance  
7 given to enable you to become  
8 civilized, and to cultivate land,  
9 which your Great Father engages  
10 forever to protect for you, from the  
11 encroachment of the whites."

12 In this treaty, the primary benefits  
13 are sought for giving up 1.5 million acres of the  
14 territory was a promise. A promise that the  
15 remaining portion of the territory would be forever  
16 protected.

17 So that's the first thing that the  
18 evidence tells us, that supports SON's claim that  
19 the Crown had a fiduciary duty to them. The  
20 promise to protect made in Treaty 45 ½.

21 The second thing, number two, that the  
22 evidence will show is that the Crown's promise was  
23 protecting SON's specific and special interest in  
24 the territory. The promise that the Crown made,  
25 was to protect the territory, what would remain of

11:23:47 1 it for the benefit of SON. The promise was about  
11:23:52 2 preserving the relationship SON had with the  
11:23:54 3 territory. The words were: "Forever to protect  
11:23:56 4 you from the encroachments of the whites."

11:23:58 5 One of our experts, Dr. Corbiere, is  
11:24:02 6 going to talk about the translation of the words in  
11:24:04 7 Treaty 45 ½ from English to Anishinaabemowin. She  
11:24:09 8 is going to tell us what were the likely  
11:24:12 9 Anishinaabemowin phrases and words used to  
11:24:15 10 translate the promises in Treaty 45 ½. And then  
11:24:20 11 also, what SON signatories would have understood at  
11:24:20 12 that time.

11:24:28 13 She will talk about how "protecting for  
11:24:31 14 you", would have been explained and understood by  
11:24:34 15 SON. And put very simply, Dr. Corbiere says they  
11:24:38 16 would have likely understood and expected that the  
11:24:42 17 King would ensure no one stole the lands in  
11:24:49 18 question.

11:24:50 19 She's going to say that they would  
11:24:52 20 likely understood and expected that the Crown would  
11:24:54 21 have done whatever measures were logical to protect  
11:24:57 22 those lands from being stolen, and that they would  
11:25:01 23 have likely understood and expected that the Crown  
11:25:03 24 would have done this forever, in perpetuity, unless  
11:25:06 25 and until, SON came to a free and informed

11:25:10 1 agreement to allow for something different.

11:25:12 2 That, coupled with what we will learn

11:25:17 3 from the evidence of SON's reluctance, really

11:25:21 4 better described as their intolerance, to be

11:25:23 5 separated from the territory, the evidence

11:25:27 6 establishes that the promise made and understood

11:25:30 7 was a promise to protect SON's unique and special

11:25:34 8 interests in the territory. To keep its

11:25:38 9 relationship to the territory, to remain in the

11:25:40 10 territory. But SON was relying on the Crown to

11:25:44 11 keep its promise in order for this relationship to

11:25:47 12 thrive.

11:25:48 13 That leads us to the third thing that

11:25:52 14 the evidence will show, that establishes the

11:25:55 15 Crown's fiduciary duty to SON. SON was vulnerable

11:25:58 16 to the Crown's discretion and willingness to keep

11:26:01 17 its promise. They were relying on the Crown doing

11:26:04 18 what it should do to keep its promise in order to

11:26:08 19 maintain and secure their special interests in the

11:26:09 20 territory.

11:26:11 21 By the mid-19th century, SON was not in

11:26:14 22 the position to defend the territory, to eject

11:26:18 23 settlers and squatters by force. Our experts are

11:26:21 24 going to talk about the relationship between

11:26:24 25 British and Indigenous peoples in the early 19th

11:26:27 1 century.

11:26:28 2 The British initially relied on  
11:26:30 3 Indigenous peoples as military allies, but then  
11:26:33 4 things changed. After the end of the War of 1812  
11:26:38 5 to 1814, military alliances with Indigenous nations  
11:26:42 6 were less and less significant to the British.  
11:26:46 7 Without the need for those military alliances or  
11:26:50 8 the same ones, the British saw Indigenous people as  
11:26:52 9 obstacles to settlement. And our experts are going  
11:26:55 10 to talk about how their policies then changed  
11:26:59 11 towards Indigenous people.

11:27:00 12 No longer allies, Indigenous people  
11:27:04 13 were subject to British rule. In this context,  
11:27:09 14 SON's self-help of forcibly ejecting settlers and  
11:27:16 15 squatters by force on their own would not have been  
11:27:20 16 welcome or acceptable to the British authorities at  
11:27:22 17 the time.

11:27:23 18 In fact, we will see examples in the  
11:27:25 19 evidence that the Crown put resources into shutting  
11:27:28 20 down such efforts in and around that time. We've  
11:27:32 21 talked about one such example at page 28 of our  
11:27:36 22 written statement.

11:27:37 23 In 1849, in response to an uprising of  
11:27:42 24 another Aboriginal group, another Indigenous  
11:27:44 25 people, interfering with copper mining at Mica Bay

11:27:49 1 and Lake Superior, the Crown sent in police support  
11:27:52 2 to shut it down.

11:27:53 3 So without the option of self-help, SON  
11:27:57 4 had no choice but to put its faith in the Crown  
11:28:00 5 making good on its promise to protect the  
11:28:01 6 territory, through real action.

11:28:07 7 Our experts are also going to be  
11:28:09 8 talking about the evidence and the documents that  
11:28:11 9 show that when SON knew about squatters being in  
11:28:14 10 the territory, they asked the Crown for help.  
11:28:17 11 There are records of SON's Chiefs complaining to  
11:28:20 12 the Crown about intrusion of white settlers on  
11:28:23 13 their reserve lands, as early as 1843 right up  
11:28:27 14 until 1854 when Treaty 72 was concluded. But that  
11:28:33 15 help from the Crown, in the way of concrete action,  
11:28:36 16 did not come.

11:28:38 17 The evidence shows a promise was made  
11:28:40 18 by the Crown to SON to protect the territory, for  
11:28:44 19 the benefit of SON and that SON was vulnerable to  
11:28:48 20 the Crown. Whether ad hoc, sui generis, the  
11:28:52 21 evidence establishes that the Crown had a fiduciary  
11:28:55 22 duty to SON to keep its promise. SON's  
11:29:00 23 relationship to the territory was depending on the  
11:29:02 24 Crown keeping its promise and the Crown failed to  
11:29:05 25 do so.



11:29:06 1 This leads to the second part of the  
11:29:08 2 claim about the Crown's fiduciary duty. Before I  
11:29:13 3 get into that, Your Honour, shall we take a break  
11:29:15 4 now, or would you like to wait until I'm done with  
11:29:19 5 this part?

11:29:20 6 THE COURT: No, this is the customary  
11:29:22 7 time to take the break, so we'll take 15 minutes.

11:29:26 8 MS. GUIRGUIS: Thank you, Your Honour.

11:31:24 9 -- RECESS TAKEN AT 11:29 --

11:50:44 10 -- UPON RESUMING AT 11:50 --

11:50:44 11 THE COURT: Please go ahead.

11:50:45 12 MS. GUIRGUIS: Thank you, Your Honour.

11:50:46 13 So before the break, we left off, I had  
11:50:49 14 finished up talking about the first part of the  
11:50:51 15 claim about the Crown's fiduciary duty,  
11:50:53 16 establishing that there is a duty.

11:50:54 17 And the second part that I was leading  
11:50:56 18 into is about this claim about the Crown's  
11:51:01 19 fiduciary duty, is about the evidence showing that  
11:51:04 20 the Crown breached its fiduciary duty in two ways.

11:51:06 21 First, the Crown took few practical  
11:51:12 22 steps to keep its promise to protect the territory  
11:51:14 23 or SON. It did not keep its promise even though it  
11:51:19 24 had the power and capacity to protect the  
11:51:21 25 territory. To be clear, when we refer to keeping

11:51:26 1 the promise to protect the Peninsula forever, we  
11:51:31 2 need to keep in mind that we will be hearing the  
11:51:34 3 evidence from Dr. Corbiere, that this would have  
11:51:36 4 been understood and should be understood as a Crown  
11:51:40 5 undertaking to do everything that was reasonably  
11:51:43 6 within its power to protect the territory for the  
11:51:47 7 benefit of SON.

11:51:48 8 So we're not saying that the lands on  
11:51:52 9 the Peninsula could never have ever been subject to  
11:51:56 10 sale or surrender because of this promise, but what  
11:51:59 11 we are saying is that what was required was for the  
11:52:02 12 Crown to take the practical steps it could to  
11:52:05 13 protect the Peninsula unless and until SON agreed  
11:52:10 14 to a surrender. And we are saying that the  
11:52:13 15 agreement had to be free, it could not have been  
11:52:16 16 coerced.

11:52:17 17 In other words, what the Crown could  
11:52:19 18 not do, was fail to take meaningful steps to  
11:52:23 19 protect the Peninsula, and use its own failure to  
11:52:26 20 protect the land to pressure the SON to give up the  
11:52:30 21 rest of the territory.

11:52:31 22 SON's special interest in the territory  
11:52:36 23 was about its connection in relationship to the  
11:52:39 24 territory; it was about remaining in the territory.  
11:52:44 25 As Mr. Townshend said earlier, that is not simply,

11:52:48 1 so simply replaced by surrender and sale; that  
11:52:52 2 wasn't protecting SON's special interest.

11:52:54 3 What we will see in the evidence is  
11:52:58 4 that despite what the Crown said, surrender of the  
11:53:00 5 territory wasn't the only way. The Crown could  
11:53:05 6 have done more before it took the Peninsula just  
11:53:09 7 18 years after promising to protect it for SON  
11:53:14 8 forever.

11:53:15 9 Our experts do talk about the Crown  
11:53:18 10 enacting legislation, for taking some other  
11:53:22 11 measures on paper that seemed to have been directed  
11:53:24 12 at removing squatters and trespassers in the  
11:53:27 13 territory. But what was missing was meaningful  
11:53:31 14 enforcement of these acts. For instance, there is  
11:53:35 15 no evidence of the Crown prosecuting squatters, or  
11:53:38 16 removing them from the territory; or the Peninsula,  
11:53:44 17 more specifically.

11:53:45 18 The Crown could have done more. We  
11:53:49 19 will hear evidence of when the Crown did use its  
11:53:53 20 tools and the resources at its disposal, when it  
11:53:58 21 wanted to. I've already referred to the example of  
11:54:05 22 the Crown sending in police to shut down Indigenous  
11:54:08 23 opposition to copper mining in Mica Bay in 1849.  
11:54:14 24 That was just a few years before Treaty 72 was  
11:54:16 25 concluded.

1 Mr. Townshend has also talked about how  
2 the day after Treaty 72, the Crown sought the  
3 sheriff's assistance to remove squatters and to  
4 secure the territory. This is something it could  
5 have done and should have done to keep its promise  
6 prior to resorting to taking the Peninsula.

7 Also, after the surrender in Treaty 72,  
8 when SON protested the surveying of the part of the  
9 territory it had just surrendered in 1854, the  
10 Crown offered military support to the surveyors, to  
11 shut down SON's protests. Again, this evidence  
12 opens the question of: Where was this offer of  
13 support to support SON to shut down trespass to  
14 their lands? Prior to securing the surrender in  
15 1854.

16 Where was this offer of support to help  
17 SON deal with squatters in the territory to fulfill  
18 the promise made by the Crown to SON in 1836?

19 The Crown could have and should have  
20 done more to keep its promise. Which leads to the  
21 second way the evidence will show the Crown  
22 breached its duty.

23 The second way that the evidence will  
24 show the Crown breached its duty, is that it shows  
25 that the Crown pressured SON into a surrender of

11:55:49 1 the Peninsula. We'll hear in the evidence how the  
11:55:51 2 Crown really had one track that would not be  
11:55:54 3 diverted from; a full surrender.

11:55:59 4 Our experts are going to talk about  
11:56:00 5 evidence that shows how the Crown actually  
11:56:02 6 encouraged squatting and unauthorized settlement  
11:56:06 7 through its policies. You're going to hear that  
11:56:09 8 from Dr. Harron. That's detailed in our written  
11:56:12 9 statement at paragraph 75.

11:56:16 10 It follows from this evidence that the  
11:56:18 11 Crown did not have the will to stop the squatting  
11:56:21 12 and the trespassing. And instead, in furtherance  
11:56:24 13 of their policies that encouraged that, they chose  
11:56:27 14 to go after a full surrender of the Peninsula.

11:56:30 15 Our experts and our evidence will  
11:56:32 16 elaborate on this. For now I want to look at one  
11:56:35 17 example of TG Anderson. He was a visiting  
11:56:41 18 superintendent from Indian Affairs at the time, and  
11:56:44 19 he went to the territory in the summer of 1854,  
11:56:49 20 making one of several attempts that were being made  
11:56:52 21 over the spring and summer of 1854 to secure a  
11:56:56 22 surrender, a full surrender of the Peninsula.

11:57:00 23 His attempt for a full surrender, like  
11:57:03 24 the others, was rejected by SON. But there are a  
11:57:08 25 few points to note about his attempt and his back

1 and forth with SON about the territory. We'll hear  
2 through expert evidence and see in the documentary  
3 record, that Anderson recorded to Lawrence  
4 Oliphant, the Superintendent General of Indian  
5 Affairs. He reported about his efforts in August  
6 1854 to get a full surrender of the Peninsula from  
7 SON. He notes that at first, SON declared that  
8 they would not sell an inch, but Anderson was ready  
9 to pressure and threaten to get what the department  
10 wanted.

11 He told SON that the whites would take  
12 possession of their lands, because in Anderson's  
13 words to them, the Government would not take the  
14 trouble to help them".

15 He threatened to take the Peninsula  
16 without consent. Noting again, in Anderson's  
17 words, the Government had the power to act as it  
18 pleases with SON's reserves".

19 He refers to the Peninsula as a  
20 reserve, because that's what it was. Reserve for  
21 SON by Treaty 45 ½.

22 And in the face of this pressure, in  
23 the face of the threat of losing a whole territory,  
24 SON relents. SON comes back with a proposal for a  
25 surrender for parts of the Peninsula, instead of

11:58:35 1 the whole. They offer to give up an inland wedge  
11:58:40 2 of the Peninsula, where some of the best farmlands  
11:58:43 3 were likely located. But they wanted to keep parts  
11:58:48 4 of the territory, particularly along the shores for  
11:58:51 5 themselves. But the Crown refuses; they refused  
11:58:57 6 SON's proposal from partial surrender.

11:58:59 7 Again, the evidence we will hear about  
11:59:02 8 this back and forth between Anderson and SON raises  
11:59:06 9 questions. A partial surrender may have helped  
11:59:11 10 satisfy and alleviate the allegedly uncontrollable  
11:59:15 11 grab for lands that was happening, but SON's  
11:59:19 12 proposal was refused. The Crown's sole objective,  
11:59:23 13 we say, it's one track, was a full surrender of the  
11:59:27 14 Peninsula; and the evidence shows that.

11:59:29 15 For the Crown, nothing less than that  
11:59:31 16 would do. In response to the proposal, Anderson  
11:59:37 17 reviewed SON in his letter, for their unwise  
11:59:41 18 conclusion to reject a full surrender. Saying that  
11:59:44 19 "they", SON, "did not advance one good argument why  
11:59:49 20 the reserve, the Peninsula, should not be sold  
11:59:52 21 beyond, 'we don't want to sell our land. We want  
11:59:54 22 to keep it for our children'."

11:59:56 23 Anderson insisted the Government should  
12:00:01 24 take the territory, that they should send surveyors  
12:00:04 25 straightaway, despite the fact that SON would not

12:00:07 1 acquiesce to a full surrender.

12:00:09 2 Now the Crown doesn't do that, but they  
12:00:11 3 send Oliphant back in October of 1854 with  
12:00:17 4 Anderson's threats to take the Peninsula without  
12:00:19 5 consent hanging in the air, Oliphant went back and  
12:00:23 6 obtained the surrender. Like Anderson, he told  
12:00:28 7 SON, "this was the only thing that could be done,  
12:00:30 8 nothing less would do".

12:00:32 9 We'll see in the evidence presented,  
12:00:33 10 that through this, and using some other  
12:00:37 11 questionable tactics, the Crown convinced SON that  
12:00:40 12 there was no other option. Even though the  
12:00:44 13 evidence does show that the Crown did have other  
12:00:46 14 options. It could have done more to protect SON's  
12:00:50 15 special interest and relationship to the territory;  
12:00:53 16 to keep its promise to protect the Peninsula for  
12:00:57 17 SON. The Crown pressured SON into the surrender it  
12:01:04 18 wanted from the beginning.

12:01:05 19 Now this claim is not about judging the  
12:01:08 20 Crown on today's standards or in hindsight. This  
12:01:11 21 is about looking at the evidence on what they said  
12:01:13 22 and what they did at the time. This is about  
12:01:14 23 looking at the tools, the evidence of the tools,  
12:01:18 24 that were available to the Crown at the time, that  
12:01:21 25 would have enabled them to fulfill their promise.



12:01:26 1 And their fiduciary duty to SON to protect the  
12:01:28 2 territory for SON's benefit. To protect the  
12:01:32 3 relationship SON had with the territory and wanted  
12:01:35 4 to preserve for their children.

12:01:41 5 The remedy in this central claim of  
12:01:45 6 fiduciary breach, the remedy of the return of lands  
12:01:47 7 that SON is now seeking is no different than what  
12:01:50 8 it wanted 150, 200 years ago. It is about  
12:01:54 9 remaining connected to, and having a relationship  
12:01:57 10 with the territory. The remedy includes a return  
12:02:00 11 of lands for which there is no bona fide purchaser  
12:02:04 12 for value without notice, at which are now in the  
12:02:07 13 hands of the Crown.

12:02:09 14 This is to be considered in later  
12:02:10 15 phases, but it's worth noting that again, for  
12:02:14 16 SON, the remedy is still about the territory; with  
12:02:17 17 regaining what has been taken, with re-asserting a  
12:02:24 18 relationship with the territory. What was supposed  
12:02:26 19 to be protected, if the Crown fulfilled its  
12:02:28 20 promise.

12:02:28 21 So this sums up the first point in  
12:02:31 22 respect of the main Treaty 72 claim about fiduciary  
12:02:36 23 breach that I've outlined earlier.

12:02:36 24 So now I'll touch briefly on two more  
12:02:38 25 points. The second point related to SON's Treaty

12:02:42 1 72 claim about Harvesting Rights. And then I'll  
12:02:45 2 end with the third point about our evidence  
12:02:47 3 respecting Limitation and Laches. This is much  
12:02:50 4 more brief than the first point.

12:02:55 5 So the second point is about SON's  
12:02:58 6 Harvesting Rights. SON's claim is that none of its  
12:03:02 7 Harvesting Rights, hunting, trapping, gathering  
12:03:04 8 medicines and the like, have been extinguished by  
12:03:06 9 Treaty 72. Put very simply, the claim is that  
12:03:10 10 whatever else Treaty 72 did, it did not end SON's  
12:03:14 11 Harvesting Rights.

12:03:16 12 Practices such as fishing, hunting,  
12:03:18 13 trapping, etcetera, that were so integral to SON's  
12:03:22 14 economy and sense of themselves as a people, again,  
12:03:24 15 this at its heart is a claim that the relationship  
12:03:27 16 between SON and the territory, that it continues  
12:03:31 17 through the exercise of their rights.

12:03:33 18 On this part of the claim, we will hear  
12:03:36 19 evidence about two things, which is detailed in our  
12:03:39 20 written statement at paragraph 79. And, also, in  
12:03:43 21 the appendix about who's going to be giving what  
12:03:47 22 evidence, and the appendix about -- with the chart  
12:03:52 23 outlining the issues, you'll be able to match the  
12:03:54 24 names to the evidence. So I'm just going to  
12:03:56 25 briefly touch on the two types of evidence.

12:03:58 1 The first type of evidence is about the  
12:04:00 2 intention of the parties at the time of Treaty 72,  
12:04:05 3 as they related to SON's Harvesting Rights in the  
12:04:08 4 territory.

12:04:09 5 You'll hear our experts, and also some  
12:04:12 6 oral history evidence from knowledge holders and  
12:04:15 7 SON members, about what the parties' intentions  
12:04:19 8 were about these rights when Treaty 72 was signed.

12:04:24 9 The evidence will show that all parties  
12:04:27 10 understood that SON would continue fishing,  
12:04:29 11 hunting, harvesting and alike. Neither the Crown  
12:04:36 12 nor SON had the intention that these practices  
12:04:39 13 would end. They are vital to SON's survival at the  
12:04:43 14 time, as well as now, as well as integral to their  
12:04:46 15 relationship with the territory. A relationship  
12:04:49 16 that continues in that SON would not have agreed to  
12:04:52 17 end.

12:04:54 18 The second type of evidence we will  
12:04:58 19 hear is from knowledge holders and SON members  
12:05:02 20 about their continuing exercise of the rights  
12:05:04 21 throughout the territory. These witnesses are  
12:05:07 22 going to talk about fishing, hunting, trapping,  
12:05:10 23 gathering medicines, and other traditional  
12:05:15 24 practices that they exercise throughout the entire  
12:05:17 25 territory. They will talk about where they do so

12:05:19 1 and how these practices continue to be an integral  
12:05:22 2 part of their economy and identity.

12:05:24 3 We're also going to hear about how the  
12:05:28 4 exercise of these rights and these practices are,  
12:05:31 5 and continue to be compatible with other uses of  
12:05:35 6 the land, throughout the territory. Including  
12:05:38 7 private land ownership, conservation lands,  
12:05:42 8 farming.

12:05:44 9 Whatever Treaty 72 did, it did not  
12:05:49 10 extinguish the relationship SON has and continues  
12:05:53 11 to have with the territory through the exercise of  
12:05:55 12 its Harvesting Rights. Nor has any treaty, or any  
12:06:00 13 other obstacle, deterred SON's continuing and  
12:06:03 14 sustained efforts to fight for its relationship  
12:06:06 15 with the territory, with whatever means are  
12:06:09 16 available to SON to do so.

12:06:11 17 So that brings me to the third and the  
12:06:13 18 last point I'd like to discuss briefly. The last  
12:06:21 19 point I'd like to discuss regarding SON and its  
12:06:26 20 relationship with the territory is how SON has  
12:06:28 21 never stopped fighting for the territory.

12:06:32 22 SON has always asserted its rights to  
12:06:35 23 and throughout the territory, in whatever way they  
12:06:38 24 could. They have done so despite the many, many  
12:06:42 25 obstacles put in their way, to limit the ways that

12:06:46 1 they could do so. In both the Aboriginal title  
12:06:50 2 claim and the Treaty 72 claim, Canada and Ontario  
12:06:53 3 rely on Laches, and Ontario also relies on  
12:06:57 4 Limitations.

12:07:00 5 In anticipation of that argument, that  
12:07:04 6 legal argument, we are calling evidence in our case  
12:07:07 7 about why SON's claims and its plea for remedy  
12:07:10 8 should not be barred. Again, we will hear two  
12:07:14 9 kinds of evidence.

12:07:14 10 First, we will hear expert evidence and  
12:07:19 11 evidence from members of SON about the obstacles  
12:07:22 12 that Indigenous peoples, including SON, faced in  
12:07:29 13 bringing forward their claims. To name a few,  
12:07:32 14 there was poor access to education; there was  
12:07:36 15 poverty; there was discrimination against  
12:07:40 16 Indigenous peoples; the Indian Act and the  
12:07:46 17 Department of Indian Affairs hung like a dark cloud  
12:07:50 18 over First Nations ability to govern themselves and  
12:07:53 19 assert their rights.

12:07:54 20 For example, much of the 20th century  
12:07:56 21 it was illegal under the Indian Act to raise funds  
12:07:59 22 for claims. For many years it was illegal for  
12:08:03 23 First Nations to hire lawyers. For years, Indian  
12:08:10 24 Agents working for the Department of Indian Affairs  
12:08:13 25 played a central role in how First Nations could or

12:08:16 1 could not make decisions.

12:08:18 2 For example, chiefs and councils, the  
12:08:20 3 elected officials of a First Nation, would have to  
12:08:23 4 get approval to pass resolutions from the Indian  
12:08:28 5 Agents. They would have to get approval from the  
12:08:30 6 agent in order to send correspondence to the  
12:08:31 7 department.

12:08:32 8 The role of the Indian Agent, the  
12:08:35 9 evidence will show, was harmful and disruptive.  
12:08:38 10 They had a lot of power, they were gatekeepers for  
12:08:42 11 access to a lot of important information.

12:08:44 12 Now, in SON's case, there is some  
12:08:48 13 witness testimony about a story of the Indian  
12:08:51 14 Agent, when they had one, burning documents. This  
12:08:55 15 story serves as an example of what is a larger  
12:08:58 16 problem in the litigation of these claims  
12:09:02 17 generally. Frankly, all Indigenous claims.

12:09:05 18 Historically, the guard at the gate to  
12:09:08 19 making the claim, was the very entity you would  
12:09:12 20 bring the claim against. The Government holds the  
12:09:16 21 relevant information for making these claims, and  
12:09:20 22 had the tools to prevent access to that  
12:09:23 23 information.

12:09:23 24 The Government was in control of  
12:09:25 25 policies and laws that created obstacles to

12:09:28 1 bringing these claims. And in the past, it used  
12:09:32 2 these powers, these policies, to prevent Indigenous  
12:09:36 3 claims for many years.

12:09:40 4 The second type of evidence we will  
12:09:42 5 hear on this point is about the different ways, in  
12:09:47 6 spite of those obstacles, SON continued to assert  
12:09:51 7 their rights in the relationship with the  
12:09:55 8 territory. Particularly, we'll hear from members  
12:09:57 9 of SON about the following:

12:10:01 10 How they, or their parents, or family  
12:10:03 11 members would continue to fish and hunt throughout  
12:10:05 12 the territory, even though they face charges or  
12:10:08 13 arrests.

12:10:11 14 How SON tried to, and did engage with  
12:10:14 15 the Government to assert their claims to the  
12:10:16 16 territory in any way that they could.

12:10:20 17 How SON made petitions to Ottawa and to  
12:10:23 18 the Province asking for action and information in  
12:10:26 19 respect of unsold surrender of lands in the  
12:10:29 20 territory.

12:10:31 21 And how they continue to resist and to  
12:10:33 22 assert their rights in the relationship with the  
12:10:35 23 territory in the face of all those obstacles,  
12:10:39 24 discrimination, poverty, Indian Affairs domination.

12:10:48 25 SON's continued assertion of its rights

12:10:50 1 and claims in the face of these obstacles, this is  
12:10:54 2 also about how important the territory is to SON.

12:10:59 3 The importance of the territory is at  
12:11:01 4 the centre of all of SON's claims before this  
12:11:04 5 Court. This is about how important the territory  
12:11:09 6 is to SON, this is about how the territory is a  
12:11:12 7 part of who they are. Their relationship to the  
12:11:16 8 territory is something SON has always maintained  
12:11:23 9 and will always maintain from before British  
12:11:27 10 Sovereignty, surviving through the Treaties in the  
12:11:29 11 19th century, and continuing to present, in any  
12:11:36 12 form or means available.

12:11:37 13 It is a relationship that SON continues  
12:11:39 14 to defend and fight for. It is why the Saugeen  
12:11:49 15 Ojibway Nation is here today, in this Court, to  
12:11:50 16 fight for the territory.

12:11:53 17 So, Your Honour, that's my submission,  
12:11:54 18 subject to any questions you may have. Thank you.

12:11:56 19 THE COURT: Thank you, Counsel.

12:11:58 20 Now ordinarily, in a trial, defendants  
12:12:01 21 have to elect to make opening statements either now  
12:12:06 22 or when they commence their case. But because this  
12:12:09 23 trial is scheduled to take place over a very long  
12:12:13 24 period of time, and the Plaintiffs' case itself  
12:12:17 25 will take at least many months, arrangements have



12:12:23 1 been made between counsel to permit the Defendants  
12:12:26 2 to make a very brief preview of their opening  
12:12:31 3 statements. And I have permitted that today.

