

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

DAY 85 VOL 85
February 18, 2020



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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

19 --- This is VOLUME 85/DAY 85 of the trial proceedings
20 in the above-noted matter, being held at the Superior
21 Court of Justice, 330 University Avenue, Courtroom 5-1,
22 Toronto, Ontario, on the 18th day of February, 2020.

24 B E F O R E:

25 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 & Benjamin Brookwell, Esq., The Chippewas of
5 Saugeen First Nation,
6 and the Chippewas of
7 Nawash First Nation.

8

9

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

14

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

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

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LAUREL M. BOWMAN; SWORN.

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-- Upon commencing at on 10:03 a.m.

THE COURT: Good morning.

MS. COLIZZA: Good morning, Your Honour.

THE COURT: Are you calling the next witness, Counsel?

MS. COLIZZA: Yes, Your Honour. I'd like to call Professor Bowman.

THE COURT: Just as Professor Bowman comes forward I put on the record that Professor Bowman is called as part of Canada's case and she's being called out of order to accommodate for various reasons.

Professor Bowman, come right up to the front here, if you could, please.

THE REGISTRAR: Good morning, would you like to make an oath on the Holy Book or make a solemn affirmation to tell the truth?

THE WITNESS: Holy Book, please.

THE REGISTRAR: Can you state and spell your first and last name for the record.

THE WITNESS: Laurel Bowman,
L-A-U-R-E-L, Bowman, B-O-W-M-A-N.

LAUREL BOWMAN: SWORN.

THE COURT: Professor Bowman, we have a

1 very large courtroom and the microphone in front of
2 you will assist you in amplifying your voice but I
3 really need to have you use your professorial
4 teaching voice to make sure all those people in the
5 back row can hear you clearly, okay.

6 THE WITNESS: Yes, okay. Thank you,
7 Your Honour.

8 THE COURT: All right. Please go
9 ahead.

10 MS. COLIZZA: Thank you, Your Honour.

11 EXAMINATION IN-CHIEF BY MS. COLIZZA:

12 Q. Good morning, Professor Bowman.

13 MS. COLIZZA: I'd like to pull up
14 Professor Bowman's curriculum vitae, which is
15 document No. SC1810 and it was last updated on
16 January 29th, 2020.

17 Your Honour. I'd ask to mark this CV
18 as the next exhibit.

19 THE COURT: Counsel, has the copy of
20 the curriculum vitae that I was provided updated?

21 MS. COLIZZA: We sent you the updated
22 version to your office yesterday, Your Honour.

23 THE COURT: I think I have the correct
24 version. Is there an easy way to know?

25 MS. COLIZZA: It looks entirely

1 different from the older version, so this has
2 research CV on the top.

3 THE COURT: It matches the computer
4 screen so I think we're fine.

5 MS. COLIZZA: So that's the correct
6 one, yes.

7 THE COURT: What is the next exhibit
8 number?

9 THE REGISTRAR: The exhibit number is
10 4578.

11 THE COURT: 4578, thank you.

12 EXHIBIT NO. 4578: Curriculum vitae of
13 Professor Laurel Bowman.

14 MS. COLIZZA: Professor Bowman's expert
15 report dated April 15th, 2019, is document number
16 SC1607, if we can bring that up, please. And I'd
17 ask this be marked as the next numbered exhibit.

18 THE COURT: Mr. Registrar.

19 THE REGISTRAR: The next number exhibit
20 is 4617.

21 EXHIBIT NO. 4617: Report by Professor
22 Laurel Bowman dated April 15, 2019.

23 BY MS. COLIZZA:

24 Q. If we can go back to the
25 curriculum vitae, Exhibit No. 4578.

1 THE COURT: Just give me a moment,

2 Counsel.

3 Please go ahead.

4 BY MS. COLIZZA:

5 Q. So for your training you did your
6 Masters in Classics at the University of British
7 Columbia and your PhD in Classics at the University
8 of California, Los Angeles, correct?

9 A. Yes.

10 Q. Could you please briefly describe
11 what the field of classics is?

12 A. Well, classics is an
13 interdisciplinary field, which studies essentially
14 the culture of the Greek and Roman worlds. And
15 it's from the Bronze Age to the fall of the Empire.

16 And it encompasses many disciplines,
17 history, archaeology, literature, philosophy,
18 religion, study of the culture and art history.
19 And we all specialize in different bits, but we all
20 have to know something about all of them.

21 Q. Thank you.

22 And how is the work of a classicist
23 different from that of a historian?

24 A. Well, some classicists are
25 historians, but my particular specialty is Greek

10:08:35 1 literature. And so the difference between what I
10:08:39 2 do and what a classical historian does is
10:08:41 3 historians care about what actually happened. So
10:08:45 4 actual events, dateable, if possible.

10:08:48 5 I care about what stories they told.
10:08:51 6 And I need to know the history, so that I can
10:08:56 7 provide context for the stories, but my focus is
10:08:59 8 the stories.

10:09:01 9 MS. COLIZZA: If you can scroll down a
10:09:02 10 little bit on the first page here, please.

10:09:02 11 BY MS. COLIZZA:

10:09:05 12 Q. So you've worked as a Professor at
10:09:07 13 the University of Victoria since 1994 in the
10:09:12 14 Departments of Classics and Greek and Roman
10:09:14 15 studies?

10:09:15 16 A. Well, I was hired in 1992 at UVIC,
10:09:18 17 but I hadn't finished my PhD yet, so I was a
10:09:25 18 visiting lecturer until I finished and then it was --
10:09:25 19 the position was made permanent in 1994.

10:09:28 20 And I should say, it's the same
10:09:30 21 department, classics and Greek and Roman studies,
10:09:32 22 we changed the name.

10:09:34 23 Q. And under the heading, "Major
10:09:36 24 Fields of Scholarly or Professional Interest", you
10:09:39 25 refer to ancient Greek literature. Is this the

1 study of written works?

2 A. It is the study of written works,
3 but I should say that wherever the Greek literature
4 or Roman literature is associated with myth or uses
5 myth as part of the story it's based on an oral
6 tradition because Greek myth was an extensive oral
7 tradition that eventually was written down so.

8 Q. Under the same heading you also
9 list myth and oral tradition. What do you consider
10 to be a myth?

11 A. Well, if you don't mind a slightly
12 expanded answer, I've been teaching myths since
13 1992 and the first -- the first definition I give
14 them is the traditional one that's used in most
15 textbooks which is to define myth by content.

16 So myth is divided from legend, which
17 is divided from folklore. Myth usually involves
18 supernatural beings, usually gods, often untethered
19 from any event on earth, struggles between gods,
20 gods and monsters, massive supernatural events.

21 Legends involve heros who are human or
22 part human, they're often descended from gods, they
23 interact with gods and supernatural monsters and so
24 on, and have super powers of one kind of another.

25 And then folklore, which is about

1 normal people, talking animals and so on.

2 And that's the definition by content,
3 but it's not actually enormously useful for
4 defining what a myth is, because when you look
5 cross culturally, myths can have all of those
6 characteristics, or none of those characteristics,
7 and a better definition, and the one we eventually
8 come to, is that a myth is, primarily, a
9 traditional story. Traditional meaning, it was
10 handed down over time for a long time, generations.
11 And every culture has those.

12 And of course the question is, why was
13 it handed down over time? And the answer is, it's
14 a traditional story which, for whatever reason, is
15 enormously important to the culture. And when you
16 look at it from that perspective, all of the gods
17 and monsters and massive supernatural events can be
18 seen as markers of the importance of the story.
19 And so a myth is a traditional tale, passed down
20 over generations of enormous importance to the
21 culture for whatever reason.

22 Q. Okay. And how would you
23 characterize the difference between an oral
24 tradition and an oral history?

25 A. I know historians and

1 anthropologists think of this a little differently
2 than I do. They like to think of oral history as
3 eyewitness, you know, something that -- either that --
4 a story that is told orally, obviously, either by
5 the person who saw it or within a couple of
6 generations, back to the grandfather of, you know,
7 eyewitnesses and that an oral tradition is back
8 into the dim, you know, midst of the past beyond
9 that.

10 I'm inclined to think of the difference
11 as an oral tradition is simply any story or group
12 of stories that are being passed down in a culture
13 over time. And these stories can contain
14 historical data or evidence of historical data, and
15 so oral history is one of the things that an oral
16 tradition can contain; it doesn't have to.

17 Q. How long has the study of myth and
18 oral tradition been a part of your professional
19 work?

20 A. Well, as I said, I started
21 teaching myth in 1992, when I got to UVIC. And I
22 developed the course on myth and theory a few years
23 later. But as far as studying it and studying oral
24 tradition, that was graduate school. At UCLA in
25 particular, I studied Homer, the Odyssey with Ann

1 Bergren and the Iliad with Richard Janko who I
2 think I cite his work on Aesop.

3 And the reason -- well, something that
4 particularly engaged me there was the work on how
5 Homer participates in an oral tradition and how it
6 can be demonstrated to participate in an oral
7 tradition which was based on the work in the last
8 century by Parry and Lord, who were working,
9 interestingly enough, on studying living bards, who
10 participated in the epic tradition of
11 Serbo-Croatian oral epic, and how their stories or
12 how their performances of epic were generated by
13 the bards for every single performance.

14 And the way it worked was, they
15 memorialized over a course of many years, of being
16 trained by older bards, thousands and thousands of
17 chunks of formulaic -- okay, it's called formulaic
18 expressions now and apathetic expressions which is
19 are metrically appropriate to different spots in
20 the metre of Homeric or Serbo-Croatian line, and
21 the metre of Homer of Homeric epic is dactylic
22 hexameter.

23 (Reporter sought clarification).

24 The metre of Homeric epic is dactylic
25 hexameter. And so having looked at how the

10:15:43 1 Serbo-Croatian bards generated their poems, which
10:15:46 2 was by memorizing thousands of chunks of lines that
10:15:50 3 they could kind of slap together as they sang so
10:15:56 4 they're not, you know, repeating an entire poem
10:15:59 5 verbatim. What they're doing is making it up
10:16:01 6 differently every time from these thousands and
10:16:03 7 thousands of expressions that they could fit --
10:16:07 8 sorry, that they can fit together. And then, armed
10:16:12 9 with this information you can go back to Homer,
10:16:15 10 which they did, and look at and see if it shows
10:16:18 11 signs of being composed the same way which it
10:16:21 12 absolutely does.

10:16:22 13 So they looked at all of the formulaic
10:16:25 14 chunks of the lines in Homer and the repetitious
10:16:28 15 which turn out to be formulaic chunks that will
10:16:32 16 have been slapped together by the bards at the
10:16:34 17 time.

10:16:34 18 An interesting thing that demonstrates
10:16:38 19 how long this tradition had existed is that there
10:16:42 20 are forms of Greek in Homeric language, in the
10:16:49 21 Homeric poems which were not contemporary with when
10:16:53 22 they were first written down around 750 BC, I think --
10:16:59 23 there's some argument -- that they preserved older
10:17:04 24 forms of Greek that go all the way back to the
10:17:07 25 linear -- the forms in Linear B, the Mycenaean era

10:17:16 1 tablets. So this shows that that tradition must
10:17:19 2 have existed at least back to the Bronze Age though
10:17:21 3 of course it was constantly being reformed and new
10:17:24 4 bards would add new formulae and so on, so it was
10:17:27 5 accretive. So this was fascinating.

10:17:30 6 Q. Thank you. So under the same
10:17:33 7 heading in your resumé you list classical
10:17:36 8 reception. What is classical reception?

10:17:38 9 A. Classical reception is the reuse
10:17:44 10 and reaction to and repurposing of stories from the
10:17:48 11 classical period, often classical myth in later
10:17:54 12 periods. Well, some of the earliest examples of
10:17:57 13 this are later Greek authors reusing the myths that
10:18:02 14 are re-told in earlier Greek authors or the Romans
10:18:08 15 who reuse an awful lot of Greek myths in their own
10:18:10 16 works. But we see this carrying on, well right up
10:18:12 17 until now. In the renaissance you have a lot of
10:18:18 18 artwork that's based on Greek myth and Roman myth
10:18:22 19 and of course we have a continuing influx of novels
10:18:30 20 like the Song of Achilles, is a recent example of
10:18:34 21 stories that are being retold from -- that were
10:18:37 22 originally told from the classical period.

10:18:40 23 The interesting thing about these --
10:18:42 24 well, there are a couple of interesting things but
10:18:44 25 one is every retelling is focused towards a new

1 audience and so it will give priority to the
2 concerns and interests and cultural context of the
3 audience that's going to be reading it now.

4 And another interesting -- well, I
5 don't know if this is interesting, but usually,
6 though not always, these retellings are retellings
7 of the stories. They are not usually retellings of
8 history. They may be retellings of the story
9 rebased on the history.

10 So, for example, if you saw the
11 perfectly awful film 300, which purports to be a
12 retelling of the Battle of marathon -- or sorry,
13 the Battle of Thermopylae, it's actually retelling
14 the story that the Greek historian, Herodotus,
15 tells about Thermopylae, with a lot of awful
16 additions.

17 It's not an attempt to show us -- well,
18 it pretends to be an attempt to show us the battle,
19 but it's actually representing the story, so
20 anyway.

21 Q. Thank you. So under the heading,
22 "Major Teaching Responsibilities" you have
23 "Theoretical Interpretation of Myth". What does
24 the subject cover?

25 A. When I started teaching myth, it's

10:20:07 1 a very popular subject, but we don't just give them
10:20:11 2 the stories, we give them a handful ways of
10:20:14 3 interpreting them. And there was a great deal of
10:20:16 4 student interest in the theoretical approaches to
10:20:19 5 the interpretation of myth.

10:20:20 6 So, I developed a course theoretical
10:20:26 7 approaches, and it's an upper level course, and I
10:20:30 8 start with the ancient interpretations of myth
10:20:32 9 because even in the ancient world they were not
10:20:35 10 just telling but interpreting the stories. And
10:20:39 11 then move on to various modern interpretations.

10:20:42 12 The ancient interpretations -- the
10:20:45 13 basic ancient interpretation of myth is, this is
10:20:48 14 history; or at least some of it is history; well,
10:20:52 15 parts of it are history.

10:20:55 16 But even as early as Plato or earlier,
10:21:00 17 Empedocles, or Heraclitus in fact, you have
10:21:04 18 metaphorical interpretations of myth. The
10:21:08 19 difficulty the ancients had was, they have these
10:21:11 20 myths, they are, as I said, stories of enormous
10:21:14 21 cultural importance, but they were a bit uneasy
10:21:21 22 about them.

10:21:21 23 For example, Plato was a bit uneasy
10:21:25 24 about the myths would show Zeus, the king of the
10:21:27 25 gods, behaving spectacularly badly, pretty much all

10:21:29 1 the time. So how do you preserve the story, keep
10:21:34 2 on telling it but justify that you're doing so.

10:21:37 3 So Plato's explanation was, well, it's
10:21:40 4 a metaphor. These are all metaphorical stories but
10:21:44 5 then Plato went on to say, but we shouldn't teach
10:21:47 6 them to uneducated people. We should make sure
10:21:51 7 that we only teach them to young men of an
10:21:53 8 appropriate level of analytical sophistication
10:21:56 9 because other people are just going to use Zeus as
10:21:59 10 a model for their own bad behaviour.

10:22:01 11 So that's the ancient version.

10:22:03 12 The modern interpretations, people
10:22:05 13 continue to be fascinated by myth. Well, you can
10:22:08 14 divide them into metaphorical and quasi-historical
10:22:13 15 again. The metaphorical ones are, well, all of the
10:22:14 16 psychological interpretations. Freud's
10:22:17 17 interpretation of myth, Young as a myth as a
10:22:22 18 reflection of subconscious archetypes, Campbell and
10:22:26 19 the monomyth.

10:22:28 20 And the anthropologists, like the
10:22:36 21 religious and ritual interpretations in which they
10:22:38 22 interpret myth as one way or another, reflections
10:22:42 23 of a ritual in which they originally participated.
10:22:46 24 So you can see that that has a foothold in the idea
10:22:49 25 that there's some historical data in it.

1 And one thing that I spend a lot of
2 time on is various approaches to the comparative
3 study of myth, comparing myths across cultures that
4 apparently have some -- that have great
5 similarities, although it's not usually clear why.

6 So, for example, Hesiod's Theogony
7 which was written down about 700 BC, it's in the
8 same formulaic language as Homer, so we know it's
9 based on oral tradition.

10 And it gives the story of the descent
11 of the gods from Chaos, through Kronos, through
12 Zeus, and the interesting thing is when the Hittite
13 tablets were translated from -- well, it's internal
14 Turkey. But dating from about 1300 BC, the Song of
15 Ullikummi and war in heaven, it has a descent of
16 the gods that is very, very close to the Greek
17 version, though it's -- they're different names, of
18 course.

19 And then, when you look at the
20 Babylonian tablets from 2100 to 1500 BC the Epic of
21 Gilgamesh has a similar -- and associated
22 catalysts, they have similar, a very similar
23 descent of the gods coming from Tiamat and ending
24 at Marduk which gives enough points of similarity
25 that it's clear that there must have been some

10:24:26 1 transmission, somehow across cultures and languages
10:24:31 2 and, what, across about 1400 years, and a
10:24:38 3 significant geographic area.

10:24:40 4 So what happened? And there are two
10:24:42 5 things to do with -- well, two main things to do
10:24:44 6 here. One, is to consider how were these things
10:24:47 7 transmitted. And you know, were they transmitted
10:24:52 8 as a whole or in pieces. And the other thing is,
10:24:57 9 what are the differences and how did the
10:24:59 10 differences in these, in the stories reflect
10:25:05 11 cultural context, the importance that -- of the
10:25:07 12 different cultures attached to different things.

10:25:11 13 So, for example, female deities are
10:25:16 14 very important in the Greek version and the
10:25:18 15 important thing is they are very powerful and then
10:25:21 16 they become less powerful.

10:25:22 17 Female deities basically aren't there
10:25:26 18 in the Hittite version. And in the Babylonian
10:25:30 19 version, Tiamat, the mother goddess, is eventually
10:25:33 20 killed.

10:25:35 21 So that's just one interesting
10:25:39 22 difference. Sorry. Okay.

10:25:44 23 Q. And within comparative mythology,
10:25:46 24 is the study focused solely on the comparison of
10:25:50 25 myths between different cultures?