12:12:34 4 So we will now hear a very brief  
12:12:38 5 preview of the opening statements of each of the  
12:12:43 6 Defendants. And I understand that it will begin  
12:12:48 7 with Canada; is that correct?

12:12:51 8 MR. BEGGS: Yes, Your Honour.

12:12:52 9 THE COURT: Please go ahead, sir.

12:12:54 10 MR. BEGGS: Thank you, your Honour.

12:12:55 11 I should have asked in the beginning,  
12:12:56 12 but I would ask the permission for a law clerk,  
12:13:01 13 Keshika Ramlochum, to assist me with documents.

12:13:03 14 THE COURT: That's perfectly fine.

12:13:05 15 Counsel, if any one of your group has a  
12:13:08 16 person who's assisting you, a law clerk, or law  
12:13:14 17 student, or another administrative person, they  
12:13:17 18 should feel free to offer that assistance without  
12:13:20 19 having to be the subject of express permission.

12:13:30 20 MR. BEGGS: Actually, it appears I'm on  
12:13:32 21 my own.

12:13:33 22 THE COURT: Perhaps before you begin  
12:13:34 23 you can reintroduce yourself, sir, and mention if  
12:13:37 24 any of your other group are making submissions in  
12:13:40 25 this brief preview of your opening statement.

1 MR. BEGGS: Thank you, Your Honour. It  
2 is Michael Beggs on behalf of the Attorney General  
3 of Canada. And I will be the only one making  
4 submissions this morning.

5 THE COURT: All right. Mr. Beggs, I  
6 can hear you, but it's very important that  
7 everyone, right to the back row can hear you. So  
8 I'd ask that you try and keep your voice up from  
9 what you've just said. And you should not worry,  
10 no one will think you're shouting.

11 Counsel once said to me, "I feel like  
12 I'm shouting". It's more important that everybody  
13 can hear.

14 MR. BEGGS: Thank you, your Honour.

15 So I'm going to jump right in, I'm not  
16 going to repeat what was set out in our written  
17 submissions. I'm going to confine myself to  
18 addressing five topics that we believe the Court  
19 could benefit from some clarity on.

20 These five topics are: What are the  
21 remaining issues in dispute. The significance of  
22 historical context to this case. Some comments  
23 about the documentary record. The importance of  
24 actual land use practices for the title claim.  
25 And, a caution about the use of terminology.

12:14:48 1 So again, jumping right in. The issues  
12:14:54 2 in dispute, in this litigation, have changed  
12:14:58 3 somewhat since the pleadings. My friend referred  
12:15:04 4 to some of the changes of his own, that the  
12:15:08 5 rectification claim with respect to inland water  
12:15:13 6 bodies and shorelines is not being pursued at this  
12:15:19 7 time as a separate claim.

12:15:20 8 Ontario has also made comments in their  
12:15:23 9 opening about their position on the harvesting  
12:15:27 10 rights claim, in that they're pursuing an  
12:15:31 11 alternative argument there.

12:15:32 12 And Canada is no longer pursuing  
12:15:35 13 limitations arguments with respect to any of the  
12:15:38 14 claims and will be confining to some aspects of the  
12:15:44 15 Laches claims.

12:15:50 16 To look at the Aboriginal title claim  
12:15:54 17 and the issues that remain there, I would emphasize  
12:15:58 18 that as my friend did say, there is common ground  
12:16:02 19 that the relevant date or the assertion of  
12:16:07 20 sovereignty is 1763. In that respect, this case is  
12:16:12 21 not about what happened 9000 years ago. Although,  
12:16:18 22 the evidence my friend offers as to Indigenous  
12:16:21 23 perspectives, is always welcome and helpful. But  
12:16:28 24 the key issue will be the nature of the occupation  
12:16:33 25 in 1763.

1 It's also common ground, I believe,  
2 that there was no treaty surrendering any aspect of  
3 the Aboriginal title claim. This rises and falls  
4 on the merits of the title claim itself.

5 And one last point about the issues in  
6 respect of the title claim. And that's my friend's  
7 very helpful comments about the importance of water  
8 to the Plaintiffs.

9 Traditionally, of course, Aboriginal  
10 title deals with land. And the pleadings have been  
11 geared toward title to the lands beneath the  
12 waters, in an attempt to -- all parties did so, in  
13 an attempt to fit it within the boxes of the common  
14 law as established by the Court so far.

15 However, it is important to appreciate  
16 the Indigenous perspective, and to the extent that  
17 we understand the practices with respect to water,  
18 that will be very valuable as well.

19 With respect to the issues in dispute  
20 in the Treaty claim. The merits of the Treaty 45 ½  
21 agreement, which my friend Ms. Guirguis referred  
22 you to and took you to, is not in dispute. It is  
23 not an issue as to whether that was a valid treaty;  
24 it's accepted for the purposes of this litigation  
25 that it is. What arises from Treaty 45½ is what

12:18:22 1 duties may flow from it.

12:18:26 2 There is also no allegation of fraud in  
12:18:29 3 the proceedings, in any aspect of the claims.  
12:18:35 4 Discussions of fraud, in our submissions, fell  
12:18:40 5 under the category of the rectification claim,  
12:18:43 6 which is no longer being pursued. But the  
12:18:47 7 observation also stands that there is no allegation  
12:18:51 8 of fraud when it comes to entering into the Treaty  
12:18:53 9 itself.

12:18:56 10 The Plaintiffs have accepted that  
12:18:58 11 Treaty 72 is valid at common law. The Plaintiffs  
12:19:09 12 have also accepted that Treaty 72 superseded the  
12:19:14 13 terms of Treaty 45 ½ at common law.

12:19:28 14 Doing things out of order, I should  
12:19:30 15 jump back for a moment to clear up something that  
12:19:32 16 arose from my friends' written opening submissions  
12:19:36 17 where it makes reference to a "Frozen Rights  
12:19:38 18 Theory" said to be held by the Crown.

12:19:40 19 That is not a theory that is held by  
12:19:43 20 Canada. Canada does not take the position that the  
12:19:46 21 later arrival of the Pottawatomi in the 1820s had  
12:19:53 22 any affect on Aboriginal title on the merits of  
12:19:56 23 that Aboriginal title claim. So there appears to  
12:20:01 24 be some misunderstanding there, but just to  
12:20:04 25 clarify, that is not our theory.

1 And with respect to the Harvesting  
2 Rights aspect of the claim, a key issue that we are  
3 raising is whether -- well, is that there's an  
4 absence of clarity as to what rights are actually  
5 being claimed.

6 Plaintiffs are asserting that the  
7 Treaty did not extinguish any rights that may have  
8 existed, but does not seek to actually establish  
9 that there are existing rights. That actually  
10 covers the -- well, except to say that I've read  
11 the issues in dispute identified by the various  
12 parties, and I think there's a great deal of common  
13 ground there between them. Other than minor  
14 differences in language, it appears that we are all  
15 at evenness as to what this case is about.

16 The second topic I wish to address is  
17 the importance of historical context. And this is  
18 an observation that my friend already made this  
19 morning. That examination of the events in 1854  
20 require an understanding of the times, not that the  
21 Court can't judge what happened then, obviously,  
22 the Court can and should. But we should devoid  
23 attributing modern behaviour, or making assumptions  
24 about behaviour to 19th century actors on either  
25 side, the Crown or the Indigenous parties.

1 This becomes relevant in several  
2 aspects of the evidence that will be offered. My  
3 friend made reference to the use of police in the  
4 Mica Bay incident, and that is an issue that will  
5 be discussed by the various experts in this case as  
6 well. However, it must be kept in mind, as the  
7 experts will testify, that organized policing was  
8 not in place at that time, that that was a much  
9 later development that militia or other bodies  
10 would usually act as necessary, but there was no  
11 standing police force except in the urban centres.

12 Similarly, the issue of how the legal  
13 system worked is different. One of our experts,  
14 Dr. McHugh, will be explaining how to pursue a  
15 grievance against the Crown, one would use the  
16 petition system. And there's going to be ample  
17 evidence that the First Nations used the petition  
18 system quite vigorously and effectively. And  
19 that's different than, of course, the modern day  
20 lawsuits against the Crown.

21 And, also, an issue of the settlement  
22 pressures that were being faced by the communities  
23 on the Peninsula. It was a time in Canada's  
24 history when rapid settlement was taking place, and  
25 there will be expert evidence from our side being

12:23:41 1 offered by Dr. McCalla, as to those pressures and  
12:23:46 2 to assist the Court in understanding how things  
12:23:49 3 would have been viewed without the benefit of  
12:23:51 4 hindsight by the actors at the time.

12:24:02 5 It is also important to not take a  
12:24:07 6 simplistic view of the various actors. The Crown  
12:24:14 7 actors had been referred to, Lawrence Oliphant,  
12:24:18 8 Superintendent General; and to Captain Anderson,  
12:24:23 9 the Visiting Superintendent General. Who was a  
12:24:24 10 Visiting Superintendent, which did not mean he was  
12:24:26 11 a temporary position, he was actually a long-term  
12:24:29 12 employee and well-versed with the communities.

12:24:32 13 The Treaties were signed by a number of  
12:24:37 14 Indigenous parties, several of which were fluent in  
12:24:42 15 both English and Anishinaabemowin, as the evidence  
12:24:46 16 will be demonstrating. The Chiefs on behalf of the  
12:24:49 17 Saugeen were Alex Madwayosh and John Kaduhgekwun.

12:24:59 18 The Chiefs for the Nawash Band were  
12:25:06 19 Peter Jones Kegedonce and Thomas Wahbahdick.

12:25:17 20 It would be a mistake to assume that  
12:25:20 21 these signatories were undereducated or naive.  
12:25:25 22 Many of the experts will provide evidence as to the  
12:25:31 23 strong agency that these parties -- these  
12:25:33 24 individuals showed, and the ability to enter into a  
12:25:42 25 surrender willingly and with an understanding of



12:25:45 1 both the text and the issues at stake.

12:25:54 2 The third point I wanted to address, is  
12:26:01 3 to simply provide some guidance about the  
12:26:03 4 documentary record. You obviously have a large  
12:26:07 5 documentary record of over 5000 documents. I think  
12:26:12 6 it would be helpful to know that there are two  
12:26:16 7 documents in particular, that provide the most  
12:26:20 8 significant information with respect to the Treaty  
12:26:26 9 claim.

12:26:28 10 The first document would of course be  
12:26:30 11 the Treaty itself. And --

12:26:34 12 THE COURT: Please be specific about  
12:26:35 13 the Treaty group.

12:26:37 14 MR. BEGGS: Yes, sorry. Treaty 72 of  
12:26:40 15 1854.

12:26:40 16 THE COURT: Treaty 72?

12:26:42 17 MR. BEGGS: Yes. That is the key  
12:26:44 18 document that must be considered. And a printed  
12:26:50 19 version of that document can be found at  
12:26:53 20 Exhibit 2145. Are you able to call that up?

12:27:05 21 Okay, we can do without it.

12:27:07 22 You will obviously have ample time to  
12:27:10 23 be reviewing the terms of the Treaty, but I would  
12:27:13 24 like to point out that the Treaty itself provides  
12:27:17 25 guidance as to, not just the terms of the Treaty,

12:27:22 1 and of course there's no reference to harvesting  
12:27:26 2 rights. As has been observed, it's a silence issue  
12:27:29 3 with respect to Harvesting Rights. But it does  
12:27:32 4 make reference to also the manner of the surrender  
12:27:37 5 that it was held in full Council with the young men  
12:27:42 6 at both tribes present in addition to the  
12:27:44 7 signatories. The signatories set their marks to  
12:27:48 8 the document after having heard the same document  
12:27:51 9 read to them.

12:27:54 10 And it is also an important point,  
12:27:57 11 although not apparent at this point why, but it  
12:28:01 12 ends with the line "understood"; "it is understood  
12:28:04 13 that no islands are included in this surrender".  
12:28:07 14 And that will become significant later, I don't  
12:28:10 15 wish to go into that particularly now.

12:28:13 16 The second document that I think will  
12:28:19 17 be extremely valuable is a document that gets  
12:28:22 18 referred to repeatedly by the experts, has been  
12:28:25 19 referred to by my friends, and in their submissions  
12:28:28 20 and their comments this morning, and we refer to  
12:28:32 21 it -- quote extensively from it, actually, in our  
12:28:37 22 written submissions. And that is a report by  
12:28:42 23 Lawrence Oliphant to his superior, the Governor  
12:28:50 24 General Lord Elgin. A handwritten copy of this  
12:28:52 25 document can be found at Exhibit 2161.

1 It will be much easier to refer during  
2 the course of the trial to an exhibit, a printed  
3 version. I believe there are multiple versions,  
4 but the same printed document, but it's 2160 is the  
5 most convenient one to refer to.

6 THE COURT: When you say "printed"; I  
7 think you mean "typed"?

8 MR. BEGGS: Well, yes. Typed.

9 THE COURT: Or transcribed or...

10 MR. BEGGS: It's fair to say "typed".

11 THE COURT: Typed. 2160?

12 MR. BEGGS: 2160, yes.

13 Again, I think that you will find, and  
14 the experts will testify, that this document  
15 provides a comprehensive account of the events of  
16 October 13, 1854, when the Treaty was negotiated.  
17 And so will address many of the allegations that  
18 are being raised as to the manner in which the  
19 Treaty was negotiated as to issues of  
20 marginalization of opponents, as to issues of  
21 extravagant promises, as to issues of pressure  
22 being placed on the Indigenous parties.

23 It is also worth noting that the report  
24 does refer to the fact that the Treaty was drawn  
25 out in the presence of the Chiefs, and was read and

12:30:37 1 explained to them afterward.

12:30:38 2 Now, of course I don't want to leave  
12:30:42 3 the wrong impression, there are many other  
12:30:44 4 documents. One of them was the earlier Treaty 45 ½  
12:30:48 5 of 1836, which my friend took you to this morning.

12:30:54 6 While I'm on that point, I just wanted  
12:30:56 7 to mention for clarity sake, that when the -- when  
12:31:01 8 that document refers to repairing north of Owen  
12:31:05 9 Sound, that is a reference to the body of water,  
12:31:07 10 the town not existing at that point.

12:31:10 11 Other documents that have been  
12:31:19 12 identified re the Declaration by Lord Elgin of  
12:31:23 13 1847, which both sides referred to. And what might  
12:31:29 14 be called the sheriffs letter, the letter my friend  
12:31:33 15 referred to, identifying -- which Oliphant asks for  
12:31:37 16 the assistance of the sheriff.

12:31:41 17 We expect from the experts, both  
12:31:44 18 cross-examination of the Plaintiffs' experts and  
12:31:47 19 chief examination of the Defendants' experts, that  
12:31:53 20 perhaps in reference to what my friend has called  
12:31:56 21 "the efforts on paper", there are ample documents  
12:32:00 22 suggesting that before the sheriff's letter, there  
12:32:03 23 were attempts to enforce protection of the  
12:32:07 24 Peninsula.

12:32:16 25 Moving to the fourth topic and to the

12:32:27 1 subject of Aboriginal title. This relates somewhat  
12:32:36 2 to what I earlier said when I was identifying the  
12:32:38 3 issues. And that's to the importance of what the  
12:32:42 4 actual land use practices of the Plaintiffs were.

12:32:49 5 The Court's do not want to force  
12:32:56 6 Indigenous practices into boxes in which they do  
12:32:59 7 not fit. It is important to understand what the  
12:33:03 8 practices actually are. And while the caselaw will  
12:33:07 9 refer to land use practices, it's also relevant in  
12:33:10 10 this case to examine the practices with respect to  
12:33:13 11 water, as my friend has alluded to this morning.

12:33:16 12 So I'm just -- I don't want to wish to  
12:33:19 13 address any of the law, and I'm sure there will be  
12:33:23 14 a fascinating debate about the law down the road,  
12:33:28 15 but I just wish to highlight that when hearing the  
12:33:32 16 evidence, it will be important to take note of what  
12:33:39 17 practices, historically, or were taking place in  
12:33:48 18 the claim area, the area offshore in Lake Huron and  
12:33:55 19 Georgian Bay. What practices were they doing? And  
12:33:57 20 my friend has identified the various witnesses,  
12:34:00 21 which will provide evidence with respect to that.  
12:34:03 22 And it's only once we have that evidence, that we  
12:34:06 23 will be able to translate it into a common law, or  
12:34:11 24 a legal concept.

12:34:13 25 My last point deals with a caution

12:34:22 1 about terminology, and that's simply this: It is  
12:34:30 2 much like the Court identified my use of the word  
12:34:35 3 "treaty" instead of identifying which treaty I'm  
12:34:40 4 referring to. It's important as the evidence is  
12:34:44 5 heard, to be clear about what we are talking about.  
12:34:46 6 I didn't bring my own map, and my presentation is  
12:34:49 7 suffering accordingly. But the map prepared by my  
12:34:52 8 friends, very helpfully, shows the traditional  
12:34:57 9 territories identified by the Plaintiffs.

12:35:01 10 The title claim is the water territory  
12:35:06 11 marked. The light green claim is not at issue in  
12:35:13 12 this litigation. There's no claim to that  
12:35:16 13 territory, to compensation for that territory, to  
12:35:21 14 the return of that territory, or to Harvesting  
12:35:24 15 Rights over that territory. That's there for  
12:35:28 16 historical purposes.

12:35:29 17 So it will be important as the  
12:35:31 18 witnesses testify, to clarify what territory it is  
12:35:34 19 we're speaking about. And, of course, north of the  
12:35:38 20 white line, is the territory that's being addressed  
12:35:42 21 in the Treaty claim and the area in which lands  
12:35:48 22 might be subject to a constructive trust.

12:35:51 23 THE COURT: You're referring to the  
12:35:52 24 yellow section?

12:35:53 25 MR. BEGGS: Yes, sorry. The yellow

12:35:56 1 section, yes, above the white line marking the  
12:36:00 2 1851 Treaty.

12:36:04 3 At the time same, it will also be  
12:36:07 4 important to have clarity about the Indigenous  
12:36:15 5 peoples themselves. A glossary has been provided  
12:36:19 6 to you for your reference, which is not a matter in  
12:36:23 7 evidence. I think it's to be marked, if it hasn't  
12:36:27 8 already, as a lettered exhibit, and that will  
12:36:31 9 provide some guidance.

12:36:32 10 More importantly, my friend is offering  
12:36:35 11 the evidence of linguists, and anthropologists,  
12:36:41 12 which will also clarify these terms. But it's  
12:36:46 13 important to know at any given time whether we're  
12:36:48 14 talking about the Anishinaabe generally, whether  
12:36:53 15 we're talking about the Great Lakes nations as  
12:36:57 16 sometimes referred to in my friend's opening.  
12:37:01 17 Whether we're talking about the SON, the SON that  
12:37:09 18 are the Plaintiffs this morning.

12:37:10 19 The terms cannot be used interchangeably.  
12:37:14 20 The terms, you know, within the Anishinaabe, the  
12:37:17 21 various groups of Pottawatomi, Odawa, Ojibwe, they  
12:37:23 22 cannot be used interchangeably, although, there  
12:37:26 23 will be evidence as to their relationship.

12:37:29 24 So as the trial proceeds, again, it's  
12:37:34 25 just a caution, that we'll try to be careful that

12:37:40 1 the evidence comes out clear enough as to who we're  
12:37:44 2 talking about and where we're talking about.

12:37:52 3 So I won't prolong this any further.

12:37:57 4 Obviously, from the submissions, the main issue  
12:38:01 5 that Canada feels is at issue in the title claim is  
12:38:06 6 the question of exclusivity, and the evidence of  
12:38:09 7 that will be key. With respect to the Treaty 72,  
12:38:16 8 Canada's position is that the evidence will show  
12:38:18 9 that the Crown acted with honour, integrity, in  
12:38:24 10 good faith and in fairness, consistent with the  
12:38:25 11 context of the times. And it was a difficult set  
12:38:32 12 of circumstances that the parties were facing, and  
12:38:35 13 there are no bad guys. The parties accomplished  
12:38:42 14 Treaty 72, with all the parties working together to  
12:38:45 15 address those circumstances.

12:38:51 16 So unless you have any questions, I  
12:38:53 17 would end there.

12:38:54 18 THE COURT: Thank you, sir.

12:38:55 19 MR. BEGGS: Thank you, Your Honour.

12:38:56 20 THE COURT: We move to the brief  
12:38:59 21 opening of Ontario. Mr. Feliciant.

12:39:05 22 MR. FELICIAN: I take it, Your Honour  
12:39:13 23 wishes to break at 1 o'clock for lunch.

12:39:16 24 THE COURT: That is the normal  
12:39:17 25 practice.



12:39:18 1 MR. FELICIAN: My name again is David  
12:39:25 2 Feliciant, and I am Council for Her Majesty the  
12:39:27 3 Queen in Right of Ontario. I will be the only one  
12:39:31 4 making comments on the opening this morning.

12:39:33 5 Thank you, Your Honour, for noting that  
12:39:35 6 this is in fact our initial opening. So we will  
12:39:38 7 not be presenting a comprehensive review of our  
12:39:42 8 evidence, and we will reserve a more detailed  
12:39:44 9 discussion for our fuller opening at the  
12:39:47 10 commencement of Ontario's case.

12:39:49 11 We look forward to working with our  
12:39:51 12 friends from Canada and OKT, and appreciate their  
12:39:56 13 assistance to get this trial ready.

12:39:59 14 I think it's important to note that the  
12:40:03 15 focus of what we're here to do is to create a  
12:40:08 16 helpful record for Your Honour. And in order to do  
12:40:10 17 this, our system requires that evidence be tested,  
12:40:13 18 so we will be cross-examining witnesses on areas  
12:40:16 19 that we think would help Your Honour better  
12:40:19 20 understand and appreciate the issues.

12:40:21 21 Our cross-examination should not be  
12:40:23 22 taken as a sign that we do not respect the  
12:40:26 23 positions taken by the Plaintiffs, or the evidence  
12:40:30 24 of their witnesses.

12:40:31 25 Ontario remains committed to

12:40:33 1 reconciliation and the positive working  
12:40:35 2 relationship we've developed with the communities.

12:40:40 3 To help assist you, we have prepared  
12:40:45 4 some maps that have been, or will be marked  
12:40:48 5 respectively Exhibits M, N, O.

12:40:55 6 And I'd like to -- if we could just  
12:40:57 7 briefly introduce those maps and borrow the easel  
12:41:03 8 that OKT has provided.

12:41:07 9 I've asked Mr. Townshend if I can do  
12:41:10 10 that, until we sort out our own easel. If I can  
12:41:16 11 ask Ms. McRandall to come up and display our first  
12:41:20 12 map, which would be "Ontario's Context Map", it  
12:41:23 13 shows the general area of Lake Huron and Georgian  
12:41:26 14 Bay.

12:41:43 15 Now I also have a hardcopy. You asked,  
12:41:46 16 Your Honour, for a hardcopy and we have produced a  
12:41:49 17 hardcopy which I can hand to the registrar to  
12:41:52 18 provide to you.

12:41:52 19 I'm actually going to be providing two  
12:42:01 20 copies to you for each map, and there will be the  
12:42:03 21 three maps which I am providing. And they are  
12:42:06 22 entitled in the top right-hand corners of the maps.

12:42:15 23 It will be hard for the audience to  
12:42:17 24 see, but it will be easier when we display them  
12:42:20 25 throughout the course of the trial, and you'll

12:42:22 1 probably be able to see it on your copy. But on  
12:42:25 2 the context map it shows --

12:42:27 3 THE COURT: Just before you continue.

12:42:28 4 The camera to your right, was when we  
12:42:32 5 arrived today, pointed at those maps. And unless  
12:42:39 6 it's a major problem, I think it would be of  
12:42:43 7 assistance to those members of the public here.

12:42:46 8 There we go. That's an improvement.  
12:42:49 9 Thank you, Mr. Townshend, that's very helpful.

12:42:53 10 There's some access to a screen halfway  
12:42:56 11 down the courtroom.

12:42:57 12 Please go ahead, sir.

12:43:11 13 Is that not on?

12:43:11 14 MR. TOWNSHEND: It doesn't appear to  
12:43:11 15 be.

12:43:12 16 THE COURT: Well, it was an idea.  
12:43:16 17 Please go ahead.

12:43:17 18 MR. FELICIAN: But having said that,  
12:43:18 19 it is only meant to be a brief introduction.

12:43:21 20 You will note that it places the Bruce  
12:43:23 21 Peninsula and the claim area in some context, but  
12:43:25 22 what I would just typically point out is that it  
12:43:28 23 does identify the hunting territories of the  
12:43:34 24 northern part of the Bruce Peninsula, and it also  
12:43:40 25 identifies lines. You'll see some lines emanating

12:43:44 1 once you find, it sorry. It's a document called,  
12:43:46 2 "Map of Portions of Georgian Bay".

12:43:48 3 THE COURT: I have it.

12:43:50 4 MR. FELICIAN: You'll see some lines  
12:43:51 5 emanating from the coastline. Those are lines that  
12:43:55 6 appear at one-mile increments, and it gives you a  
12:43:59 7 sense.

12:44:00 8 And there will be seven lines, so  
12:44:02 9 you'll see a seven-mile depiction from the  
12:44:05 10 shoreline. And that reflects a portion of a  
12:44:09 11 decision in the case called Jones and Nadjiwon,  
12:44:13 12 which refer to the extent of the fishing territory.  
12:44:15 13 So we thought it would be helpful to depict that.

12:44:21 14 The second map which will be helpful, I  
12:44:24 15 think, is a map of the lakebed claim area. And  
12:44:37 16 these maps have the benefit of also providing the  
12:44:39 17 towns, cities, internal lakes and rivers, so as  
12:44:43 18 witnesses give some evidence and mention a  
12:44:45 19 particular place, we'll be able to find that on the  
12:44:53 20 map. And on the system, you'll be able to zoom  
12:44:55 21 into certain areas.

12:44:57 22 So you'll see the yellow boundary  
12:45:00 23 surrounding the Bruce Peninsula and then south past  
12:45:08 24 Goderich. The hardcopy of the map I provided you,  
12:45:11 25 unfortunately, is not perfect. Due to some

12:45:15 1 technical glitch, we couldn't figure out in the  
12:45:17 2 time we had available, some of the water area is  
12:45:20 3 fully completely yellow, and we're working to fix  
12:45:24 4 that. But on the waters map, you'll see that it  
12:45:27 5 shows the water.

12:45:28 6 And so that's the lakebed map to give  
12:45:32 7 you a visual idea of the extent of the territory,  
12:45:36 8 and relate it to towns and cities on the Peninsula.

12:45:42 9 The third map, is a map of Treaty 72  
12:45:47 10 and of the surrounding areas which we've called  
12:45:52 11 "The Treaty Map". And again, this map shows the  
12:46:01 12 various treaty areas, as well as the communities,  
12:46:09 13 reserves, the parks, some of the lakes. And,  
12:46:12 14 again, the cities. And hopefully these maps will  
12:46:17 15 assist us as we proceed with the trial.

12:46:20 16 Now I'm not going to read our opening  
12:46:29 17 statement, but I do want to highlight at this time,  
12:46:34 18 Ontario's position on some of the bigger issues.

12:46:39 19 Four of the issues I will touch on is  
12:46:41 20 the harvesting issue; the breach of fiduciary duty  
12:46:46 21 issue; the suggestion and the allegation that the  
12:46:50 22 Crown's honour has been stained; and the Aboriginal  
12:46:54 23 title to make that claim.

12:46:57 24 On the Harvesting Rights issue, the  
12:47:01 25 Plaintiffs have sought a declaration that Treaty 72

12:47:07 1 had no impact on Harvesting Rights. Ontario's  
12:47:10 2 position is that the purpose of Treaty 72 was to  
12:47:13 3 surrender the Bruce Peninsula to the Crown to  
12:47:16 4 facilitate settlement and development. And that  
12:47:23 5 the Plaintiffs would obtain the proceeds of sale,  
12:47:25 6 as the lands were sold. As those lands were sold  
12:47:30 7 and settled, and put to incompatible uses with  
12:47:35 8 continued harvesting, whether that harvesting be  
12:47:39 9 hunting, trapping or gathering, those rights would  
12:47:43 10 be displaced.

12:47:44 11 However, Ontario does take the position  
12:47:51 12 that in those areas where lands have not been taken  
12:47:56 13 up or otherwise put to incompatible uses, the  
12:48:00 14 Plaintiffs could continue to exercise their  
12:48:03 15 harvesting activities, provided those activities  
12:48:07 16 were carried out safely and in accordance with the  
12:48:12 17 province's conservation efforts.

12:48:15 18 Ontario does not, however, accept that  
12:48:18 19 there would be no impact on Harvesting Rights. The  
12:48:23 20 Treaty itself, by necessary implication, requires  
12:48:25 21 that there be some impact.

12:48:31 22 With respect to the breach of fiduciary  
12:48:33 23 duty claim, the Plaintiffs claim that Treaty 45 ½  
12:48:38 24 created an obligation on the Crown to protect the  
12:48:42 25 Bruce Peninsula from the encroachment of European

12:48:45 1 settlers forever. The Plaintiffs have  
12:48:47 2 characterized this obligation as a fiduciary duty,  
12:48:49 3 and have alleged that the Crown breached that duty,  
12:48:52 4 and they seek a declaration to that effect.

12:48:56 5 Ontario will call evidence that will  
12:48:59 6 address the various objectives of the parties in  
12:49:02 7 setting aside the Bruce Peninsula in 1836.

12:49:06 8 Including the signatories intention at the time to  
12:49:08 9 set aside a tract of land large enough to  
12:49:12 10 accommodate not just the Plaintiffs, but other  
12:49:15 11 First Nation communities who would join them.

12:49:17 12 You will hear evidence that one of the  
12:49:19 13 motivating factors on the part of the Plaintiffs  
12:49:22 14 was to attract a sufficiently large number of  
12:49:24 15 people to secure the establishment of an industrial  
12:49:27 16 school.

12:49:28 17 Unfortunately, other communities  
12:49:31 18 declined to relocate and the school was not built.  
12:49:36 19 Ontario's position is that no fiduciary duty arose  
12:49:39 20 as a consequence of the terms of Treaty 45 ½. The  
12:49:43 21 setting aside of the Bruce Peninsula and the  
12:49:45 22 associated promise to protect the land were terms  
12:49:48 23 of the Treaty.

12:49:50 24 They must be understood and interpreted  
12:49:52 25 in their historical context, as that existed in

12:49:56 1 1836. And that when so understood, there was no  
12:50:01 2 breach of the terms of the Treaty or failure to  
12:50:04 3 diligently implement its terms.

12:50:08 4 Ontario's experts, Gwen Reimer and  
12:50:11 5 Donald Graves -- Gwen Reimer being an  
12:50:14 6 ethnohistorian and Donald Graves, a military  
12:50:19 7 historian -- will speak to this historic context.  
12:50:20 8 You will hear evidence that the lands were sold and  
12:50:23 9 that the community benefited from the funds that  
12:50:25 10 were generated.

12:50:26 11 If the Court finds that the terms of  
12:50:30 12 the Treaty also require the imposition of the  
12:50:34 13 fiduciary obligation, beyond the obligation to  
12:50:38 14 honour the Treaty terms, Ontario takes the position  
12:50:42 15 that the content and scope of that obligation, must  
12:50:45 16 also be understood in its historical context. And  
12:50:49 17 when so understood, there was no breach of  
12:50:53 18 fiduciary duty.

12:50:54 19 The Plaintiffs also claim that the  
12:50:57 20 communities entered into Treaty 72 in 1854, as a  
12:51:01 21 direct consequence of the Crown's alleged failure  
12:51:04 22 to protect the Peninsula. Ontario will call  
12:51:08 23 evidence that the Plaintiffs had reasons to  
12:51:10 24 surrender the Peninsula so the lands could be sold  
12:51:13 25 for their benefit.



1 Ontario takes the positions that the  
2 Plaintiffs were experienced with treaty-making,  
3 understood and consented to the terms of the  
4 Treaty, and understood and consented to the  
5 consequences of entering into it in 1854.

6 With respect to the allegation that the  
7 honour of the Crown has been stained, Ontario's  
8 position is that taking into account, again, the  
9 historical context which will be fully canvassed by  
10 the experts that you will hear from, the Crown's  
11 honour was not stained.

12 The conduct of Crown representatives  
13 may not have been perfect, but it did not rise to  
14 the level of a stain on the honour of the Crown, or  
15 indeed a breach of fiduciary duty.

16 With regard to the final element, the  
17 Aboriginal title to lakebed claim. The Plaintiffs  
18 seek a declaration of Aboriginal title to the  
19 lakebeds of Lake Huron and Georgian Bay in the area  
20 depicted on Ontario's lakebed map, which will be  
21 Exhibit N, lettered Exhibit N. Or the Plaintiffs'  
22 claim map, which you've seen already, but will be  
23 lettered Exhibit P.

24 You will note that the claimed area  
25 extends to the international boundary in Lake

12:52:37 1 Huron, around the Peninsula and through the middle  
12:52:38 2 of Georgian Bay, making landfall east of  
12:52:41 3 Collingwood at the most southerly point of  
12:52:46 4 Nottawasaga Bay.

12:52:48 5 Ontario's position is that Aboriginal  
12:52:51 6 title to the bed of a Great Lake, is not a concept  
12:52:56 7 recognizable in Canadian law. The Plaintiffs'  
12:52:59 8 interest in those waters can be reconciled with the  
12:53:02 9 Crown's interests through the exercise of  
12:53:03 10 Harvesting Rights.

12:53:05 11 It is not a concept well-suited to  
12:53:08 12 address the nature of the interests that you will  
12:53:12 13 hear coming through the evidence in this  
12:53:18 14 proceeding.

12:53:18 15 Ontario will also be calling evidence  
12:53:21 16 from three witnesses to discuss Ontario's interest  
12:53:24 17 in the waters of Lakes Huron and Georgian Bay. We  
12:53:29 18 will be calling evidence from Jennifer Keyes, from  
12:53:32 19 the Ministry of Natural Resources and Forestry to  
12:53:34 20 discuss International Treaties, which would be  
12:53:37 21 implicated by any declaration of Aboriginal title.  
12:53:41 22 This will be a lay witness and not an expert.

12:53:44 23 We will be calling the evidence of  
12:53:45 24 Michael Muschett from the Ministry of Natural  
12:53:53 25 Resources and Forestry to discuss the fishing

12:53:55 1 arrangements in Lake Huron and Georgian Bay,  
12:53:58 2 including the current arrangements with the  
12:54:00 3 Plaintiff communities.

12:54:01 4 Finally, we will be calling Ron Gould  
12:54:04 5 from the Ministry of Environment Conservation and  
12:54:08 6 Parks to discuss the interests of Ontario in the  
12:54:11 7 use of parks fronting onto Lakes Huron and Georgian  
12:54:17 8 Bay, as well as the Ministry's work around  
12:54:18 9 protecting the species at risk, and how those  
12:54:21 10 concerns may be implicated by a declaration of  
12:54:24 11 Aboriginal title.

12:54:26 12 It is Ontario's position that Treaty 72  
12:54:28 13 did in the fact take a surrender of the entire  
12:54:32 14 Bruce Peninsula, including shore and road  
12:54:34 15 allowances, internal lakes and rivers.

12:54:37 16 Subject to any questions you may have,  
12:54:42 17 that's Ontario's initial brief opening statement.

12:54:46 18 THE COURT: Thank you, Mr. Feliciant.

12:54:48 19 I think we have Ms. Dougherty.

12:54:51 20 Ms. Dougherty, I think your submission  
12:54:55 21 is intended to be relatively brief; is that  
12:54:58 22 correct?

12:54:58 23 MS. DOUGHERTY: It is relatively brief.  
12:55:00 24 I don't know that it's five minutes brief, but I'm  
12:55:03 25 in Your Honour's hands.

12:55:05 1 THE COURT: Well, if it's ten minutes  
12:55:06 2 brief, I think we should continue. If you find  
12:55:10 3 that's not sufficient, then there are a few other  
12:55:14 4 things that we have to deal with today by way of  
12:55:18 5 administrative steps, and I don't want to overlook  
12:55:23 6 those steps.

12:55:24 7 So I'm prepared to stop for lunch today  
12:55:27 8 provided that we -- now, provided that we come back  
12:55:30 9 a bit earlier than usual, all right?

12:55:33 10 So we'll adjourn for a lunch break, I'd  
12:55:38 11 ask everyone to be back for 2 o'clock.

12:55:42 12 -- RECESS TAKEN AT 12:55 --

02:03:02 13 -- UPON RESUMING AT 2:03 --

02:03:02 14 THE COURT: Please go ahead.

02:03:42 15 MS. DOUGHERTY: Good afternoon, Your  
02:03:44 16 Honour. My name is Jill Dougherty, I'm here on  
02:03:47 17 behalf of the Municipal Defendants. I'm here with  
02:03:49 18 my colleague, Deborah McKenna, I'm the only one  
02:03:53 19 speaking, but I'm indebted to her for all the  
02:03:56 20 written work on the opening.

02:03:57 21 I will be addressing five points.  
02:04:01 22 First, I want to situate the Municipal Defendants  
02:04:07 23 in relation to the claim area.

02:04:10 24 Second, I want to briefly highlight the  
02:04:13 25 nature of the claims that are made and not made

02:04:15 1 against the Municipal Defendants.

02:04:18 2 Third, I want to highlight the lack of  
02:04:22 3 involvement of the Municipal Defendants in the  
02:04:27 4 negotiation and signing and events surrounding  
02:04:31 5 Treaty 72 and of course Treaty 45 ½.

02:04:35 6 Fourth, I want to very briefly touch on  
02:04:38 7 what I'll call the fiduciary duty or honour of the  
02:04:42 8 Crown issue. And to just indicate where I'm going  
02:04:47 9 with that, the point that it does not apply to the  
02:04:52 10 Municipalities.

02:04:54 11 And then fifth, I want to briefly talk  
02:04:57 12 about the municipal obligations in relation to the  
02:05:02 13 road allowances claimed.

02:05:03 14 THE COURT: Just before you begin. I  
02:05:05 15 see some shaking heads. Is the reporting showing  
02:05:09 16 up on counsel's screen?

02:05:11 17 That's for me, too, madam reporter.

02:05:11 18 -- REPORTER'S NOTE: Off the record  
02:07:00 19 discussion due to technical difficulties.

02:07:00 20 THE COURT: Counsel, madam reporter is  
02:07:03 21 able to keep a complete record of the remainder of  
02:07:06 22 the opening statements. In order to have it appear  
02:07:09 23 on every single screen, it would require reloading  
02:07:13 24 every single screen.

02:07:16 25 The alternative is, you'll have a

02:07:18 1 transcript within a matter of, you know, before the  
02:07:22 2 weekend. Given that this is opening statements, as  
02:07:26 3 opposed to evidence and no cross-examination  
02:07:29 4 happening after Ms. Dougherty's submissions that  
02:07:33 5 would require the transcript, would Counsel be  
02:07:35 6 prepared to await receipt of this portion of the  
02:07:39 7 proceedings today, rather than interrupting them to  
02:07:43 8 reset all the equipment?

02:07:45 9 MR. TOWNSHEND: That's acceptable.

02:07:47 10 THE COURT: Thank you, Mr. Townshend.

02:07:49 11 MR. BEGGS: Yes, your Honour.

02:07:50 12 THE COURT: Please go ahead, Counsel.

02:07:53 13 MS. DOUGHERTY: Thank you, I'm indebted  
02:07:55 14 to my colleagues and the Court.

02:07:58 15 To the first point then, which is to  
02:08:00 16 situate the Municipal Defendants in relation to the  
02:08:03 17 claim area. So I have provided to my friends and  
02:08:07 18 to the clerk for Your Honour's use, a copy of the  
02:08:11 19 map that I've mounted here, and what this shows is  
02:08:15 20 the location of the various municipalities.

02:08:19 21 So to line up the map that I've  
02:08:24 22 provided, which I would propose in due course to  
02:08:29 23 have marked as a lettered exhibit, the claim area  
02:08:37 24 starts roughly in the location that is shown as  
02:08:43 25 where Highway 26 And Highway 21 cut across the

02:08:50 1 Peninsula.

02:08:50 2 The green portion that extends above  
02:08:55 3 that, is the Township of Georgian Bluffs; and  
02:08:59 4 that's part of the County of Grey, and the County  
02:09:04 5 of Grey is shown in green.

02:09:07 6 And the white area is the County of  
02:09:10 7 Bruce. And so we have at the top, the Township of  
02:09:15 8 Northern Bruce Peninsula; then next we have below  
02:09:20 9 that, the Township of South Bruce Peninsula. And  
02:09:27 10 then this little portion here, is the northern tip  
02:09:31 11 of the corporation of the Township of Saugeen  
02:09:37 12 Shores. So those are the Municipal Defendants.

02:09:43 13 Now, I want to then talk about the  
02:09:48 14 nature of the claims against the Municipal  
02:09:53 15 Defendants. So those are set out, for Your  
02:09:58 16 Honour's reference, at tab 1 of the trial record in  
02:10:01 17 the Fresh As Amended Statement of Claim at  
02:10:05 18 paragraph 4.

02:10:06 19 And, essentially, they include a claim  
02:10:09 20 to beneficial ownership of unpatented, unconveyed  
02:10:13 21 road allowances owned by the Municipal Defendants  
02:10:17 22 over lands that were surrendered under Treaty No.  
02:10:21 23 72. And they're more particularly described in  
02:10:23 24 Schedules 4 and 7 of the Fresh As Amended Statement  
02:10:27 25 of Claim.

02:10:27 1 Now, I stop there to highlight the fact  
02:10:30 2 that when the claim is talking about road  
02:10:35 3 allowances, and when one is talking about road  
02:10:37 4 allowances, we are talking not just about what I'll  
02:10:41 5 call colloquially "unopened road allowances" that  
02:10:45 6 are unimproved, don't show up as traveled highways  
02:10:48 7 on a map. We are also talking about traveled  
02:10:52 8 roadways, which are in fact road allowances. And  
02:10:56 9 although I'll get to it in a bit, I think it is  
02:10:59 10 uncontroversial that road allowances are qualified,  
02:11:04 11 legally, as highways under the Municipal Act and  
02:11:08 12 also under the Surveys Act.

02:11:15 13 Now, the second aspect then of the  
02:11:17 14 claim is beneficial ownership of lands acquired by  
02:11:21 15 the Municipal Defendants with the proceeds of  
02:11:23 16 conveyances of road allowances. And those are more  
02:11:28 17 particularly described in Schedule 5. And then an  
02:11:31 18 accounting and disgorgement of any assets other  
02:11:36 19 than land, into which the proceeds of those types  
02:11:38 20 of conveyances of road allowances may be traced.

02:11:41 21 So that is, broadly speaking, the  
02:11:45 22 parameter of the claim. My next point then, the  
02:11:48 23 third point, is with respect to the, what I'll call  
02:11:53 24 the lack of involvement of the Municipalities in  
02:11:58 25 relation to Treaty 72.



02:12:01 1 So according to the language of Treaty  
02:12:08 2 72, the reference is to the Plaintiffs having made  
02:12:14 3 a quote "full and complete surrender" to the Crown  
02:12:19 4 of the rights that they had in the disputed lands  
02:12:22 5 in the Peninsula, subject to certain restrictions  
02:12:26 6 and exceptions.

02:12:28 7 And then there is a reference to quote,  
02:12:30 8 "the interest of the principle sum arising out of  
02:12:34 9 the sale", close quote, of the surrendered lands  
02:12:36 10 being paid to the First Nations at half yearly  
02:12:40 11 periods.

02:12:45 12 So none of the Municipal Defendants  
02:12:47 13 existed at the time that Treaty 72 was negotiated.  
02:12:53 14 And there's no suggestion that they played any role  
02:12:56 15 in the negotiation and signing of the Treaty.

02:13:01 16 And the facts with respect to that, a  
02:13:04 17 number of facts with respect to that have been set  
02:13:07 18 out in the Agreed Statement of Facts in relation to  
02:13:11 19 the claims against the Municipal Defendants. And  
02:13:14 20 that, for your reference, is marked 3933.

02:13:20 21 Now, the next point that I want to very  
02:13:25 22 briefly touch on is what I'll call the fiduciary  
02:13:28 23 duty issue. And I'm now at page 5 of the Municipal  
02:13:36 24 Defendants opening statement. And in a nutshell,  
02:13:41 25 the Plaintiffs don't allege or make any claim

02:13:44 1 against the Municipal Defendants in respect of a  
02:13:47 2 purported breach of fiduciary duty in relation to  
02:13:53 3 the Treaty.

02:13:55 4 There's no allegation that the  
02:13:59 5 Municipalities participated in or have knowledge of  
02:14:02 6 any of the improprieties alleged with respect to  
02:14:06 7 the negotiations, or with respect to any deficiency  
02:14:10 8 or lack of clarity in the terms of the Treaty. And  
02:14:15 9 we anticipate that the evidence will show that the  
02:14:20 10 understanding of the Municipalities was that but  
02:14:22 11 for certain restrictions, there was a complete  
02:14:25 12 surrender by the Plaintiffs of any lands in the  
02:14:30 13 Peninsula.

02:14:30 14 Related to that, is that the Municipal  
02:14:38 15 Defendants are not the Crown. And in our view, the  
02:14:44 16 caselaw, which we'll ultimately get to in legal  
02:14:48 17 argument, will support the proposition that the  
02:14:55 18 Municipal Defendants don't share in any of the  
02:14:58 19 special duties imposed on the Crown regarding First  
02:15:02 20 Nations, including special fiduciary duties, the  
02:15:05 21 honour of the Crown, and the corollary duty to  
02:15:12 22 consult.

02:15:12 23 And so I flag this by way of simply  
02:15:14 24 saying, the references that you have heard to  
02:15:19 25 allegations of breaches of fiduciary duty are not

02:15:23 1 claims that have been advanced against the  
02:15:26 2 Municipalities; or in fact, duties that have been  
02:15:33 3 held to apply to municipalities, generally  
02:15:35 4 speaking.

02:15:36 5 So what we have here, is an effort to,  
02:15:44 6 in effect, roll back by way of a remedial  
02:15:50 7 constructive trust, the terms of the Treaty and  
02:15:55 8 claim a beneficial interest in certain of the lands  
02:15:57 9 that were surrendered. And for purposes of the  
02:16:00 10 Municipalities, of course, we're talking about the  
02:16:02 11 road allowances within the claim area. And the  
02:16:06 12 basis for that argument is alleged breaches of  
02:16:11 13 fiduciary duty, by not the Municipalities, but  
02:16:14 14 allegedly, by the Crown.

02:16:18 15 So this brings me then to my final  
02:16:28 16 point relating to municipal obligations to the road  
02:16:34 17 allowances claimed. In my submission, it's telling  
02:16:42 18 that we've had openings from all of the other  
02:16:46 19 parties, and there's not been a mention of the  
02:16:49 20 Municipalities.

02:16:50 21 The Municipal Defendants are very much  
02:16:53 22 innocent third parties in this proceeding. They're  
02:16:57 23 joined here simply to provide a remedy for an  
02:17:01 24 alleged breach or mistake by the other parties.

02:17:06 25 And from the Municipalities'

02:17:18 1 perspective, we'd highlight a couple of things that  
02:17:22 2 are acknowledged in the Agreed Statement of Facts  
02:17:24 3 that have been marked as Exhibit 3933.

02:17:27 4 The Plaintiffs have agreed that as a  
02:17:30 5 signatory to the Treaty, they would have expected  
02:17:34 6 non-Aboriginal settlement to take place in Bruce,  
02:17:39 7 and that that settlement would mean that roads  
02:17:41 8 would have to be constructed on the lands that were  
02:17:43 9 subject to the Treaty.

02:17:45 10 The Plaintiffs knew that the lands were  
02:17:49 11 being surveyed, and that roads were being  
02:17:52 12 established and built. And in fact, that was a  
02:18:01 13 necessary step in order to be able to even describe  
02:18:05 14 the grants of land and sell parcels as contemplated  
02:18:10 15 under the Treaty.

02:18:13 16 Now, in terms of the road system that  
02:18:25 17 was established, it was not only necessary for  
02:18:28 18 purposes of being able to define the grants and  
02:18:31 19 allow the settlement of the Peninsula and the sale  
02:18:37 20 of the lands that had been surrendered, but it also  
02:18:41 21 was essential, in general, to service the  
02:18:47 22 population, including the Plaintiffs, that were in  
02:18:51 23 the Peninsula.

02:18:52 24 Now, very briefly, by way of just a  
02:18:58 25 couple of general comments on the municipal

02:19:03 1 position with respect to the road allowances.

02:19:07 2 So the Municipalities didn't exist  
02:19:15 3 until subsequent to 1867, which was the point after  
02:19:22 4 which the Province of Ontario assumed jurisdiction  
02:19:26 5 over municipal institutions in the Province. And  
02:19:31 6 I've provided my friends with, and handed up to  
02:19:34 7 Your Honour, a Book of Legislation that,  
02:19:37 8 essentially, is a companion to the chart that is  
02:19:42 9 part of the Agreed Statement of Facts marked as  
02:19:47 10 Exhibit 3933.

02:19:52 11 THE COURT: Thank you, Counsel.

02:19:54 12 MS. DOUGHERTY: And I don't propose,  
02:19:55 13 you'll be happy to note, to go through any of that  
02:19:58 14 legislation in any detail, but it simply supports  
02:20:01 15 the information in the chart which indicates when  
02:20:03 16 each of the Municipalities was established.

02:20:08 17 So in terms of ownership and  
02:20:12 18 jurisdiction over the road allowances, until 1913,  
02:20:17 19 the Municipal Institutions Act of 1858 provided  
02:20:24 20 that the soil and freehold of road allowance was  
02:20:28 21 vested in the Crown with the local municipalities  
02:20:31 22 having jurisdiction over and possession of the  
02:20:34 23 roads.

02:20:35 24 So it's not until 1913 then, that the  
02:20:41 25 provisions of the Municipal Act were changed such

02:20:44 1 that the soil and freehold of every highway, which  
02:20:48 2 includes road allowances, was vested in the  
02:20:52 3 Municipalities. And the reason that I mention that  
02:20:54 4 is what goes hand-in-hand with the vesting in the  
02:21:03 5 Municipalities is various obligations under the  
02:21:07 6 Municipal Act as it existed then and as it existed  
02:21:09 7 now.

02:21:11 8 And once jurisdiction of the road  
02:21:13 9 allowances was transferred to the Municipalities  
02:21:15 10 and title to it was transferred, all of the  
02:21:19 11 dealings with the road allowances were governed by  
02:21:23 12 the Municipal Act, and it imposed various  
02:21:25 13 obligations on the Municipalities to improve and  
02:21:29 14 maintain the road allowances, and various  
02:21:33 15 liabilities that were associated with that.

02:21:37 16 And I point this out simply to flag the  
02:21:40 17 fact that the Municipalities were not simply, if  
02:21:49 18 you will, volunteers who obtained road allowances  
02:21:56 19 for free and with no associated obligations.

02:22:02 20 When it comes time for legal argument,  
02:22:06 21 the Municipalities will be taking the position that  
02:22:09 22 they are very much akin to bona fide purchasers for  
02:22:14 23 value without notice in relation to these road  
02:22:19 24 allowances, including improved highways, that they  
02:22:26 25 have expended significant resources to improve and

02:22:31 1 maintain.

02:22:34 2 And, also, that these are not simply  
02:22:36 3 pieces of property that the Municipalities can deal  
02:22:40 4 with in any way they wish. There is a procedure  
02:22:47 5 set out in the Municipal Act relating to how road  
02:22:52 6 allowances can be stopped up, closed, sold, how  
02:22:55 7 they're required to be maintained.

02:22:58 8 And in addition, there are certain  
02:23:03 9 public rights in relation to road allowances. They  
02:23:07 10 are all burdened with public rights of access and  
02:23:12 11 use. Whether or not they are actually improved,  
02:23:17 12 visible, if you will, traveled roads.

02:23:21 13 So the position of the Municipalities,  
02:23:32 14 and this is something that will take on particular  
02:23:39 15 relevance, if and when there is discussion of a  
02:23:44 16 constructive trust remedy, is that they are in a  
02:23:48 17 position analogous to bona fide purchasers for  
02:23:52 18 value without notice.

02:23:56 19 With respect to the public rights that  
02:23:59 20 are associated with these road allowances, and here  
02:24:04 21 I'm on page 9 of the Municipalities' opening. The  
02:24:11 22 public can and do make use of these road  
02:24:15 23 allowances, even unopened road allowances. And we  
02:24:18 24 expect that there will be evidence that these road  
02:24:22 25 allowances accommodate seasonal traffic, give

02:24:25 1 access to farms, houses or vacant land, logging  
02:24:30 2 access. They function, in some cases, as trails or  
02:24:34 3 public access to water bodies or facilitate access  
02:24:38 4 for public or private services of third parties,  
02:24:41 5 like hydro, natural gas, telephone, internet.

02:24:47 6 Now, I don't propose to cover the  
02:24:50 7 points at the bottom of page 9 and top of page 10  
02:24:54 8 of my written opening, but that deals with the  
02:24:57 9 distinctions between roads held by upper and lower  
02:25:02 10 tiered municipalities. And I also don't propose to  
02:25:07 11 discuss, in any detail, the specific points  
02:25:10 12 relating to shore road allowances, which are dealt  
02:25:13 13 with at the bottom of page 10 and top of page 11 of  
02:25:20 14 the Municipalities' opening. Other than to  
02:25:25 15 observe, with respect to particularly shore road  
02:25:29 16 allowances, that we expect that there will be  
02:25:31 17 evidence about the use of those shore road  
02:25:34 18 allowances.

02:25:35 19 And in particular, that they are in  
02:25:39 20 some instances, occupied and used by adjacent  
02:25:42 21 private landowners. In some cases, they're subject  
02:25:45 22 to encroachments of homes, cottages, boathouses and  
02:25:50 23 the like. And in other instances, they are subject  
02:25:54 24 to actual private claims by private landowners,  
02:25:58 25 depending upon the history of the particular shore



02:26:03 1 road allowance.

02:26:05 2 So in closing, with respect to the  
02:26:13 3 position of the Municipalities, it's the Municipal  
02:26:21 4 Defendant's position that the Plaintiffs' action is  
02:26:27 5 not just statute barred, but also barred by the  
02:26:31 6 doctrines of Laches and Acquiescence.

02:26:36 7 And in looking at those doctrines and  
02:26:38 8 their application in this case, we expect that  
02:26:42 9 there will be evidence as to when the Plaintiffs'  
02:26:45 10 provided notice of their claim to the  
02:26:48 11 Municipalities. And on the same point, that there  
02:26:52 12 will be evidence that the Municipalities have been  
02:26:54 13 prejudiced by the delay in the sense that they  
02:26:59 14 have, in the meantime, been constructing,  
02:27:04 15 improving, maintaining and incurring liabilities in  
02:27:08 16 relation to these road allowances that are now  
02:27:13 17 subject to the claim by the Plaintiffs.

02:27:17 18 Subject to any questions Your Honour  
02:27:21 19 may have, those are all of the opening --  
02:27:27 20 preliminary opening submissions of the Municipal  
02:27:29 21 Defendants.

02:27:30 22 THE COURT: Thank you, Counsel.

02:27:32 23 That concludes the opening statements.  
02:27:35 24 There are some other matters that I'm going to put  
02:27:37 25 on the record.

02:27:40 1 As you've heard, somewhat during the  
02:27:43 2 opening statements, on consent of the parties  
02:27:47 3 certain documents have been entered as exhibits and  
02:27:50 4 will form part of the evidence in this trial.