10:25:52 1 A. Well, no. In that, inside a
10:25:56 2 single culture, and of course the one I'll use is
10:25:59 3 the Greek and Roman worlds, I will look at
10:26:03 4 different tellings of the same myth across time and
10:26:07 5 in different literary genres. And this is one of
10:26:16 6 the first things I get students to do is look at
10:26:21 7 variant variations of the same myth and -- or what
10:26:21 8 we're calling the same myth and that is one of the
10:26:24 9 questions, and see how do they respond to the
10:26:27 10 different contexts, you know, the historical,
10:26:29 11 political, cultural and literary context. You'll
10:26:34 12 tell a very different story, if you are putting it
10:26:38 13 on in a tragedy then you will, if you are singing
10:26:41 14 about it in epic, and this is simply because of
10:26:44 15 different production values.

10:26:45 16 So, yes. We also compare across -- I
10:26:50 17 don't know how to put this -- across time.
10:26:54 18 Structuralists are particularly interested in
10:26:58 19 variations of myth though what they like to do is
10:27:01 20 say they're not really variations, they're all part
10:27:04 21 of the same myth complex. That's one of the things
10:27:06 22 we talk about.

10:27:07 23 Q. Thank you. If we can scroll down
10:27:08 24 a little bit on the resumé. Under "Publications"
10:27:11 25 what does "R" indicate?

10:27:13 1 A. It means it was refereed, it went
10:27:18 2 through a refereed process before it was published.

10:27:20 3 Q. And on page 2, if you can scroll
10:27:21 4 down close to the bottom, there's a digital
10:27:23 5 project there, entitled, "Myths on Maps, Classical
10:27:27 6 Myths and Geography". Could you please explain
10:27:30 7 what this project is about?

10:27:31 8 A. This project was sparked by a book
10:27:43 9 written by Margaret Finkelberg whom I refer to --
10:27:44 10 well, she's in the biography -- who worked on
10:27:46 11 historical linguistics. But she has done a lot of
10:27:49 12 work on the Aegean -- well, she has a book on
10:27:56 13 Aegean pre-history.

10:27:58 14 And she has a theory -- she had a
10:27:58 15 theory that you could use Bronze Age myths, by
10:28:03 16 which I mean myths that are based in the Bronze
10:28:06 17 Age -- you can't use any one of them individually
10:28:12 18 as evidence of any particular historical event.

10:28:14 19 So you can't look at the Iliad and say,
10:28:23 20 well, we now know that the name of the leader of
10:28:25 21 the troops at Troy was Agamemnon and he came from
10:28:29 22 Mycenae and his brother had lost his wife to a
10:28:32 23 handsome Trojan prince. But because we're actually
10:28:36 24 assuming a number of things, like that there was a
10:28:39 25 war at Troy, that the Greeks were there and so on.

1 But so individual stories won't give
2 you individual -- you know, aren't good for
3 individual bits of historical data. But in
4 aggregate they may be able to show you interesting
5 things in particular, social patterns,
6 particularly if the social patterns that are being
7 portrayed in the myths are different from the
8 social structures of the people who are retelling
9 them now.

10 And what she was particularly
11 interested in was marriage patterns. You'll
12 notice -- well, okay, maybe you don't. There is a
13 standard pattern in Greek myths in which a man will
14 become king, not by inheriting from his father, but
15 by marrying the daughter of the previous king. And
16 this we tend to think of as the folklore pattern of
17 the prince and the dragon. But she said, what if
18 it's not a folklore pattern? What if this is
19 actually the way inheritance worked in Bronze Age
20 royalty in Greece? And the reason it's being --
21 and it's being preserved by the classical writers
22 who are writing these things down for us, because
23 it's part of the story, but they don't understand
24 it because in the classical period, in archaic and
25 classical Greece that's not how inheritance worked.

1 Inheritance worked father to son.

2 So all of the tellings had to explain
3 why the brother of the princess didn't inherit, and
4 so you have all of these stories of Bronze Age
5 princes falling of cliffs and fighting with their
6 fathers, and leaving town and so on.

7 But she said what if it's actually
8 preserving an actual social structure of the Bronze
9 Age and in aggregate, story after story, is showing
10 us this pattern. And this fascinated me. I
11 thought, well, the first thing I would want to do
12 if you're doing aggregate, an aggregate study is,
13 aggregate the stories.

14 And, doing it geographically makes
15 sense because, well, okay, for me if you're looking
16 at inheritance, where did the princes go? Do you
17 see a pattern where the princes in the next
18 generation wind up ruling somewhere else?

19 But the reason I set it up as I did, as
20 a searchable database is that is my research
21 question but in fact a body of data about myth and
22 geography could be useful to any number of scholars
23 for their own research questions that I may not be
24 able to imagine what they might be.

25 So I've been working on this for

10:31:25 1 sometime. So far it's very slow work because it
10:31:29 2 involves a lot of coding and money, and I need more
10:31:33 3 money. But at the moment what we've got is
10:31:36 4 Apollodorus, which I've picked because he was 1st
10:31:41 5 Century AD and he -- I picked the most
10:31:44 6 geographically dense text I could find. And
10:31:50 7 Apollodorus was a mythographer. That means he was
10:31:52 8 studying myth and he aggregated all of the myths he
10:31:55 9 could find, and of course he was Roman Era, so he
10:31:59 10 had access to libraries with myths that we no
10:32:01 11 longer have, except in his re-telling. And he
10:32:05 12 organized them by families of legendary heros.

10:32:10 13 So this gave me the largest number of
10:32:13 14 geographic data points I could attach events to.
10:32:18 15 And we now also have Book 2 of -- the Iliad because
10:32:21 16 of the Catalog of Ships which is also
10:32:23 17 geographically dense, and I'm working on Pausanias.
10:32:28 18 I haven't gotten Diodorus Siculus yet, because he
10:32:32 19 was Roman era, 1st Century BC, with a particular
10:32:36 20 Roman focus and I continue to work on it.

10:32:40 21 Q. Could we please pull up document
10:32:42 22 SC1867.

10:32:44 23 So this is a screenshot from the myths
10:32:47 24 on maps project, correct?

10:32:50 25 A. Yes.

1 Q. And what does this image show?

2 A. This shows it's -- this one is
3 based only on Apollodorus and it shows all of the
4 places in Apollodorus where Hercules is said to
5 have done a thing. So anywhere Hercules defeated a
6 monster or performed a labor or did something on
7 his way back, to or from the labors, in
8 Apollodorus, is on this map.

9 And there are a few very interesting
10 things about it. As I said, Apollodorus aggregates
11 all of the stories he knew of as of, you know, the
12 1st Century AD. But you'll notice in that Greece
13 is obscured by little dots that Hercules, the
14 stories of Hercules start in Greece. And if I were
15 to expand the map there are far more of those
16 little dots in the western chunk of Greece, the
17 Peloponnese, which other sources that I'm still
18 working on mapping, tell us Hercules was originally
19 a Peloponnesian hero.

20 If you know the sequence of the 12
21 labors of Hercules, the first six happen in the
22 Peloponnese, and then he goes farther afield and
23 then, you know, goes down to the underworld and
24 brings back Cerberus, goes out west to the -- and
25 steals the cattle of the sun. Goes to the Strait

1 of Gibraltar over at the southern tip of Spain
2 there and breaks them open.

3 So this is the full extent and what
4 this actually shows us is far more places than any
5 mortal human being could possibly have gone and
6 done the stuff that we're told he did in a
7 lifetime.

8 So what it actually shows us is all of
9 the people who are telling stories, that associate
10 them with Hercules, because he was a major Greek
11 culture hero, and association with Hercules
12 associates you with the culture of Hercules. And
13 so what it shows us really is the spread of places
14 that Greeks and Romans by the 1st Century AD had
15 gone and the people who wanted to be associated
16 with them.

17 I say Romans because -- he was
18 originally a Greek hero but the Romans for some
19 reason loved Hercules. And in fact under the early
20 empire, if you claimed that you were descended from
21 Hercules or that your king of your town was
22 descended from Hercules, you got special status
23 with the Romans, which meant that all of a sudden
24 there were all kinds of little towns that would
25 remember that Hercules had stopped by at one point

1 and was the ancestor of their king.

2 Now, if I had mapped Diodorus Siculus,
3 which I haven't yet, you would have a whole bunch
4 more dots on Italy and Sicily, especially, and all
5 over Spain, because Diodorus Siculus, who was a
6 Greek from Sicily, Roman Era, gives us the Roman
7 view of Hercules which is, as I say, further to the
8 west, because the Romans had adopted him as their
9 own.

10 Q. Okay.

11 MS. COLIZZA: Could we please mark this
12 as the next numbered exhibit. It's an image of the
13 "Travel of Hercules from the Myths on Maps
14 Project".

15 THE COURT: Mr. Registrar.

16 THE REGISTRAR: Exhibit No. 4701.

17 EXHIBIT NO. 4701: Image from Travel of
18 Hercules From the Myths on Maps
19 Project.

20 BY MS. COLIZZA:

21 Q. I'd like to now pull up
22 Exhibit 4504, and this is a book by Ronald J.
23 Mason entitled, "Inconstant Companions Archaeology
24 and North American Indian Oral Traditions". And it
25 was marked on day 73 of the trial during Dr. Von

1 Gernet's examination.

2 THE COURT: 4504?

3 MS. COLIZZA: Yes, Your Honour.

4 BY MS. COLIZZA:

5 Q. So first, just who is Ronald
6 Mason?

7 A. Ronald Mason is an archeologist
8 from, I think, Wisconsin and he did a great deal of
9 work in -- he was the one who wrote the book on
10 archaeology of the Great Lakes and he's done a good
11 deal of work on the oral traditions.

12 Q. Can we please go to PDF pages 53
13 and 54 which are pages 96 to 98 of the document.
14 So they're fairly lengthy passages and I won't read
15 them all but sort of in short Mason notes that
16 there are a number of disciplines that have made
17 contributions to the study of oral tradition. And
18 he states that oral traditions are, "the variable
19 instances of a universal phenomenon".

20 And then if we go to the next page,
21 which is page 98 of the document, near the bottom
22 of that passage he notes that:

23 "Comprehending the nature,
24 evolution, structure, multiple
25 functions and unanticipated

1 sequences of oral traditions is a
2 challenge best met by knowing
3 something of the work that has been
4 done, and the insights that have
5 been gained and the culturally
6 varied, cross-disciplinary studies
7 beyond as well within a researcher's
8 immediate focus of interest."

9 Do you have any thoughts on the
10 observations that Mason makes in these passages?

11 THE WITNESS: Could we back up so I can
12 remind myself of what's on the previous page?

13 Thanks.

14 (Witness reviews document).

15 Yes, okay, fine. Well, I think he's
16 right. A great deal of work has been done on oral
17 traditions in --

18 THE COURT: Just a moment.

19 Yes, Mr. Brookwell.

20 MR. BROOKWELL: Sorry, your Honour, I
21 don't believe this witness has been qualified yet,
22 so it's difficult to tell where her opinion will
23 lie with respect to this document. That may be
24 coming, but I wanted to note that.

25 THE COURT: Yes, I was assuming counsel

1 would be getting to that soon since we've moved off
2 of the CV.

3 Is this part of your qualifications,
4 Counsel?

5 MS. COLIZZA: It is, Your Honour, but I
6 can come back to it afterwards, if that's
7 preferable.

8 THE COURT: Well, it would be
9 preferable, since Plaintiffs' counsel, I think,
10 wants that context for his potential objection.

11 MS. COLIZZA: Okay, no problem.

12 So we can go back to the report then,
13 which is Exhibit 4617. And if we go to page 4,
14 please.

15 BY MS. COLIZZA:

16 Q. So under the heading, "What is
17 Geomythology?" You write that, quote:

18 "Vitaliano notes two sorts of
19 folklore susceptible to
20 geomythological inquiry, that in
21 which some geologic feature or the
22 occurrence of some geological
23 phenomenon has inspired a folklore
24 explanation and that which is the
25 garbled explanation of some actual

1 geologic event, usually a natural
2 catastrophe."

3 So we're going to discuss the two types
4 of geomyths referred to in this passage --

5 THE COURT: I'm just going to interrupt
6 you, Counsel. I didn't want to interrupt the
7 witness. Madam reporter hasn't said a word, but I
8 can't imagine that she's not having trouble keeping
9 up with both of you.

10 THE WITNESS: Sorry.

11 THE COURT: So that's fine.

12 Professor Bowman, please slow down.
13 And Counsel, please slow down.

14 MS. COLIZZA: Yes, Your Honour.

15 BY MS. COLIZZA:

16 Q. So I'd like to ask who is
17 Vitaliano?

18 A. Vitaliano is a geologist who is
19 the one who coined the word "geomythology", which
20 was, while what she says, myths that are or may be
21 based on geological events.

22 And she's the one that -- well, in her
23 book Legends of the Earth, she suggested, among
24 other things, that the story of the destruction of
25 Atlantis, which we find in Plato, was based on

1 observation of -- or myths based on the observation
2 of the explosion of the island of Thera in the
3 eastern Mediterranean in -- well, in around
4 1650 BC.

5 Q. You also referred to Mayor in this
6 section?

7 A. Yes.

8 Q. Who is Mayor?

9 A. Mayor is a classicist. So in --
10 from my discipline, and she's at the University of
11 Stanford. And she works on history of science and
12 on historicity of -- well, historical events that
13 may or may not be embedded in oral traditions.

14 And she's worked on, for example,
15 fossils, you know, fossils found by the Ancient
16 Greeks and the stories that are based on them. And
17 she's done more recently a book on fossils in North
18 American traditions. And most recently, she's done
19 a book that I find particularly interesting on
20 Amazons and the stories about Amazons, not only in
21 Greece, but elsewhere which she associates with the
22 tradition of female warriors in the Nomad tribes
23 including the Scythians.

24 MS. COLIZZA: Can we scroll down a
25 little bit on the same page, please.

1 BY MS. COLIZZA:

2 Q. So you note on this page that
3 Vitaliano gives geomythological interpretations of
4 First Nation myths, South Pacific myths and
5 Hawaiian traditions and that Mayor gives examples
6 of interpretations of Greek myths, Scottish
7 stories, Zuni creation myths and German stories.

8 So I'd like to ask, based on the
9 scholarly works that you've read on both
10 geomythology but also on the use of oral
11 traditions, as historical data more generally, how
12 common is it for an author to rely on traditions
13 from various cultures?

14 A. Very, very common. If you are
15 focusing on geomythology, for example, you will be
16 looking for traditions, oral traditions that are
17 associated potentially with geological events in
18 whatever culture you find them because your focus
19 is the geological events and those can happen
20 anywhere.

21 Q. And for this report, you were
22 asked to write a methodological guide on best
23 practices in the interpretation of myth and in the
24 assessment and validation of data from oral
25 tradition.

1 You set out a number of principles for
2 this purpose. We've just gone over your resumé and
3 it's clear that the majority of your professional
4 work has been in Greek and Roman oral tradition.

5 How would you characterize the
6 applicability of the methodological principles you
7 discuss in this report to oral traditions that are
8 from non-classical cultures?

9 A. They are generally applicable. If
10 I can -- well, I cite Mason as part of this report.
11 The methodology that you will use to assess an oral
12 tradition, will -- is generally applicable from one --
13 the content of one oral tradition to the next
14 because the methods you're going to use for
15 assessment will be the same. I mean, some things
16 will differ in that the methods of transmission in
17 different oral traditions will be different. Some
18 of them -- well, without going into detail.

19 But the methods of deciding how historical
20 this information is, and the methods of -- are not
21 going to vary. Okay.

22 Q. Okay. And are you familiar with
23 the Anishinaabe stories that are part of this
24 litigation?

25 A. The ones that are specifically

10:44:37 1 part of this litigation, yes, because I was
10:44:42 2 initially asked to write a response to a report by
10:44:51 3 Lenore Keeshig and I was asked to write a response
10:44:53 4 to a report by Dr. McCarthy, a geologist, and they
10:44:57 5 referred to those particular myths.

10:45:00 6 But those reports are not part of the
10:45:02 7 record now.

10:45:03 8 Q. So the current report does not
10:45:05 9 mention them now?

10:45:05 10 A. The current report doesn't mention
10:45:07 11 them, no.

10:45:08 12 Q. Thank you. And do you consider
10:45:10 13 yourself to be an expert on Anishinaabe oral
10:45:13 14 traditions or North American Indigenous myths more
10:45:17 15 generally?

10:45:17 16 A. No, not at all.

10:45:18 17 Q. Thank you.

10:45:19 18 MS. COLIZZA: I'd like to pull up
10:45:20 19 document SC1868 which is our proposed tender of
10:45:28 20 qualification for Professor Bowman. I understand
10:45:29 21 that my friends are not objecting to it but if we
10:45:33 22 can scroll up to the second page, please.

10:45:36 23 I can read it out. It's "classicist
10:45:39 24 with special expertise in the methodology of
10:45:42 25 inquiry into the historical content of

1 orally-transmitted narratives".

2 THE COURT: Can you expand that,
3 please?

4 The title of proceedings is less of
5 interest to me.

6 I'm just pausing, Counsel, because it
7 uses the word "narratives". And I need to
8 understand whether your tender includes oral
9 traditions as described in this trial or not.

10 MS. COLIZZA: Yes, Your Honour. They
11 were used interchangeably, but "traditions" is the
12 term we use predominantly here. So orally
13 transmitted traditions would be equally acceptable.

14 THE COURT: Mr. Brookwell, do you have
15 any problem with that?

16 MR. BROOKWELL: No objection. I have
17 no problem with the change.

18 THE COURT: So I'll accept this witness
19 as an expert classicist with special expertise in
20 the methodology of inquiry into the historical
21 content of orally-transmitted traditions.

22 MS. COLIZZA: Thank you, Your Honour.
23 Could we mark this tender for qualification as the
24 next lettered exhibit.

25 THE COURT: Yes, as the original

1 proposed tender, Mr. Registrar.

2 THE REGISTRAR: Lettered exhibit U-3.

3 THE COURT: U-3?

4 THE REGISTRAR: Yes, Your Honour.

5 THE COURT: Okay. So we should note
6 that that was the proposed tender, as opposed to
7 the tender.

8 EXHIBIT NO. U-3: Proposed Tender of
9 Qualifications for Laurel M. Bowman.

10 THE COURT: Now, before we embark on
11 the next stage of your examination in-chief.

12 Professor Bowman, in this trial, most
13 of the expert reports, including yours, have been
14 marked as trial exhibits, which means they are now
15 evidence in this trial. And unlike other trials
16 where counsel makes an effort to make sure you
17 repeat virtually every word in your report that is
18 not required here.

19 So I would ask that you listen
20 carefully to their specific questions, rather than
21 worrying about whether you have covered what is in
22 your report, all right?