02:27:54 5 The consent exhibits includes thousands  
02:27:57 6 of historical documents, as well as agreed  
02:28:01 7 statements of fact, requests to admit and related  
02:28:04 8 responses and transcripts, by way of examples.

02:28:08 9 In addition to those consent exhibits,  
02:28:14 10 there are a number of documents that are also on  
02:28:18 11 consent, form part of the record of this trial, but  
02:28:21 12 do not constitute evidence. And today you've heard  
02:28:25 13 some examples of those documents, specifically a  
02:28:30 14 glossary of terms, and various maps that you have  
02:28:33 15 seen counsel use to put in context some of their  
02:28:37 16 submissions.

02:28:38 17 With respect to that second category, I  
02:28:42 18 take it that counsel for the Municipality wishes to  
02:28:46 19 mark as lettered exhibits, this new map that shows  
02:28:51 20 the location of the Defendant Municipalities and  
02:28:56 21 the related Book of Legislation; is that correct?

02:28:59 22 MS. DOUGHERTY: That is correct,  
02:29:00 23 Your Honour.

02:29:00 24 THE COURT: Counsel will have to  
02:29:02 25 provide images -- yes, Mr. Townshend?

02:29:04 1 MR. TOWNSHEND: Yes, your Honour.

02:29:06 2 I do have one small qualification about  
02:29:07 3 that map. I take no exception with the way  
02:29:11 4 Ms. Dougherty was using it to show the location of  
02:29:13 5 the Municipalities.

02:29:14 6 What I did want to note was, it refers  
02:29:16 7 to a National Park, which is in fact not a National  
02:29:20 8 Park. Although it looks like a National Park and  
02:29:22 9 it is administered as a National Park, it is not.

02:29:25 10 And the reason it isn't, is because my  
02:29:27 11 clients' objected to it becoming a National Park  
02:29:30 12 because they thought it would prejudice their  
02:29:32 13 claims and Canada accepted that objection.

02:29:35 14 THE COURT: Thank you for putting that  
02:29:36 15 on the record, sir.

02:29:37 16 Since this map is not being introduced  
02:29:40 17 into evidence, but only being marked as a lettered  
02:29:44 18 exhibit, and now that that objection is on the  
02:29:47 19 record, does anyone else have any difficulty with  
02:29:50 20 it being marked?

02:29:51 21 No.

02:29:54 22 All right. Counsel, you have to work  
02:29:55 23 out electronic images for these two lettered  
02:29:58 24 exhibits and provide them. In the meantime,  
02:30:02 25 Mr. Registrar, can we assign the letters to them?

02:30:05 1 THE REGISTRAR: It's going to be letter  
02:30:07 2 U, Your Honour.

02:30:09 3 THE COURT: U, and the book of  
02:30:11 4 documents would be V?

02:30:13 5 THE REGISTRAR: It's going to be V.

02:30:16 6 THE COURT: All right. So we'll  
02:30:17 7 reserve those letters for those exhibits.

02:30:17 8 EXHIBIT U: Illustrative Map showing  
02:28:53 9 the location of the Defendant Municipalities.

02:30:20 10 EXHIBIT V: Book of Legislative  
02:30:20 11 Documents.

02:30:20 12 THE COURT: Now there's one other point  
02:30:22 13 of clarification. Certain of the consent exhibit  
02:30:25 14 numbers are currently not listed. Could someone  
02:30:30 15 from Plaintiffs' counsel just clarify why that is?

02:30:37 16 By which I mean, there is no  
02:30:39 17 description for that attached to the number.

02:30:42 18 MR. BROOKWELL: Yes, that is correct,  
02:30:45 19 Your Honour. In the exhibits list, there is  
02:30:47 20 approximately 40 documents listed as "missing  
02:30:50 21 title". And those are documents that are  
02:30:52 22 placeholders in the order that was agreed for the  
02:30:55 23 document to go in, but it has yet to be submitted  
02:30:59 24 in the digital content to be uploaded.

02:31:02 25 So it is in the list where it ought to

02:31:05 1 be, but the PDF file still needs to be sent over  
02:31:09 2 and put into the system.

02:31:10 3 THE COURT: Right, thank you,  
02:31:12 4 Mr. Brookwell.

02:31:14 5 I commend the parties for their  
02:31:17 6 cooperation giving rise to all the consent evidence  
02:31:19 7 and other materials filed, which will assist with  
02:31:21 8 the organized and efficient conduct of this long  
02:31:26 9 trial.

02:31:27 10 Does any counsel have any other matter  
02:31:31 11 they wish to raise?

02:31:32 12 Yes, Ms. Dougherty?

02:31:34 13 MS. DOUGHERTY: Your Honour, I have an  
02:31:42 14 Amended Statement of Defence, which has  
02:31:45 15 housekeeping amendments. Because in preparing for  
02:31:48 16 this, I realized that our Statement of Defence was  
02:31:50 17 filed so long ago, that we were still the Township  
02:31:54 18 of Keppel, rather than the Township of Georgian  
02:31:57 19 Bluffs.

02:31:57 20 I have circulated this to my friends,  
02:32:00 21 and they have all consented to the amendment of the  
02:32:03 22 Statement of Defence. So I'm seeking then to amend  
02:32:08 23 the Statement of Defence of the Corporation of the  
02:32:11 24 Township of Georgian Bluffs. And I have copies  
02:32:14 25 that I can provide to the clerk.

02:32:16  
02:32:18  
02:32:20  
02:32:23  
02:32:24  
02:32:26  
02:32:28  
02:32:29  
02:32:32  
02:32:33  
02:32:34  
02:32:35  
02:32:37  
02:32:40  
02:32:42  
02:32:43  
02:32:45  
02:32:48  
02:32:50  
02:32:54  
02:32:57  
02:33:01  
02:33:04  
02:33:08  
02:33:13

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Copies of what?

MS. DOUGHERTY: Of the Amended Statement of Defence of The Corporation of the Township of Georgian Bluffs.

THE COURT: You're also going to need an order, Counsel.

MS. DOUGHERTY: Yes.

THE COURT: Do you have that as well?

MS. DOUGHERTY: I do not have a draft.

THE COURT: It's not a problem. If your office can provide the form of order and appended amended pleading to my assistant, then we'll be able to deal with it, all right? Copying all concerned.

MS. DOUGHERTY: Thank you, Your Honour.

THE COURT: Does any other counsel have anything they wish to raise?

Yes, Mr. Brookwell?

MR. BROOKWELL: On the lettered exhibits from this morning, Mr. Townshend was referring to a map that is not yet in the lettered exhibit column, and I've forwarded a PDF copy to the registrar and copied counsel, and ask that it can be added in as the next lettered exhibit after the municipal documents.

02:33:14 1 THE COURT: Which of the two maps that  
02:33:17 2 Mr. Townshend was referring to, are you referring  
02:33:18 3 to?

02:33:20 4 MR. BROOKWELL: It's the map underneath  
02:33:21 5 the municipal map, that was just spoken to on the  
02:33:24 6 left side.

02:33:25 7 THE COURT: All right. So what would  
02:33:28 8 be the description of that map, sir? For purposes  
02:33:30 9 of Mr. Registrar.

02:33:32 10 MR. BROOKWELL: It is the "General  
02:33:33 11 Chart of the Great Lakes" is the description.

02:33:37 12 THE COURT: "General Chart of the Great  
02:33:40 13 Lakes"?

02:33:40 14 MR. BROOKWELL: Yes, that is correct,  
02:33:42 15 Your Honour.

02:33:42 16 THE COURT: And we'll assign the next  
02:33:44 17 lettered exhibit to that Mr. Registrar, which is W?

02:33:51 18 THE REGISTRAR: It is W, Your Honour.

02:33:52 19 THE COURT: Thank you, sir.

02:33:38 20 EXHIBIT W: Illustrative Map entitled,  
02:33:38 21 General Chart of the Great Lakes.

02:33:54 22 MR. BROOKWELL: And the one other  
02:33:55 23 matter is the Plaintiffs have also a minor  
02:33:58 24 amendment to the pleadings.

02:34:00 25 They had prepared a supplementary trial

02:34:02 1 record, but I've heard your comments to the  
02:34:06 2 Municipalities that there would be -- an order  
02:34:07 3 needed to be appended to this. So we will provide  
02:34:09 4 that to you.

02:34:13 5 THE COURT: If you can just send that  
02:34:14 6 to my office, if it's on consent, and I'll just  
02:34:17 7 deal with it.

02:34:19 8 MR. BROOKWELL: Thank you, Your Honour.

02:34:20 9 THE COURT: Thank you.

02:34:20 10 Anybody else? No, all right.

02:34:22 11 This trial is adjourned to Monday at  
02:34:24 12 which time witness testimony will commence in the  
02:34:29 13 SON Community.

02:34:31 14 Specifically at the Cape Croker  
02:34:33 15 Community Centre on the Peninsula as it has been  
02:34:36 16 called today.

02:34:37 17 We adjourn at this time.

18  
19 -- Court adjourned at 2:34 p.m.  
20  
21  
22  
23  
24  
25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

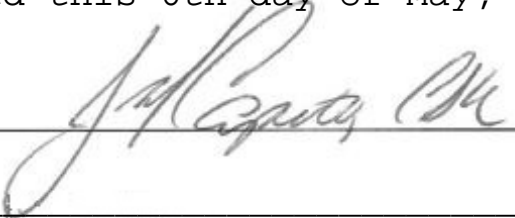
I, JUDITH M. CAPUTO, RPR, CSR, CRR,  
Certified Shorthand Reporter, certify;

That the foregoing proceedings were  
taken before me at the time and place therein set  
forth;

That the testimony of the witness  
and all objections made at the time of the  
examination were recorded stenographically by me  
and were thereafter transcribed;

That the foregoing is a true and  
correct transcript of my shorthand notes so taken.

Dated this 6th day of May, 2019.



\_\_\_\_\_

NEESON COURT REPORTING INC.

PER: JUDITH M. CAPUTO, RPR, CSR, CRR

<b>0</b>	<b>1836</b> 20:19 25:14 64:22 65:6,16 75:18 99:5 110:7 111:1	<b>256</b> 37:19	<b>72</b> 22:1 26:17 27:7,12,21 28:4, 22 29:19 30:3,4 60:5,13 71:14 74:24 75:2,7 80:22 81:1,9,10 82:2,8 83:9 84:2 92:11,12 96:14,16 103:7,14 108:9,25 109:2 111:20 114:12 116:5 118:23 119:25 120:2,13	108:22 112:17,18 113:5,21 114:11
<b>03-CV-261134</b> 5:6	<b>1843</b> 71:13	<b>26</b> 117:25	<b>75</b> 76:9	<b>absence</b> 93:4
<b>1</b>	<b>1847</b> 99:13	<b>28</b> 70:21	<b>79</b> 81:20	<b>absent</b> 37:12
<b>1</b> 34:21 103:23 118:16	<b>1849</b> 70:23 74:23	<b>2:03</b> 115:13	<b>8</b>	<b>abut</b> 15:17
<b>1.5</b> 65:24 67:13	<b>1851</b> 102:2	<b>2:34</b> 135:19	<b>8,000</b> 31:17	<b>academic</b> 19:10
<b>10</b> 127:7,13	<b>1854</b> 21:15 71:14 75:9,15 76:19,21 77:6 79:3 93:19 96:15 98:16 111:20 112:5	<b>3</b>	<b>9</b> 126:21 127:7	<b>accept</b> 109:18
<b>10:01</b> 5:1	<b>1857</b> 23:1	<b>3</b> 22:18 30:13 34:22	<b>9000</b> 90:21	<b>acceptable</b> 8:15,16 70:16 117:9
<b>10:15</b> 14:1	<b>1858</b> 124:19	<b>30,000</b> 50:25	<b>94-CQ50872</b> 5:6	<b>accepted</b> 91:24 92:10,12 130:13
<b>11</b> 127:13	<b>1861</b> 23:3	<b>300</b> 16:3	<b>A</b>	<b>access</b> 56:1,12 84:14 85:11,22 106:10 126:10 127:1,2,3
<b>11:29</b> 72:9	<b>1867</b> 124:3	<b>38</b> 29:7	<b>abolished</b> 47:14	<b>accommodate</b> 110:10 126:25
<b>11:30</b> 36:2	<b>1913</b> 124:18,24	<b>3933</b> 120:20 123:3 124:10	<b>Aboriginal</b> 10:24 16:16 18:23 19:2 21:11 23:10, 15,24 24:4,13,17 28:20 29:3,14,17 30:1 34:18 36:15, 17 37:2,25 41:15 42:18,23 45:9 46:3,6 48:5,7 57:18 59:13,14 60:18 70:24 84:1 90:16 91:3,9 92:22,23 100:1	<b>accomplished</b> 103:13
<b>11:50</b> 72:10	<b>1976</b> 13:12	<b>4</b>	<b>a.m.</b> 5:1	<b>accordance</b> 56:17 109:16
<b>12:55</b> 115:12	<b>1982</b> 25:6	<b>4</b> 34:23 118:18,24	<b>Aamjiwnaang</b> 15:11	<b>account</b> 19:4 39:7 98:15 112:8
<b>13</b> 98:16	<b>1984</b> 28:25	<b>40</b> 30:12 131:20	<b>ability</b> 84:18 95:24	<b>accounting</b> 29:25 119:18
<b>15</b> 17:16 72:7	<b>1993</b> 10:24	<b>45</b> 21:2 26:7 27:10 64:14,17 65:17,24 67:20 68:7,10 77:21 91:20 92:13 99:4 109:23 110:20 116:5	<b>accounts</b> 48:1	<b>accurately</b> 40:23
<b>150</b> 80:8	<b>1997</b> 29:2	<b>45½</b> 91:25	<b>acknowledge</b> 36:11	<b>acknowledged</b> 123:2
<b>1615</b> 16:2 18:17	<b>19th</b> 69:25 87:11 93:24	<b>5</b>	<b>abolished</b> 47:14	<b>acquiesce</b> 79:1
<b>1648</b> 16:15	<b>2</b>	<b>5</b> 119:17 120:23	<b>Aboriginal</b> 10:24 16:16 18:23 19:2 21:11 23:10, 15,24 24:4,13,17 28:20 29:3,14,17 30:1 34:18 36:15, 17 37:2,25 41:15 42:18,23 45:9 46:3,6 48:5,7 57:18 59:13,14 60:18 70:24 84:1 90:16 91:3,9 92:22,23 100:1	<b>Acquiescence</b> 128:6
<b>17</b> 22:15	<b>2</b> 30:23 31:2 34:22 115:11	<b>50</b> 19:15 22:17	<b>acknowledged</b> 123:2	<b>acquired</b> 39:3 119:14
<b>1701</b> 17:1	<b>200</b> 80:8	<b>5000</b> 96:5	<b>acres</b> 65:25 67:13	<b>act</b> 28:18 77:17 84:16,21 94:10 119:11,12 124:19, 25 125:6,12 126:5
<b>1760</b> 17:7	<b>2000</b> 19:2	<b>6</b>	<b>acted</b> 47:14	
<b>1761</b> 17:12	<b>2011</b> 15:9	<b>69</b> 64:11		
<b>1763</b> 18:3,6,11, 22 23:23 32:13 37:8 38:24 43:5 48:10 49:4 52:4 56:5 90:20,25	<b>20th</b> 84:20	<b>7</b>		
<b>1764</b> 19:1	<b>21</b> 117:25	<b>7</b> 118:24		
<b>17th</b> 40:5 52:9	<b>2145</b> 96:20	<b>7,500</b> 49:20		
<b>18</b> 21:16 74:7	<b>2160</b> 98:4,11,12			
<b>1812</b> 19:19 70:4	<b>2161</b> 97:25			
<b>1814</b> 19:19 70:5	<b>22</b> 60:4			
<b>1820s</b> 92:21	<b>24</b> 34:8			
<b>1830s</b> 20:5				

<b>acted</b> 21:12 103:9	<b>admit</b> 129:7	<b>aimed</b> 55:8	<b>amended</b> 118:17,24 132:14 133:2,12	<b>Anishinaabem owin</b> 33:3 51:17, 21 68:7,9 95:15
<b>action</b> 5:6,16 30:7 59:21 71:6, 15 86:18 128:4	<b>adopted</b> 38:1	<b>air</b> 43:24 79:5	<b>amendment</b> 132:21 134:24	<b>another's</b> 57:7
<b>actions</b> 5:5 18:20 35:13	<b>advance</b> 15:16 65:9,16 78:19	<b>akin</b> 125:22	<b>amendments</b> 132:15	<b>anthropologist s</b> 102:11
<b>actively</b> 8:13	<b>advanced</b> 8:12 122:1	<b>alarmed</b> 18:20	<b>America</b> 17:8	<b>anthropology</b> 30:19 32:9
<b>activities</b> 20:8 109:15	<b>adventures</b> 16:17	<b>Alex</b> 6:23 95:17	<b>Americans</b> 19:25	<b>anticipate</b> 121:9
<b>activity</b> 58:17	<b>Affairs</b> 76:18 77:5 84:17,24 86:24	<b>alike</b> 82:11	<b>ample</b> 94:16 96:22 99:21	<b>anticipation</b> 84:5
<b>actors</b> 93:24 95:4,6,7	<b>affect</b> 92:22	<b>allegation</b> 92:2, 7 108:21 112:6 121:4	<b>analogous</b> 126:17	<b>apparent</b> 97:11
<b>acts</b> 5:9 74:14	<b>afternoon</b> 115:15	<b>allegations</b> 98:17 121:25	<b>ancestors</b> 9:25 17:22 52:23,25	<b>Appeals</b> 19:11
<b>actual</b> 31:5 89:24 100:4 127:24	<b>afterward</b> 99:1	<b>allege</b> 120:25	<b>ancestrally</b> 11:4 12:16	<b>appearing</b> 7:16
<b>ad</b> 63:5 71:20	<b>agency</b> 95:23	<b>alleged</b> 110:3 111:21 121:6 122:12,24	<b>ancestry</b> 11:10	<b>appears</b> 88:20 92:23 93:14
<b>Adam</b> 43:12	<b>agent</b> 7:17 28:18 85:6,8,14	<b>allegedly</b> 78:10 122:14	<b>ancient</b> 49:6 52:21	<b>appended</b> 133:12 135:3
<b>added</b> 133:24	<b>Agents</b> 84:24 85:5	<b>alleviate</b> 78:10	<b>Anderson</b> 76:17 77:3,8 78:8, 16,23 79:6 95:8	<b>appendices</b> 34:16
<b>addition</b> 97:6 126:8 129:9	<b>aggregate</b> 13:9	<b>alliance</b> 18:4 19:7 58:3,4	<b>Anderson's</b> 77:12,16 79:4	<b>appendix</b> 30:13, 23 31:2 34:21,22, 23 35:1 81:21,22
<b>additional</b> 8:19 46:22	<b>agree</b> 23:22	<b>alliances</b> 70:5,7	<b>animals</b> 43:18 44:10,13 45:5	<b>application</b> 128:8
<b>address</b> 59:1 93:16 96:2 98:17 100:13 103:15 110:6 113:12	<b>agreed</b> 19:5 34:23,24 37:6 39:1 65:23,24 66:2,15 73:13 82:16 120:18 123:2,4 124:9 129:6 131:22	<b>allied</b> 12:3,15 48:21 57:25	<b>animate</b> 45:12	<b>applied</b> 57:17
<b>addressed</b> 101:20	<b>agreement</b> 15:8,21 69:1 73:15 91:21	<b>allies</b> 12:4 18:17 19:24,25 70:3,12	<b>Anishinaabe</b> 9:15 18:10 19:16 33:20,23 34:14 43:15 44:2,12 45:5 47:7,17 48:22,23 49:12 51:25 52:5,9 55:11,25 56:1,8, 18,19,24 57:1,4,6, 7,15 102:14,20	<b>apply</b> 58:11 116:9 122:3
<b>addressing</b> 36:15 89:18 115:21	<b>agreements</b> 64:6	<b>allowance</b> 124:20 128:1	<b>approval</b> 85:4,5	<b>approximately</b> 131:20
<b>adjacent</b> 127:20	<b>agrees</b> 28:5	<b>allowances</b> 114:15 116:13 118:21 119:3,4,5, 8,10,16,20 122:11,17 124:1, 18 125:2,9,11,14, 18,24 126:6,9,20, 23,25 127:12,16, 18 128:16	<b>arc</b> 44:9	<b>archeology</b> 30:20 32:10 33:17 38:7 59:8
<b>adjourn</b> 115:10 135:17	<b>agricultural</b> 65:9	<b>allowed</b> 16:10 24:21	<b>area</b> 10:11,14 30:1 33:7 37:17 43:5 50:1 51:8 57:12 64:15 100:18 101:21 105:13 106:21 107:15 108:2 112:19,24 115:23 117:17,23 118:6	
<b>adjourned</b> 135:11,19	<b>agriculture</b> 66:8	<b>alluded</b> 100:11		
<b>administered</b> 130:9	<b>aha</b> 22:7	<b>alternative</b> 90:11 116:25		
<b>administrative</b> 88:17 115:5	<b>ahead</b> 9:7 15:2 17:7 35:25 36:8 59:25 72:11 88:9 106:12,17 115:14 117:12	<b>Amanda</b> 7:8		
<b>admission</b> 42:18		<b>amend</b> 132:22		

122:11	134:16	<b>B</b>	<b>Beggs</b> 6:12,14, 16,19,22 88:8,10, 20 89:1,2,5,14 96:14,17 98:8,10, 12 101:25 103:19 117:11	<b>blew</b> 43:16
<b>areas</b> 35:12 104:18 107:21 108:10,12 109:12	<b>assist</b> 35:19 88:13 95:2 105:3 108:15 132:7	<b>back</b> 6:3 17:2,4 19:5 50:16 76:25 77:24 78:8 79:3,5 89:7 92:15 115:8, 11 122:6	<b>begin</b> 36:10,20 88:6,22 116:14	<b>Bluffs</b> 7:14,17 118:3 132:19,24 133:4
<b>argue</b> 28:10	<b>assistance</b> 19:16,17 20:1 48:22 66:8 67:6 75:3 88:18 99:16 104:13 106:7	<b>bad</b> 103:13	<b>beginning</b> 5:10 9:6 20:20 21:7 58:20 79:18 88:11	<b>boathouses</b> 127:22
<b>argument</b> 24:3 25:9 62:25 78:19 84:5,6 90:11 121:17 122:12 125:20	<b>assistant</b> 133:12	<b>balanced</b> 59:17	<b>behalf</b> 7:16 55:17 89:2 95:16 115:17	<b>bodies</b> 46:15 90:6 94:9 127:3
<b>arguments</b> 90:13	<b>assisting</b> 6:8 88:16	<b>Band</b> 95:18	<b>behaviour</b> 93:23,24	<b>body</b> 53:1 99:9
<b>arises</b> 62:22 91:25	<b>assume</b> 95:20	<b>bar</b> 28:11	<b>beings</b> 44:9 45:6,12,20	<b>bombing</b> 25:24
<b>arising</b> 120:8	<b>assumed</b> 124:4	<b>bare</b> 59:15	<b>belong</b> 42:13	<b>bona</b> 26:18 29:9 80:11 125:22 126:17
<b>Army</b> 19:21	<b>assumptions</b> 93:23	<b>barge</b> 11:16	<b>belongs</b> 33:24 34:7 42:15	<b>Bond</b> 64:24 65:3, 11,20
<b>arose</b> 63:4 92:16 110:19	<b>attached</b> 131:17	<b>barred</b> 60:19 84:8 128:5	<b>beneath</b> 91:11	<b>bones</b> 52:22
<b>arrangements</b> 87:25 114:1,2	<b>attacked</b> 52:5	<b>Barry</b> 6:17	<b>beneficial</b> 118:20 119:14 122:8	<b>book</b> 64:20 124:7 129:21 131:3,10
<b>arrests</b> 86:13	<b>attempt</b> 76:23, 25 91:12,13	<b>basic</b> 34:23	<b>benefit</b> 68:1 71:19 73:7 80:2 89:19 95:3 107:16 111:25	<b>border</b> 13:5 23:11 24:9
<b>arrival</b> 92:21	<b>attempts</b> 76:20 99:23	<b>basin</b> 49:21	<b>benefited</b> 58:17 111:9	<b>borders</b> 24:8
<b>arrived</b> 106:5	<b>attend</b> 14:5	<b>basis</b> 27:15 33:12 46:2 60:20 122:12	<b>benefits</b> 67:12	<b>borrow</b> 105:7
<b>Arthur</b> 66:2	<b>attended</b> 19:2	<b>battles</b> 17:6 40:4 52:8,11	<b>Benson</b> 7:9	<b>bottom</b> 127:7,13
<b>ascent</b> 21:25	<b>attention</b> 48:25	<b>Bay</b> 12:5,8,15,21, 24 16:4,19 17:9 18:7 19:6,18 23:7, 18 39:12 49:18,21 51:1 58:8 65:19 70:25 74:23 94:4 100:19 105:14 107:2 112:19 113:2,4,17 114:1, 8	<b>besieged</b> 18:5	<b>boulders</b> 49:17
<b>asks</b> 34:1 99:15	<b>Attorney</b> 6:16 89:2		<b>bigger</b> 108:18	<b>boundaries</b> 11:9 13:4,11,17 15:4,16 23:12 39:20
<b>aspect</b> 24:25 34:14 91:2 92:3 93:2 119:13	<b>attract</b> 110:14	<b>bearing</b> 55:19	<b>bind</b> 53:6	<b>boundary</b> 11:14 15:12 25:3 107:22 112:25
<b>aspects</b> 9:4 40:19 41:7,25 43:6 90:14 94:2	<b>attributing</b> 93:23	<b>bears</b> 31:5 63:2	<b>birth</b> 54:3,23	<b>box</b> 39:15
<b>assembled</b> 66:18	<b>audience</b> 105:23	<b>beaver</b> 49:25 50:5,9,11,19	<b>bit</b> 30:15 60:23 115:9 119:9	<b>boxes</b> 91:13 100:6
<b>assert</b> 84:19 86:6,15,22	<b>August</b> 77:5	<b>bed</b> 113:6	<b>bits</b> 21:22	<b>breach</b> 26:17 27:3 28:22 60:5 62:12,15 63:21,25 80:6,23 108:20 109:22 111:2,17 112:15 121:2 122:24
<b>asserted</b> 83:22	<b>authorities</b> 70:16	<b>beds</b> 23:17 24:18	<b>blanche</b> 40:21	<b>breached</b> 25:12 26:8 60:9 62:18
<b>asserting</b> 93:6	<b>availability</b> 31:7	<b>began</b> 16:17 17:9 20:6	<b>blends</b> 41:9	
<b>assertion</b> 23:21 37:5,7,11 53:11 59:19 86:25 90:19	<b>avoid</b> 8:7		<b>blessed</b> 47:3	
<b>assets</b> 119:18	<b>await</b> 117:6			
<b>assign</b> 130:25	<b>aware</b> 8:25			