23 Please go ahead, Counsel.

24 MS. COLIZZA: Thank you, Your Honour.

25 BY MS. COLIZZA:

10:48:18 1 Q. I'd like to bring back up
10:48:21 2 Exhibit 4504 which is the Ronald Mason book, but I
10:48:24 3 would like to go to PDF page 42, which is page 74
10:48:28 4 of the document.

10:48:30 5 So in this passage, Mason is discussing
10:48:36 6 Homer's Iliad, and I'm going to read part of it
10:48:40 7 before asking a couple of questions. First, he
10:48:42 8 notes the Iliad's formulaic language, indicative of
10:48:48 9 orality, which we discussed earlier. And then he
10:48:50 10 states, quote:

10:48:50 11 "The essence of oral tradition
10:48:52 12 as a host of its students in many
10:48:54 13 parts of the world have come to
10:48:56 14 insist is orality and orality has
10:48:59 15 its raison d'être and most
10:48:59 16 persuasive impact not only in the
10:49:02 17 absence of writing, but in the
10:49:04 18 context of performance. As further
10:49:06 19 pursued in the next chapter, each
10:49:08 20 performance differs in greater or
10:49:10 21 lesser degree from all other
10:49:13 22 performances depending on
10:49:14 23 circumstances of place, occasion,
10:49:16 24 audience and its reaction,
10:49:17 25 inspiration and skill of the

10:49:19 1 performer and so on. Not only
10:49:20 2 details may be altered, added or
10:49:23 3 deleted, but whole episodes may be
10:49:26 4 introduced or jettisoned. As
10:49:27 5 emphasized before, views of the past
10:49:29 6 are not fossilized in recitation but
10:49:29 7 they are adapted to the needs of the
10:49:29 8 moment presumably no less so in the
10:49:32 9 ancient Aegean world and then
10:49:33 10 elsewhere and in other times."

10:49:38 11 So, first, do you deal with Ronald
10:49:40 12 Mason's characterization of the orality of the
10:49:43 13 Iliad and the importance of its performance?

10:49:46 14 THE COURT: If you'd just pause for a
10:49:46 15 moment, Professor.

10:49:48 16 Yes, Mr. Brookwell.

10:49:50 17 MR. BROOKWELL: Two problems. The
10:49:51 18 first is, we haven't had any notice of an opinion
10:49:52 19 of this document, so I don't have any idea what
10:49:56 20 this witness may say.

10:49:57 21 And second, leading through all this
10:50:00 22 passage and then asking the witness if she agrees,
10:50:03 23 strikes me as a leading question, which I don't
10:50:05 24 believe is appropriate.

10:50:08 25 THE COURT: Correct me if I'm wrong,

1 but didn't your team use that formulation for
2 questions of your own experts?

3 MR. BROOKWELL: We may have done, but I
4 don't believe the question was, "do you agree with
5 this author?"

6 THE COURT: Counsel, what's your
7 response to the objection?

8 MS. COLIZZA: Well, we did share this
9 document with Plaintiffs' counsel several weeks
10 ago. But that was just a background question, I
11 have more specific ones.

12 Since Professor Bowman is a classicist
13 and Ronald Mason is an archeologist in Canada, I
14 thought it would be best to first check that he is
15 correct in his characterization. But it's not the
16 key question I plan on asking.

17 THE COURT: Well, that's interesting,
18 but it doesn't fully respond to the objection.

19 MS. COLIZZA: I'm happy to not ask that
20 question.

21 THE COURT: Let me ask it differently.
22 Have you got a series of questions on
23 the Mason book?

24 MS. COLIZZA: This would be the last
25 question, I believe, on the Mason book.

1 THE COURT: It's also the first
2 question -- or the second question on the Mason
3 book.

4 MS. COLIZZA: Yes. The first one I
5 don't need to go back to, so this would be the
6 second and last.

7 THE COURT: Mr. Brookwell, I'm sure at
8 least once in this long trial I have said, and I
9 think in the Plaintiffs' case, that leading by
10 documents, which is what this is, and frankly I
11 think in the context of the Plaintiffs doing it, it
12 was not objected to, is a certain kind of leading
13 which is not necessarily objectionable but,
14 obviously, I will take that into account when
15 considering the answer.

16 MR. BROOKWELL: Thank you, Your Honour.

17 THE COURT: It's not uncommon leading
18 by documents, and I'm sure that you all did it, I
19 think enough times, that I at least mentioned it
20 once even though there was no objection.

21 As for the second objection, which is
22 you don't know what this witness is going to say,
23 there is, as far as I read the report, a
24 considerable overlap between what Mr. Mason says in
25 this paragraph and what this witness says in her

10:52:43 1 report. So I'm a little unsure about how --
10:52:48 2 whether you're really taken by surprise by any of
10:52:51 3 this.

10:52:54 4 MR. BROOKWELL: Your Honour, since I
10:52:55 5 understand the question is going to be essentially
10:52:59 6 if this witness agrees with this statement, I will
10:53:02 7 withdraw my objection that I have been taken by
10:53:05 8 surprise in any way, as depending what her answer
10:53:10 9 is, I doubt it's going to be a shock to me.

10:53:14 10 THE COURT: All right. Thank you,
10:53:14 11 Mr. Brockwell.

10:53:14 12 Counsel, I will just repeat what I said
10:53:17 13 about leading by documents, which is done all the
10:53:19 14 time. Depending on who you ask, it's not
10:53:22 15 objectionable.

10:53:22 16 It does affect the weight given to the
10:53:26 17 answer, even if there is no objection. So I'm sure
10:53:29 18 you'll take that into account as you make your way
10:53:32 19 through your examination in-chief.

10:53:35 20 MS. COLIZZA: Yes, Your Honour.

10:53:36 21 THE COURT: Now, you had better repeat
10:53:39 22 your question, because it's been a while and the
10:53:41 23 Professor should know what she's answering before
10:53:44 24 she answers.

10:53:46 25 MS. COLIZZA: Certainly.

1 BY MS. COLIZZA:

2 Q. I was just asking whether Ronald
3 Mason's characterization of this orality of the
4 Iliad and the importance of its performance is
5 something that you agree with based on your
6 experiences?

7 A. Okay, if your question is, as I
8 take it to be, was the Iliad orally performed; and,
9 did this make a difference to how it was performed;
10 and what's in it; and whether it changed?

11 Yes, it was orally performed. And, it
12 was -- and this makes a big difference to what's in
13 it, and to how it changed over time.

14 But if I can expand a little, the fact
15 that it was performed meant that while the bard
16 was, up to the point when we have a written text
17 around 750 BC, I should say there are people who
18 think that it continued to be an oral tradition,
19 past 750 BC, that it wasn't, "Well, it's written
20 down, now we're just going to perform it verbatim
21 from the written text that we've all memorialized",
22 that it was being produced by bards that were doing
23 a -- exactly the same, the way the Serbo-Croatian
24 bards did, they were creating the poem as they
25 stood there.

1 And every performance was different.

2 As they're slapping together the lines from -- I've
3 always had that mental image of the Iliad being put
4 together like tetris blocks by the singer. And the
5 content would change, depending on who the audience
6 is. I'd better remember to mention the ancestor of
7 this guy I'm singing for, stick in that line. The
8 story arcs -- because of course, they weren't just
9 memorizing formulaic chunks. They also had
10 memories of the stories, you know the overarching
11 arc of the story, and those also change over time,
12 or they had a selection of different stories that
13 they could be putting together.

14 And incidentally, I don't actually
15 agree that it continued to be a primarily orally
16 composed up to 100 -- up to about 150 BC. I'm
17 inclined to think that changes pretty much stopped
18 once we have a written record. There are minor
19 variations, not major ones.

20 But, yes. And another thing you should
21 remember with the Iliad and the Odyssey, these are
22 very long texts. There is no way you could perform
23 it in an evening. The Athenians had a festival in
24 which they would perform the entire Odyssey in
25 about three days, and they did it once a year.

1 But generally, you performed roughly a
2 book, there are 24 books in each poem. You'd
3 perform about a book in an evening. If what Homer
4 says in the Odyssey, or if what you're shown in the
5 Odyssey is any indication, at dinner; it was the
6 dinner entertainment. And it would vary depending
7 on who you're singing for, and what story you're
8 telling.

9 And a great deal of the work of some
10 literary scholars is to try to excavate from traces
11 in the written texts we have now, the other stories
12 that the bard was choosing from and could have
13 emphasized and will have done in another
14 performance, but not this time.

15 So, yes, it was orally performed, and
16 the performance was affected by the time, and
17 place, and audience, and the performer, and
18 preferences of the performer.

19 Q. What is a "bard" in this context?

20 A. Sorry. The bard is a singer and
21 will have been trained -- well, the Homeric bards
22 were, at least in classical times, there was a
23 whole school of Homeric bards, older bards,
24 training the younger ones, in the memorizing the
25 thousands of formulaic chunks of lines and Homer,

10:58:32 1 the Homeric poems were performed by one singer,
10:58:38 2 accompanying himself on a stringed instrument, in
10:58:42 3 front of an audience. And bard, it's actually a
10:58:47 4 Welsh term, but it's come to be used for -- the
10:58:50 5 Greek word was Aoidos.

10:58:55 6 Q. Okay. And bearing in mind the
10:58:57 7 oral nature of oral tradition --

10:58:59 8 A. Uhm-hmm.

10:59:00 9 Q. -- how would your methodological
10:59:02 10 approach differ from that used with written
10:59:06 11 traditions when you're looking to establish a
10:59:09 12 story's historicity?

10:59:12 13 A. In a couple of ways. If I'm
10:59:14 14 looking at a written tradition, I have the
10:59:18 15 advantage of looking at different variants of the
10:59:26 16 story, you know, because they're all written down,
10:59:28 17 and I can look at their variations over time.

10:59:31 18 So I can consider, for each version of
10:59:33 19 the myth, who it was being -- to whom it was being
10:59:40 20 told, under what circumstances, and so on, and how
10:59:43 21 it was responding to the political and historical,
10:59:45 22 and cultural and audience contexts. And the
10:59:49 23 context of the genre in which it's being told.

10:59:54 24 So, for example, there's the story that
11:00:01 25 Orestes, the son of Agamemnon, the leader of the

1 troops at Troy, came home and murdered the man who
2 murdered his father and also murdered his mother,
3 or at least she died at the same time, is told in a
4 couple of places.

5 In the Iliad it's told, and in Greek
6 tragedy it's told in Aeschylus' trilogy, The
7 Oresteia.

8 But in the Iliad you don't get the
9 story that he then went mad and was pursued by
10 Furies and ran all over Greece for ten years before
11 finally being purified of his crime.

12 There are genre and audience reasons
13 for this difference that I won't go into. But I
14 can tell why, I can hypothesize why the difference
15 in these stories because I have them both written
16 and I know their context.

17 When I'm looking at an oral tradition,
18 I don't have the variations. All I have is the
19 very last one which is the one that was written
20 down. So the way that it will have varied over
21 time I know because it was an oral performance they
22 will have varied over time but I don't know how,
23 because I don't have any fixed texts to look at.

24 Now, I will say, there are
25 circumstances of performance that will have

11:01:31 1 assisted it to not change. Like if it's associated
11:01:35 2 with dancing or singing or poetry, that will all
11:01:41 3 help the bard or the singer or the dancers do the
11:01:44 4 same thing the next time, but they will also be
11:01:48 5 responding to the needs of the audience which will
11:01:51 6 encourage them to change it. And I won't know how,
11:01:55 7 okay.

11:01:56 8 Q. Thanks. If we can go back to the
11:01:58 9 report, please, Exhibit 4617. And we're still on
11:02:04 10 the same page, at the same passage where you
11:02:08 11 quoted:

11:02:09 12 "Vitaliano notes two sorts of
11:02:12 13 folklore susceptible to
11:02:15 14 geomythological inquiry."

11:02:16 15 Could you please briefly summarize
11:02:18 16 describe what those two categories are.

11:02:20 17 THE WITNESS: Well, Vitaliano
11:02:21 18 identifies two. One is the kind of story that's
11:02:24 19 based on a landscape feature that's clear -- that
11:02:31 20 is still visible. And the other is based on a
11:02:34 21 story which she says is usually garbled, which is
11:02:38 22 an -- never mind.

11:02:41 23 Which is based on an event that
11:02:46 24 occurred at sometime in the past and of which there
11:02:50 25 is no current visual or other evidence.

1 BY MS. COLIZZA:

2 Q. And you say on this page that:

3 "Geomythological
4 interpretations of the first sort of
5 geomyth, folk explanations of
6 notable geological features that are
7 still present and visible to the
8 tellers, are generally unproblematic."

9 Why do you think that these types of
10 geomyths are generally unproblematic?

11 THE WITNESS: Because you don't have to
12 make anymore assumptions in order to explain them.

13 If you have a story about -- there's a
14 rock that looks like a weeping -- is in the shape
15 of a weeping woman, and you have a myth that a
16 woman turned to stone out of grief. You don't need
17 to explain a previous historical event, a
18 geological event, in order to explain the myth,
19 it's right there.

20 Where, with the second kind, you have
21 to invent it, invent a historical event and then
22 invent reasons that it might have been preserved in
23 myth to the present day without that kind of visual cue.

24 BY MS. COLIZZA:

25 Q. And in discussing the second type

1 of geomyth, those purportedly containing
2 information about actual witness geological events
3 in the past. You refer to a Klamath myth from
4 Oregon about a Battle of gods standing on
5 Mt. Shasta and Mt. Mazama that ended with the
6 collapse of Mr. Mazama and the creation of Crater
7 Lake.

8 You note that both Mayor and Vitaliano
9 take this as a description of the catastrophic
10 eruption of Mt. Mazama, over 7,500 years ago. Why
11 did these authors find the Klamath myth to be a
12 more reliable transmission of an actually witnessed
13 geological event than other accounts?

14 A. I should start by saying, as I
15 said before, I am not an expert in North American
16 myths. So I'm basing what I say on people that
17 have written about it and why, and so if they got
18 anything wrong, I won't know.

19 But the reason that I find that a more
20 reliable transmission than, say, some others, is
21 because it has a number of features that would
22 encourage me to think that.

23 For example, the myth says that there
24 were two mountains and then there was a huge war
25 and the result was there is now only one mountain

11:05:18 1 and one lake. There isn't a half-melted mountain
11:05:23 2 that would encourage you to tell a story about a
11:05:26 3 war between two mountains.

11:05:28 4 You have a lake and no further
11:05:31 5 mountain. So you don't have a visual cue that
11:05:35 6 would tell you there were two mountains 7,500 years
11:05:38 7 ago.

11:05:38 8 The second thing you have is evidence --
11:05:43 9 well, this is actually possibly the first thing you
11:05:44 10 have, is geological evidence that there was
11:05:47 11 actually a mountain that then fell in, as a result
11:05:50 12 of a volcanic implosion. So you do have an event
11:05:54 13 that a myth could possibly have been referring to.

11:05:59 14 The third thing you have is evidence
11:06:00 15 that there were actually people there at the time.
11:06:03 16 There are, you know, archeological evidence in the
11:06:05 17 volcanic ash that there were people there before
11:06:08 18 the event.

11:06:09 19 And there's evidence, I gather, of a
11:06:12 20 stable population continuing in the same area, ever
11:06:17 21 since, which means that there was a stable
11:06:19 22 population that could be transmitting that story.

11:06:24 23 And finally, it was recorded very early
11:06:27 24 in the, you know, post-contact, which means that
11:06:33 25 there wasn't that much opportunity for

11:06:36 1 cross-cultural contamination before the story was
11:06:39 2 written down.

11:06:40 3 So those features encourage me to think
11:06:43 4 that that one there's a good possibility of a
11:06:45 5 lengthy transmission over a long period.

11:06:48 6 Q. Thank you. And beginning on
11:06:52 7 page 19 of your report, if we can go there, you
11:06:55 8 outline six criteria for the substantiation of
11:06:59 9 historical data hypothetically preserved by oral
11:07:02 10 tradition. Your report goes through these in
11:07:04 11 detail, so I'm just going to briefly touch on some
11:07:06 12 of the key takeaways from each.

11:07:09 13 So beginning here your first point is
11:07:11 14 falsifiability. Could you briefly summarize what
11:07:14 15 "falsifiability" means?

11:07:15 16 A. You have to establish, in order to
11:07:19 17 validate a hypothesis, you have to establish that
11:07:22 18 there is a criterion of falsifiability, that is
11:07:26 19 that there is data that if it existed would
11:07:29 20 demonstrate that you were wrong.

11:07:31 21 And if you can't demonstrate that
11:07:33 22 hypothesis is false, you can't demonstrate that
11:07:36 23 it's true, so...

11:07:37 24 Q. Okay. And you say on page 20,
11:07:39 25 that details do not equal falsifiability.

11:07:43 1 Could you please expand on why that is?

11:07:45 2 A. Well, you can invent as many
11:07:49 3 details as you'd like. We all know that a good lie
11:07:55 4 very often has lots of details apparently
11:07:58 5 corroborating attached to it. But in fact, in
11:08:01 6 order for details to corroborate a hypothesis, they
11:08:04 7 would have to be details that could only have been
11:08:08 8 known to an eyewitness of the original event and
11:08:12 9 couldn't have been invented later by evidence that
11:08:15 10 happens to be lying around, visible to the observer
11:08:20 11 later.

11:08:22 12 Anyway, I could give an example but
11:08:25 13 I'll stop.

11:08:26 14 Q. That's all right.

11:08:27 15 Your second principle begins on page 20
11:08:30 16 as well and it's calibration with an independent
11:08:32 17 body of data.

11:08:33 18 So you write near the bottom that:

11:08:36 19 "To substantiate a tradition it
11:08:39 20 is desirable to triangulate, that
11:08:41 21 is, to be able to corroborate and
11:08:43 22 calibrate the historical hypothesis
11:08:45 23 from more than one body of data and
11:08:47 24 ideally it should be possible to
11:08:49 25 securely date at least one body of

11:08:51 1 corroborating data."

11:08:52 2 What do you mean here by "securely date"?

11:08:57 3 THE WITNESS: Well, essentially I mean

11:08:57 4 you should be able to date it according to

11:09:00 5 something that is already securely dated. And

11:09:04 6 examples of secure dating in this field would be

11:09:07 7 carbon dating is good, stratigraphy,

11:09:15 8 archaeologically or calibration with pottery

11:09:17 9 types -- although they keep reformulating those.

11:09:20 10 Historical linguistics, I cited an

11:09:23 11 article by Margaret Finkelberg showing migration

11:09:27 12 patterns and how you can associate those with

11:09:31 13 details of the development of the Greek language.

11:09:34 14 Inscriptions are good, but usually you

11:09:38 15 haven't got any. Inscriptions with dates, even

11:09:41 16 better, but usually you don't have them.

11:09:43 17 BY MS. COLIZZA:

11:09:43 18 Q. And what are the risks of having

11:09:45 19 only one body of data to use for corroboration?

11:09:48 20 A. Well, if you only have one body of

11:09:50 21 data, you actually aren't corroborating. That's --

11:09:54 22 that was your whole hypothesis. You have your

11:09:58 23 historical event, and you have your story, and

11:10:01 24 you're drawing a straight line between the two of

11:10:04 25 them but you can do that with any two points.

1 You need a third independent body of
2 data that you can use to triangulate to associate
3 both of your other pieces to in it for
4 corroboration.

5 Q. You say at the bottom of page 21
6 that:

7 "The independent body of data
8 is necessary to show that the place
9 and time are 'the only or even the
10 most likely place and time'."

11 Why does the inquiry go beyond whether
12 it's simply one of the possible places and times?

13 THE WITNESS: Hang on a second.

14 BY MS. COLIZZA:

15 Q. Take your time.

16 A. Well, if all you're interested in
17 is story patterns then you don't have to go that
18 far. But if what you're interested in is
19 historicity, is whether this oral tradition is
20 actually transmitting a piece of historical data.

21 History depends not on what might have
22 happened, but what did happen and what you're
23 trying to establish is something did or didn't
24 happen and so it's not sufficient to say it's
25 possible that this happened, that's where your

11:11:15 1 hypothesis started. If it weren't possible that it
11:11:19 2 happened, we wouldn't be having this conversation.

11:11:23 3 You need -- if you're establishing
11:11:25 4 historicity you need to show that it did happen, or
11:11:28 5 at least that it is the most overwhelmingly
11:11:32 6 probable of all of the possible alternatives.

11:11:34 7 Q. In your report, you describe a
11:11:38 8 myth which claims that the god, Apollo, did not
11:11:40 9 found the Delphic oracle, but took it over from an
11:11:43 10 earlier goddess, and that it has been assumed this
11:11:47 11 myth contains true information about the oracle's
11:11:53 12 early history. You note that the historical
11:11:54 13 reading of the myth has often been supported with
11:11:56 14 archeological evidence and features of worship
11:11:58 15 which conclude that, quote:

11:12:00 16 "On closer examination this
11:12:01 17 interpretation does not hold."

11:12:03 18 Your report sets out in detail the
11:12:05 19 evidence purportedly supporting the historical
11:12:08 20 hypothesis from pages 13 to 18. But I was hoping
11:12:11 21 you could please summarize the reasons you believe
11:12:15 22 this hypothesis isn't supported by the available
11:12:17 23 body of evidence.

11:12:18 24 A. Okay. Well, as you've said, the
11:12:21 25 evidence that is used in support of that hypothesis

11:12:24 1 is some -- is in my report, but there are three
11:12:30 2 apparent myths in all of -- about how Apollo took
11:12:34 3 over the oracle from a deity, usually Gaia, and
11:12:42 4 there is archeological evidence in the form of a
11:12:45 5 cache of Mycenaean terra-cotta figurines, most of
11:12:49 6 them female. And there are details of cult ritual,
11:12:54 7 which is that the priestess at Delphi was a female,
11:12:59 8 although usually male deities had male priests,
11:12:59 9 female deities had female priests.

11:13:05 10 And then there are details like she
11:13:08 11 inhaled a gas from the depths of the earth and so
11:13:11 12 maybe it was worshipping the earth goddess. So all
11:13:15 13 of these things individually would not been taken
11:13:17 14 as evidence that Apollo took over the oracle from a
11:13:26 15 previous worship of an oracular female deity.

11:13:32 16 But taken altogether, people argued
11:13:34 17 that you've got the myth, you've got archaeology,
11:13:36 18 you've got details of ritual, looks like we've got
11:13:38 19 a religious history, an actual worship of a female
11:13:44 20 deity.

11:13:46 21 But when you look at this -- look at it
11:13:48 22 individually and tease it apart, this doesn't
11:13:54 23 follow. So the textual evidence, you have three
11:13:59 24 myths. One the Hymn to Apollo, one from Aeschylus'
11:14:03 25 play the Eumenides, the third play, the Oresteia.

11:14:06 1 And I'm sorry, I'm going too fast, aren't I? I'll
11:14:08 2 come back.

11:14:12 3 THE COURT: I don't know that you're
11:14:13 4 going too fast, but bearing in mind the request not
11:14:14 5 to get too detailed. You might be diving down --

11:14:14 6 THE WITNESS: Yes, okay.

11:14:18 7 THE COURT: The thing I would say is,
11:14:20 8 you can always count on counsel to ask another
11:14:22 9 question if you overlooked something.

11:14:24 10 THE WITNESS: That's a good point.

11:14:25 11 THE COURT: Always count on counsel,
11:14:28 12 all right?

11:14:28 13 THE WITNESS: Okay. All right. I will
11:14:30 14 boil it down. Those three -- the ostensibly three
11:14:34 15 myths that were used to corroborate each other, are
11:14:38 16 actually all part of the same tradition.

11:14:40 17 Because they're all part of the written
11:14:42 18 tradition, Aeschylus will have read the hymn to
11:14:47 19 Apollo. Euripides was living in Athens at the same
11:14:50 20 time as Aeschylus and will have seen the Oresteia
11:14:54 21 many times, because they kept reviving it, because
11:14:57 22 everybody loved that trilogy.

11:14:59 23 So these aren't three different stories
11:15:01 24 about Apollo taking over from a female deity; this
11:15:05 25 is two later authors riffing on the same original

11:15:09 1 myth. It's early classical reception, if you'd
11:15:13 2 like.

11:15:13 3 The archeological data, the cache of
11:15:18 4 little terra-cotta figurines, wasn't found at the
11:15:22 5 Oracle, it was found half a mile down the road and
11:15:26 6 it was collected in the 7th century when they were
11:15:28 7 building the temple down the road by the people,
11:15:31 8 and so we don't know where they came from.

11:15:33 9 And it's true Apollo has a priestess
11:15:40 10 there, but if you look at the -- every oracular
11:15:46 11 temple had a priestess, but no other oracular
11:15:51 12 temple has anybody trying to claim that there was a
11:15:52 13 pre-history of a female deity. There are no
11:15:57 14 records of any oracular deity in the Bronze Age.
11:15:59 15 So there's no reason to think that there was one at
11:16:02 16 Delphi, when there wasn't one at anywhere else.

11:16:05 17 Gaia is never worshipped anywhere.
11:16:08 18 This mistake comes from the idea that the story of
11:16:11 19 the origin of the gods, from generation to
11:16:13 20 generation, is a religious history that classical
11:16:16 21 Greeks worship the Olympic deities, but a few
11:16:20 22 generations before that, they were worshipping
11:16:23 23 Kronos and the Titans, and a few generations before
11:16:26 24 that, they were worshipping Gaia. There is no
11:16:30 25 evidence that the Greeks ever worshipped anything

11:16:32 1 but the Olympic deities.

11:16:41 2 So we have no evidence that Gaia was
11:16:45 3 worshipped, that there were Mycenaean oracles and
11:16:46 4 finally -- the final thing, and I find one
11:16:48 5 critical, they all are, but if you're going to
11:16:54 6 argue that you have continuity of religious ritual,
11:16:57 7 you have to argue that there were people there to
11:17:00 8 provide continuity of religious ritual to teach the
11:17:04 9 next generation the rituals so that when the
11:17:07 10 worshipers of Apollo came and took over the Temple
11:17:11 11 they had somebody to take over the rituals from and
11:17:14 12 for some reason retain the female priestess.

11:17:17 13 But there was about 300 years between
11:17:20 14 the collapse of Mycenaean civilization and the
11:17:23 15 building of the Temple of Apollo, somewhere between
11:17:26 16 900 and 800 BC when there's no evidence that there
11:17:30 17 was anybody living there. And if you don't have a
11:17:32 18 continuity of population, you don't have continuity
11:17:34 19 of ritual.

11:17:35 20 So ultimately, you can't take it
11:17:38 21 altogether. It's not altogether. It's a bunch of
11:17:43 22 disparate pieces of data which would never have
11:17:46 23 been interpreted that way if the -- if we hadn't
11:17:50 24 had a myth to suggest it.

11:17:53 25 BY MS. COLIZZA:

1 Q. Thank you. If we can go to
2 page 22, please. So your third principle is of
3 alternative hypotheses?

4 A. Uhm-hmm.

5 Q. And you write here:

6 "To avoid over interpretation
7 of all parts of the tradition as
8 historical, it's best to begin by
9 considering other possible reasons
10 the oral tradition exists."

11 When you're presented with an assertion
12 that a myth contains a memory of one particular
13 geological event, what other possible explanations
14 would likely be necessary to consider?

15 A. Well, here I'd say, a literary
16 scholar is in a better position because historians
17 look for history, geologists look for geology. I'm
18 just interested in the stories. And people tell
19 stories for all kinds of reasons, one of which can
20 be preservation of historical data. And they may
21 accidentally preserve historical data while telling
22 a story about that as far as they're concerned is
23 about something else entirely.

24 But if I'm looking at a story, my first
25 question will be why is it being told now in this

1 place, to this audience, by this teller. And the
2 reason doesn't have to have anything to do with
3 history, and that shouldn't be the first place you
4 go. And you will manage to avoid circular
5 reasoning, incidentally, if you don't start there.

6 So, I can give you examples or I can
7 stop.

8 Q. All right. You refer in this
9 section to the Hymn to Dionysus. Could you please
10 briefly summarize how that relates to the need to
11 consider alternative hypotheses?

12 A. Oh, okay. That's a good example
13 because the original ways that these myths were
14 interpreted was always historical. All of the
15 stories about Dionysus and beginning -- including
16 the Hymn to Dionysus from the Homeric hymns, are
17 stories about how he came from the east somewhere,
18 somewhere that isn't Greek, and came to Greece and
19 various cities resisted his worship and he did
20 truly terrible things to them after which they
21 accepted that he was a god.

22 And taken, again, as an aggregate, and
23 you can see why you'd want to, because all of these
24 stories say he came from the east, he came here, we
25 resisted, he did something terrible. It was taken

11:20:42 1 to mean that he must have been a late addition to
11:20:47 2 the Greek pantheon, that he was -- showed up
11:20:49 3 sometime in the Dark Ages, that is to say between
11:20:52 4 the fall of Mycenaean culture, around -- between
11:20:59 5 1100 and 1200 BC and the archaic era beginning 900,
11:21:04 6 800 BC. And that -- and they're also details of
11:21:06 7 his worship which the worship, the scholars thought
11:21:10 8 weren't Greek because, well, they involved
11:21:13 9 drunkenness and women dancing up mountains at night
11:21:16 10 and behaving in an undignified manner and they
11:21:21 11 thought, well, that's not very Greek so this must
11:21:24 12 be an eastern god.

11:21:25 13 And everybody said this, until Linear B
11:21:30 14 was translated by Chadwick and Ventris and one of
11:21:34 15 the tablets from Pylos had a list of the gods that
11:21:39 16 were being worshipped in the Bronze Age and
11:21:39 17 Dionysus was on the list, and a couple of gods that
11:21:42 18 everybody thought were very Greek, like Apollo,
11:21:45 19 were not on the list.

11:21:46 20 So he was always there, he didn't come
11:21:48 21 from the east, these are not historical -- these
11:21:52 22 are not religious history. So why were they
11:21:56 23 telling the story. Well, explanations vary widely
11:22:01 24 but usually are taken to be something about the
11:22:03 25 effect of the god, Dionysus, on the individual

1 worshiper. He was the God of drunkenness and
2 madness. And how it is necessary to accept the way
3 he changes you and that these stories were
4 metaphorical.

5 Q. Sorry, you mentioned Linear B,
6 what is Linear B?

7 A. I'm sorry. Linear B -- the Greek
8 alphabet was developed based on the Phoenician
9 alphabet in around -- in late century BC. In fact,
10 the first thing written in the Greek alphabet was
11 the Homeric poems. But the Bronze Age Greeks had
12 another system of writing, the Linear B, as a
13 syllabary, that is every symbol signifies a
14 vowel-consonant combination which was based on the
15 Minoan syllabary called Linear A which hasn't been
16 translated yet because we don't know the language.

17 And Linear B was translated by people
18 who had worked as code breakers during the Second
19 World War and discovered to their surprise that it
20 encoded an early form of Greek.

21 Q. All right. Thanks. If you could
22 go a little farther down this page. We have your
23 fourth point, rationalization. And again briefly
24 could you summarize what rationalization is?

25 A. Well, it's one of the ways of

11:23:24 1 again, trying to preserve an important story. So
11:23:31 2 explaining why it is you're telling it by -- myths
11:23:35 3 very often have supernatural features. As I said,
11:23:37 4 it's one of the common features of content. But in
11:23:42 5 order to make it believable, you simply strip out
11:23:45 6 all of the supernatural bits. And the problem with
11:23:49 7 this approach, and it's very appealing, but the
11:23:53 8 problem with this approach is it implies that
11:23:59 9 anything that wasn't supernatural is therefore
11:24:01 10 believable or plausible but you actually have no
11:24:03 11 way to know that.

11:24:04 12 All you've really done is said, I find
11:24:08 13 these bits that aren't supernatural more believable
11:24:11 14 than those other bits that are supernatural. And
11:24:15 15 it was -- it's used particularly by those who would
11:24:19 16 like myth to be or oral traditions to be a vehicle
11:24:25 17 for historical data. And it assumes that there is
11:24:30 18 a historical data in there to be retrieved.

11:24:34 19 Q. If we could have up document
11:24:41 20 SC1869.

11:24:42 21 So this is an excerpt of a book by
11:24:45 22 David Henige entitled "Oral Historiography",
11:24:51 23 published in 1982, and the excerpt is Chapter 4 of
11:24:55 24 that book.

11:24:56 25 First, who is David Henige?

11:24:59 1 A. He was a bibliographer and a
11:25:01 2 specialist in African oral history and he also
11:25:10 3 eventually worked on writing on "Principles of Oral
11:25:11 4 Historiography", that is to say, deriving
11:25:15 5 historical data from oral traditions.

11:25:18 6 MS. COLIZZA: Your Honour, could we
11:25:19 7 please mark this as the next numbered exhibit?

11:25:22 8 THE COURT: What chapter is it?

11:25:23 9 MS. COLIZZA: Chapter 4.

11:25:25 10 THE COURT: Mr. Registrar.

11:25:26 11 THE REGISTRAR: Exhibit No. 4712.

11:25:26 12 EXHIBIT NO. 4712: Chapter 4 Excerpt
11:24:49 13 from the book entitled, "Oral
11:24:50 14 Historiography" by David Henige.

11:25:34 15 MS. COLIZZA: We are currently on
11:25:35 16 page 3 and 4 of the PDF which is pages 67 and 68 of
11:25:39 17 the document -- if you could scroll down a little
11:25:41 18 bit, please. Thank you. There we go.

11:25:42 19 BY MS. COLIZZA:

11:25:45 20 Q. Again, this is a lengthy passage
11:25:47 21 I'm not going to read it all out but I do want to
11:25:50 22 look at a couple of points and then ask you about
11:25:53 23 them. I'm not going to be asking you to strictly
11:25:55 24 agree or disagree but I will ask you for your
11:25:58 25 interpretation of the points that are being made.

11:26:01 1 So at the top of page 68 Henige warns
11:26:04 2 against, quote:

11:26:06 3 "[...] willingness to accept
11:26:07 4 certain testimonies because they are
11:26:09 5 plausible, coherent and thus
11:26:11 6 generally persuasive while rejecting
11:26:13 7 others on the grounds that they seem
11:26:15 8 implausible or shapeless or speak of
11:26:17 9 the frankly impossible."

11:26:17 10 And little later on states that by,
11:26:17 11 quote:

11:26:21 12 "[...] de-mythologizing
11:26:22 13 elements of tradition in this way,
11:26:24 14 is only to confuse the commonplace
11:26:26 15 with the true and to risk exchanging
11:26:29 16 impossibilities for untrue
11:26:30 17 possibilities."

11:26:33 18 So as we stated Henige is an African
11:26:35 19 scholar and in this passage he refers to an African
11:26:40 20 myth, when discussing this point, but based on your
11:26:42 21 experience, would the warning as he states it apply
11:26:45 22 to Greek and Roman traditions?

11:26:48 23 A. Oh, yes. And it was a very common
11:26:50 24 way for the actual, the classical writers to deal
11:26:53 25 with the fantastic aspects of myth. And I gave an

11:26:59 1 example in my report, of how Herodotus takes four
11:27:03 2 myths about -- well, about young women who were
11:27:09 3 carried off by Zeus, or turned into cows by Zeus
11:27:14 4 when he tried to carry them off and his wife caught
11:27:17 5 him.

11:27:17 6 Or, young women who were apparently
11:27:20 7 mortal, but actually granddaughters of the sun and
11:27:25 8 wind up flying off in dragon-drawn chariots. And
11:27:29 9 he took out all of the supernatural bits, and
11:27:31 10 turned them into young women who were kidnapped by
11:27:35 11 respectively Persian and Greek sailors, and uses
11:27:42 12 that to explain part of the origins of the Persian
11:27:45 13 war.

11:27:46 14 So all he's done is taken out the
11:27:48 15 fantastical elements but he's still accepting as
11:27:52 16 historical facts that there was a princess called
11:27:56 17 "Io", only she didn't turned into a cow, a princess
11:28:00 18 called "Europa", only she didn't -- wasn't carried
11:28:03 19 off by a large swimming bull. But there's no
11:28:07 20 evidence that simply because Io didn't turn into a
11:28:11 21 cow doesn't mean that Io existed.

11:28:15 22 MS. COLIZZA: Your Honour, I'm about to
11:28:16 23 start the next principle, which might be a bit of a
11:28:18 24 long one and I see that it's 11:28. Would you like
11:28:21 25 to take the morning break now?

11:28:23 1 THE COURT: Yes. I think what we're
11:28:25 2 going to do, Professor Bowman, because part of your
11:28:28 3 morning break will be occupied by assisting Madam
11:28:32 4 Reporter with spellings --

11:28:32 5 THE WITNESS: Yes, okay.

11:28:33 6 THE COURT: -- and you two can work out
11:28:36 7 whether you want to do it before or after because
11:28:38 8 I anticipate that otherwise the morning break would
11:28:41 9 be entirely occupied that way and neither of you
11:28:43 10 would get a break.

11:28:45 11 So we'll break for 30 minutes.

11:28:55 12 -- RECESS TAKEN AT 11:28 a.m. --

11:32:00 13 -- UPON RESUMING AT 12:03 p.m. --

12:03:52 14 THE COURT: Please go ahead.