<p>72:20 75:22,24 110:3</p> <p><b>breaches</b> 121:25 122:12</p> <p><b>break</b> 35:5 36:2 72:3,7,13 103:23 115:10</p> <p><b>breath</b> 42:9 43:13,16</p> <p><b>breathed</b> 43:13</p> <p><b>bridging</b> 41:17</p> <p><b>briefly</b> 29:7 34:15 38:9 48:24 62:14 80:24 81:25 83:18 105:7 115:24 116:6,11 120:22 123:24</p> <p><b>bring</b> 14:20 85:20 101:6</p> <p><b>bringing</b> 60:18 84:13 86:1</p> <p><b>brings</b> 83:17 122:15</p> <p><b>Britain</b> 37:8,12</p> <p><b>British</b> 17:7,24 18:5,7,11,21 19:1, 5,7,15,20,24 23:21 24:21,23 37:5,7 69:25 70:2, 6,8,13,16 87:9</p> <p><b>broad</b> 33:6 51:24</p> <p><b>broadly</b> 119:21</p> <p><b>broken</b> 63:21</p> <p><b>Brookwell</b> 5:24, 25 131:18 132:4 133:18,19 134:4, 10,14,22 135:8</p> <p><b>Bruce</b> 7:20,22, 23 10:13 66:5 106:20,24 107:23 109:3,25 110:7,21 114:14 118:7,8,9 123:6</p> <p><b>built</b> 44:9 67:6 110:18 123:12</p> <p><b>burdened</b> 126:10</p>	<p><b>burial</b> 52:21</p> <p><b>buried</b> 44:16</p> <p><b>burning</b> 85:14</p> <p><b>button</b> 64:18</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>call</b> 5:7 19:9,10 24:20 31:8 57:25 66:5 96:20 110:5 111:22 116:7 119:5,23 120:22</p> <p><b>called</b> 19:11 20:12 40:6 49:10 58:3 99:14,20 107:1,11 108:10 135:16</p> <p><b>calling</b> 9:21 30:16 31:5,13 33:19 48:21 84:6 113:15,18,23 114:4</p> <p><b>camera</b> 106:4</p> <p><b>Canada</b> 6:12,17 10:23 11:12 13:4, 5 19:12 25:2 28:6, 9,24 29:16 64:25 65:9 84:2 88:7 89:3 90:12 92:20 103:5 104:12 130:13</p> <p><b>Canada's</b> 25:19 94:23 103:8</p> <p><b>Canadian</b> 113:7</p> <p><b>canoes</b> 11:10</p> <p><b>canvassed</b> 112:9</p> <p><b>capacity</b> 28:13 72:24</p> <p><b>Cape</b> 135:14</p> <p><b>Captain</b> 95:8</p> <p><b>captured</b> 18:4, 10</p> <p><b>car</b> 40:21</p> <p><b>care</b> 9:24 14:23 35:5 44:4 53:22</p>	<p>55:13,21</p> <p><b>careful</b> 102:25</p> <p><b>Carole</b> 6:23</p> <p><b>carried</b> 109:16</p> <p><b>carrier</b> 55:10,12</p> <p><b>carry</b> 53:3</p> <p><b>case</b> 22:7 26:13 36:17,19,24 38:4 40:2 42:8 48:5 84:6 85:12 87:22, 24 89:22 90:20 93:15 94:5 100:10 104:10 107:11 128:8</p> <p><b>caselaw</b> 100:8 121:16</p> <p><b>cases</b> 37:25 127:2,21</p> <p><b>catalog</b> 39:10</p> <p><b>catches</b> 50:11</p> <p><b>categories</b> 41:9</p> <p><b>category</b> 40:24 43:20 92:5 129:17</p> <p><b>caution</b> 89:25 100:25 102:25</p> <p><b>central</b> 10:11,20 27:22 53:21 62:11,14,15 80:5 84:25</p> <p><b>centre</b> 13:15 19:19 20:17 87:4 135:15</p> <p><b>centres</b> 94:11</p> <p><b>century</b> 40:5 52:6,10 69:21 70:1 84:20 87:11 93:24</p> <p><b>ceremonies</b> 53:4 54:21,22,24 55:8,22</p> <p><b>chain</b> 50:23</p> <p><b>challenges</b> 37:24 38:18 41:21 46:22</p>	<p><b>challenging</b> 37:22 41:23</p> <p><b>Champlain</b> 16:1,8 18:17</p> <p><b>change</b> 27:4 50:15</p> <p><b>changed</b> 27:11 70:4,10 90:2 124:25</p> <p><b>characteristica lly</b> 21:12</p> <p><b>characterized</b> 110:2</p> <p><b>charges</b> 86:12</p> <p><b>chart</b> 35:2 81:22 124:8,15 134:11, 12,21</p> <p><b>Chartrand</b> 24:11</p> <p><b>checks</b> 11:14</p> <p><b>chief</b> 17:13 18:4 51:16 57:9 99:19</p> <p><b>chiefs</b> 71:11 85:2 95:16,18 98:25</p> <p><b>child</b> 55:19</p> <p><b>children</b> 66:12 80:4</p> <p><b>children'</b> 78:22</p> <p><b>Chippewa</b> 5:14</p> <p><b>Chippewas</b> 66:14</p> <p><b>choice</b> 71:4</p> <p><b>chose</b> 76:13</p> <p><b>circulated</b> 132:20</p> <p><b>circumstances</b> 103:12,15</p> <p><b>cities</b> 107:17 108:8,14</p> <p><b>citizens</b> 25:2</p> <p><b>civilians</b> 25:24</p> <p><b>civilized</b> 67:8</p>	<p><b>claim</b> 15:15 25:11 26:20 27:19 28:11,22 30:1 31:13 36:16 42:18 43:5 46:3 60:8,15, 25 61:5,8,24 62:12,14,15,16 63:2,21,25 67:18 72:2,15,18 79:19 80:5,22 81:1,6,9, 15,18 84:2 85:19, 20 89:24 90:5,7, 10,16 91:3,4,6,20 92:5,23 93:2 96:9 100:18 101:10,11, 12,21 103:5 106:21 107:15 108:23 109:23 111:19 112:17,22 115:23 117:17,23 118:17,19,25 119:2,14,22 120:25 122:8,11 128:10,17</p> <p><b>claimed</b> 93:5 112:24 116:13 122:17</p> <p><b>claims</b> 15:17 23:14 28:20 29:18,21 35:12 60:6,18,24 61:24 62:7 84:7,13,22 85:16,17,21 86:1, 3,15 87:1,4 90:14, 15 92:3 115:25 118:14 120:19 122:1 127:24 130:13</p> <p><b>Claire</b> 12:12</p> <p><b>clarification</b> 131:13</p> <p><b>clarify</b> 26:25 92:25 101:18 102:12 131:15</p> <p><b>clarity</b> 89:19 93:4 99:7 102:4 121:8</p> <p><b>clear</b> 16:10 27:6 41:5 64:4 72:25 92:15 101:5 103:1</p> <p><b>clerk</b> 7:8 88:12, 16 117:18 132:25</p>
--	---	---	--	---

<b>clients</b> 6:9 13:12 15:22 31:15 32:4	123:25 135:1	<b>comprehensiv e</b> 98:15 104:7	132:6 135:6	<b>continues</b> 81:16 82:16 83:10 87:13
<b>clients'</b> 33:3 130:11	<b>commerce</b> 24:22	<b>concentrate</b> 65:11	<b>consented</b> 112:3,4 132:21	<b>continuing</b> 82:20 83:13 87:11
<b>close</b> 120:9	<b>Commercial</b> 10:24	<b>concept</b> 26:2 33:22 34:7 100:24 113:6,11	<b>consequence</b> 110:20 111:21	<b>continuity</b> 33:15 51:4
<b>closed</b> 126:6	<b>committed</b> 104:25	<b>concerned</b> 133:14	<b>consequences</b> 112:5	<b>contradiction</b> 46:12
<b>closest</b> 13:19	<b>commodities</b> 45:19	<b>concerns</b> 114:10	<b>conservation</b> 83:7 109:17 114:5	<b>contradicts</b> 42:19
<b>closing</b> 128:2	<b>common</b> 27:17 39:15 41:16 90:18 91:1,13 92:11,13 93:12 100:23	<b>concluded</b> 71:14 74:25	<b>considerations</b> 47:19	<b>contrary</b> 44:7 46:19 54:11
<b>cloud</b> 22:25 84:17	<b>communicate</b> 8:17	<b>concludes</b> 128:23	<b>considered</b> 80:14 96:18	<b>contrast</b> 23:7
<b>coast</b> 22:24	<b>communicatio n</b> 65:14	<b>conclusion</b> 58:19 78:18	<b>consistent</b> 103:10	<b>control</b> 11:17 19:23 45:1 48:21 55:24 56:3,10,16, 22 63:18 66:20 85:24
<b>coastline</b> 107:5	<b>communities</b> 33:4,5 57:12 94:22 95:12 105:2 108:12 110:11,17 111:20 114:3	<b>conclusions</b> 33:10	<b>constructed</b> 123:8	<b>controlled</b> 11:5, 11 12:5,16 13:9 34:4 56:6,9
<b>code</b> 13:24 14:9	<b>community</b> 43:10 49:8 52:15, 20 53:22 54:4,19 55:6,17,25 56:13, 23 111:9 135:13, 15	<b>concrete</b> 71:15	<b>constructing</b> 128:14	<b>controlling</b> 12:1,21 18:12,16
<b>coerced</b> 73:16	<b>companion</b> 124:8	<b>conditions</b> 49:22	<b>constructive</b> 26:16 27:13,15 101:22 122:7 126:16	<b>controls</b> 11:12
<b>Colizza</b> 6:24	<b>compatible</b> 83:5	<b>condone</b> 21:10	<b>consult</b> 121:22	<b>convenient</b> 39:9 98:5
<b>colleague</b> 7:15 28:15 36:7 59:23 115:18	<b>compensating</b> 26:5	<b>conduct</b> 112:12 132:8	<b>contact</b> 42:2	<b>conveyances</b> 119:16,20
<b>colleagues</b> 35:22 60:22 117:14	<b>compensation</b> 26:20,21 27:13 101:13	<b>conducting</b> 55:21	<b>contemplated</b> 30:8 123:14	<b>convinced</b> 79:11
<b>collective</b> 19:23	<b>competing</b> 25:6	<b>Confederacy</b> 58:3,6	<b>content</b> 111:15 131:24	<b>cooperation</b> 132:6
<b>collectively</b> 8:1 9:10 13:8 18:16 44:21 58:7	<b>complaining</b> 71:11	<b>confine</b> 89:17	<b>context</b> 28:24 40:12 42:22 43:8 70:13 89:22 93:17 103:11 105:12 106:2,21 110:25 111:7,16 112:9 129:15	<b>copied</b> 133:23
<b>Collingwood</b> 16:6 66:2 113:3	<b>complete</b> 16:24 116:21 120:3 121:11	<b>conducting</b> 55:21	<b>connected</b> 54:1 55:1,19 80:9	<b>copies</b> 14:6,15, 20 105:20 132:24 133:1
<b>colloquially</b> 119:5	<b>completed</b> 36:6	<b>conducting</b> 55:21	<b>connection</b> 48:17 52:16 53:17 54:21 73:23	<b>copper</b> 70:25 74:23
<b>colour</b> 40:12	<b>completely</b> 59:5 108:3	<b>confining</b> 90:14	<b>conflicts</b> 52:14	<b>copy</b> 10:6 97:24 106:1 117:18 133:22
<b>Colpoy's</b> 23:2		<b>conflating</b> 90:14	<b>confusing</b> 42:17	<b>Copying</b> 133:13
<b>column</b> 133:22		<b>conflicts</b> 52:14	<b>connected</b> 54:1 55:1,19 80:9	<b>Corbiere</b> 68:5, 15 73:3
<b>commence</b> 87:22 135:12		<b>conquered</b> 17:8,18,19	<b>consent</b> 26:10 77:16 79:5 129:2, 5,9,11 131:13	
<b>commenceme nt</b> 104:10		<b>connection</b> 48:17 52:16 53:17 54:21 73:23		
<b>commencing</b> 5:1,5		<b>conquered</b> 17:8,18,19		
<b>commend</b> 132:5		<b>consent</b> 26:10 77:16 79:5 129:2, 5,9,11 131:13		
<b>comments</b> 58:20 89:22 90:8 91:7 97:20 104:4				

<b>corners</b> 105:22	16,21 10:9,23	<b>cross</b> 46:15	29:13 72:6	<b>declaration</b>
<b>corollary</b>	13:20 14:11,19	<b>cross-</b>	<b>Customs</b> 11:14	57:10,14 99:12
121:21	15:1 19:11 27:6,9	<b>examination</b>	<b>cut</b> 117:25	108:25 110:4
<b>corporation</b>	28:25 29:16 35:6,	99:18 104:21		112:18 113:21
7:14,18,20,23,24	15,19,24 36:5	117:3	<b>D</b>	114:10
118:11 132:23	43:1 49:4 56:23	<b>cross-</b>		<b>declared</b> 12:20
133:3	57:15,19,22 58:2,	<b>examining</b>		77:7
<b>correct</b> 35:18	9 59:24 60:25	104:18	<b>dam</b> 50:5,9,12	<b>declined</b> 110:18
88:7 114:22	62:8 72:6,11 87:5,	<b>crosses</b> 11:13	<b>Dan</b> 6:3	<b>deep</b> 45:3 48:16
129:21,22 131:18	15,19 88:9,14,22	<b>Crown</b> 20:22,24	<b>dark</b> 42:5 84:17	52:16 53:16
134:14	89:5,18 91:14	21:3,8,16,18,23	<b>date</b> 37:7 90:19	<b>deeper</b> 34:1
<b>corresponden</b>	93:21,22 95:2	22:4,8,12 25:12	<b>David</b> 7:4 104:1	<b>Defence</b> 132:14,
<b>ce</b> 32:6 85:6	96:12,16 98:6,9,	26:8,11 60:8	<b>day</b> 22:4 53:19	16,22,23 133:3
<b>corroborates</b>	11 101:2,23	62:17,18,20 63:8,	54:8 75:2 94:19	<b>defend</b> 57:25
59:2	103:18,20,24	12 64:2,4 65:5	<b>days</b> 6:9	61:22 69:22 87:14
<b>corroboration</b>	106:3,16 107:3	67:19,24 68:20,23	<b>dazzlingly</b>	<b>Defendant</b>
32:7	111:11 114:18	69:10,17 70:19	47:16	129:20 131:9
<b>costs</b> 8:6	115:1,14 116:14,	71:1,4,10,12,15,	<b>dead</b> 47:9	<b>Defendant's</b>
<b>cottages</b> 127:22	20 117:10,12,14	18,20,21,24	<b>deal</b> 24:24 38:5,	128:4
<b>Council</b> 19:2	124:11 128:22	72:20,21 73:4,12,	19 64:7 75:17	<b>defendants</b>
44:19 66:19 97:5	129:24 130:14	17 74:4,5,9,15,18,	93:12 115:4 126:3	8:1,6,10 87:20
104:2	131:3,6,12 132:3	19,22 75:2,10,18,	133:13 135:7	88:1,6 115:17,22
<b>councils</b> 85:2	133:1,5,8,10,16	5,11 78:5,15 79:2,	<b>dealing</b> 22:20,	116:1,3 117:16
<b>counsel</b> 5:7,9,	134:1,7,12,16,19	11,13,17,20,24	22,23 57:12	118:12,15,21
10,13 6:4,11,23	135:5,9,19	80:13,19 82:11	<b>dealings</b> 125:11	119:15 120:12,19,
7:4,13,18,19,21	<b>Court's</b> 100:5	92:18 93:25	<b>deals</b> 91:10	24 121:1,15,18
8:5,11,13,17,24	<b>courtroom</b> 35:8	94:15,20 95:6	100:25 127:8	122:21 128:21
9:6 13:24 14:4	106:11	103:9 109:3,24	<b>dealt</b> 23:5 24:2	<b>Defendants'</b>
59:24 87:19 88:1,	<b>courts</b> 37:23	110:3 112:7,12,14	60:3 127:12	99:19
15 89:11 116:20	38:1 42:5	116:8 120:3	<b>death</b> 9:21 49:16	<b>defended</b> 58:7
117:5,12 124:11	<b>cover</b> 127:6	121:15,19,21	62:5	<b>deferred</b> 30:11
128:22 129:15,18,	<b>covered</b> 22:2	122:14 124:21	<b>debate</b> 16:21	<b>deficiency</b>
24 130:22 131:15	<b>covers</b> 93:10	<b>Crown's</b> 26:17	100:14	121:7
132:10 133:6,16,	<b>create</b> 46:22	28:2,4 63:4,13,18,	<b>Deborah</b> 7:15	<b>define</b> 123:18
23	104:15	21 64:6,13 66:9	115:18	<b>defined</b> 39:2
<b>counsel's</b>	<b>created</b> 43:12	67:22 69:15,16	<b>deceased</b> 53:6	<b>delay</b> 60:17
116:16	85:25 109:24	72:2,15,18 78:12	<b>deceiving</b> 22:8	128:13
<b>counties</b> 8:2	<b>creating</b> 34:12	108:22 111:21	<b>decide</b> 56:11	<b>Delgamuukw</b>
<b>counts</b> 40:4	<b>creation</b> 41:3	112:10 113:9	<b>decision</b> 28:25	29:2
<b>County</b> 7:18,20	43:2,15,17 44:2,5,	<b>Crucially</b> 45:16	29:1 107:11	<b>demand</b> 22:13
118:4,6	7,15 45:7 54:21	<b>CULLOCH</b> 6:20	<b>decision-</b>	<b>demonstrate</b>
<b>couple</b> 18:5	59:18	<b>cultivate</b> 45:13	<b>making</b> 56:10	48:7 51:8 53:11
30:25 123:1,25	<b>Creator</b> 33:25	67:8	<b>decisions</b> 85:1	54:16
<b>coupled</b> 69:2	34:8 43:16 45:14	<b>cultural</b> 49:5,12		<b>demonstrated</b>
<b>court</b> 5:3,10 6:6,	46:7,25 53:25	<b>current</b> 114:2		48:15 53:9,15
10,25 7:10 8:12,	<b>Credit</b> 36:12	<b>custom</b> 11:21,		
	<b>cries</b> 49:16,17	22		
	<b>Croker</b> 135:14	<b>customary</b>		

<b>demonstrating</b> 51:19 95:16	<b>difference</b> 48:1	<b>display</b> 105:11, 24	<b>Dougherty</b> 7:10,11,13 8:20, 21 114:19,20,23 115:15,16 117:13 124:12 129:22 130:4 132:12,13 133:2,7,9,15	<b>easel</b> 105:7,10
<b>department</b> 77:9 84:17,24 85:7	<b>differences</b> 93:14	<b>displayed</b> 61:7	<b>Dougherty's</b> 117:4	<b>easier</b> 98:1 105:24
<b>depending</b> 14:17 36:5 71:23 127:25	<b>difficult</b> 103:11	<b>displeased</b> 18:2	<b>draft</b> 133:9	<b>east</b> 10:15 12:14 13:14 15:4,20 22:24 50:25 113:2
<b>depends</b> 11:18	<b>difficulties</b> 116:19	<b>disposal</b> 74:20	<b>draw</b> 48:24	<b>eastern</b> 12:14 50:6
<b>depict</b> 107:13	<b>difficulty</b> 130:19	<b>dispute</b> 89:21 90:2 91:19,22 93:11	<b>drawn</b> 11:10 23:12 98:24	<b>easy</b> 39:12
<b>depicted</b> 112:20	<b>dig</b> 44:16	<b>disputed</b> 120:4	<b>dreams</b> 46:25	<b>economy</b> 10:20 27:23 54:8 81:14 83:2
<b>depiction</b> 107:9	<b>digital</b> 131:24	<b>disruptive</b> 85:9	<b>Driben</b> 47:6	<b>edges</b> 12:4
<b>describe</b> 36:20 51:16 57:10 123:13	<b>digs</b> 34:1	<b>distinction</b> 46:5	<b>driven</b> 17:4	<b>education</b> 84:14
<b>describes</b> 40:2	<b>diligently</b> 111:3	<b>distinctions</b> 127:9	<b>driving</b> 18:18	<b>effect</b> 27:4,12,17 110:4 122:6
<b>description</b> 131:17 134:8,11	<b>diplomatic</b> 16:8	<b>disturbed</b> 52:23 53:3	<b>dropped</b> 22:18	<b>effectively</b> 18:6 26:9 94:18
<b>desecrated</b> 53:3	<b>direct</b> 111:21	<b>diverted</b> 76:3	<b>dry</b> 11:2	<b>efficient</b> 132:8
<b>destroy</b> 25:25	<b>directed</b> 74:11	<b>divided</b> 48:23	<b>due</b> 107:25 116:19 117:22	<b>effort</b> 8:6 122:5
<b>destroys</b> 50:12	<b>direction</b> 46:24	<b>diving</b> 45:3	<b>duplication</b> 8:7	<b>efforts</b> 70:20 77:5 83:14 99:21 109:17
<b>detail</b> 28:16 62:24 124:14 127:11	<b>disappear</b> 47:12	<b>docks</b> 11:15	<b>duties</b> 92:1 121:19,20 122:2	<b>eject</b> 69:22
<b>detailed</b> 13:14 76:8 81:19 104:8	<b>disciplines</b> 30:19	<b>Doctrine</b> 25:8	<b>duty</b> 25:12,13,16, 18 26:7,8,18 27:3 28:23 53:2 60:6,9 62:12,15,17,19,22 63:4,6,7,8 67:19 69:15 71:22 72:2, 15,16,19,20 75:22,24 80:1 108:20 109:23 110:2,3,19 111:18 112:15 116:7 120:23 121:2,21, 25 122:13	<b>ejecting</b> 70:14
<b>details</b> 40:20	<b>discover</b> 50:4	<b>doctrines</b> 28:11 128:6,7	<b>document</b> 96:10,18,19 97:8, 16,17,25 98:4,14 99:8 107:1 131:23	<b>elaborate</b> 60:23 76:16
<b>deterred</b> 83:13	<b>discovered</b> 50:17	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5	<b>documents</b> 6:3,8 9:1 37:18,21 38:3 64:20 71:8 85:14 88:13 96:5, 7 99:4,11,21 129:3,6,10,13 131:4,11,20,21 133:25	<b>Elder</b> 44:18 51:22
<b>Detroit</b> 18:8	<b>discretion</b> 63:18 69:16	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5	<b>dominating</b> 28:17	<b>Elder's</b> 39:17
<b>developed</b> 39:10 105:2	<b>discrimination</b> 84:15 86:24	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5	<b>domination</b> 86:24	<b>Elders</b> 39:12
<b>development</b> 94:9 109:4	<b>discuss</b> 60:7 62:9 63:23 83:18, 19 113:16,20,25 114:6 127:11	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5	<b>dominion</b> 43:23	<b>elect</b> 87:21
<b>devoid</b> 93:22	<b>discussed</b> 51:2 59:1 62:21 94:5	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5	<b>Donald</b> 111:5,6	<b>elected</b> 85:3
<b>dialect</b> 33:3	<b>discussion</b> 64:24 104:9 116:19 126:15	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5		<b>electronic</b> 10:6 130:23
<b>dialectical</b> 33:8	<b>Discussions</b> 92:4	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5		<b>element</b> 112:16
<b>dialects</b> 33:4	<b>disgorgement</b> 119:18	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5		<b>elements</b> 62:16
<b>die</b> 47:10 52:25	<b>dismiss</b> 32:18	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5		<b>Elgin</b> 97:24 99:12
<b>dies</b> 49:15	<b>displaced</b> 16:22,23 109:10	<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5		<b>else's</b> 11:21
<b>differ</b> 40:19		<b>documentary</b> 22:13 30:17 77:2 89:23 96:4,5		<b>emanating</b>



106:25 107:5	<b>enormous</b> 50:5	<b>etcetera</b> 81:13	100:16,21,22	<b>exhibits</b> 10:5
<b>embedded</b>	<b>ensure</b> 40:22	<b>ethnohistorian</b>	101:4 102:7,11,23	35:1 64:19,20
33:13,16	52:22 53:2 68:17	111:6	103:1,6,8 104:8,	105:5 129:3,5,9,
<b>emphasize</b> 9:3	<b>enter</b> 20:6,20	<b>ethnohistory</b>	17,23 107:18	19 130:24 131:7,
40:18 90:17	58:14 95:24	38:8	110:5,12 111:8,23	19 133:20
<b>empirical</b> 47:20	<b>entered</b> 57:11	<b>European</b> 16:1	113:13,15,18,23	<b>exist</b> 124:2
<b>employee</b> 95:12	111:20 129:3	20:9 33:21 34:12	117:3 121:9	<b>existed</b> 93:8
<b>enable</b> 67:7	<b>entering</b> 92:8	39:14,18 109:25	126:24 127:17	110:25 120:13
<b>enabled</b> 79:25	112:5	<b>Europeans</b>	128:9,12 129:4,12	125:6
<b>enacted</b> 18:21	<b>entire</b> 82:24	20:6 37:16 58:11,	130:17 132:6	<b>existing</b> 93:9
<b>enacting</b> 74:10	114:13	12,15	<b>evidential</b> 24:6	99:10
<b>encounter</b>	<b>entitled</b> 105:22	<b>Evans</b> 5:22,23	37:24	<b>expand</b> 58:25
39:16	134:20	<b>evenness</b> 93:15	<b>evidentiary</b>	<b>expect</b> 99:17
<b>encountering</b>	<b>entity</b> 85:19	<b>event</b> 18:15	37:24	126:24 127:16
46:23	<b>entrances</b>	19:22 31:22 50:22	<b>examination</b>	128:8
<b>encouraged</b>	12:22	<b>events</b> 12:18	93:19 99:19	<b>expected</b> 55:4
21:12 76:6,13	<b>entry</b> 12:8 58:15	18:12 31:17 40:2	<b>examine</b> 100:10	68:16,20,23 123:5
<b>encroach</b> 21:7	<b>Environment</b>	47:1,22 49:6 52:3	<b>examples</b> 41:2	<b>expel</b> 40:5
<b>encroachment</b>	114:5	93:19 98:15 116:4	43:11 49:6 70:18	<b>expended</b>
67:11 109:25	<b>equal</b> 38:2	<b>evidence</b> 6:5	129:8,13	125:25
<b>encroachment</b>	<b>equally</b> 57:17	11:7 13:13 15:9	<b>exception</b>	<b>experience</b>
<b>s</b> 21:4 25:15 68:4	58:17	16:21,25 17:5	130:3	39:4
127:22	<b>equipment</b>	20:3,16 21:13	<b>exceptions</b>	<b>experienced</b>
<b>end</b> 50:6 60:4	117:8	22:13 26:14 27:21	120:6	112:2
70:4 81:2,10	<b>equitable</b> 27:2	28:7 29:14 30:5,	<b>exchange</b> 66:9	<b>expert</b> 30:18
82:13,17 103:17	<b>equity</b> 27:14,16	16,17,18 31:14	<b>exclusive</b> 24:5	38:8 77:2 84:10
<b>ending</b> 37:9	<b>Errol</b> 7:17	32:2,10,16 33:14,	38:23 43:5 45:16	94:25 113:22
<b>endorsed</b> 29:16	<b>essential</b> 43:8	15,18 34:19,25	46:13 54:16 56:3,	<b>experts</b> 38:7
<b>ends</b> 15:24 97:12	56:20 123:21	35:2,3 36:24 38:1,	16,21 57:4 59:5	47:5 58:25 59:4
<b>enforce</b> 21:9	<b>essentially</b>	2,3,6,9,15,22	<b>exclusively</b>	64:10,21 68:5
99:23	118:19 124:8	39:7,8 40:21	23:20 37:4 39:11	69:23 70:9 71:7
<b>enforcement</b>	<b>establish</b> 63:3	41:22,23 42:6	<b>excused</b> 8:9	74:9 76:4,15 82:5
74:14	64:3 93:8	43:1,9 44:24	<b>exemplified</b>	94:5,7,13 95:22
<b>engage</b> 58:16	<b>established</b>	46:10 48:4,6 49:1,	47:15	97:18 98:14
86:14	91:14 123:12,17	5,19 50:21 51:4	<b>exercise</b> 57:14	99:17,18,19 111:4
<b>engages</b> 67:9	124:16	52:8,13 53:4,20	63:18 81:17	112:10
<b>engaging</b> 38:18	<b>establishes</b>	54:17 58:22 59:4,	82:20,24 83:4,11	<b>explain</b> 24:12
<b>English</b> 17:12	63:8 69:6,14	6,7 61:9,10,23,25	109:14 113:9	38:14 42:23
68:7 95:15	71:21	63:1,3,7,10,23	<b>exhibit</b> 10:7	<b>explained</b> 68:14
<b>Englishman</b>	<b>establishing</b>	64:2,8,23 67:18,	96:20 97:25 98:2	99:1
17:17	16:13 48:8 62:17	22 69:3,5,14	102:8 112:21,23	<b>explaining</b>
<b>Ennis</b> 6:17,18	72:16	70:19 71:8,17,21	117:23 123:3	94:14
	<b>establishment</b>	72:19 73:3 74:3,	124:10 130:18	<b>express</b> 63:11
	110:15	15,19 75:11,21,23	131:8,10,13	88:19
		76:1,5,10,15 77:2	133:22,24 134:17,	<b>expressed</b>
		78:7,14 79:9,13,	20	21:24
		21,23 81:2,19,22,		
		24,25 82:1,6,9,18		
		84:6,9,10,11 85:9		
		86:4 90:22 94:2,		
		17,25 95:15,22		