12:03:53 15 MS. COLIZZA: Thank you, Your Honour.

12:03:53 16 BY MS. COLIZZA:

12:03:54 17 Q. When we left off we were going
12:03:56 18 through your six principles, discussed in your
12:03:59 19 report. And we're on number 5, which is circular
12:04:02 20 reasoning. So we've referred to this principle
12:04:06 21 earlier.

12:04:06 22 THE COURT: What page is that?

12:04:10 23 Yes, Mr. Brockwell.

12:04:10 24 MR. BROOKWELL: Your Honour, the live
12:04:13 25 reporting doesn't seem to be working.

12:12:18 1 -- RECESS TAKEN AT 12:04 p.m. --

12:13:11 2 -- UPON RESUMING AT 12:13 p.m. --

12:13:11 3 THE COURT: Please go ahead.

12:13:25 4 MS. COLIZZA: Thank you, your Honour.

12:13:28 5 BY MS. COLIZZA:

12:13:28 6 Q. So we left off on the fifth
12:13:31 7 principal of six, "Circular reasoning", which
12:13:34 8 begins on page 23.

12:13:35 9 We've referred to this principle in
12:13:39 10 passing this morning but could you please expand on
12:13:41 11 how one can avoid the pitfall of circular reasoning
12:13:45 12 when first approaching the question of a myth's
12:13:48 13 historicity?

12:13:49 14 A. Well, as I said earlier, first,
12:13:56 15 ask what reason the story is being told right now
12:14:00 16 by this teller, to this audience, in this context
12:14:06 17 and start from there. I think I said somewhere in
12:14:08 18 my report that you're wise to start from the
12:14:13 19 premise that there isn't any historical data and
12:14:16 20 then argue against that premise and that will
12:14:19 21 prevent you from falling into, well, confirmation
12:14:23 22 bias, circular reasoning. If you are looking for
12:14:28 23 historical data, it's very easy to believe that
12:14:32 24 you've found it.

12:14:32 25 And the second thing I'd say is begin

1 with the data, don't begin with the myth. So
2 with -- well, okay, with the Oracle of Delphi that
3 I talked about earlier, if anybody started from, we
4 have some Mycenaean terra-cottas here and there
5 seems to be a fisher in the rock over there, they
6 would not have gone from that to clearly we have an
7 oracle of Gaia. So start from your data, and don't
8 let it let the myth be the interpretive frame for
9 the data.

10 Okay. And I think those would be the
11 two -- your two best practices. And as I say, I
12 may see this because I'm primarily a literary
13 specialist so I'm not looking for historical data
14 in the first analysis.

15 Q. Okay. And you mention here the
16 field of Homeric archaeology as an example of
17 circularity. Could you define this field and
18 explain how it is an instance of this type of
19 reasoning?

20 A. Well, the very title of the field
21 is circular, because after Schliemann dug up
22 Hissarlik, and identified it as "Troy", possibly
23 correctly, all of the archaeology of that period in
24 the Aegean was actually called Homeric archaeology
25 which meant that the archeologists were trying to

12:16:13 1 do two things.

12:16:14 2 One was confirm the historicity of the
12:16:18 3 Homeric epics with archeological excavations which
12:16:25 4 meant that they were looking specifically for data
12:16:27 5 that would back up the epics.

12:16:28 6 And the second thing was if they found
12:16:32 7 things that didn't seem to be relative to the epics
12:16:35 8 they ignored them. So you had, instead of calling
12:16:38 9 it Bronze Age archaeology, which is what it is
12:16:41 10 called now, there were, you know, several decades
12:16:44 11 where it was called Homeric archaeology which
12:16:47 12 assumes that that was what they were going to find.

12:16:50 13 Q. Okay. Thank you.

12:16:50 14 And your final principle begins on
12:16:54 15 page 24, "Longevity". So on page 25, you discuss
12:16:58 16 the oral tradition on which the Homeric epics and
12:17:03 17 hymns are based and the memorization of formulaic
12:17:06 18 expressions transmitted over generations which you
12:17:08 19 discussed this morning as well.

12:17:09 20 You then state that:

12:17:11 21 "While formulaic composition is
12:17:13 22 no guarantee of historical accuracy,
12:17:16 23 linguistic details of the formulae
12:17:18 24 themselves which are developed and
12:17:19 25 added to the body of memorized

12:17:21 1 formulae by individual bards over

12:17:23 2 generations at least demonstrate the

12:17:26 3 longevity of the tradition."

12:17:29 4 What do you mean here by "longevity of

12:17:32 5 the tradition"; and how is that different from the

12:17:34 6 longevity of its historical content?

12:17:36 7 A. Well, we know from linguistic

12:17:39 8 details in Homeric epics that parts of them, at

12:17:42 9 least, were being transmitted for a period of

12:17:49 10 600 years anyway.

12:17:52 11 That means that you've got a tradition

12:17:53 12 that lasted 600 years, but that doesn't mean that

12:17:57 13 you can count on any of the data in the tradition

12:18:01 14 having been transmitted for 600 years or -- and

12:18:05 15 specifically that any historical content can be

12:18:09 16 guaranteed to have been transmitted. All you could

12:18:11 17 know is that the stories have been told, not

12:18:14 18 necessarily which stories because they will have

12:18:18 19 changed and not whether they transmit historical

12:18:21 20 data, because that might not have been important to

12:18:24 21 the people telling them.

12:18:26 22 Q. And in your report, you mention

12:18:27 23 the Catalog of Ships. Can you explain how that is

12:18:30 24 an example of this point?

12:18:31 25 A. Well, that's actually a very good

1 point -- example. The Catalog of Ships is
2 three-quarters of Book 2 of the Iliad. And it's an
3 exhaustive list which claims to be a list of every
4 town in Greece that sent ships to Troy and who
5 their commander was, and how many ships there were,
6 and details like who the captains were and some of
7 the people on the ships, and what horrible things
8 happened to them, usually, and the landscape around
9 the towns they came from. And it also gives in a
10 much more shorter version the names and places of
11 the allies who came to fight for Troy.

12 And the wealth of detail and the names --
13 the geographical names and everything else, it
14 really makes it look like an historically reliable
15 document and in fact it was taken as that by some
16 scholars who thought it must have been written up,
17 it was the list that Agamemnon was holding as he
18 walked down the line of ships at Aulis ticking off
19 where they came from and how many there.

20 But when you look at the archeological
21 data, and look at it later on, it can't possibly
22 be, because some of those places existed in the
23 Mycenaean era, some of the places that are named
24 existed in the Mycenaean era. Some of them didn't
25 exist in the Mycenaean era but did exist in the

1 Dark Ages and then didn't exist again in the
2 archaic era when things were written down. Some
3 didn't exist until the archaic era, some existed in
4 the Mycenaean period, then they were repopulated
5 and then they were rebuilt.

6 But all of these names are appearing in
7 the Catalog of Ships, which means that it accreted
8 over time, that they added names as towns that they
9 were performing in became important is the more
10 cynical way to look at it.

11 And they will have done this for
12 several reasons that have nothing to do with
13 wanting to preserve accurately who was -- who
14 fought at Troy, like impressing the audience with
15 the spectacular memory of the bard was, you know,
16 so you get a great deal of credibility or credence
17 from being able to get all the way through the
18 Catalog of Ships, and pleasing the people to whom
19 you're singing.

20 So the name of your town magically gets
21 into the Catalog of Ships. The Athenians probably
22 inserted themselves when there was written -- when
23 the written text became available.

24 But none of these have anything to do
25 with actually preserving historical data. And some

1 of the things they say, it says are actually wrong.
2 So for example, in the Catalog of Ships, Pylos is
3 associated with a Mycenaean Palace off in the west
4 of Greece. But all of the things in the poem make
5 it fairly clear that wherever Nester of Pylos was
6 from, it was somewhere in the centre of Greece.

7 So it's not a historical catalog, it is
8 made to look like one. One of the reasons it's
9 made to look like one is because the historicity of
10 the Iliad was actually important to the tellers.
11 They wanted to believe that it was historical; but
12 that didn't mean that it was.

13 Now, I'm sorry, I have gone off
14 completely off the deep end, you wanted to know
15 about longevity.

16 Q. Yes, well, I think you -- I think
17 it's in your answer.

18 A. It's somewhere, sorry.

19 Q. No, that's all right. You also
20 refer in this section to the Australian Aboriginal
21 oral tradition about a large rise in sea levels
22 between 7500 and 13,400 years ago.

23 Could you elaborate on the features of
24 this particular tradition that make it a better
25 case for such longevity compared to other similar

12:22:42 1 assertions?

12:22:42 2 A. Okay. Well, in the Catalog of
12:22:47 3 Ships, as you can see, that it must have changed
12:22:50 4 over time by the addition of places that couldn't
12:22:53 5 have been in an original document, if there was
12:22:56 6 one. But the Australian Aboriginal tradition says
12:23:03 7 there was a rise in the sea, we know that there was
12:23:07 8 one, but it was a very long time ago. Now I should
12:23:11 9 say again, as I said about the Klamath myth about
12:23:17 10 Mt. Mazama and Mt. Shasta, I'm not an expert in
12:23:21 11 Australian Aboriginal tradition and I'm counting on
12:23:24 12 people who are and so if they're wrong, I'm wrong.
12:23:27 13 But there are features of that tradition that make
12:23:30 14 it seem like a more reliable transmitter of a
12:23:35 15 tradition that would be unchanged at least in some
12:23:38 16 respects.

12:23:38 17 One of the primary things is the
12:23:43 18 population seems to have been stable and stayed in
12:23:47 19 the same place for a long period of time, which
12:23:50 20 means that you have a stable population that can
12:23:53 21 transmit the stories. The features of how they
12:23:58 22 were transmitted included training children from a
12:24:01 23 very young age, rituals and songs and dances all of
12:24:06 24 which act as mnemonic cues because our memories are
12:24:13 25 only as good as human memories ever are but they

12:24:15 1 can be supported by things like dance, poetry --
12:24:18 2 you know it's easier to remember the words of a
12:24:21 3 song than the words of a newspaper article, doing
12:24:24 4 it in groups, I'm not sure that they did.
12:24:31 5 Attaching a high priority to remembering this stuff
12:24:34 6 which the Australian Aboriginal traditions did.

12:24:37 7 And there being a really good reason to
12:24:40 8 remember things which, since among the mnemonic
12:24:47 9 cues, that will have assisted memory of the
12:24:51 10 Aboriginal traditions, the primary ones were
12:24:52 11 geographic. Every feature of the landscape has a
12:24:57 12 story attached to it, different clans have
12:24:59 13 different stories attached. But the feature of the
12:25:03 14 landscape is there as a mnemonic prompt and the
12:25:07 15 landscape really matters. The reason you're
12:25:08 16 remembering these things is because it's a very
12:25:10 17 hostile environment, you have to know these things
12:25:13 18 in order to survive.

12:25:15 19 So all of that, you know, high cultural
12:25:18 20 priority, the way it was transmitted, features of
12:25:21 21 performance, and a stable population in the same
12:25:24 22 place for a long time makes that particular
12:25:27 23 tradition look to me as if it's supported by
12:25:31 24 mnemonic, by lots of mnemonic cues and reasons to
12:25:36 25 remember it.

1 The Homeric tradition, by contrast, we
2 have, as I say, linguistic data that shows that it
3 was remembered for, you know, 600 years anyway.
4 But we also have evidence that it changed a lot,
5 different traditions will incorporate different
6 degrees of change. And frankly, a tradition that
7 long would need exceptional mnemonic cues and
8 reasons to remember it unchanged. Okay.

9 Q. If we could go to page 26, just
10 the next page of the report.

11 So you note in this section that,
12 quote:

13 "An oral tradition requires not
14 only features that enhance
15 reliability over a long period, it
16 also requires a population to
17 transmit it. It's helpful to be
18 able to demonstrate evidence that
19 there was a population available to
20 do so. This cannot simply be
21 assumed."

22 So we discussed changes in population
23 with a number of examples that you gave but how, if
24 at all, does evidence of movement of peoples or
25 encounters between cultures impact an

12:26:41 1 interpretation of how an oral tradition may change
12:26:44 2 over a longer period?

12:26:45 3 THE WITNESS: Well, one of the things
12:26:47 4 that -- okay, oral traditions are, as I said, are
12:26:51 5 accretive. They will take stories, change stories
12:26:55 6 and add stuff in from various places and one of the
12:26:58 7 places that they will add things in from, is
12:27:01 8 cultures with whom they come in contact through
12:27:04 9 trade or other groups migrating into the area or
12:27:08 10 whatever.

12:27:09 11 The example I gave you was the
12:27:12 12 similarities between the Greek Hittite and
12:27:17 13 Babylonian Cosmogonic myths show that there must
12:27:20 14 have been some kind of contact and that this
12:27:23 15 contact across cultures affected the stories each
12:27:27 16 of them told.

12:27:27 17 So this doesn't affect the longevity of
12:27:30 18 the tradition, but it does mean that you have to
12:27:32 19 ask what the origin is, if you're trying to
12:27:35 20 establish historicity, what the origin is of the
12:27:38 21 particular part of the tradition you're looking at.
12:27:40 22 Does it come from the people from whom you
12:27:43 23 collected the story? Does it come from some other
12:27:47 24 group that they got it from?

12:27:49 25 BY MS. COLIZZA:

12:27:51 1 Q. And on the same page you state

12:27:53 2 that:

12:27:53 3 "The lengthier the argument
12:27:56 4 requires the oral tradition to be
12:27:58 5 the more its longevity requires
12:27:58 6 explanation and defence."

12:28:01 7 In terms of assessing the conditions
12:28:03 8 for the long-term transmission of an oral
12:28:05 9 tradition, how would your methodological approach
12:28:08 10 differ if the claim is one in which the story's
12:28:11 11 origin is from 200 years ago, versus 2000 years
12:28:15 12 ago?

12:28:16 13 A. Okay. How would my methodological
12:28:20 14 approach differ? Well, I'm not sure it would
12:28:23 15 differ. But anything I've said about the
12:28:27 16 preservation of a tradition over 200 years and its
12:28:32 17 ability to transmit historical data over 200 years,
12:28:35 18 is magnified. The longer the tradition, the more
12:28:40 19 opportunity for change, for things dropping out,
12:28:43 20 for things a creating from elsewhere and also
12:28:46 21 simply for the priorities of the people telling the
12:28:49 22 story to change. We tend to think that if we're
12:28:54 23 interested in historical data, it's important to
12:28:57 24 us, so it must have been important to the people
12:29:00 25 who are telling the story.

12:29:01 1 That's not necessarily true at all.

12:29:03 2 They could be telling the story for a different
12:29:07 3 reason entirely and we are looking for historical
12:29:10 4 data that they weren't actually trying to preserve
12:29:16 5 or that wasn't there in the first place. And the
12:29:19 6 more -- the longer the tradition, the more the
12:29:21 7 opportunity for things to change.

12:29:23 8 Q. Thank you.

12:29:25 9 MS. COLIZZA: Your Honour, if I could
12:29:25 10 have a moment to consult my colleagues.

12:29:33 11 Those are my questions, thank you.

12:29:35 12 THE COURT: All right. Mr. Brookwell,
12:29:39 13 please go ahead.

12:29:52 14 MR. BROOKWELL: Your Honour, we may
12:29:54 15 need a moment to switch over the technology.

12:30:12 16 THE COURT: The witness is going to
12:30:13 17 step out while we switch the technology. Please go
12:30:21 18 ahead.

12:29:43 19 CROSS-EXAMINATION BY MR. BROOKWELL:

12:33:22 20 Q. Good afternoon, Professor Bowman.
12:33:26 21 I want to start with asking you some questions that
12:33:30 22 are at a high level about geomythology.

12:33:33 23 So if we turn to page 4 of your report,
12:33:37 24 which is Exhibit 4617, if we could have that up on
12:33:42 25 the screen. And you'll see the highlighted section

12:33:58 1 there, where you say:

12:34:04 2 "Geological events and the
12:34:05 3 stories about them can give
12:34:08 4 scientists hints and clues about
12:34:09 5 unknown geological events [...]."

12:34:14 6 And will you also agree with me
12:34:17 7 geomythological stories can be used to assign a
12:34:19 8 likely date for an origin of a story?

12:34:24 9 THE WITNESS: Sorry, I'm just
12:34:30 10 remembering. Yes, I was quoting Piccardi there, I
12:34:34 11 see.

12:34:35 12 If you have got a third body of data to
12:34:39 13 attach it to, calibrate with, then, yes. But if
12:34:45 14 you've only got the two, then you don't necessarily
12:34:49 15 have that; if you see what I mean? Okay.

12:34:52 16 BY MR. BROOKWELL:

12:34:54 17 Q. So you discussed a couple of
12:34:57 18 examples already, but I'd just like to go over one
12:35:00 19 that wasn't discussed. And on page 2 and also
12:35:07 20 page 5 and 6, we don't need to go there unless
12:35:10 21 you'd like to see it, you discussed the Noah's
12:35:15 22 flood story. And you mentioned that research
12:35:17 23 identifies the source of Noah's flood as a
12:35:21 24 catastrophic flood in the Black Sea about
12:35:25 25 7200 years ago, and that there's archeological

12:35:28 1 evidence that it was inhabited at that time, I
12:35:30 2 believe it's farmers were there?

12:35:32 3 A. Stone Age farmers, yes.

12:35:35 4 Q. So is that an example of a story
12:35:37 5 that has that third piece of data?

12:35:39 6 A. No. Thank you for asking.

12:35:42 7 No, that is precisely a story that has
12:35:45 8 only two pieces of data. You have a flood -- you
12:35:48 9 have a story about a flood, and you have a flood.
12:35:53 10 And you figure it was a very big flood. So was
12:35:59 11 this the story that Noah's flood came from? But
12:36:05 12 you don't have a third independent body of data to
12:36:10 13 establish that the Black Sea flood, if it was a
12:36:14 14 flood and there is now of course some question, it
12:36:18 15 might have been kind of a slow seepage -- is that
12:36:23 16 the flood we're talking about?

12:36:25 17 And people have, in fact, done their
12:36:31 18 best to attach the story of Noah's flood to various
12:36:35 19 other large catastrophic floods. So, for example,
12:36:40 20 Masse whom I talk about elsewhere, I cite other
12:36:43 21 places, would like to attach it to a comet impact
12:36:47 22 off the island of Madagascar in I think it's around
12:36:53 23 3800 BC.

12:36:54 24 And archeologists in Mesopotamia have
12:37:00 25 found a few places where there is several feet of

12:37:04 1 soil that has been deposited by one flood or
12:37:07 2 another. But they were different floods.

12:37:09 3 So, you have a story of a flood, and
12:37:13 4 you have some big floods, how can you say which
12:37:18 5 flood is the flood that Noah's flood is talking
12:37:21 6 about? You need a third body of that to tell you
12:37:25 7 that and these don't have that.

12:37:27 8 Q. Perhaps I've misunderstood or not
12:37:31 9 been clear. The third body of data that I was
12:37:36 10 curious about was the archeological evidence that
12:37:40 11 the area had been settled.

12:37:42 12 A. Oh, sure, okay. Sure, okay.

12:37:45 13 Okay, yes, you have geological
12:37:48 14 evidence, there was a flood. You have
12:37:50 15 archeological evidence Stone Age farms that are now
12:37:54 16 underwater; is that sufficient? Well, it's
12:37:58 17 sufficient to provide an initial hypothesis, this
12:38:02 18 is a possible location for your Noah's flood. But
12:38:05 19 you still need some way to say that it wasn't --
12:38:11 20 well, okay, one of the Mesopotamian floods, for
12:38:14 21 which there is archeological evidence that people
12:38:16 22 were there. And geological evidence that there was
12:38:21 23 a flood.

12:38:22 24 And you need a way of differentiating.

12:38:26 25 And I should say, I don't want to be completely --

1 I'm trying to think of the word -- I don't want to
2 be too narrow about this. When you're looking at
3 things that far in the past, you're probably never
4 going to be able to establish absolutely, this was
5 the one -- this was the event. But what you do
6 want to do is establish that it is far more
7 probable than any of the alternatives.

8 Q. I see. So the line you would
9 distinguish then between the Noah story and the
10 Australian myths and Klamath myth that you've
11 described is that there were multiple possible
12 geological events instead of one geological event
13 to the stories?

14 A. Well, yes, that is a significant
15 difference. There are frequently floods.
16 Mountains don't often fall in on themselves, yes.
17 And there's only -- well, okay, again, according to
18 Nunn and there is only one period where you get a
19 significant rise in the sea level around Australia
20 so that doesn't happen all the time. If you had
21 many such events, then you'd have to show me which
22 one.

23 Q. So then for the two examples, the
24 Australian example and the Klamath example, would
25 you say that these are myths that could constitute

1 a record of a major geological event in the distant
2 past?

3 A. I'm uncomfortable with the word
4 "record". But could that myth be associated with
5 an event in the distant past with a reasonable
6 prospect that you're right about that, I would say
7 it was more probable than, say, the association of
8 Noah's flood with the Black Sea flood.

9 I don't know. Would you like me to
10 phrase that differently?

11 Q. I guess my simpler question is:
12 Is it a likely explanation in those instances that
13 someone saw the geological event?

14 A. Oh, okay. It's certainly
15 possible, and not only possible, but it's got a
16 higher degree of possibility than some other
17 explanations, yes.

18 Given, as I say, what I know about
19 those two stories which I know only through people
20 who have expertise on the subject; I'm not one.

21 Q. I'd like to turn then to one of
22 the documents you cite regarding the Klamath myth,
23 which is document S1787.

24 If I could have that up on the screen,
25 please.

12:41:55 1 A. Okay.

12:41:56 2 Q. This document is "Geomythology:

12:42:08 3 Geological origins of myths and legends" by Dorothy
12:42:12 4 Vitaliano and I believe the date of the document is
12:42:18 5 2007, although not visible at the title there.

12:42:26 6 And I take it from your report that
12:42:27 7 your a familiar with Dorothy Vitaliano?

12:42:30 8 A. Uhm-hmm.

12:42:30 9 Q. And do you consider her an
12:42:33 10 authoritative source in the field of geomythology?

12:42:38 11 A. Yes.

12:42:42 12 Q. Would you consider her methodology
12:42:43 13 reliable?

12:42:45 14 A. That's more questionable. I will
12:42:52 15 say that her methodology is reliable in one
12:42:56 16 particular way; she does recognize the need for a
12:43:01 17 falsifiable hypothesis and she does recognize when
12:43:04 18 she's got data that has falsified her initial
12:43:08 19 hypothesis. But what I would say about her is her
12:43:13 20 primary field of expertise is geology. So she is
12:43:18 21 prone to look for a geological explanation first.

12:43:25 22 So I would say that, as far as how
12:43:27 23 reliable I find her, it's on a case-by-case basis.
12:43:32 24 So perhaps you could point me to your specific
12:43:34 25 question.

12:43:35 1 It's just geomythology, in general, was
12:43:38 2 invented by geologists, and they did a lot of good
12:43:43 3 work, but as far as knowledge of oral tradition,
12:43:47 4 they spent sometime re-inventing the wheel so...

12:43:51 5 Q. I see.

12:43:52 6 MR. BROOKWELL: Before I move to my
12:43:53 7 question about this document, can we please make it
12:43:57 8 the next numbered exhibit.

12:43:58 9 THE COURT: Mr. Registrar.

12:44:00 10 THE REGISTRAR: Exhibit No. 4713.

12:44:03 11 EXHIBIT NO. 4713: Document entitled
12:42:06 12 "Geomythology: Geological origins of
12:42:09 13 myths and legends" by Dorothy
12:42:12 14 Vitaliano.

12:44:12 15 MR. BROOKWELL: And could we turn to
12:44:13 16 page 2 of this document.

12:44:14 17 BY MR. BROOKWELL:

12:44:17 18 Q. And you'll see a box that starts
12:44:18 19 at the end of page 2 and then I'll continue on to
12:44:22 20 page 3. If you take a moment to read that and then
12:44:25 21 when you're ready we'll scroll to the next page?

12:44:28 22 A. Uhm-hmm.

12:44:30 23 (Witness reviews document).

12:44:59 24 Q. So my questions for you here is
12:45:02 25 this summarizes some of the facts that Vitaliano

12:45:09 1 has kept in mind, but what I put to you is, what
12:45:13 2 seems to be here is a myth that describes a major
12:45:15 3 geological event, a volcanic eruption, evidence
12:45:20 4 that a volcanic eruption happened in the geological
12:45:24 5 record and some corroborating evidence that there
12:45:27 6 was evidence of human habitation at that time.

12:44:28 7 A. Uhm-hmm.

12:45:33 8 Q. And you'll agree with me that this
12:45:37 9 is -- these three elements at least are similar if
12:45:40 10 not the same as what you've described as required
12:45:44 11 to show that the story may be likely rather than
12:45:48 12 not?

12:45:49 13 A. Yes, they are necessary; possibly
12:45:55 14 not sufficient, but necessary.

12:45:57 15 Q. I'd like to take you to another
12:46:01 16 document, it's document S1306.

12:46:13 17 And this document is cited in your
12:46:17 18 report entitled, "Australian Aboriginal Traditions
12:46:21 19 About Coastal Change Reconciled With Post-Glacial
12:46:27 20 Sea-Level History: A First Synthesis", by Patrick
12:46:32 21 Nunn. And I take it you're familiar with this
12:46:34 22 article?

12:46:36 23 A. Yes.

12:46:37 24 Q. Do you consider Patrick Nunn's
12:46:40 25 work authoritative in the field of geomythology?

12:46:42 1 A. I would put him on the same level
12:47:02 2 as Vitaliano, yes.

12:47:03 3 Q. Then I have a similar question:
12:47:06 4 Do you consider his methodology reliable?

12:47:07 5 A. Insofar as I am -- okay. Frankly,
12:47:13 6 as far as I can tell, yes.

12:47:16 7 MR. BROOKWELL: And I'll have some
12:47:17 8 questions for you about this.

12:47:18 9 But first could we make this the next
12:47:22 10 numbered exhibit.

12:47:24 11 THE COURT: Mr. Registrar.

12:47:25 12 THE REGISTRAR: Exhibit No. 4714.

12:47:28 13 EXHIBIT NO. 4714: Document entitled,
12:47:28 14 "Australian Aboriginal Traditions About
12:47:28 15 Coastal Change Reconciled With
12:47:28 16 Post-Glacial Sea-Level History: A
12:47:37 17 First Synthesis", by Patrick Nunn.

12:47:37 18 BY MR. BROOKWELL:

12:47:37 19 Q. So you'll agree with me that this
12:47:40 20 article -- it's better if we start with -- let's go
12:47:44 21 to page 397, please. PDF page 5.

12:47:54 22 A. Okay.

12:47:55 23 Q. And here you see a synthesis of
12:47:59 24 the hypothesis that Nunn was trying to establish;
12:48:02 25 do you agree with that?

12:48:03 1 A. Yes.

12:48:03 2 Q. And if we scroll to page 398, we
12:48:15 3 see a map and this map sets out the locations of
12:48:22 4 the traditional stories that Nunn was seeking to
12:48:24 5 test; is that right?

12:48:26 6 A. Yes.

12:48:28 7 Q. I'd like to turn to page 395 which
12:48:38 8 is PDF page 3. And if we can scroll down to that
12:48:49 9 box, and if you'll just take a moment to review
12:48:52 10 that?

12:48:52 11 A. Thank you.

12:48:52 12 (Witness reviews document).

12:49:06 13 Yes.

12:49:06 14 Q. So, the points here that are in
12:49:11 15 his analysis, I'm going to summarize and then ask
12:49:14 16 you a question is that he said people arrived in
12:49:18 17 Australia 40 to 50,000 years ago, sea level rises
12:49:24 18 in Australia stopped about 6,000 to 7,000 years
12:49:28 19 before present. And any observation of widespread
12:49:31 20 and permanent inundation, which I take to mean
12:49:35 21 flooding, had to develop after 6,000 before
12:49:42 22 present; do you see all that?

12:49:43 23 A. Yes.

12:49:43 24 Q. And his final conclusion is that
12:49:45 25 it's likely that most of the traditions about

1 coastal water change that he looked at in Australia
2 would date from a time between 18,000 to
3 6,000 years before present.

4 A. Yes.

5 Q. Is that your understanding?

6 A. Yes.

7 Q. And if we could turn to page 416,
8 which is PDF 24. And if you'll take a moment to
9 review that box.

10 A. Uhm-hmm.

11 THE COURT: You mean the box under the
12 word "discussion"?

13 MR. BROOKWELL: Yes.

14 THE COURT: I remind counsel to put
15 enough detail on the record so that the record
16 shows where the box is located.

17 MR. BROOKWELL: Yes. Thank you, Your
18 Honour.

19 BY MR. BROOKWELL:

20 Q. The box under "discussion".
21 So here Nunn sets out part of the
22 reasons for his conclusion, where he says:

23 "If there was one story you
24 could see that as being an anomaly
25 but where there's numerous

12:50:53 1 traditions that makes it more likely
12:50:55 2 that the traditions recalled a time
12:50:57 3 of coastal change."

12:51:03 4 So, with that in mind, and reviewing a
12:51:06 5 little of what we've talked about with Klamath,
12:51:11 6 would the summary be fair to say that here we have
12:51:15 7 a myth about a geological event, just as in
12:51:18 8 Klamath; and there's a geological record of such an
12:51:24 9 event; we have some corroborating evidence that
12:51:28 10 there were people there at the time; and then
12:51:33 11 another element here where there's a further link
12:51:40 12 if you have numerous traditions talking about the
12:51:42 13 same thing in the past. And do you see those
12:51:47 14 elements as consistent with the methodology that
12:51:51 15 you set out in your report.

12:51:56 16 THE WITNESS: Yes, I do. Can I say
12:51:59 17 where I'm hesitant?

12:52:02 18 But with both the Klamath and the
12:52:08 19 Aboriginal myths, what you need for a myth to be
12:52:15 20 referring reliably to a geological or historical
12:52:19 21 event, you need the myth, you need the event, you
12:52:22 22 need the population, and you need corroboration.

12:52:25 23 Now, I do not know enough about a
12:52:34 24 couple of things in both of these stories to say,
12:52:38 25 yes, for sure this is a slam dunk. In the

1 Australian Aboriginal, I thought one of the things
2 that I find particularly impressive is that you've
3 got these six separate, widely-separated
4 populations telling the story, which looks like
5 corroboration to me.

6 But the thing I don't know enough about
7 is while they are widely separated and Australia is
8 huge, how much communication was there between
9 those populations? Because we've got a long time
10 with such a length, you know, with such a long
11 tradition as is being posited for them to talk to
12 each other. And if they were talking to each
13 other, if there was a mechanism for them to talk to
14 each other, well then the fact that you've got six
15 separate stories isn't corroboration, because
16 they're not actually separate.

17 Now Nunn says they're separate. And in
18 the area, this continent he's the expert. So if
19 he's right about that, then that's -- then those
20 are corroborating stories.

21 In the Klamath case, again, you need
22 the myth, the event, and a tradition, a population
23 to carry the tradition, and a reason to think that
24 the tradition would have lasted that long.

25 I do not know enough about oral

12:54:16 1 tradition, or even actually, about the population
12:54:19 2 in that area, to say that the hypothesis that the
12:54:26 3 tradition could have lasted in that area that long,
12:54:28 4 and had the features to last that long -- that is
12:54:33 5 mnemonic cues and so on -- to say I know for sure
12:54:37 6 that sounds reliable. I have to trust those who
12:54:39 7 have done the research in that area.

12:54:41 8 If they are right, then yes, their
12:54:43 9 methodology -- you know, if they have done that
12:54:45 10 work, then, yes, their methodology does support the
12:54:50 11 hypothesis that that myth remembers that event.

12:54:56 12 Is that what you were asking?

12:54:58 13 Q. Yeah, I'm happy to move to a new
12:55:01 14 set of questions. And I'd like to talk to you
12:55:07 15 about, again, as sort of high level, events being
12:55:16 16 passed down.

12:55:16 17 So will you agree with me that there
12:55:19 18 are certain kinds of events that might be more
12:55:22 19 likely to be passed down, for example, large
12:55:27 20 geological catastrophes?

12:55:31 21 A. Well, this is -- okay. I would go
12:55:40 22 to an even more meta level. I would say that
12:55:44 23 things that are going to be passed down are the
12:55:48 24 ones that are important to the people telling the
12:55:49 25 story.

1 But the supposition that large
2 geological catastrophes are going to be passed down
3 depends on the supposition that those things were
4 important to the culture. And that might well be
5 an assumption that isn't going -- that wouldn't be
6 borne out.

7 So, for example, of course you'd think
8 that a story about a massive flood would be
9 important to a culture and it probably would be,
10 for a few generations for various reasons,
11 including, this is a hostile environment, maybe we
12 should move uphill. But, past a few generations
13 would they keep on telling the story? Possibly
14 because it's formed part of their traditional
15 stories, but will they change it? Can they change
16 the location if they move? Will they stop telling
17 that story because it's not actually important to
18 them anymore? Could they invent a story about a
19 flood because it's useful for metaphorical purposes
20 and there never was a flood? But it's for purposes
21 of metaphor to teach a moral lesson or something
22 like that, extremely important to the culture? All
23 of those things have to be taken into account.

24 But we think that stories about
25 geological catastrophes are important because they

12:57:29 1 interest us. But we can't -- particularly, if
12:57:33 2 we're geologists or historians, or -- and we're
12:57:37 3 looking for that kind of thing. But that doesn't --
12:57:40 4 but we have to take the priorities of the
12:57:42 5 population that's actually telling the story into
12:57:48 6 account insofar as we know what they are.

12:57:51 7 MR. BROOKWELL: Your Honour, I'm about
12:57:52 8 to enter into another more lengthy section. And I
12:57:55 9 see we're a few minutes from the lunch hour. I
12:57:58 10 suggest that now might be a good time to break for
12:58:01 11 lunch?

12:58:02 12 THE COURT: All right.

12:58:03 13 Professor Bowman, I don't know if
12:58:07 14 you've testified before, but we have a rule, a
12:58:12 15 strict rule, that while you're under
12:58:14 16 cross-examination as you are now, you may not
12:58:17 17 engage yourself, in any way, on the subject matter
12:58:21 18 outside of the witness box, reading, discussing,
12:58:25 19 looking things up and so forth.

12:58:26 20 THE WITNESS: Okay.

12:58:27 21 THE COURT: I have in this trial still
12:58:30 22 let expert witnesses lunch with counsel, because
12:58:33 23 counsel are senior and responsible. But you should
12:58:36 24 not bring up the subject and I'm sure counsel will
12:58:39 25 not bring up the subject of your report or

1 evidence, all right?

2 THE WITNESS: Okay.

3 THE COURT: 2:15.

4 -- RECESS TAKEN AT 12:59 p.m. --

5 -- UPON RESUMING AT 2:19 p.m. --

6 BY MR. BROOKWELL:

7 Q. Good afternoon, Professor Bowman.

8 I want to talk to you this afternoon about some of
9 the sources of data you discuss in your report as
10 corroborating data.

11 So you'll agree with me that this sort
12 of data can help support a hypothesis that
13 historical facts are embedded in a myth; is that
14 fair?

15 A. Yes, that's its function, yes.

16 Q. And these are varied sources; is
17 that right?

18 A. There are varied ways to
19 corroborate a hypothesis, yes.

20 Q. And some of these include
21 archeological data?

22 A. Yes.

23 Q. And geological data?

24 A. (Witness nods.)

25 Q. Sorry, you need to say.

02:20:20 1 A. Should I say yes, instead of
02:20:23 2 nodding. Okay.
02:20:24 3 Q. That's okay.
02:20:24 4 A. Wait, hang on a second. You said
02:20:27 5 geological data?
02:20:28 6 Q. Yes.
02:20:30 7 A. It could be used to corroborate a
02:20:33 8 hypothesis but only if it weren't already part of
02:20:36 9 the hypothesis, right?
02:20:37 10 Q. I see, as long as it's not
02:20:39 11 circular?
02:20:40 12 A. Yes.
02:20:40 13 Q. And then also linguistics could be
02:20:43 14 used; is that right?
02:20:43 15 A. Yes, historical linguistics can be
02:20:46 16 used for corroboration.
02:20:47 17 Q. And corroborating stories?
02:20:49 18 A. Yes. If you can establish that
02:20:52 19 they are independent.
02:20:52 20 Q. And finally, textural data is also
02:20:59 21 a source, a written document?
02:21:05 22 A. Yes, in fact, yes.
02:21:07 23 Q. Just so I fully follow some of
02:21:09 24 these, for archeological data it may be something
02:21:12 25 along the lines of having proof of human occupation

02:21:15 1 at a certain time of the story, is that right?

02:21:19 2 A. I'm trying to -- yes.

02:21:21 3 Q. And an example of that might be in
02:21:25 4 the Klamath myth they locate a sandal that is
02:21:31 5 dated; is that fair?

02:21:31 6 A. Yes. Well, yes, okay.