<b>extends</b> 112:25 118:2	<b>fair</b> 98:10	<b>fight</b> 83:14 87:14,16	<b>flood</b> 41:4 43:3 44:11 49:12 50:13,22	<b>France</b> 37:8
<b>extensively</b> 97:21	<b>fairly</b> 17:15	<b>fighting</b> 83:21	<b>flooded</b> 50:17, 23	<b>Francis</b> 64:24
<b>extent</b> 16:22 37:16 91:16 107:12 108:7	<b>fairness</b> 103:10	<b>figure</b> 108:1	<b>flotillas</b> 11:10	<b>Frankly</b> 85:17
<b>extents</b> 28:9	<b>faith</b> 71:4 103:10	<b>file</b> 132:1	<b>flow</b> 92:1	<b>Franks</b> 5:22
<b>extinguish</b> 83:10 93:7	<b>fall</b> 49:17	<b>filed</b> 8:22,24 132:7,17	<b>fluent</b> 95:14	<b>fraud</b> 92:2,4,8
<b>extinguished</b> 27:20 81:8	<b>falls</b> 91:3	<b>filled</b> 13:25	<b>focus</b> 38:13 104:15	<b>free</b> 14:21 25:3 50:12 68:25 73:15 88:18 125:19
<b>extravagant</b> 98:21	<b>family</b> 56:7 86:10	<b>final</b> 24:2 46:21 112:16 122:15	<b>food</b> 54:9	<b>freedom</b> 47:15
<b>extremely</b> 47:1 97:17	<b>farming</b> 22:11 66:1 83:8	<b>finally</b> 15:18 38:20 41:8 48:20 52:12,20 114:4	<b>footing</b> 38:2	<b>freehold</b> 124:20 125:1
<b>F</b>	<b>farmlands</b> 78:2	<b>find</b> 32:17 33:21 35:16 36:13 42:16 50:9 51:6 64:13 98:13 107:1,19 115:2	<b>force</b> 69:23 70:15 94:11 100:5	<b>French</b> 12:9 17:8,11,18 18:1
<b>face</b> 77:22,23 86:12,23 87:1	<b>farms</b> 127:1	<b>finding</b> 31:20,23 32:12,13 42:5	<b>forcibly</b> 70:14	<b>Fresh</b> 118:17,24
<b>faced</b> 84:12 94:22	<b>fascinating</b> 100:14	<b>finds</b> 111:11	<b>foreign</b> 20:19	<b>friend</b> 90:3,18,22 91:21 93:18 94:3 99:5,14,20 100:11,20 102:10
<b>facilitate</b> 109:4 127:3	<b>Father</b> 66:16,25 67:9	<b>fine</b> 36:3 88:14	<b>Forestry</b> 113:19,25	<b>friend's</b> 91:6 102:16
<b>facing</b> 103:12	<b>Father's</b> 66:20	<b>finished</b> 72:14	<b>forever</b> 10:18 21:3,17 25:14 67:10,15 68:3,24 73:1 74:8 110:1	<b>friendly</b> 11:23 16:14
<b>fact</b> 10:22 16:18 28:5 31:21,23 34:24 36:18 39:22 70:18 78:25 98:24 104:6 114:13 119:1,8 122:2 123:12 125:17 129:7 130:7	<b>favour</b> 55:9	<b>fire</b> 13:24 14:8	<b>form</b> 47:2 87:12 129:4,11 133:11	<b>friends</b> 97:19 101:8 104:12 117:17 124:6 132:20
<b>fact</b> 10:22 16:18 28:5 31:21,23 34:24 36:18 39:22 70:18 78:25 98:24 104:6 114:13 119:1,8 122:2 123:12 125:17 129:7 130:7	<b>favourite</b> 49:9, 14	<b>Fires</b> 58:3,6	<b>formal</b> 15:8	<b>friends'</b> 92:16
<b>factor</b> 30:5	<b>features</b> 49:13	<b>fish</b> 43:24 86:11	<b>formative</b> 47:1	<b>fronting</b> 114:7
<b>factors</b> 110:13	<b>feel</b> 14:21 88:18 89:11	<b>fishermen</b> 20:9	<b>fort</b> 18:8,9	<b>Frozen</b> 92:17
<b>facts</b> 40:10,11,16 41:6 120:16,17,18 123:2 124:9	<b>feels</b> 103:5	<b>fishing</b> 10:19,20, 24 20:12,15,17 22:22 27:22 54:7, 11,23 81:12 82:10,22 107:12 113:25	<b>fortify</b> 65:13	<b>fulfill</b> 54:13 75:17 79:25
<b>factual</b> 24:19,25	<b>Feliciant</b> 7:1,2,4 103:21,22 104:1,2 106:18 107:4 114:18	<b>fits</b> 39:15 91:13 100:7	<b>forts</b> 18:5	<b>fulfilled</b> 29:19 80:19
<b>fail</b> 73:18	<b>fell</b> 92:4	<b>fits</b> 35:3 63:24	<b>forward</b> 9:5 60:18 84:13 104:11	<b>full</b> 76:3,14,22,23 77:6 78:13,18 79:1 97:5 120:3
<b>failed</b> 71:24	<b>fide</b> 26:19 29:9 80:11 125:22 126:17	<b>fix</b> 108:3	<b>forwarded</b> 133:22	<b>fullest</b> 59:16
<b>failing</b> 26:9 60:9	<b>fiduciary</b> 25:12, 16 26:18 27:3 28:22 60:6,9 62:12,15,17,19,22 63:4,6,7,8,21,25 67:19 69:15 71:21 72:2,15,19,20 80:1,6,22 108:20 109:22 110:2,19 111:13,18 112:15 116:7 120:22 121:2,20,25 122:13	<b>flag</b> 121:23 125:16	<b>fought</b> 40:4 52:8,11	<b>fully</b> 108:3 112:9
<b>failure</b> 73:19 111:2,21		<b>flagged</b> 44:15	<b>found</b> 64:5 96:19 97:25	<b>function</b> 127:2
		<b>floating</b> 11:16	<b>fowl</b> 43:24	<b>fundamental</b> 42:1 59:12
			<b>frames</b> 60:24 62:8	

<b>funds</b> 84:21 111:9	19:6,18 23:6,18 39:12 49:18,20 51:1 58:8 65:19 100:19 105:13 107:2 112:19 113:2,17 114:1,7 118:3 132:18,24 133:4	<b>grandmother</b> 49:25 50:8,10,16, 18	<b>Guerin</b> 28:25	93:1 97:1,3 101:14 108:20,24 109:1,8,15,19 113:10
<b>fungible</b> 45:19		<b>grant</b> 37:2	<b>guidance</b> 46:24 96:3,25 102:9	<b>Haudenosaune</b> <b>e</b> 16:15 17:2 18:18 40:6 52:6,9 57:24
<b>fur</b> 17:11 37:13		<b>granted</b> 42:2 57:20 58:15	<b>guided</b> 13:11	<b>Hay</b> 22:25
<b>furtherance</b> 76:12		<b>grants</b> 123:14, 18	<b>Guirguis</b> 5:20, 21 28:15 34:20 59:23,25 60:1 72:8,12 91:21	<b>Head</b> 64:24 65:3, 11,20
<b>G</b>	<b>giant</b> 49:25 50:9, 11,19	<b>graves</b> 9:24 111:5,6	<b>guys</b> 103:13	<b>heads</b> 116:15
<b>gaining</b> 55:9	<b>gift</b> 16:12 44:3 45:14 46:7,15	<b>great</b> 10:5 11:13 19:3,23 24:18 33:7 38:5 39:13, 17 41:4 43:3 44:10,15 49:11 56:5 66:16,20,24 67:9 93:12 102:15 113:6 134:11,12, 21	<b>Gwen</b> 111:4,5	<b>hear</b> 38:5,6,22 40:3,21 41:3,9 43:1,16 44:3,24 46:10 47:21 48:5 49:4,19 50:21 51:15 52:2,7,12, 15,20 53:4,20 55:6,9,15,17,18 56:16,23 57:16, 19,22 58:2,9,22 59:16 61:8,10,12, 23,25 63:1 64:3,9 65:7 74:19 76:1,7 77:1 78:7 81:18 82:5,19 83:3 84:8, 10 86:5,8 88:4 89:6,7,13 110:12 111:8 112:10 113:13
<b>gallery</b> 6:23	<b>gifts</b> 58:13	<b>Greene</b> 24:16	<b>H</b>	<b>heard</b> 61:6,9,13 66:13 97:8 101:5 121:24 129:1,12 135:1
<b>gas</b> 127:5	<b>give</b> 73:20 78:1 107:18 108:6 126:25	<b>Greg</b> 7:21	<b>half</b> 22:16 120:10	<b>hearing</b> 20:16 47:25 49:2 73:2 100:15
<b>gate</b> 85:18	<b>giving</b> 6:5 25:2, 21 67:13 81:21 132:6	<b>Grey</b> 7:18 118:4, 5	<b>halfway</b> 106:10	<b>heart</b> 62:7 81:15
<b>gatekeepers</b> 85:10	<b>glitch</b> 108:1	<b>grievance</b> 94:15	<b>Halt</b> 39:18	<b>held</b> 39:17 92:18, 19 97:5 122:3 127:9
<b>gathering</b> 81:7 82:23 109:9	<b>glossary</b> 39:1 102:5 129:14	<b>Griffiths</b> 22:25	<b>hand</b> 46:12 105:17	<b>helped</b> 78:9
<b>gave</b> 43:23	<b>goal</b> 65:7	<b>ground</b> 21:9 56:2 90:18 91:1 93:13	<b>hand-in-hand</b> 125:4	<b>helpful</b> 90:23 91:7 96:6 104:16 106:9 107:13,14
<b>geared</b> 91:11	<b>God</b> 43:12,23	<b>group</b> 5:9 11:24 16:16 45:20 46:12 70:24 88:15,24 96:13	<b>handed</b> 39:5 124:6	<b>helpfully</b> 101:8
<b>general</b> 6:16 21:11 35:17 77:4 89:2 95:8,9 97:24 105:13 123:21,25 134:10,12,21	<b>Goderich</b> 66:2 107:24	<b>group's</b> 57:4,6	<b>hands</b> 26:18 29:9 80:13 114:25	<b>hero</b> 49:12
<b>generally</b> 13:18 21:10 64:7 85:17 102:14 122:3	<b>good</b> 5:3,18,21, 23,25 6:14,18,20 7:2,11 60:1 65:8 71:5 78:19 103:10 115:15	<b>groups</b> 12:15,23 33:11 34:4 44:21, 25 45:17 48:22,24 56:7,8,14 57:1,18, 20,25 102:21	<b>handwritten</b> 97:24	
<b>generated</b> 111:10	<b>goodwill</b> 44:8	<b>Grove-</b> <b>mcclement</b> 7:19	<b>hanging</b> 79:5	
<b>generation</b> 39:5	<b>Gould</b> 114:4	<b>guard</b> 85:18	<b>happened</b> 19:4 20:8 22:10 31:17 37:19 47:22 90:21 93:21	
<b>generis</b> 41:16 63:6 71:20	<b>govern</b> 84:18		<b>happening</b> 50:15 78:11 117:4	
<b>Genesis</b> 43:12, 23 44:9	<b>governed</b> 47:18 125:11		<b>happy</b> 124:13	
<b>geological</b> 31:17,22 49:6,19 50:21 51:4	<b>Government</b> 77:13,17 78:23 85:20,24 86:15		<b>hard</b> 105:23	
<b>geologist</b> 31:11	<b>Governor</b> 64:25 97:23		<b>hardcopy</b> 105:15,16,17 107:24	
<b>geology</b> 30:20 31:12,16 32:6 38:8 51:8	<b>grab</b> 78:11		<b>harmful</b> 85:9	
<b>Georgian</b> 7:14, 16 12:5,8,15,21, 24 16:4 17:9 18:7	<b>Grand</b> 44:19		<b>Harron</b> 76:8	
	<b>grandfather</b> 39:14,18		<b>harvesting</b> 27:20 60:6,15 81:1,6,7,11 82:3, 11 83:12 90:9	

<b>high</b> 22:14	<b>honour</b> 5:12,19, 21,23 6:1,15,18, 21 7:3,12 8:3,15 9:8 14:14 30:9,24 33:20 36:4,9,24 37:18 38:4,21 40:3 47:21 52:24 54:16 56:19 58:19 59:10,22 60:1 63:20 72:3,8,12 87:17 88:8,10 89:1,14 103:9,19, 22 104:5,16,19 105:16 108:22 111:14 112:7,11, 14 115:16 116:7 117:11 121:21 124:7 128:18 129:23 130:1 131:2,19 132:13 133:15 134:15,18 135:8	57:21 58:8 100:18 105:13 112:19 113:1,17 114:1,7	<b>implement</b> 111:3	<b>included</b> 30:4 53:12 60:13 66:1 97:13
<b>highlight</b> 38:21 64:12 100:15 108:17 115:24 116:2 119:1 123:1	<b>hope</b> 15:23	<b>hurries</b> 50:9,16	<b>implicated</b> 113:21 114:10	<b>includes</b> 10:13, 14,15 61:6 80:10 125:2 129:5
<b>highlighting</b> 48:3	<b>hostile</b> 58:13	<b>hydro</b> 127:5	<b>implication</b> 109:20	<b>including</b> 42:11 43:17 44:13 52:10 55:21 56:17 63:15 83:6 84:12 110:8 114:2,14 121:20 123:22 125:24
<b>highway</b> 117:25 125:1	<b>housekeeping</b> 132:15	<hr/> <b>I</b> <hr/>	<b>implies</b> 36:22	<b>importance</b> 54:6,20 87:3 89:23 91:7 93:17 100:3
<b>highways</b> 119:6,11 125:24	<b>houses</b> 66:7 67:5 127:1	<b>iconic</b> 25:23	<b>important</b> 10:25 11:1,2 40:8 46:4 47:25 48:17 52:18 53:17 55:2 85:11 87:2,5 89:6,12 91:15 95:5 97:10 100:7,16 101:4,17 102:4,13 104:14	<b>incompatible</b> 109:7,13
<b>hindsight</b> 79:20 95:4	<b>huge</b> 50:13	<b>idea</b> 106:16 108:7	<b>importantly</b> 47:2 102:10	<b>increments</b> 107:6
<b>hinting</b> 24:12	<b>human</b> 44:14,20 45:2	<b>identified</b> 9:14 93:11 99:12 100:20 101:2,9	<b>imposed</b> 121:19 125:12	<b>incurring</b> 128:15
<b>hire</b> 84:23	<b>humans</b> 43:17, 20,23 44:6,7 45:11	<b>identifies</b> 106:25	<b>imposition</b> 111:12	<b>indebted</b> 115:19 117:13
<b>historian</b> 111:7	<b>hung</b> 84:17	<b>identify</b> 38:17 106:23	<b>impression</b> 99:3	<b>independence</b> 44:23
<b>historic</b> 111:7	<b>hungry</b> 65:1	<b>identity</b> 27:23 33:16 83:2	<b>improprieties</b> 121:6	<b>independent</b> 30:7 33:17
<b>historical</b> 12:18 32:10 40:2,10,11, 16 52:3 89:22 93:17 101:16 110:25 111:16 112:9 129:6	<b>hunting</b> 27:22 81:7,12 82:11,22 106:23 109:9	<b>illegal</b> 28:19 84:21,22	<b>improve</b> 125:13, 25	<b>Indian</b> 28:17,18 76:18 77:4 84:16, 17,21,23,24 85:4, 8,13 86:24
<b>historically</b> 15:25 26:23 54:8 85:18 100:17	<b>Huron</b> 12:4,8,21, 22,24 17:9 18:7 19:6,18 23:6,9,18 24:10,22 39:11 50:7,19,23 52:4,5	<b>illustrate</b> 41:7	<b>improved</b> 125:24 126:11	<b>Indians</b> 65:7 66:21
<b>history</b> 23:13,14 30:21 33:18 38:7 40:9,12,15 42:5 51:13 82:6 94:24 127:25		<b>illustrated</b> 61:4	<b>improvement</b> 106:8	<b>Indigenous</b> 18:24 38:16,19 41:14,17,18,19, 22,24 42:3 48:4,6 49:1 54:18 56:21 58:22 59:10 64:7 65:4,5,12 69:25 70:3,5,8,11,12,24 74:22 84:12,16 85:17 86:2 90:22 91:16 93:25 95:14 98:22 100:6 102:4
<b>hit</b> 64:18		<b>illustrative</b> 131:8 134:20	<b>improving</b> 128:15	<b>individually</b> 32:20
<b>hoc</b> 63:5 71:20		<b>images</b> 129:25 130:23	<b>inappropriate</b> 32:16	<b>individuals</b> 13:7 95:24
<b>holders</b> 32:4 64:10 82:6,19		<b>imaginable</b> 28:24	<b>inch</b> 77:8	<b>industrial</b> 110:15
<b>holding</b> 44:19		<b>imagine</b> 37:18	<b>incident</b> 94:4	
<b>holds</b> 48:7 54:24 85:20		<b>immemorial</b> 41:1 51:24 52:19	<b>include</b> 25:4 41:3 44:20 49:6 54:23 64:23 118:19	
<b>homeland</b> 16:16		<b>immigration</b> 11:15		
<b>homelands</b> 61:4		<b>immoral</b> 10:1		
<b>homes</b> 127:22		<b>impact</b> 109:1,19, 21		
<b>honored</b> 55:11		<b>impediment</b> 34:11		
		<b>implausible</b> 47:23		



25:19,21 26:4,9, 10 33:24,25 34:2, 3,7,12 44:17 46:6, 8 50:17 53:8,14, 24 54:5 55:2 56:1 65:1 67:8 73:20 78:21 83:6,7 89:24 91:10 100:4,9 110:9,22 119:19 123:14 127:1	28:21 29:13,17 30:21 39:15 41:16,17 48:23 55:25 56:8,18,19, 24 57:7 59:12 62:21 88:12,16 91:14 92:11,13 100:13,14,23 113:7 <b>Lawrence</b> 77:3 95:7 97:23 <b>laws</b> 38:1 47:13 56:1,2 58:10,11 85:25 <b>lawsuits</b> 94:20 <b>lawyer</b> 24:16 <b>lawyers</b> 84:23 <b>lay</b> 113:22 <b>Le</b> 7:7,8 <b>lead</b> 5:7 <b>leading</b> 72:17 <b>leads</b> 69:13 72:1 75:20 <b>learn</b> 36:23 56:18 69:2 <b>leased</b> 20:10 <b>leave</b> 9:20 59:9 62:4 65:22 99:2 <b>leaves</b> 50:8 <b>leaving</b> 9:25 <b>led</b> 18:4 <b>left</b> 17:21 35:17 72:13 134:6 <b>legal</b> 25:9,20 26:2 34:12 57:15 62:24 84:6 94:12 100:24 121:16 125:20 <b>legally</b> 119:11 <b>legends</b> 41:1 <b>legislation</b> 74:10 124:7,14 129:21 <b>legislative</b> 25:5	131:10 <b>Lemmond</b> 7:7 <b>Lenore</b> 49:7 <b>lens</b> 54:18 <b>letter</b> 78:17 99:14,22 131:1 <b>lettered</b> 10:4,7 102:8 112:21,23 117:23 129:19 130:17,23 133:19, 21,24 134:17 <b>letters</b> 130:25 131:7 <b>level</b> 50:4,15 112:14 <b>liabilities</b> 125:15 128:15 <b>lies</b> 67:4 <b>Lieutenant</b> 64:24 <b>life</b> 10:21 43:13 44:3 47:10 54:2 59:16 <b>light</b> 10:14 64:15 101:11 <b>limit</b> 83:25 <b>limitation</b> 14:2 25:5 81:3 <b>limitations</b> 28:8,10 84:4 90:13 <b>limited</b> 54:11 <b>Lindsay</b> 6:23 <b>linear</b> 11:9 <b>lines</b> 11:9 13:15 106:25 107:4,5,8 <b>linguist</b> 32:24 33:19 <b>linguistic</b> 59:7 <b>linguistics</b> 30:20 32:9 33:1 38:8 <b>linguists</b> 33:10 102:11	<b>link</b> 51:7 <b>list</b> 34:22,23 131:19,25 <b>listed</b> 131:14,20 <b>litigation</b> 19:14 23:22 28:13 29:22,23 30:11 85:16 90:2 91:24 101:12 <b>live</b> 34:9 45:13 47:7,11 51:10 61:18 <b>lived</b> 47:2 <b>living</b> 43:14,25 47:10 53:1 <b>local</b> 34:4 52:2 56:7,8,14 124:21 <b>located</b> 50:3,25 78:3 <b>location</b> 33:15 117:20,24 129:20 130:4 131:9 <b>locations</b> 51:18, 20 <b>log</b> 44:16 <b>logging</b> 127:1 <b>logical</b> 31:4 68:21 <b>long</b> 16:24 21:6 31:19 33:11 42:5 57:1 87:23 132:8, 17 <b>long-term</b> 51:19 95:11 <b>longer</b> 65:5 70:12 90:12 92:6 <b>looked</b> 12:19 23:7 30:24 <b>Lord</b> 97:24 99:12 <b>Lord's</b> 34:8 <b>lose</b> 50:1 <b>loses</b> 49:9 <b>losing</b> 77:23	<b>loss</b> 26:5,22 <b>lost</b> 26:16 <b>lot</b> 11:4 49:16 85:10,11 <b>lots</b> 30:18 <b>loves</b> 49:15 <b>lower</b> 127:9 <b>lunch</b> 103:23 115:7,10 <hr/> <b>M</b> <hr/> <b>madam</b> 116:17, 20 <b>made</b> 21:3 28:18 35:17 47:15 59:3 62:16 64:14,21 65:16 66:14,19 67:20,24 69:6 71:17 75:18 76:20 86:17 88:1 90:8 93:18 94:3 115:25 120:2 <b>Madwayosh</b> 95:17 <b>main</b> 80:22 103:4 <b>mainstay</b> 54:7 <b>maintain</b> 69:19 87:9 125:14 126:1 <b>maintained</b> 87:8 126:7 <b>maintaining</b> 128:15 <b>Majesty</b> 7:5 104:2 <b>major</b> 25:11,24 50:22 65:1 106:6 <b>make</b> 14:21 33:10 42:8 51:5 85:1 87:21 88:2 97:4 108:23 120:25 126:22 <b>makes</b> 92:17 <b>making</b> 14:23 29:18 71:5 76:20 85:19,21 88:24
--	---	--	--	--

89:3 93:23 104:4 113:2	<b>materials</b> 132:7	107:18 122:19 125:3	<b>missing</b> 74:13 131:20	16:23 54:2
<b>malitia</b> 94:9	<b>Matheson</b> 5:4	<b>mentioned</b> 23:5 36:14 37:6 58:20	<b>mission</b> 20:7	<b>moveth</b> 43:25
<b>man</b> 43:14 50:10	<b>matter</b> 16:20,25 25:9 34:3 60:3 102:6 117:1 132:10 134:23	<b>mentioning</b> 63:2	<b>Mississaugas</b> 36:12	<b>moving</b> 41:21 53:7 62:13 99:25
<b>man's</b> 34:3	<b>matters</b> 30:10 128:24	<b>merit</b> 42:19	<b>mistake</b> 95:20 122:24	<b>multiple</b> 98:3
<b>manager</b> 6:3	<b>maximums</b> 13:24	<b>merits</b> 91:4,20 92:22	<b>misunderstand</b> 32:1	<b>municipal</b> 8:1, 6,10 115:17,22 116:1,3,12 117:16 118:12,14,21 119:11,15 120:12, 19,23 121:1,14,18 122:16,21 123:25 124:5,19,25 125:6,12 126:5 128:3,20 133:25 134:5
<b>Manitoulin</b> 15:13,14 65:18, 19,21 66:17	<b>MC</b> 6:20	<b>met</b> 16:3,5 17:12 39:14	<b>misunderstand ing</b> 92:24	<b>municipalities</b> 8:2 116:10 117:20 119:24 121:5,10 122:2,3,10,13,20 124:2,16,21 125:3,5,9,13,17, 21 126:3,13 127:10 128:3,11, 12 129:20 130:5 131:9 135:2
<b>manner</b> 97:4 98:18	<b>Mccalla</b> 95:1	<b>Mica</b> 70:25 74:23 94:4	<b>modern</b> 57:14 93:23 94:19	<b>Municipalities'</b> 122:25 126:21 127:14
<b>map</b> 10:3,5 11:3 20:21 21:22 22:3 34:21 35:10,11, 15,16,17 60:12 61:4,7 64:15 101:6,7 105:12,20 106:2 107:2,14, 15,20,24 108:4,6, 9,11 112:20,22 117:19,21 119:7 129:19 130:3,16 131:8 133:21 134:4,5,8,20	<b>Mccarthy</b> 31:11	<b>Michael</b> 6:19 89:2 113:24	<b>modification</b> 25:5	<b>Municipality</b> 7:22 129:18
<b>maps</b> 10:2 35:8 105:4,7,21,22 106:5 107:16 108:14 129:14 134:1	<b>Mcculloch</b> 6:12,19	<b>Michigan</b> 12:11 17:14	<b>moment</b> 13:21 15:16 22:7 92:15	<b>Muschett</b> 113:24
<b>marginalizatio n</b> 98:20	<b>Mchugh</b> 94:14	<b>Michilimackina c</b> 12:11 17:13 18:9	<b>Monday</b> 135:11	<b>muskrat</b> 45:4
<b>Marie</b> 12:10 50:3	<b>Mckenna</b> 7:15 115:18	<b>mid-17th</b> 52:6	<b>money</b> 25:21 26:3,23 28:20	<b>myth</b> 31:15,21 32:6
<b>mark</b> 129:19	<b>Mcrandall</b> 7:7 105:11	<b>mid-19th</b> 69:21	<b>monitor</b> 8:11	<b>myths</b> 31:14,16, 24 40:25
<b>marked</b> 60:11 101:11 102:7 105:4 117:23 120:20 123:3 124:9 130:17,20	<b>meaningful</b> 73:18 74:13	<b>middle</b> 11:4,16 15:5 24:9 113:1	<b>months</b> 87:25	<hr/> <b>N</b> <hr/>
<b>marking</b> 102:1	<b>means</b> 42:21 59:14 83:15 87:12	<b>migration</b> 51:23	<b>moral</b> 9:23	<b>Nadjiwan</b> 51:15
<b>marks</b> 97:7	<b>meant</b> 48:12 106:19	<b>military</b> 16:17 19:16 58:4 70:3,5, 7 75:10 111:6	<b>morning</b> 5:3,5, 18,21,23,25 6:13, 14,18,20 7:2,11 60:1 89:4 93:19 97:20 99:5 100:11 102:18 104:4 133:20	<b>Nadjiwon</b> 55:10,15 107:11
<b>Marshall</b> 55:10	<b>meantime</b> 128:14 130:24	<b>million</b> 65:24 67:13	<b>mother</b> 53:25	<b>naive</b> 95:21
<b>Mary's</b> 12:10	<b>measures</b> 21:8 68:21 74:11	<b>mind</b> 73:2 94:6	<b>motivating</b> 110:13	<b>names</b> 45:20 51:17,21 81:24
<b>massive</b> 33:5	<b>medicines</b> 81:8 82:23	<b>minimize</b> 8:6	<b>mountains</b> 17:21	
<b>match</b> 81:23	<b>Mediwin</b> 51:23	<b>mining</b> 70:25 74:23	<b>mounted</b> 117:19	
<b>material</b> 14:6	<b>meeting</b> 18:17	<b>Ministry</b> 113:19, 24 114:5	<b>mouth</b> 12:9,11 16:2 17:13	
	<b>member</b> 49:8	<b>Ministry's</b> 114:8	<b>move</b> 9:5 17:9 48:3 65:21 66:3 103:20	
	<b>members</b> 13:22 53:5 58:6 82:7,19 84:11 86:8,11 106:7	<b>minor</b> 93:13 134:23	<b>moved</b> 65:19	
	<b>memory</b> 49:5	<b>minute</b> 25:22	<b>movement</b>	
	<b>men</b> 97:5	<b>minutes</b> 12:17 72:7 114:24 115:1		
	<b>mention</b> 32:23 34:15 88:23 99:7			