02:21:35 7 Q. And geological data I think we've
02:21:38 8 discussed a little bit, that would be for example
02:21:41 9 geological evidence of a flood or a volcanic
02:21:45 10 eruption?

02:21:45 11 A. Well, again, when you're dealing
02:21:48 12 with geomythology, generally speaking, the
02:21:51 13 geological data is part of the original hypothesis.
02:21:55 14 And so it's not corroborating because it's part of
02:22:02 15 the original theory.

02:22:03 16 Q. Yes.

02:22:04 17 A. But if you had some third
02:22:10 18 geological independent that then theoretically --
02:22:14 19 I'm just trying to think of an example and I can't
02:22:16 20 think of one, but that doesn't mean it couldn't
02:22:19 21 happen.

02:22:19 22 Q. Would one example be, as we
02:22:21 23 discussed earlier today, when there is no other
02:22:24 24 geological event that is similar to the one in the
02:22:28 25 hypothesis, for example, the flooding in Australia?

02:22:32 1 A. Okay. No, that's not -- I don't
02:22:40 2 think that is a good example because the
02:22:44 3 hypothesis, if your hypothesis is that this story
02:22:50 4 reflects this event, then the event isn't
02:22:56 5 corroborating data because it's your original
02:22:59 6 hypothesis.

02:23:01 7 Does that -- I'm not sure if that's any
02:23:03 8 help. Okay. Wait, I think I see where you're
02:23:07 9 going with this. Are you -- am I allowed to
02:23:13 10 clarify?

02:23:14 11 THE COURT: You should wait until the
02:23:15 12 lawyer asks a question, yes.

02:23:17 13 BY MR. BROOKWELL:

02:23:18 14 Q. I think I'll leave it with this
02:23:20 15 question.

02:23:20 16 If you have an example in the
02:23:24 17 geological data that shows an event only happened
02:23:28 18 at one period of time, would you consider that
02:23:33 19 corroborating evidence, even if it is part of the
02:23:35 20 hypothesis that the story is linked to the event?

02:23:39 21 A. So you have a story that says that
02:23:48 22 the waters rose and then you find geological
02:23:53 23 evidence that shows that the waters rose. Would
02:23:58 24 the geological evidence that the waters rose be
02:24:01 25 corroborating evidence to your theory that the

02:24:04 1 story that the waters rose was actually based on a
02:24:07 2 time when the waters rose; is that your question?

02:24:10 3 Q. No. In that example it would be
02:24:12 4 if you had geological evidence that the waters rose
02:24:15 5 only at a time?

02:24:18 6 THE COURT: I have to say that's the
02:24:19 7 way I heard your question.

02:24:20 8 THE WITNESS: Yeah, that is the way --
02:24:20 9 sorry, that is the way I heard your question too.
02:24:24 10 I was just --

02:24:24 11 THE COURT: Is the nuance that that's
02:24:27 12 the only time that the waters rose? Is that the
02:24:31 13 nuance that I missed and the witness missed?

02:24:33 14 MR. BROOKWELL: I think so.

02:24:34 15 BY MR. BROOKWELL:

02:24:34 16 Q. The nuance is, you could have a
02:24:36 17 geological event that you found in the geological
02:24:40 18 record but a further piece of evidence may be there
02:24:42 19 is no -- it might be an absence of evidence, there
02:24:46 20 is no evidence that there was another time where
02:24:49 21 flooding may have occurred?

02:24:51 22 THE COURT: Now I'm confused. You say
02:24:53 23 the story is that there was a flood and the
02:24:55 24 geological evidence is that there was a flood. And
02:24:59 25 only one flood; is that the nuance?

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MR. BROOKWELL: Yes.

THE COURT: All right. Make sure the witness understands your question.

THE WITNESS: I'm sorry. I think -- I did, I'm simply -- what I'm actually stumbling on is the word "corroboration". Because as I use it, I'm usually looking for a third independent piece of evidence to corroborate the hypothesis that your story is about this particular flood.

Now, would I take as evidence that your hypothesis is good? The fact that there is a flood in the geological evidence and there is only one flood and there's no other flood, well, yeah, I would think of that as evidence that your hypothesis was correct.

BY MR. BROOKWELL:

Q. So to move to another point of these data sets, linguistics, if you had some sort of linguistic data set showing that people were there for a long time, is that the sort of corroborating evidence you're considering?

A. Okay. The linguistic data set I was considering was more complex than that, one that shows movement over time and development of the language over time and possibly in different

1 places, and dialect maps are very useful for that
2 because they show movements of peoples.

3 But, if you have evidence that shows
4 that a particular group of people was in a
5 particular place for a dateable length of time, and
6 you can show this by comparison with dialect, with
7 other dialects, yes, that would be useful
8 corroborating evidence.

9 Q. And then the other area I wanted
10 to have some clarity on is corroborating stories.
11 And would an example of corroborating stories be
12 what we saw in the Australian example with numerous
13 stories around Australia, about sea level rise?

14 A. Yes. If, as I say, I'm right in
15 trusting none that there was no communication
16 before the -- between those groups, and they were
17 actually isolated groups.

18 If there was a possibility of
19 communication then -- and especially also if
20 there's evidence of communication, then those
21 stories would not be independent and they wouldn't
22 necessarily be corroborating. Okay?

23 Q. This may be self-evident, but I
24 take it you'll agree that the more sources of data
25 that you have in this corroborating set makes it

02:27:54 1 more likely than a myth may be the container of
02:27:58 2 some historical information; is that right?

02:28:00 3 A. Okay. The more corroborating
02:28:02 4 evidence for a myth's association with an
02:28:05 5 historical event you mean?

02:28:06 6 Q. Yes.

02:28:07 7 A. Yes, if you can demonstrate that
02:28:08 8 the corroborating data is independent.

02:28:11 9 Q. I'd like to talk to you about
02:28:17 10 page 25 and 26 of your report, where you discuss a
02:28:23 11 rule of thumb on longevity; do you recall that part
02:28:27 12 of your report? Maybe we can put it up on the
02:28:33 13 screen.

02:28:33 14 A. I wouldn't mind because I don't
02:28:34 15 have it by memory by page.

02:28:37 16 Q. So at the bottom of page 25 and
02:28:40 17 continuing on to page 26 is a green highlighted
02:28:43 18 box, if you'll take a moment to review that.

02:28:46 19 A. Yes.

02:28:52 20 (Witness reviews document).

02:28:53 21 Yes, so the longer the tradition.

02:28:58 22 THE COURT: Sorry, did I hear a
02:29:00 23 question?

02:29:03 24 MR. BROCKWELL: No question but --

02:29:03 25 THE WITNESS: I'm sorry.

02:29:04 1 THE COURT: I did not hear a question.

02:29:04 2 MR. BROOKWELL: Thank you, Your Honour.

02:29:05 3 BY MR. BROOKWELL:

02:29:05 4 Q. So my question is, a summary of
02:29:09 5 what you've put here is the longer the tradition
02:29:11 6 the less likely the myth seems to be backed up from
02:29:15 7 the data; do I have that right?

02:29:16 8 A. Seems to be backed up from the
02:29:22 9 data, meaning the longer the oral tradition would
02:29:25 10 have to be to preserve memory of the event, the
02:29:31 11 less likely it seems to be corroborated by other
02:29:35 12 data, yes, I would say that that is so.

02:29:39 13 Q. And the example that you cite to
02:29:41 14 illustrate this point is the story of Atlantis; is
02:29:45 15 that right?

02:29:45 16 A. Yes.

02:29:45 17 Q. And more specifically, the
02:29:46 18 eruption of the volcano at Thera, which is modern
02:29:51 19 day santorini, and the subsequent destruction of
02:29:54 20 the Minoan civilization being linked as the
02:29:59 21 inspiration for that story of Atlantis; is that the
02:30:02 22 story we're talking about?

02:30:08 23 A. Yes.

02:30:08 24 Q. And you use this as a cautionary
02:30:15 25 tale because it turns out the geological dating of

02:30:15 1 the volcanic ash shows that the eruption took place
02:30:17 2 a generation before the fall of Crete?

02:30:19 3 A. A couple of generations.

02:30:20 4 Q. A couple of generations before.

02:30:21 5 A. Yes.

02:30:22 6 Q. I'd like to take a moment to back
02:30:25 7 up and the story of Atlantis that you've cited
02:30:29 8 comes from Plato's work; is that right?

02:30:32 9 A. Yes.

02:30:32 10 Q. And it refers to a continent; is
02:30:37 11 that right?

02:30:37 12 A. Yes.

02:30:38 13 Q. And that continent is out in the
02:30:40 14 Atlantic?

02:30:41 15 A. In Plato's story.

02:30:47 16 Q. And you'll agree with me that that
02:30:49 17 description has led to speculation for centuries
02:30:53 18 about possible locations of Atlantis; is that
02:30:57 19 right?

02:30:57 20 A. Well, there are an awful lot of
02:31:01 21 people speculating about the existence and
02:31:04 22 destruction of Atlantis, yes.

02:31:06 23 Q. And the story of Atlantis is not
02:31:12 24 part of an actual oral tradition of any culture
02:31:15 25 anywhere; is it?

02:31:17 1 A. Well, I'm not an expert on
02:31:19 2 Atlantis. So far as I know it isn't.

02:31:23 3 Q. Maybe we can put up SC1873 on to
02:31:35 4 the screen.

02:31:36 5 And this is an excerpt from the
02:31:40 6 "Legends of the Earth: Their Geologic Origins", by
02:31:45 7 Dorothy Vitaliano. And the excerpt is Chapter 9,
02:31:49 8 if we could scroll down just to the start of the
02:31:58 9 allocation page.

02:32:00 10 And if we could scroll down a little
02:32:03 11 bit more so that you have the opportunity to read
02:32:05 12 what's in the green box.

02:32:07 13 A. (Witness reviews document).

02:32:08 14 Q. Which carries over to the other
02:32:12 15 page.

02:32:20 16 THE COURT: Counsel, I'm going to
02:32:21 17 remind you again, I mean it's your record, not
02:32:24 18 mine. But it's not going to create a decent record
02:32:27 19 if you leave it at that. You may recall one of the
02:32:29 20 other counsel last week saying, "Beginning with the
02:32:33 21 words blah, blah, blah, ending with the words blah,
02:32:35 22 blah, blah", that's more than adequate.

02:32:37 23 MR. BROOKWELL: Okay. Thank you, Your
02:32:39 24 Honour.

25

02:32:39 1 BY MR. BROOKWELL:

02:32:39 2 Q. So beginning on page 218, with the
02:32:41 3 words, "Contrary to the prevalent notion [...]"
02:32:46 4 carrying on to page 219, ending with the words
02:32:56 5 "Critias"?

02:32:56 6 THE COURT: And your question?

02:32:58 7 BY MR. BROOKWELL:

02:32:59 8 Q. And my question is, Professor, at
02:33:03 9 least from this, will you agree that the source of
02:33:08 10 Plato's stories is from dialogues which is a
02:33:12 11 written text?

02:33:12 12 A. Yes.

02:33:13 13 Q. And do you have any familiarity
02:33:17 14 with that text?

02:33:18 15 A. I haven't read it in a very long
02:33:21 16 time, but vaguely.

02:33:24 17 Q. And is it a fair summary to say
02:33:29 18 that Plato was trying to make a point about the
02:33:35 19 hubris of nations in that text?

02:33:37 20 A. Yes. Okay, to my recollection,
02:33:39 21 yes.

02:33:39 22 Q. And for a very long time, perhaps
02:33:45 23 even centuries, there's been speculation that Plato
02:33:48 24 simply made up the story; is that right?

02:33:50 25 A. Vitaliano ultimately came to that

02:33:53 1 conclusion herself, yes.

02:33:55 2 Q. So, Professor, you'll agree with
02:33:59 3 me that there are quite a few challenges with the
02:34:02 4 story of Atlantis, even before we get to looking at
02:34:05 5 geological evidence?

02:34:08 6 A. Okay. If you mean by "challenges"
02:34:13 7 it's challenging to associate it with an actual
02:34:17 8 geological cataclysmic event, yes.

02:34:21 9 Q. And if we can go to page 222 of
02:34:38 10 this document. If you scroll to the bottom of the
02:34:51 11 page, beginning in the last line of that page it
02:34:54 12 reads "All in all, there is simply no", then
02:34:57 13 carries on to the next page, and ends with "for all
02:35:02 14 time".

02:35:03 15 If you take a moment to review that?

02:35:06 16 A. (Witness reviews document).

02:35:14 17 Yes.

02:35:14 18 Q. And you'll see, at least according
02:35:16 19 to Vitaliano, at this point that there is no
02:35:18 20 geological mechanism that could accomplish the
02:35:23 21 sinking of a continent as described in the story;
02:35:27 22 do you see that?

02:35:27 23 A. Yes.

02:35:28 24 Q. So, you'll agree with me that here
02:35:41 25 we have a story that's about something that isn't

02:35:46 1 an oral tradition but in a rhetorical text about a
02:35:51 2 geological event that is uncertain that it's
02:35:56 3 possible altogether it's difficult to see how this
02:36:02 4 illustrates your point about the older the
02:36:06 5 tradition, the less likely to be verified with the
02:36:09 6 data. Will you agree with that?

02:36:12 7 A. Okay. I believe the point I was
02:36:21 8 trying to make was there's a thousand years,
02:36:25 9 roughly, more than that, 1,100 years, between
02:36:30 10 Plato's story, and the destruction of Thera.

02:36:36 11 Vitaliano wants to associate the
02:36:39 12 destruction of Thera with Plato's story about the
02:36:43 13 destruction of Atlantis. She wants to do this --
02:36:49 14 well, there are several reasons she wants to do
02:36:52 15 this -- but there are an awful lot of hoops she has
02:36:56 16 to jump through in order to establish that
02:36:58 17 connection. Not least being, altering the date and
02:37:05 18 location of Atlantis.

02:37:11 19 So, but given all that, you still have
02:37:18 20 a thousand-year tradition, if there were a
02:37:22 21 tradition. Now -- of which -- okay, which
02:37:25 22 Vitaliano says, so far as we know, there wasn't.
02:37:29 23 So how on earth would you get from the destruction
02:37:32 24 of Thera, to a myth about Atlantis.

02:37:37 25 My point was, you got a thousand years

02:37:39 1 between them and it turns out that the backup data
02:37:42 2 is lacking. Your point, I take it, is it wasn't an
02:37:47 3 oral tradition in the first place.

02:37:51 4 So I'd say, all right, I can find other
02:37:54 5 examples if you'd like. I used that one because
02:38:00 6 Vitaliano is the founder of geomythology and this
02:38:02 7 is a well-known example.

02:38:04 8 Q. You will agree with me, though,
02:38:08 9 that there are examples and we've talked about some
02:38:12 10 today where oral traditions and distant geological
02:38:15 11 events have been linked by data?

02:38:17 12 A. And by very -- and by much more
02:38:21 13 reliable oral traditions, or traditions that are
02:38:27 14 backed up with more, not only supporting data, but
02:38:34 15 supporting elements. Yes, I will agree that there
02:38:41 16 are, to the best of my knowledge at the moment, two
02:38:43 17 and I mentioned both of them.

02:38:45 18 Q. And could we turn to page 3 of
02:38:50 19 your report, Exhibit 4578.

02:38:56 20 A. In the second paragraph on that
02:39:06 21 page -- it's very short so I'll just read it:

02:39:10 22 "The methods used by
02:39:13 23 geomythologists to establish and
02:39:14 24 verify their interpretations however
02:39:16 25 vary widely and their methodology

02:39:18 1 affects the reliability of their
02:39:20 2 conclusions."

02:39:21 3 THE WITNESS: Yes.

02:39:21 4 BY MR. BROOKWELL:

02:39:22 5 Q. Would you agree with me,
02:39:25 6 Professor, that there's no consensus then on a
02:39:26 7 single approach to geomythology?

02:39:30 8 A. Can I answer more broadly?

02:39:41 9 Geomythology was, as I think I said,
02:39:48 10 I'm sure I said elsewhere in the report, was a
02:39:52 11 recent discipline established by, primarily,
02:39:56 12 geologists who became interested in oral traditions
02:40:01 13 about geological events.

02:40:05 14 Their primary discipline for many of
02:40:09 15 them was geology. And their methodology, when I
02:40:13 16 say it very widely, what I mean is, they spent a
02:40:20 17 good deal of time re-inventing the wheel. That
02:40:24 18 there was a great deal of work done in other
02:40:27 19 disciplines by anthropologists, historians and
02:40:31 20 classicists, on oral traditions, how they work,
02:40:34 21 what makes them reliable, what features they should
02:40:37 22 have to -- you would look for in order to be able
02:40:41 23 to trust them as carriers of historical data.

02:40:44 24 And this isn't work that geologists had
02:40:49 25 done, and for the most part, they don't seem to

02:40:52 1 have been aware of that work. Now, some of them
02:40:55 2 did the work. So, as I say, their methodology
02:40:59 3 varies widely. Some of them know more about oral
02:41:02 4 tradition than others do. Their methodology
02:41:04 5 affects the reliability of their conclusions in
02:41:10 6 that the ones who take a myth, take a geological
02:41:13 7 event and draw a straight line between the two,
02:41:16 8 their results are going to be less reliable than
02:41:18 9 the ones who take the characteristics of oral
02:41:25 10 tradition into account.

02:41:26 11 So that doesn't mean that there's no
02:41:32 12 general consensus. It means that some
02:41:35 13 methodologies are better than others and that not
02:41:38 14 all geomythologists are aware of that. Is that
02:41:43 15 what you're asking?

02:41:46 16 Q. Maybe I'll make my question a
02:41:47 17 little more refined.

02:41:49 18 Is there an academic consensus that you
02:41:52 19 should take the following approach?

02:41:55 20 A. Oh, it's a developing field and it
02:41:57 21 has been developing for hundreds of years, or
02:42:00 22 perhaps longer than that. But is there any one
02:42:04 23 approach? There are always arguments.

02:42:14 24 Q. So then you'll agree with me the
02:42:16 25 approach that you've set out is not necessarily the

02:42:19 1 only approach?

02:42:21 2 A. I would be -- okay. I would be
02:42:24 3 surprised if the approach that I set out would be
02:42:31 4 called into serious question by anyone else
02:42:35 5 studying oral tradition. Though, they might well
02:42:39 6 add things specific to the tradition they in
02:42:46 7 particular study.

02:42:46 8 Q. Does the approach you set out have
02:42:49 9 been peer reviewed in any context?

02:42:51 10 A. No, this was a -- I have not yet
02:42:52 11 published on this subject. I have been -- okay, I
02:42:57 12 wrote this for a report, that has not been
02:43:01 13 published, partly because of course I wasn't
02:43:03 14 allowed to.