<b>Nanabush</b> 44:14 45:2 49:9, 10,15,24 50:8,14, 18	<b>neighboring</b> 57:11	<b>number</b> 6:11 14:15 15:14 29:20 38:14,17,20 42:10,12,14 48:9, 11,20 64:1 67:21 95:13 110:14 120:17 129:10 131:17	22 57:4 58:7 59:5 90:24	113:15 114:6 124:4
<b>Nanabush's</b> 49:14	<b>nephew</b> 49:9,15		<b>occupied</b> 9:16 23:20 37:4,20 39:11 53:9 127:20	<b>Ontario's</b> 104:10 105:12 108:18 109:1 110:19 111:4 112:7,20 113:5,16 114:12,17
<b>narrators</b> 40:20	<b>nephews</b> 49:14		<b>occupy</b> 67:1	
<b>narrows</b> 50:6	<b>Niagara</b> 19:1,4, 9,11,12 24:20		<b>October</b> 79:3 98:16	<b>opening</b> 8:8,22, 23,25 9:2,4,5 10:4 14:15 17:16 25:19 29:7 34:20 38:10 62:20 87:21 88:2, 5,25 90:9 92:16 102:16 103:21 104:4,6,9 108:16 114:17 115:20 116:22 117:2 120:24 126:21 127:8,14 128:19, 20,23 129:2
<b>Nation</b> 5:14,15 9:11 10:23 15:11 57:10,11 61:15 85:3 87:15 110:11	<b>nice</b> 39:6	<b>numbers</b> 131:14	<b>Odawa</b> 102:21	
<b>national</b> 13:4,5 130:7,8,9,11	<b>nicely</b> 39:15	<b>nutshell</b> 120:24	<b>offer</b> 14:16 16:12 75:12,16 78:1 88:18	
<b>nations</b> 9:9 15:7,13,19,20 23:10 70:5 84:18, 23,25 94:17 102:15 120:10 121:20	<b>night</b> 42:4	<b>O</b>	<b>offered</b> 75:10 94:2 95:1	
<b>natural</b> 113:19, 24 127:5	<b>Noah</b> 44:9	<b>objected</b> 130:11	<b>offering</b> 15:9 102:10	<b>openings</b> 122:18
<b>nature</b> 28:13 29:4 45:24 47:13 90:24 113:12 115:25 118:14	<b>Nochemowena</b>	<b>objection</b> 130:13,18	<b>offerings</b> 54:23	<b>opens</b> 75:12
<b>Navigation</b> 24:1,4	<b>nig</b> 52:17	<b>objective</b> 65:17 78:12	<b>offers</b> 90:22	<b>opponents</b> 98:20
<b>navigational</b> 19:17	<b>non-aboriginal</b> 123:6	<b>objectives</b> 110:6	<b>office</b> 133:11 135:6	<b>opportunity</b> 9:3
<b>Navy</b> 19:21	<b>non-anishinaabe</b> 57:17,20	<b>obligation</b> 9:24 46:16 109:24 110:2 111:13,15	<b>officials</b> 85:3	<b>opposed</b> 27:9 117:3
<b>Nawash</b> 5:14 49:8 51:16 95:18	<b>non-essential</b> 40:20	<b>obligations</b> 45:15 55:20 116:12 122:16 125:5,13,19	<b>offset</b> 26:22	<b>opposition</b> 74:23
<b>necessarily</b> 41:13,19 48:12 53:12	<b>normal</b> 103:24	<b>observation</b> 36:7 39:4 92:7 93:18	<b>offshore</b> 100:18	<b>option</b> 14:13 71:3 79:12
<b>needed</b> 135:3	<b>north</b> 15:12 16:18 17:8 20:25 23:2 67:4 99:8 101:19	<b>observe</b> 127:15	<b>Ogden</b> 7:6	<b>options</b> 79:14
<b>negotiated</b> 98:16,19 120:13	<b>northern</b> 7:22 66:3 106:24 118:8,10	<b>observed</b> 97:2	<b>Ogden</b> 7:6	<b>oral</b> 8:25 9:2 38:2 39:7,10 49:13 59:6 82:6
<b>negotiation</b> 116:4 120:15	<b>note</b> 29:8 34:5 39:24 40:8 46:4, 21 76:25 100:16 104:14 106:20 112:24 116:18 124:13 130:6	<b>obstacle</b> 83:13	<b>Ojibway</b> 9:10 61:15 65:18,21 87:15	<b>order</b> 19:17 30:10 31:3,5,7 54:15 69:11,18 85:6 92:14 104:16 116:22 123:13 131:22 133:6,11 135:2
<b>negotiations</b> 121:7	<b>notes</b> 47:6 77:7	<b>obstacles</b> 70:9 83:25 84:11 85:25 86:6,23 87:1	<b>Ojibwe</b> 102:21	<b>ordinarily</b> 87:20
<b>negotiator</b> 21:23 22:4	<b>notice</b> 8:12 50:3 80:12 125:23 126:18 128:10	<b>obtain</b> 65:8 109:5	<b>OKT</b> 104:12 105:8	<b>organized</b> 94:7 132:8
	<b>notified</b> 13:23	<b>obtained</b> 37:14 58:24 65:17 79:6 125:18	<b>Oliphant</b> 77:4 79:3,5 95:7 97:23 99:15	
	<b>noting</b> 77:16 80:15 98:23 104:5	<b>occasionally</b> 57:5,19	<b>omit</b> 40:19	
	<b>Nottawasaga</b> 12:13 113:4	<b>occupation</b> 29:15 38:23 43:5 53:12 54:16 56:3,	<b>one's</b> 46:17,18, 19	
			<b>one-mile</b> 107:6	
			<b>Ontario</b> 7:5 16:17 17:2,5 19:11 24:10 28:5, 8 84:2,3 90:8 103:21 104:3,25 109:11,18 110:5 111:14,22 112:1	





113:3 116:9 117:15 119:22,23 120:21 122:16 124:3 125:16 128:11 131:12 <b>pointed</b> 106:5 <b>points</b> 12:8 24:7 49:2 59:2 60:7,22 62:9 76:25 80:25 115:21 127:7,11 <b>police</b> 71:1 74:22 94:3,11 <b>policies</b> 70:10 76:7,13 85:25 86:2 <b>policing</b> 94:7 <b>political</b> 58:4 <b>Pontiac</b> 18:4,19, 20 <b>poor</b> 84:14 <b>population</b> 123:22 <b>portion</b> 8:14 22:18 67:15 107:10 117:6 118:2,10 <b>portions</b> 57:5 107:2 <b>position</b> 44:6 55:11 69:22 90:9 92:20 95:11 103:8 108:18 109:2,11 110:19 111:14 112:8 113:5 114:12 124:1 125:21 126:13,17 128:3,4 <b>positions</b> 14:7 104:23 112:1 <b>positive</b> 105:1 <b>possession</b> 11:7 77:12 124:22 <b>Pottawatomi</b> 92:21 102:21 <b>poverty</b> 84:15 86:24	<b>power</b> 59:19 72:24 73:6 77:17 85:10 <b>powers</b> 86:2 <b>practical</b> 28:12 72:21 73:12 <b>practice</b> 103:25 <b>practices</b> 52:21 54:22,24 81:12 82:12,24 83:1,4 89:24 91:17 100:4,6,8,9,10,17, 19 <b>precise</b> 15:21 <b>predates</b> 53:10 <b>prejudice</b> 130:12 <b>prejudiced</b> 128:13 <b>preliminary</b> 128:20 <b>premised</b> 27:3 <b>prepared</b> 35:11 61:5,22 101:7 105:3 115:7 117:6 134:25 <b>preparing</b> 132:15 <b>presence</b> 19:18 98:25 <b>present</b> 6:8 32:12 47:16 48:9, 11,12,19 49:3 54:8 63:24 67:1 87:11 97:6 <b>presentation</b> 101:6 <b>presented</b> 79:9 <b>presenting</b> 104:7 <b>preserve</b> 80:4 <b>preserved</b> 51:19 <b>preserving</b> 26:4 68:2	<b>pressing</b> 32:11 <b>pressure</b> 73:20 77:9,22 98:21 <b>pressured</b> 75:25 79:17 <b>pressures</b> 94:22 95:1 <b>prevent</b> 20:23 85:22 86:2 <b>preview</b> 88:2,5, 25 <b>previously</b> 13:24 <b>primary</b> 67:12 <b>principle</b> 120:8 <b>printed</b> 96:18 98:2,4,6 <b>prior</b> 52:3 75:6, 14 <b>private</b> 83:7 127:4,21,24 <b>privileged</b> 44:6 <b>problem</b> 85:16 106:6 133:10 <b>procedure</b> 126:4 <b>proceed</b> 108:15 <b>proceeding</b> 113:14 122:22 <b>proceedings</b> 92:3 117:7 <b>proceeds</b> 102:24 109:5 119:15,19 <b>Proclamation</b> 18:22 <b>produced</b> 37:17 105:16 <b>productive</b> 20:14 <b>Professor</b> 31:11 32:24 33:2 <b>Prokos</b> 6:7 14:24	<b>prolong</b> 103:3 <b>prominently</b> 49:13 <b>promise</b> 21:3 60:10 63:12,13, 19,22 64:1,13 67:14,20,22,24 68:1 69:6,7,11,17, 18 71:5,17,22,24 72:22,23 73:1,10 75:5,18,20 79:16, 25 80:20 110:22 <b>promised</b> 19:7 21:16 <b>promises</b> 66:7, 9 68:10 98:21 <b>promising</b> 74:7 <b>proof</b> 29:3 41:6 <b>proper</b> 66:7 67:5,6 <b>properly</b> 29:20 57:1 <b>property</b> 45:10 59:15 66:19 126:3 <b>proposal</b> 66:13 77:24 78:6,12,16 <b>propose</b> 38:10 66:23 117:22 124:12 127:6,10 <b>proposing</b> 8:10 <b>proposition</b> 121:17 <b>prosecuting</b> 74:15 <b>protect</b> 21:1,3, 16 25:13,14,19,20 26:9 60:10 63:12, 14,15,19 64:2,4 65:5 66:9 67:10, 20,25 68:3,21 69:7 71:5,18 72:22,24 73:1,6, 13,19,20 74:7 79:14,16 80:1,2 109:24 110:22 111:22 <b>protected</b> 67:16 80:19	<b>protecting</b> 55:16 67:23 68:13 74:2 114:9 <b>protection</b> 18:24 19:7 99:23 <b>protested</b> 75:8 <b>protests</b> 75:11 <b>protocols</b> 44:25 57:16,23 64:6,9 <b>prove</b> 22:14 23:19 42:24 <b>provide</b> 8:12 9:3 43:10 59:4 95:22 96:3,7 100:21 102:9 105:18 122:23 129:25 130:24 132:25 133:11 135:3 <b>provided</b> 8:14 54:7 56:8 57:7 58:12,13 102:5 105:8 107:24 109:15 115:8 117:17,22 124:6, 19 128:10 <b>providing</b> 105:19,21 107:16 <b>Province</b> 86:18 124:4,5 <b>province's</b> 109:17 <b>provinces</b> 13:6 <b>proving</b> 37:19 <b>provisions</b> 124:25 <b>Psalm</b> 34:8 <b>public</b> 13:23 23:25 24:4 46:14 106:7 126:9,10, 19,22 127:3,4 <b>purchaser</b> 26:19 29:9 80:11 <b>purchasers</b> 125:22 126:17 <b>purported</b> 121:2
--	--	--	---	--

<p><b>purpose</b> 14:21 40:14 59:12 109:2</p> <p><b>purposes</b> 23:22 24:22 29:15 35:17 91:24 101:16 122:9 123:18 134:8</p> <p><b>pursue</b> 94:14</p> <p><b>pursued</b> 90:6 92:6</p> <p><b>pursuing</b> 30:1,6 90:10,12</p> <p><b>push</b> 11:6</p> <p><b>put</b> 24:10 35:9,21 38:1 61:1 62:4 63:20 64:17 68:15 70:19 71:4 81:9 83:25 109:7,13 128:24 129:15 132:2</p> <p><b>putting</b> 10:6 130:14</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>qualification</b> 130:2</p> <p><b>qualified</b> 119:10</p> <p><b>Queen</b> 7:5 104:3</p> <p><b>question</b> 23:25 24:1 32:25 37:20 68:18 75:12 103:6</p> <p><b>questionable</b> 79:11</p> <p><b>questions</b> 34:1 59:22 78:9 87:18 103:16 114:16 128:18</p> <p><b>quickly</b> 56:18</p> <p><b>quote</b> 39:2 97:21 120:3,7,9</p> <p><b>quote-unquote</b> 37:11</p> <p><b>quoted</b> 17:14</p> <p><b>quotes</b> 25:23</p>	<p style="text-align: center;"><b>R</b></p> <hr/> <p><b>raise</b> 28:20 51:5 84:21 132:11 133:17</p> <p><b>raised</b> 25:17 98:18</p> <p><b>raises</b> 78:8</p> <p><b>raising</b> 93:3</p> <p><b>Ramlochum</b> 88:13</p> <p><b>Randall</b> 57:9</p> <p><b>rapid</b> 94:24</p> <p><b>re-asserting</b> 80:17</p> <p><b>reach</b> 15:21 16:1 45:4</p> <p><b>reached</b> 13:25 15:8 16:2,8 22:19 39:10</p> <p><b>read</b> 14:7 93:10 97:9 98:25 108:16</p> <p><b>reads</b> 66:11</p> <p><b>ready</b> 77:8 104:13</p> <p><b>reaffirms</b> 46:19</p> <p><b>real</b> 59:15 71:6</p> <p><b>reality</b> 41:25 47:3</p> <p><b>realized</b> 16:13 132:16</p> <p><b>realizes</b> 50:14</p> <p><b>reappear</b> 47:12</p> <p><b>reason</b> 40:17 125:3 130:10</p> <p><b>reasons</b> 14:3 20:7 111:23</p> <p><b>rebuild</b> 44:17</p> <p><b>receipt</b> 117:6</p> <p><b>receive</b> 46:24</p> <p><b>received</b> 26:23</p>	<p><b>receiving</b> 47:3</p> <p><b>RECESS</b> 72:9 115:12</p> <p><b>reciprocal</b> 45:15</p> <p><b>reclaim</b> 59:21</p> <p><b>recognizable</b> 113:7</p> <p><b>recognize</b> 24:17</p> <p><b>recognized</b> 10:23 24:13 37:23</p> <p><b>reconcile</b> 25:7</p> <p><b>reconciled</b> 24:5 113:8</p> <p><b>reconciliation</b> 24:19 25:1 59:11 105:1</p> <p><b>record</b> 8:5 35:9, 21 59:1 77:3 89:23 96:4,5 104:16 116:18,21 118:16 128:25 129:11 130:15,19 135:1</p> <p><b>recorded</b> 77:3</p> <p><b>records</b> 71:11</p> <p><b>recount</b> 47:21</p> <p><b>recounted</b> 49:24</p> <p><b>rectification</b> 90:5 92:5</p> <p><b>refer</b> 9:9 10:2 44:19 72:25 97:20 98:1,5,24 100:9 107:12</p> <p><b>reference</b> 34:18 50:24 92:17 94:3 97:1,4 99:9,20 102:6 118:16 120:2,7,20</p> <p><b>referenced</b> 49:11</p> <p><b>references</b> 121:24</p>	<p><b>referred</b> 44:14 60:12 66:4 74:21 90:3 91:21 95:7 97:18,19 99:13,15 102:16</p> <p><b>referring</b> 8:2 9:13 61:17 101:4, 23 133:21 134:2</p> <p><b>refers</b> 61:3 77:19 99:8 130:6</p> <p><b>reflects</b> 107:10</p> <p><b>refused</b> 65:22 78:5,12</p> <p><b>refuses</b> 78:5</p> <p><b>regaining</b> 80:17</p> <p><b>regard</b> 112:16</p> <p><b>regime</b> 28:18</p> <p><b>region</b> 19:3</p> <p><b>regional</b> 44:22</p> <p><b>registrar</b> 105:17 130:25 131:1,5 133:23 134:9,17, 18</p> <p><b>regular</b> 36:2</p> <p><b>Reimer</b> 111:4,5</p> <p><b>reinforced</b> 22:9</p> <p><b>reinterpreted</b> 40:17</p> <p><b>reintroduce</b> 88:23</p> <p><b>reject</b> 78:18</p> <p><b>rejected</b> 76:24</p> <p><b>relate</b> 31:17 55:4 108:8</p> <p><b>related</b> 17:24 49:5 56:1,21 80:25 82:3 121:14 129:7,21</p> <p><b>relates</b> 23:25 31:21 55:3 100:1</p> <p><b>relating</b> 58:10 122:16 126:5 127:12</p>	<p><b>relation</b> 11:19 12:5 29:12 115:23 116:12 117:16 119:25 120:18 121:2 125:23 126:9 128:16</p> <p><b>relations</b> 18:25</p> <p><b>relationship</b> 9:17 16:9,13 36:18,20,22 43:7 45:13,21 46:2,8, 13 47:17 61:2,10 62:1,2,6 68:2 69:9,11,24 71:23 73:23 79:15 80:3, 9,18 81:15 82:15 83:10,14,20 86:7, 22 87:7,13 102:23 105:2</p> <p><b>relationships</b> 45:17,22,24 54:25 59:20</p> <p><b>relents</b> 77:24</p> <p><b>relevance</b> 43:9 126:15</p> <p><b>relevant</b> 31:12 33:1 43:4 85:21 90:19 94:1 100:9</p> <p><b>relied</b> 19:16 70:2</p> <p><b>relies</b> 84:3</p> <p><b>reloading</b> 116:23</p> <p><b>relocate</b> 110:18</p> <p><b>reluctance</b> 69:3</p> <p><b>reluctant</b> 22:1</p> <p><b>reluctantly</b> 65:23</p> <p><b>rely</b> 28:9,10 44:8 54:1 61:18 84:3</p> <p><b>relying</b> 69:10,17</p> <p><b>remain</b> 67:25 69:9 90:17</p> <p><b>remainder</b> 116:21</p> <p><b>remaining</b> 66:10 67:15 73:24 80:9 89:21</p>
--	---	---	--	--

<p><b>remains</b> 30:5 104:25</p> <p><b>remedial</b> 122:6</p> <p><b>remedies</b> 27:3, 12 29:11 30:6</p> <p><b>remedy</b> 60:20 80:5,6,10,16 84:7 122:23 126:16</p> <p><b>remember</b> 48:1</p> <p><b>remove</b> 65:7,13 75:3</p> <p><b>removing</b> 74:12,16</p> <p><b>rendition</b> 44:18</p> <p><b>renditions</b> 40:18</p> <p><b>Renée</b> 36:14</p> <p><b>reoccupation</b> 52:13</p> <p><b>repairing</b> 99:8</p> <p><b>repeat</b> 9:1 89:16</p> <p><b>repeatedly</b> 97:18</p> <p><b>repetition</b> 40:10</p> <p><b>replaced</b> 74:1</p> <p><b>replied</b> 24:15</p> <p><b>report</b> 24:11,15 47:6 97:22 98:23</p> <p><b>reported</b> 77:5</p> <p><b>reporter</b> 116:17, 20</p> <p><b>REPORTER'S</b> 116:18</p> <p><b>reporting</b> 116:15</p> <p><b>represent</b> 9:9</p> <p><b>representative</b> s 112:12</p> <p><b>represented</b> 8:4</p> <p><b>requesting</b> 52:4</p>	<p><b>requests</b> 129:7</p> <p><b>require</b> 53:22 93:20 111:12 116:23 117:5</p> <p><b>required</b> 73:11 126:7</p> <p><b>requirements</b> 29:3</p> <p><b>requires</b> 41:18 104:17 109:20</p> <p><b>resemblance</b> 31:6</p> <p><b>reserve</b> 23:1,2 71:13 77:20 78:20 104:8 131:7</p> <p><b>reserves</b> 77:18 108:13</p> <p><b>reset all</b> 117:8</p> <p><b>reside</b> 55:7 66:22</p> <p><b>resist</b> 86:21</p> <p><b>resisted</b> 19:21</p> <p><b>resolution</b> 13:12</p> <p><b>resolutions</b> 85:4</p> <p><b>resorting</b> 75:6</p> <p><b>resources</b> 56:11,12,25 57:17 58:10 70:19 74:20 113:19,25 125:25</p> <p><b>respect</b> 13:1 14:2 44:5 56:20 57:1 63:14 80:22 86:19 90:5,13,20 91:6,17,19 93:1 96:8 97:3 100:10, 21 103:7 104:22 109:22 112:6 119:23 120:16,17 121:1,6,7 124:1 126:19 127:15 128:2 129:17</p> <p><b>respecting</b> 44:22 81:3</p> <p><b>respective</b> 45:1 56:9</p>	<p><b>response</b> 18:21 24:7 70:23 78:16</p> <p><b>responses</b> 129:8</p> <p><b>responsibilitie</b> s 48:18 53:5,18 55:12 56:15 59:17</p> <p><b>responsibility</b> 44:4 52:22 54:12, 14 61:20</p> <p><b>rest</b> 34:15,20 44:4,7 59:18 73:21</p> <p><b>resting</b> 53:2</p> <p><b>restored</b> 19:1</p> <p><b>restrictions</b> 120:5 121:11</p> <p><b>result</b> 18:3 20:2 22:1 26:15,17</p> <p><b>resulting</b> 27:16</p> <p><b>RESUMING</b> 72:10 115:13</p> <p><b>return</b> 19:6 26:4 47:10 80:6,10 101:14</p> <p><b>returned</b> 26:21</p> <p><b>reveals</b> 26:3</p> <p><b>revenues</b> 29:25</p> <p><b>reverse</b> 27:16</p> <p><b>review</b> 64:12 104:7</p> <p><b>reviewed</b> 78:17</p> <p><b>reviewing</b> 96:23</p> <p><b>rewrite</b> 27:2</p> <p><b>rich</b> 46:9 66:1</p> <p><b>Richard</b> 7:6</p> <p><b>right-hand</b> 105:22</p> <p><b>rights</b> 25:7 27:20 37:25 59:13 60:15 81:1,6,7,11,17 82:3,8,20 83:4,12, 22 84:19 86:7,22, 25 90:10 92:17</p>	<p>93:2,4,7,9 97:2,3 101:15 108:24 109:1,9,19 113:10 120:4 126:9,10,19</p> <p><b>ring</b> 21:24</p> <p><b>rise</b> 112:13 132:6</p> <p><b>rises</b> 91:3</p> <p><b>rising</b> 50:4</p> <p><b>risk</b> 114:9</p> <p><b>river</b> 12:9,10,12, 13,14 16:2</p> <p><b>rivers</b> 107:17 114:15</p> <p><b>road</b> 100:14 114:14 116:13 118:21 119:2,3,5, 8,10,16,20 122:11,16 123:16 124:1,18,20 125:2,8,11,14,18, 23 126:5,9,20,22, 23,24 127:12,15, 17 128:1,16</p> <p><b>roadmap</b> 38:12</p> <p><b>roads</b> 123:7,11 124:23 126:12 127:9</p> <p><b>roadways</b> 119:8</p> <p><b>rocks</b> 49:17</p> <p><b>rocky</b> 22:11</p> <p><b>Roger</b> 5:13</p> <p><b>role</b> 28:17 45:6 55:16,18,24 84:25 85:8 120:14</p> <p><b>roles</b> 55:19</p> <p><b>roll</b> 122:6</p> <p><b>Ron</b> 114:4</p> <p><b>roughly</b> 117:24</p> <p><b>routinely</b> 11:25</p> <p><b>row</b> 89:7</p> <p><b>Royal</b> 18:21</p> <p><b>rule</b> 70:13</p>	<hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>S-O-N</b> 9:12</p> <p><b>sacred</b> 52:16 53:2 54:13 55:11</p> <p><b>safely</b> 109:16</p> <p><b>safety</b> 14:2</p> <p><b>sake</b> 99:7</p> <p><b>sale</b> 73:10 74:1 109:5 120:9 123:19</p> <p><b>saline</b> 49:21</p> <p><b>saltwater</b> 50:20</p> <p><b>salty</b> 49:18</p> <p><b>Sarnia</b> 12:12</p> <p><b>satisfactory</b> 6:6 14:9</p> <p><b>satisfy</b> 65:1 78:10</p> <p><b>Saugeen</b> 5:15 7:25 9:10 10:13 40:7 48:10 57:10 60:10 61:15 65:20 66:4 87:14 95:17 118:11</p> <p><b>Sauking</b> 66:12, 25</p> <p><b>Sault</b> 12:10 50:3</p> <p><b>save</b> 26:1 44:10</p> <p><b>Schedule</b> 119:17</p> <p><b>scheduled</b> 87:23</p> <p><b>schedules</b> 10:3 118:24</p> <p><b>scholars</b> 19:10</p> <p><b>school</b> 110:16, 18</p> <p><b>scope</b> 25:18 30:4 62:22 111:15</p> <p><b>screen</b> 64:18 106:10 116:16,23, 24</p>
--	---	--	---	--

<b>sea</b> 43:24 50:20	<b>setting</b> 110:7,21	35:12 37:3 43:6	<b>simplistic</b> 95:6	13,24 55:3 56:16
<b>seasonal</b> 126:25	<b>settled</b> 109:7	67:22 69:14 71:9	<b>simply</b> 63:20	57:11 58:5,18,24
<b>seat</b> 13:25	<b>settlement</b> 65:10 70:9 76:6	75:21,24 79:13	68:15 73:25 74:1	59:14,16,21 60:9,
<b>seated</b> 7:8	94:21,24 109:4	82:9 85:9 103:8	81:9 96:3 101:1	17 61:10,19 62:1,
<b>section</b> 101:24 102:1	123:6,7,19	119:6 121:9 130:4	121:23 122:23	18,19 63:4,9,17
<b>secular</b> 55:14	<b>settlers</b> 20:19, 23,25 21:7,18	<b>showed</b> 95:24	124:14 125:16,17	64:5 65:6,21,22,
<b>secure</b> 69:19 75:4 76:21 110:15	65:2,6,8,13 69:23	<b>showing</b> 35:2	126:2	23,24 68:1,2,11,
<b>securing</b> 75:14	70:14 71:12 110:1	38:23 72:19	<b>single</b> 116:23,24	15,25 69:10,15,21
<b>seek</b> 8:18 93:8 110:4 112:18	<b>seven-mile</b> 107:9	116:15 131:8	<b>sir</b> 6:6,10,25 15:2	71:3,9,18,19,22
<b>seeking</b> 8:3,9 26:15,20 27:1,2	<b>Severn</b> 12:13	<b>shown</b> 57:2	35:10 64:24 88:9,	72:23 73:7,13,20
29:11 58:16 64:25	<b>shaking</b> 116:15	117:24 118:5	23 103:18 106:12	74:7 75:8,13,17,
80:7 132:22	<b>share</b> 46:16	<b>shows</b> 51:4	130:15 134:8,19	18,25 76:24 77:1,
<b>seeks</b> 59:21	47:24 53:23 57:21	71:17 75:24 76:5	<b>sit</b> 6:4	7,11,21,24 78:8,
<b>self-help</b> 70:14 71:3	121:18	78:14 101:8	<b>sites</b> 52:10,18	17,19,25 79:7,11,
<b>sell</b> 77:8 78:21 123:14	<b>shared</b> 56:25	105:13 106:2	<b>situate</b> 115:22 117:16	17 80:1,3,7,16
<b>selling</b> 25:21	<b>sharing</b> 46:17	108:5,11 117:19	<b>situation</b> 14:9	81:16 82:7,10,12,
<b>send</b> 78:24 79:3 85:6 135:5	57:8,16 58:10	129:19	<b>slaves</b> 17:20	16,19 83:10,16,
<b>sending</b> 74:22	<b>sharpen</b> 29:5	<b>shut</b> 71:2 74:22 75:11,13	<b>slice</b> 30:14	19,20,22 84:11,12
<b>sense</b> 59:16 81:14 107:7	<b>Shaule</b> 6:3	<b>shutting</b> 70:19	<b>slightly</b> 49:21	86:6,9,14,17 87:2,
128:13	<b>sheriff</b> 22:5 99:16	<b>side</b> 13:18 20:13	<b>small</b> 21:22 57:12 130:2	6,8,13 102:17
<b>separate</b> 30:7 36:23 51:6 53:24	<b>sheriff's</b> 75:3 99:22	23:8,10 29:1 51:1	<b>smaller</b> 22:21	135:13
59:5 90:7	<b>sheriffs</b> 99:14	93:25 94:25 134:6	<b>smallest</b> 45:4	<b>SON's</b> 26:10
<b>separated</b> 69:5	<b>ships</b> 42:3	<b>sides</b> 99:13	<b>societies</b> 34:12	27:19,22 36:18,
<b>separately</b> 32:17	<b>shore</b> 50:2 114:14 127:12,15,	<b>siege</b> 18:9	<b>society</b> 44:20	21,25 37:12,14
<b>serves</b> 85:15	17,25	<b>sign</b> 104:22	<b>sociology</b> 30:20	38:6 41:7 42:8,13,
<b>service</b> 123:21	<b>shoreline</b> 107:10	<b>signatories</b> 68:11 95:21 97:7	<b>soil</b> 124:20 125:1	18,24 43:7,10
<b>services</b> 127:4	<b>shorelines</b> 30:3 90:6	110:8	<b>soil</b> 124:20 125:1	45:9 46:1,4,8,11,
<b>set</b> 29:6 30:12,23	<b>shores</b> 7:25	<b>signatory</b> 123:5	111:8,24 126:6	21 47:5 48:6 49:5
31:3 41:1 51:23	50:19 78:4 118:12	<b>signed</b> 37:8 82:8	<b>sole</b> 78:12	51:18 52:10,13
89:16 97:7 103:11	<b>short</b> 9:11 13:11	95:13	<b>solution</b> 14:8	53:21 54:8,10,18,
110:9 118:15	36:2	<b>significance</b> 16:11 51:25 89:21	<b>soil</b> 124:20 125:1	23 56:3 58:9
120:17 126:5	<b>shortly</b> 10:7	<b>significant</b> 45:6	70:14 71:11,22	59:10,20 60:8,14,
	<b>shouting</b> 89:10, 12	52:1 62:3 70:6	73:22 74:2 75:11	23 61:2,3 62:6,7,
	<b>show</b> 12:18	96:8 97:14 125:25	77:18 78:6,11	11 63:2,14 64:9
	29:13,14 33:14	<b>significantly</b> 17:25	79:14 80:2,25	67:18,23 69:3,7
		<b>signing</b> 116:4 120:15	81:5,6,10,13 82:3,	70:14 71:11,22
		<b>silence</b> 97:2	13 83:13 84:7	73:22 74:2 75:11
		<b>similar</b> 13:3 15:15 34:14	85:12 86:25 87:4	77:18 78:6,11
		<b>Similarly</b> 94:12	<b>sort</b> 11:25 12:14 16:19 31:3 105:10	79:14 80:2,25
			<b>sought</b> 65:3 67:13 75:2 108:25	81:5,6,10,13 82:3,
			<b>soul</b> 43:14 52:25	13 83:13 84:7
			<b>souls</b> 52:25	85:12 86:25 87:4
			<b>sound</b> 14:9 20:25 21:1 23:2	<b>sort</b> 11:25 12:14 16:19 31:3 105:10
			42:17,19 67:4 99:9	<b>sought</b> 65:3 67:13 75:2 108:25
				<b>soul</b> 43:14 52:25
				<b>souls</b> 52:25
				<b>sound</b> 14:9 20:25 21:1 23:2 42:17,19 67:4 99:9

<b>source</b> 33:16	56:14	128:23 129:2,7	<b>studied</b> 33:2,4	<b>superintenden</b>
<b>south</b> 7:23 10:15 15:6,7 16:16 17:2, 4 21:1 57:12 64:16 66:1 107:23 118:9	<b>spirituality</b> 10:21 27:23	<b>States</b> 19:21	<b>subject</b> 23:16 59:22 60:3 70:13 73:9 87:18 88:19 100:1 101:22 114:16 120:5 123:9 127:21,23 128:17,18	<b>t</b> 76:18 77:4 95:8, 9,10
<b>southeast</b> 15:18	<b>spite</b> 86:6	<b>status</b> 46:18	<b>superior</b> 23:9 24:10 50:1,2,6,23 71:1 97:23	<b>superse</b>
<b>southeastern</b> 50:2	<b>spoken</b> 134:5	<b>statute</b> 128:5	<b>submitted</b> 87:17 114:20 122:17	<b>superseded</b> 92:12
<b>southerly</b> 113:3	<b>spring</b> 76:21	<b>statutes</b> 25:1	<b>submission</b> 87:17 114:20 122:17	<b>supplementary</b> 134:25
<b>southern</b> 20:20 65:25	<b>squatters</b> 22:6 26:12 63:16 69:23 70:15 71:9 74:12, 15 75:3,17	<b>stay</b> 20:25	<b>submissions</b> 88:24 89:4,17 92:4,16 97:19,22 103:4 117:4 128:20 129:16	<b>support</b> 28:3 63:2 71:1 75:10, 13,16 121:17
<b>sovereignty</b> 23:21 37:5,7,11 53:11 87:10 90:20	<b>squatting</b> 21:10 76:6,11	<b>stayed</b> 29:22	<b>submitted</b> 131:23	<b>supporting</b> 32:11
<b>speak</b> 15:25 52:15,21 60:14 111:7	<b>St</b> 12:10,12	<b>stays</b> 53:1	<b>subsequent</b> 124:3	<b>supports</b> 59:2 67:18 124:14
<b>speaking</b> 21:10 27:7 60:2,21 101:19 115:19 119:21 122:4	<b>staff</b> 14:11	<b>Ste</b> 12:10 50:3	<b>substantially</b> 28:14	<b>supposed</b> 80:18
<b>speaks</b> 45:5	<b>stage</b> 14:1 62:25	<b>step</b> 123:13	<b>substantive</b> 46:5	<b>Supreme</b> 28:25 29:16
<b>special</b> 53:22 55:21 63:14 67:23 69:7,19 73:22 74:2 79:15 121:19,20	<b>stained</b> 108:22 112:7,11	<b>steps</b> 72:22 73:12,18 115:5,6	<b>succeeded</b> 45:3	<b>surprising</b> 34:13
<b>species</b> 114:9	<b>stake</b> 96:1	<b>Stewart</b> 7:21	<b>suffering</b> 101:7	<b>surrender</b> 21:20 22:6 23:1 27:25 64:15 65:18,24 66:24 73:10,14 74:1,4 75:7,14,25 76:3, 14,22,23 77:6,25 78:6,9,13,18 79:1, 6,17 86:19 95:25 97:4,13 109:3 111:24 114:13 120:3 121:12
<b>specific</b> 31:21 45:17,18,23,25 46:13 52:3,10 55:8,12 67:23 96:12 127:11	<b>standards</b> 79:20	<b>stole</b> 68:17	<b>sufficient</b> 115:3	<b>surrendered</b> 23:3 27:25 75:9 118:22 120:9 122:9 123:20
<b>specifically</b> 35:11 74:17 129:13 135:14	<b>standing</b> 94:11	<b>stolen</b> 68:22	<b>sufficiently</b> 54:15 110:14	<b>surrendering</b> 91:2
<b>spend</b> 11:3 62:12	<b>stands</b> 92:7	<b>Stoney</b> 15:11	<b>suggest</b> 31:16, 18 32:15	<b>surrenders</b> 65:1,3
<b>spirited</b> 43:22 44:8	<b>start</b> 45:8	<b>stop</b> 26:12 76:11 115:7 119:1	<b>suggested</b> 20:24	<b>surrounding</b> 10:16 33:5 107:23 108:10 116:4
<b>spirits</b> 46:25 53:24 54:20,25 55:1,7	<b>starting</b> 38:25 60:4	<b>stopped</b> 83:21 126:6	<b>suggesting</b> 25:19 32:5 99:22	<b>surrounds</b> 47:18
<b>spiritual</b> 47:19 48:16 53:16 55:13	<b>statement</b> 8:23 9:5 14:16,23 17:16 34:24 38:10 60:4 64:11 70:22 76:9 81:20 88:25 108:17 114:17 118:17,24 120:18, 24 123:2 124:9 132:14,16,22,23 133:3	<b>stories</b> 40:9,11 41:6 43:4,6 45:8 47:24 51:3,5,7,8, 9,11	<b>suggestion</b> 108:21 120:14	
	<b>state</b> 28:21 59:19	<b>story</b> 40:13,18 41:4 43:2,3,15 44:2 49:7,11,14, 23 50:24 51:23 85:13,15	<b>sui</b> 41:15 63:6 71:20	
	<b>starts</b> 117:24	<b>straight</b> 11:9 13:16	<b>sum</b> 120:8	
	<b>statement</b> 8:23 9:5 14:16,23 17:16 34:24 38:10 60:4 64:11 70:22 76:9 81:20 88:25 108:17 114:17 118:17,24 120:18, 24 123:2 124:9 132:14,16,22,23 133:3	<b>straightaway</b> 78:25	<b>summer</b> 18:6 76:19,21	
	<b>state</b> 28:21 59:19	<b>strained</b> 59:20	<b>sums</b> 80:21	
	<b>statement</b> 8:23 9:5 14:16,23 17:16 34:24 38:10 60:4 64:11 70:22 76:9 81:20 88:25 108:17 114:17 118:17,24 120:18, 24 123:2 124:9 132:14,16,22,23 133:3	<b>stretching</b> 50:5 66:1	<b>superhuman</b> 47:14	
	<b>state</b> 28:21 59:19	<b>striking</b> 17:15		
	<b>statement</b> 8:23 9:5 14:16,23 17:16 34:24 38:10 60:4 64:11 70:22 76:9 81:20 88:25 108:17 114:17 118:17,24 120:18, 24 123:2 124:9 132:14,16,22,23 133:3	<b>strong</b> 9:23 95:23		
	<b>statement</b> 8:8, 23,25 9:2,4 10:4 42:17,23 62:21 87:21 88:3,5 116:22 117:2	<b>struggle</b> 50:12		
	<b>statement</b> 8:8, 23,25 9:2,4 10:4 42:17,23 62:21 87:21 88:3,5 116:22 117:2	<b>student</b> 88:17		

<b>surveyed</b> 50:17 123:11	<b>team</b> 14:22	5 65:22,25 66:3, 10,25 67:3,14,15, 24,25 68:3 69:5,8, 9,10,20,22 71:6, 10,18,23 72:22,25 73:6,21,22,24 74:5,13,16 75:4,9, 17 76:19 77:1,23 78:4,24 79:15 80:2,3,10,16,18 81:16 82:4,15,21, 25 83:6,11,15,20, 21,23 86:8,12,16, 20,23 87:2,3,5,6, 8,16 101:10,13, 14,15,18,20 107:12 108:7	<b>Thomas</b> 95:19	<b>titleholder</b> 46:19,20
<b>surveying</b> 75:8	<b>tears</b> 49:17	<b>technical</b> 108:1 116:19	<b>thought</b> 13:16 107:13 130:12	<b>tobacco</b> 54:23
<b>surveyors</b> 75:10 78:24	<b>technical</b> 108:1 116:19	<b>ted</b> 10:8	<b>thousands</b> 9:17 31:24 51:12 129:5	<b>today</b> 5:10 8:25 36:13 38:11,13 58:21 59:1 60:2 63:1 64:12 87:15 88:3 106:5 115:4, 7 117:7 129:12 135:16
<b>Surveys</b> 119:12	<b>telephone</b> 127:5	<b>telling</b> 40:13 51:22 65:4 122:17	<b>threat</b> 77:23	<b>today's</b> 79:20
<b>survival</b> 82:13	<b>tells</b> 63:10 67:18	<b>temporary</b> 95:11	<b>threaten</b> 77:9	<b>token</b> 42:14
<b>surviving</b> 87:10	<b>ten</b> 115:1	<b>tendering</b> 41:5	<b>threatened</b> 77:15	<b>told</b> 17:14,16 20:22 49:7 64:18 65:6 77:11 79:6
<b>sustain</b> 19:17	<b>term</b> 59:17	<b>terminology</b> 89:25 101:1	<b>threatening</b> 26:10	<b>tools</b> 74:20 79:23 85:22
<b>sustained</b> 83:14	<b>terms</b> 29:19 39:1 54:5,6 92:13 96:23,25 102:12, 19,20 110:20,22 111:2,3,11,14 112:3 121:8 122:7 123:16 124:17 129:14	<b>territories</b> 11:12 12:25 13:1, 2 45:1 55:3 56:9 101:9 106:23	<b>threats</b> 79:4	<b>top</b> 105:22 118:7 127:7,13
<b>sweep</b> 33:6	<b>territory</b> 9:17, 20,25 10:11,18,19 11:3,6,11,17,22 12:1,5,20 13:8 16:7,20 17:3 18:11,13,16,18 20:6,9,20,21 21:17 23:15 25:4 32:5,12 34:2,4 36:11,12,21,25 37:13,20 42:13 48:21,23 51:12,18 52:11,14,17 53:6, 9 54:5,10 55:4,24 56:2,4,11,15,17, 20,25 57:5,6,8,16, 21,25 58:10,14 60:16 61:3,6,11, 13,16 62:2,3,6 63:12,15,20 64:2,	<b>theory</b> 11:6 92:18,19,25	<b>threshold</b> 32:17	<b>topic</b> 93:16 99:25
<b>system</b> 94:13, 16,18 104:17 107:20 123:16 132:2	<b>test</b> 66:10 96:1	<b>thereabouts</b> 36:5	<b>thrive</b> 69:12	<b>topics</b> 89:18,20
<b>systems</b> 34:12	<b>testified</b> 104:17	<b>thesis</b> 33:6	<b>tiered</b> 127:10	<b>totality</b> 32:11,19
<hr/> <b>T</b> <hr/>	<b>testify</b> 54:4,20 55:7,25 94:7 98:14 101:18	<b>things</b> 18:24 20:8 28:17 29:24 31:25 32:19 33:12 41:14 42:9 54:1 56:11 61:19 63:11,24 70:4 81:19 92:14 95:2 115:4 123:1	<b>time</b> 8:18 11:4 19:23 22:12,15 23:20 36:2 37:12, 20 40:17 41:1 46:23 51:24 52:18 53:10 62:13 68:12 70:17,20 72:7 76:18 79:22,24 82:2,14 87:24 90:7 94:8,23 95:4 96:22 102:3,13 108:2,17 110:8 120:13 125:20 135:12,17	<b>touch</b> 38:10 62:13 80:24 81:25 108:19 116:6 120:22
<b>tab</b> 118:16	<b>testimony</b> 85:13 135:12	<b>thinking</b> 26:3	<b>timeline</b> 34:24	<b>touched</b> 23:17 58:21
<b>table</b> 6:4	<b>text</b> 66:10 96:1	<b>Thirdly</b> 29:18	<b>times</b> 93:20 103:11	<b>town</b> 7:23,24 25:25 99:10
<b>tactics</b> 79:11	<b>TG</b> 76:17		<b>tip</b> 118:10	<b>towns</b> 107:17 108:8
<b>takes</b> 111:14 112:1	<b>theological</b> 34:7		<b>title</b> 23:15,24 24:4,14,17 29:1,3 30:1 34:18 36:16, 17 37:3,25 41:15 42:18,23 45:9 46:3,6 48:5,7 59:14 60:19 84:1 89:24 90:16 91:3, 4,6,10,11 92:22, 23 100:1 101:10 103:5 108:23 112:17,18 113:6, 21 114:11 125:10 131:21	<b>Townshend</b> 5:11,12,13,20,22, 24 6:2,7 9:7,8 10:10 14:14,24 15:3 27:8,11 35:14,18,23 37:5 51:2 62:3 73:25 75:1 105:9 106:9, 14 117:9,10 129:25 130:1 133:20 134:2
<b>taking</b> 74:10 75:6 94:24 100:17 112:8 125:21	<b>territories</b> 11:12 12:25 13:1, 2 45:1 55:3 56:9 101:9 106:23		<b>titleholder</b> 46:19,20	<b>Township</b> 7:14 118:3,7,9,11 132:17,18,24 133:4
<b>talk</b> 9:11 24:6 29:12 34:17 38:13 64:8 68:6,13 69:24 70:10 74:9 76:4 82:22,25 116:11 118:13	<b>territory</b> 9:17, 20,25 10:11,18,19 11:3,6,11,17,22 12:1,5,20 13:8 16:7,20 17:3 18:11,13,16,18 20:6,9,20,21 21:17 23:15 25:4 32:5,12 34:2,4 36:11,12,21,25 37:13,20 42:13 48:21,23 51:12,18 52:11,14,17 53:6, 9 54:5,10 55:4,24 56:2,4,11,15,17, 20,25 57:5,6,8,16, 21,25 58:10,14 60:16 61:3,6,11, 13,16 62:2,3,6 63:12,15,20 64:2,		<b>today's</b> 79:20	
<b>talked</b> 70:21 75:1	<b>test</b> 66:10 96:1		<b>token</b> 42:14	
<b>talking</b> 11:18 12:17 28:16 62:25 64:21 71:8 72:14 101:5 102:14,15, 17 103:2 119:2,3, 4,7 122:10	<b>testified</b> 104:17		<b>told</b> 17:14,16 20:22 49:7 64:18 65:6 77:11 79:6	
<b>Tammy</b> 7:19	<b>testimony</b> 85:13 135:12		<b>tools</b> 74:20 79:23 85:22	
<b>task</b> 41:17	<b>text</b> 66:10 96:1		<b>top</b> 105:22 118:7 127:7,13	

<b>traced</b> 119:20	<b>treat</b> 44:4	105:25 108:15	<b>underneath</b> 134:4	<b>uprising</b> 70:23
<b>track</b> 50:18 76:2 78:13	<b>Treaties</b> 22:20, 23 23:4,5,8,9 24:8 64:21 65:16 87:10 95:13 113:20	118:16 129:4,11 132:9 134:25 135:11	<b>understand</b> 12:25 40:9 41:14 61:16 88:6 91:17 100:7 104:20	<b>urban</b> 94:11
<b>tracking</b> 49:25	<b>treating</b> 34:2	<b>tribes</b> 97:6	<b>understanding</b> 35:20 41:12,18 43:8 53:23 56:20 93:20 95:2,25 121:10	<b>usual</b> 38:3 115:9
<b>tract</b> 110:9	<b>treaty</b> 19:9,10, 12,13 21:2,25 22:1,9,16,17,22 23:11,16 24:20 26:7,17 27:1,2,4, 7,10,12,21 28:4, 22 29:19 30:3,4 37:9 39:9 60:5,13, 19 64:14,17 65:17,24 66:11 67:12,20 68:7,10 71:14 74:24 75:2, 7 77:21 80:22,25 81:9,10 82:2,8 83:9,12 84:2 91:2, 20,23,25 92:8,11, 12,13 93:7 96:8, 11,13,14,16,23, 24,25 98:16,19,24 99:4 101:3,21 102:2 103:7,14 108:9,11,12,25 109:2,20,23 110:20,23 111:2, 12,14,20 112:4 114:12 116:5 118:22 119:25 120:1,13,15 121:3,8 122:7 123:5,9,15	<b>trouble</b> 77:14	<b>understood</b> 16:11 42:22 68:11,14,16,20,23 69:6 73:4 82:10 97:12 110:24 111:1,16,17 112:3,4	<hr/> <b>V</b> <hr/>
<b>trade</b> 19:7 20:7 24:23,24 54:9 58:16	<b>treaty-making</b> 112:2	<b>trust</b> 26:16 27:13,16 101:22 122:7 126:16	<b>undertaken</b> 26:7	<b>vacant</b> 127:1
<b>traders</b> 17:11 37:13	<b>Treslan</b> 7:17	<b>turn</b> 35:4,6 59:23 62:9	<b>undertaking</b> 64:4,5,13 73:5	<b>Valentine</b> 32:24 33:2
<b>trading</b> 16:9,13	<b>trespass</b> 39:20 56:2 75:13	<b>turns</b> 49:18	<b>underwater</b> 44:17	<b>valid</b> 91:23 92:11
<b>tradition</b> 34:6 44:12 49:13 57:15	<b>trespassers</b> 74:12	<b>type</b> 40:3 41:2, 10,22 58:17 82:1, 18 86:4	<b>unfold</b> 31:4	<b>valuable</b> 91:18 97:17
<b>traditional</b> 30:17 32:3 34:19 36:11 38:2,5,15, 22,25 39:2,6,16, 21,23,25 40:1,3, 22,24 41:2,8,10, 13 42:13 48:25 49:7,23 51:13,17 52:2,7,12 58:21 59:6 64:10 82:23 101:8	<b>trespassing</b> 76:12	<b>typed</b> 98:7,8,10, 11	<b>unfolds</b> 19:14	<b>values</b> 39:3
<b>Traditionally</b> 91:9	<b>trial</b> 5:5 8:4,10, 11,14,23 15:24 35:12,21 41:3,10 56:19 58:23 87:20,23 98:2 102:24 104:13	<b>types</b> 38:3 39:24 41:12 63:5 81:25 119:19	<b>unilateral</b> 59:19	<b>variance</b> 33:8
<b>traffic</b> 126:25		<b>typically</b> 106:22	<b>unimproved</b> 119:6	<b>variations</b> 33:9
<b>trail</b> 50:1		<hr/> <b>U</b> <hr/>	<b>unique</b> 69:7	<b>variety</b> 30:19
<b>trails</b> 127:2		<b>U.S.</b> 23:8,10 24:8,13,16,17 25:2,24	<b>United</b> 19:21	<b>vary</b> 27:16
<b>transcribed</b> 98:9		<b>ultimately</b> 121:16	<b>unopened</b> 119:5 126:23	<b>version</b> 96:19 98:3
<b>transcript</b> 117:1,5		<b>unable</b> 14:5,17	<b>unpatented</b> 118:20	<b>versions</b> 98:3
<b>transcripts</b> 129:8		<b>unauthorized</b> 76:6	<b>unsold</b> 22:16,17 86:19	<b>versus</b> 46:6
<b>transferred</b> 125:9,10		<b>Unceded</b> 5:14	<b>unsuitable</b> 22:11	<b>vested</b> 124:21 125:2
<b>translate</b> 33:23 68:10 100:23		<b>unclear</b> 42:20	<b>unthinkable</b> 27:24	<b>vesting</b> 125:4
<b>translation</b> 68:6		<b>uncontrollable</b> 78:10	<b>unwise</b> 78:17	<b>Vietnam</b> 25:23
<b>trapping</b> 81:7, 13 82:22 109:9		<b>uncontroversi al</b> 119:10	<b>uploaded</b> 131:24	<b>view</b> 48:13 53:13 54:17 59:11 95:6 121:15
<b>traveled</b> 119:6,7 126:12		<b>unconveyed</b> 118:20	<b>upper</b> 19:3 64:25 65:9 127:9	<b>viewed</b> 95:3



<p><b>volunteers</b> 125:18</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>Wahbahdick</b> 95:19</p> <p><b>wait</b> 72:4</p> <p><b>Walpole</b> 15:10</p> <p><b>wanted</b> 24:22,23 31:1 34:5 65:11 74:21 77:10 78:3 79:18 80:3,8 96:2 99:6</p> <p><b>war</b> 17:6 18:19 19:19 20:2 25:23 37:9 70:4</p> <p><b>warned</b> 19:24</p> <p><b>warriors</b> 16:3</p> <p><b>water</b> 10:12,25 23:6,17 25:3 36:25 46:6,7,15, 16 48:13 49:18 50:3,15 53:8,20, 23 54:1,2,6,7,10, 20,25 55:18,19,21 56:17 90:5 91:7, 17 99:9 100:11 101:10 108:2,5 127:3</p> <p><b>waters</b> 10:16 36:18,21,23 37:3, 4 39:19 42:11,12, 15 43:8,18 45:3, 10,18,19,22,23,25 46:2,8,14,17,18 48:14,16,17 49:20 53:12,13,16,17 54:12,14 55:2,8, 13,16 59:20 61:2, 7,17 91:12 108:4 113:8,17</p> <p><b>Waynaboozho</b> <b>o</b> 44:13 49:10</p> <p><b>ways</b> 9:25 18:1 21:11 40:22 44:20 55:14 72:20 83:25 86:5</p>	<p><b>wedge</b> 78:1</p> <p><b>week</b> 8:24</p> <p><b>weekend</b> 117:2</p> <p><b>well-suited</b> 113:11</p> <p><b>well-versed</b> 95:12</p> <p><b>west</b> 13:14 15:4 20:13</p> <p><b>western</b> 38:6 42:3 47:5 58:25</p> <p><b>white</b> 21:4 22:25 65:6,12 71:12 101:20 102:1 118:6</p> <p><b>whites</b> 25:15 65:15 67:11 68:4 77:11</p> <p><b>wide</b> 30:19</p> <p><b>willingly</b> 95:25</p> <p><b>willingness</b> 69:16</p> <p><b>wishes</b> 103:23 129:18</p> <p><b>witnesses</b> 30:22,23 31:1,5,8 34:22 42:9 43:10 47:21 52:15,21 53:22 54:4,19 55:6,25 56:24 61:12 62:4 82:21 100:20 101:18 104:18,24 107:18 113:16</p> <p><b>witnesses'</b> 31:7</p> <p><b>women</b> 54:3 55:18,20</p> <p><b>Women's</b> 55:19</p> <p><b>woods</b> 17:20</p> <p><b>word</b> 17:14 36:19 39:9 101:2</p> <p><b>words</b> 17:15 47:8 65:13 68:3,6, 9 73:17 77:13,17</p> <p><b>work</b> 44:21 114:8 115:20 130:22</p>	<p><b>worked</b> 44:16 61:14 94:13</p> <p><b>working</b> 84:24 103:14 104:11 105:1 108:3</p> <p><b>world</b> 34:9 43:2 44:10 47:7 53:21</p> <p><b>worldview</b> 10:1 33:20,22 34:15 41:7,20,24 45:5 46:21 47:24</p> <p><b>worry</b> 89:9</p> <p><b>worth</b> 80:15 98:23</p> <p><b>writ</b> 45:22</p> <p><b>written</b> 8:22 9:1 14:6 37:17,21 38:9 39:8 59:1 60:3 62:20 64:11 70:22 76:8 81:20 89:16 92:16 97:22 115:20 127:8</p> <p><b>wrong</b> 99:3</p> <p><b>wrote</b> 22:5</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>year</b> 16:6</p> <p><b>yearly</b> 120:10</p> <p><b>years</b> 9:18 19:15 21:16 22:15,17 28:19 31:18,25 37:9,19 42:2 49:20 51:12 61:14 62:2 74:7,24 80:8 84:22,23 86:3 90:21</p> <p><b>yellow</b> 21:21 22:2 60:11 101:24,25 107:22 108:3</p> <p><b>young</b> 50:10 97:5</p> <hr/> <p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>zoom</b> 107:20</p>
--	--	--