02:43:04 15 Q. I'm going to move to discuss your
02:43:10 16 approach a little bit more and to go to page 7 of
02:43:14 17 your report. Here at the bottom of the page, and
02:43:23 18 continuing on to page 8 and to page 9, is what you
02:43:28 19 would set out as your nine-step approach; is that
02:43:32 20 correct?

02:43:32 21 A. Yes, okay, I recognize it.

02:43:39 22 Q. You'll see highlighted, under the
02:43:41 23 first numbered bullet point, part of step 1.

02:43:47 24 A. Yes.

02:43:48 25 Q. And my question is, this first

02:43:53 1 step is to:

02:43:56 2 "Begin with the assumption that
02:43:58 3 an oral tradition does not preserve
02:43:59 4 historical data and then argue
02:44:01 5 against that premise."

02:44:03 6 Do I have that right?

02:44:03 7 THE WITNESS: Yes, that was my
02:44:05 8 suggestion.

02:44:05 9 BY MR. BROOKWELL:

02:44:06 10 Q. So, is your -- your suggestion is
02:44:10 11 to test the assumption?

02:44:11 12 A. Yes.

02:44:12 13 Q. If the first step were framed in
02:44:17 14 the positive assume the oral tradition is
02:44:19 15 preserving historical data then you could still
02:44:24 16 argue against the present, couldn't you?

02:44:27 17 A. You could and this particular
02:44:29 18 step, the reason I suggest it is because it is more
02:44:33 19 likely to guard against confirmation bias, because
02:44:38 20 if you start by arguing that there's a connection
02:44:43 21 between your -- sorry -- your myth or your
02:44:49 22 tradition and your event, it is easy to fall into
02:44:56 23 looking, looking for evidence to support it if you
02:44:59 24 see what I mean, cherry-picking your data.

02:45:02 25 However, it is true that if you start

02:45:06 1 with that premise, and then are really assiduous in
02:45:10 2 looking for alternate explanations, you can avoid
02:45:15 3 falling into that. It's just it's much easier if
02:45:18 4 you start by assuming the negative.

02:45:19 5 Q. Isn't the risk of confirmation
02:45:22 6 bias exactly the same if you're setting out to
02:45:24 7 disprove a connection?

02:45:25 8 A. Yeah, I was thinking about that.
02:45:29 9 Since my approach is literary, am I more likely to
02:45:34 10 assume that this story has -- is completely
02:45:41 11 unmoored from any historical event in the past, and
02:45:44 12 then dismiss any evidence that in fact it might be
02:45:51 13 attached to a historical event. That's possible.
02:45:56 14 But, if what you want to do is show that it is
02:46:02 15 attached to a historical event, then I would
02:46:05 16 suggest that you start by assuming it's not.

02:46:08 17 If I wanted to assume that it was not
02:46:12 18 attached to a historical event, then my best
02:46:15 19 approach would be to assume that it was, and argue
02:46:18 20 against it. So I'm assuming intent of the
02:46:25 21 investigator.

02:46:25 22 Q. Then I take it, regardless of this
02:46:28 23 first assumption, your methodology could
02:46:31 24 accommodate a positive starting assumption or a
02:46:35 25 negative starting assumption?

02:46:37 1 A. Yes, you can do either if you're
02:46:39 2 careful.

02:46:40 3 Q. Professor, are you aware of the
02:46:44 4 scientific method?

02:46:46 5 A. I am. But I should say, however,
02:46:50 6 that I'm not a scientist. And I don't usually use
02:46:56 7 that term.

02:46:57 8 Q. Okay. Well, then to the extent
02:46:59 9 that you're aware, you'll agree that the scientific
02:47:03 10 method starts with developing a hypothesis?

02:47:06 11 THE COURT: I'm pausing, counsel.

02:47:10 12 Can you explain to me how this witness'
02:47:14 13 evidence on the scientific method is of any use to
02:47:17 14 me? You're asking her to agree to some term that
02:47:21 15 she said she doesn't use.

02:47:25 16 MR. BROOKWELL: I think I should
02:47:26 17 rephrase this section and I can do, Your Honour. I
02:47:29 18 understand your concern.

02:47:31 19 THE COURT: You might remember that
02:47:32 20 evidence, but I don't -- anyway...

02:47:37 21 So my note is that this witness has
02:47:39 22 said she doesn't use that term. And you're asking
02:47:42 23 her to agree with what you say it means. I think
02:47:45 24 you need to rephrase that. I mean, I see that no
02:47:48 25 one from Canada seems concerned about this, and

02:47:51 1 I've factored that in but...

02:47:54 2 MR. BROOKWELL: I can rephrase the
02:47:55 3 question, this isn't -- it isn't necessary to
02:48:00 4 proceed in this approach.

02:48:01 5 BY MR. BROOKWELL:

02:48:01 6 Q. My question for you, Professor is,
02:48:04 7 when you say "test an assumption" does that mean
02:48:08 8 the same thing as "testing a hypothesis"?

02:48:10 9 A. Not necessarily, because the
02:48:18 10 assumptions may form the ground of the hypothesis.
02:48:21 11 And there may well be assumptions that you aren't
02:48:25 12 aware you're making in forming your hypothesis.

02:48:29 13 Your hypothesis is going to be your
02:48:32 14 explicit, your thesis statement. I believe that
02:48:35 15 this myth refers to this geologic event; that would
02:48:41 16 be your hypothesis.

02:48:43 17 Q. And you see that as different than
02:48:46 18 an assumption that an oral tradition is not
02:48:48 19 preserving historical data?

02:48:51 20 A. Yeah, because that assumption is
02:48:54 21 methodological. So, here is your hypothesis. I
02:49:01 22 believe that this event is preserving a memory
02:49:03 23 of -- sorry. Tradition is preserving an event, the
02:49:08 24 story is preserving -- sorry. A memory of this
02:49:12 25 event.

02:49:16 1 As I proceed to investigate it, I'll
02:49:18 2 start -- I would start by assuming that it didn't
02:49:23 3 and then test that assumption. So the assumption
02:49:27 4 is a methodological basis as I proceed with the
02:49:30 5 investigation. The hypothesis is a thing I'm
02:49:32 6 trying to demonstrate or falsify.

02:49:38 7 I mean -- okay, I'll stop there.

02:49:40 8 Q. That's fine. And I think what I'd
02:49:43 9 like to get to is, I'm going to briefly summarize
02:49:47 10 for you, some of the other steps that you set out?

02:49:50 11 A. Sure, uhm-hmm.

02:49:51 12 Q. So these are on pages 7 through 9
02:49:57 13 and the steps are from 2 to 5, 7, 8 and 9, so I've
02:50:04 14 left out step 6. And if you'd like to take a
02:50:06 15 moment to review that, please do. And we can
02:50:09 16 scroll down if you need to.

02:50:25 17 A. Could you scroll down, please.

02:50:30 18 (Witness reviews document).

02:50:44 19 And you're skipping 6?

02:50:47 20 Q. Yes, that's right.

02:50:50 21 A. Can you keep on scrolling, please?

02:50:52 22 (Witness reviews document).

02:50:53 23 Okay, yes, I have read them.

02:50:58 24 Q. So, for these steps, you'll agree
02:51:01 25 with me that we could group them together under

02:51:04 1 maybe the larger category, which is testing the
02:51:07 2 hypothesis or the assumption?

02:51:10 3 A. Yes, testing the -- yes.

02:51:12 4 Q. And for example --

02:51:14 5 A. Testing the hypothesis, yes.

02:51:16 6 Q. Okay. So for example, you'd want
02:51:18 7 to test if there was circular reasoning?

02:51:21 8 A. Uhm-hmm.

02:51:22 9 Q. Or if there's a nonhistorical
02:51:24 10 explanation?

02:51:26 11 A. Yes.

02:51:26 12 Q. Or other criteria of
02:51:28 13 falsifiability, that sort of thing?

02:51:30 14 A. Yes, yes.

02:51:32 15 Q. So, if we could return to number
02:51:38 16 6, scroll up.

02:51:44 17 Once you've completed those steps of
02:51:47 18 testing the hypotheses will you agree with me that
02:51:53 19 what you're left with is a hypothesis that could be
02:51:56 20 true?

02:51:57 21 A. Are we still skipping 6?

02:52:01 22 Q. Yes.

02:52:02 23 A. Yes. Once you have tested it for
02:52:05 24 all of the ways that it could actually not work,
02:52:10 25 you're left with something that is possibly true,

02:52:13 1 yes.

02:52:13 2 Q. And then the next step of the
02:52:15 3 inquiry is effectively apply step 6, "look for
02:52:19 4 corroborating evidence"; is that right?

02:52:21 5 A. Yes.

02:52:24 6 Q. And that's done through looking at
02:52:28 7 third source data?

02:52:29 8 A. Yes, an independent source of data
02:52:30 9 of some kind, yes.

02:52:32 10 Q. And that's the data that we've
02:52:34 11 reviewed already, archeological data, geologic
02:52:38 12 data, linguistics, corroborating stories,
02:52:42 13 contextual data, that sort of thing?

02:52:45 14 A. Yes, the only reason thing I'm
02:52:47 15 hesitating is I'm not sure why you're putting
02:52:50 16 things in that order.

02:52:52 17 An independent source of data will be
02:52:54 18 one of the -- for me, I would have said that an
02:52:58 19 independent source of data would be one of the
02:53:00 20 things you would be using to test your hypothesis.
02:53:03 21 But, you could do it in that order, sure.

02:53:10 22 Q. I want to see if I understand now
02:53:13 23 what you've been telling us about your analysis, by
02:53:16 24 putting a hypothetical scenario to you.

02:53:24 25 A. Okay.

02:53:24 1 Q. So I'd like to you assume a couple
02:53:26 2 of facts.

02:53:27 3 A. Okay.

02:53:27 4 Q. I want you to assume you have a
02:53:30 5 story, a traditional story of a breach of a dam
02:53:34 6 that led to a flood.

02:53:35 7 A. Okay.

02:53:35 8 Q. Next, I'd like to you assume that
02:53:38 9 there's geological evidence that there was a
02:53:42 10 natural earth dam that breached in the area where
02:53:45 11 the story is told, over 9,000 years ago?

02:53:49 12 A. Okay.

02:53:50 13 Q. And I'd also like you to assume
02:53:53 14 there's archeological evidence that shows that
02:53:56 15 people lived in the area before the time of that
02:53:59 16 breach, and after, up until the present.

02:54:05 17 A. Okay. So, there's a story about a
02:54:09 18 dam that breached.

02:54:09 19 THE COURT: Wait a minute, you can
02:54:11 20 repeat all that, but wait for the question.

02:54:13 21 THE WITNESS: Sorry.

02:54:13 22 BY MR. BROOKWELL:

02:54:13 23 Q. So my question is, in this
02:54:15 24 scenario, is it possible that the traditional story
02:54:20 25 preserves historical data about the breach of a

02:54:24 1 dam? Sorry, "the dam" not "a dam".

02:54:28 2 A. Okay. So there is a story about a
02:54:35 3 breach of a natural barrier of some kind -- or a
02:54:39 4 story about a breach of a dam. There is geological
02:54:42 5 evidence that there was a natural barrier that
02:54:44 6 breached 9,000 years ago and you have evidence that
02:54:47 7 there were people in the area before that, and
02:54:49 8 there were people in the area after that, and this
02:54:53 9 natural barrier was in the same area as where the
02:54:56 10 story is now being told; or where the story was
02:55:00 11 collected. Is it possible that this story is
02:55:04 12 actually attached to that 9,000-year old geological
02:55:09 13 event? That's your question?

02:55:11 14 Q. Yes.

02:55:12 15 A. Yes, it's possible.

02:55:13 16 Q. I want to bring you to something
02:55:16 17 you told us this morning, and it was in the context
02:55:21 18 I believe about Hercules's labors?

02:55:24 19 A. Uhm-hmm.

02:55:25 20 Q. You said that individual stories
02:55:27 21 or the individual stories won't give you individual
02:55:31 22 bits of historical data but in aggregate, they may
02:55:34 23 be able to show you interesting things, in
02:55:37 24 particular -- sorry, in particularly social
02:55:43 25 patterns. Do you recall that evidence?

02:55:45 1 A. Yes, I have been very intrigued by
02:55:47 2 that approach.

02:55:47 3 Q. Now I'd like to expand on the
02:55:50 4 hypothetical scenario that we've just talked about
02:55:53 5 and ask you to make a couple further assumptions.

02:55:57 6 The first is that there are several
02:56:02 7 other traditional stories from the same people
02:56:05 8 about other ancient geological features and events.
02:56:10 9 And there is geological evidence that thousands of
02:56:13 10 years ago, those geological events, features,
02:56:17 11 occurred or existed.

02:56:20 12 In this hypothetical, would that make
02:56:23 13 it more likely that the story about the dam is
02:56:28 14 preserving historical data?

02:56:30 15 A. There are a lot more tests that
02:56:43 16 you'd have to do. As I said, yes, it is possible
02:56:50 17 in the scenario you first gave me, that this story
02:56:56 18 possibly does, is attached to that 9,000-year-old
02:57:01 19 event. But, in order to establish that it's
02:57:06 20 probable, that it's likely that it is, you would
02:57:08 21 have to do a lot more work.

02:57:11 22 For one thing, you'd have to
02:57:14 23 demonstrate continuity of population; you would
02:57:21 24 have to demonstrate that they couldn't have gotten
02:57:24 25 the story from anywhere else, that was more likely

02:57:27 1 -- and by more likely, I mean, among other things,
02:57:31 2 say, closer in time.

02:57:32 3 You would have to demonstrate that
02:57:34 4 there was good reason to think that this was the
02:57:37 5 story of the people who are presently telling it
02:57:40 6 and that they didn't get it from some other
02:57:43 7 population that might in fact have attached it to
02:57:46 8 some other event and it's gotten transferred. You
02:57:52 9 would want to establish that they had in fact been
02:57:55 10 in that area for a very -- for that unbroken period
02:57:59 11 of time.

02:58:01 12 Now, even if you -- and you would have
02:58:06 13 to then do the same thing for all of the other
02:58:09 14 stories that you are using -- that you want to use
02:58:14 15 to corroborate that -- corroborate the story of --
02:58:19 16 corroborate your hypothesis that your story is
02:58:22 17 associated with this 9,000-year-old dam breach.

02:58:26 18 So, in order say there are other
02:58:30 19 stories that are associated with other geological
02:58:33 20 events, that are being told by these people that
02:58:37 21 are in the same area, you would have to demonstrate
02:58:40 22 all of the same things about those stories as well.

02:58:44 23 Like, for example, that there were no
02:58:48 24 more likely geological events that those stories
02:58:53 25 were associated with, that were, say, nearer in

02:58:57 1 time or place, that they couldn't have gotten any
02:59:00 2 of those other stories from some other people or
02:59:03 3 some other time.

02:59:05 4 And the other thing you would want to
02:59:07 5 establish is -- well, the first question I always
02:59:15 6 go to, why are these stories being told right now,
02:59:18 7 or when they were first collected, and to whom are
02:59:22 8 they being told; and by whom are they being told;
02:59:25 9 and what function does the story have in the
02:59:28 10 context in which it is now being told? And does
02:59:32 11 that actually go a great way to explain why the
02:59:38 12 story is being told without needing a reference to
02:59:40 13 a historical or a geological event?

02:59:43 14 So, if you had in fact established that
02:59:48 15 every single one of these stories is highly
02:59:52 16 probably associated with one geological event and
02:59:59 17 no other possible -- no other possible geological
03:00:03 18 event or no other very -- no other equally or more
03:00:08 19 likely event, and that they are all being told by
03:00:14 20 the same people and that they were all in
03:00:16 21 approximately the same place and time, then you
03:00:18 22 could use it for corroboration. But, as I say, it
03:00:25 23 is an uphill battle. You'd have to do a lot of
03:00:29 24 work.

03:00:29 25 And the other thing that I would really

03:00:31 1 look for is, it is as you've established, possible
03:00:35 2 for oral traditions in a very restricted set of
03:00:41 3 circumstances, to last a very long time, at least
03:00:46 4 so it seems to me on current evidence.

03:00:49 5 But the longer you are trying to argue
03:00:54 6 the event is from the story that has been collected
03:00:58 7 about it, the more work you have to do to
03:01:01 8 demonstrate a reason that you think that that oral
03:01:05 9 tradition could have lasted that long.

03:01:09 10 Okay, so, theoretically, possibly, but
03:01:13 11 you have to do the same kind of work for every
03:01:15 12 single story.

03:01:17 13 Q. I take it that your starting point
03:01:22 14 then would not be to chalk this up to coincidence,
03:01:25 15 that there are multiple stories about past
03:01:29 16 geological events?

03:01:30 17 A. I think my first approach would be
03:01:42 18 -- would be to ask if they were multiple stories
03:01:45 19 about past geological events or were they stories
03:01:48 20 about something else that was using features of the
03:01:52 21 environment for other reasons. You know,
03:01:56 22 metaphorical reasons, teaching a moral story,
03:02:00 23 because again, for us, history really matters to
03:02:05 24 us. We really want to establish that a thing
03:02:07 25 happened at a time and a place.

03:02:09 1 But that isn't necessarily the reason
03:02:11 2 the story was being told by the people who were
03:02:14 3 telling it, to the people who were listening. So
03:02:17 4 you have to ask: Why is that story being told as
03:02:20 5 your first question.

03:02:21 6 Q. I'm going to shift to a different
03:02:24 7 area. I want to ask you some more about some of
03:02:26 8 the things you said this morning.

03:02:29 9 I believe this morning you said you've
03:02:32 10 done cross-cultural comparisons; is that right?

03:02:34 11 A. Yes.

03:02:35 12 Q. And the example you gave was with
03:02:38 13 the Hittites?

03:02:41 14 A. Yes.

03:02:41 15 Q. And I take it that cross-cultural
03:02:43 16 comparisons that you have done and were talking
03:02:45 17 about had to do with classical cultures?

03:02:48 18 A. Well, uhm-hmm. Okay. The
03:02:53 19 Hittites were -- it depends how you define
03:02:55 20 "classical". Shall we go with Bronze Age?

03:02:57 21 Q. I think I'm defining "classical"
03:02:59 22 geographically as in cultures around the
03:03:01 23 Mediterranean?

03:03:02 24 A. Okay. Well, the Hittites were
03:03:05 25 farther in land but, yes, okay, you can include

03:03:08 1 them. You want to -- you might also want to include
03:03:12 2 Babylonian, though, the Mesopotamia cultures.

03:03:16 3 Q. Okay. So those are the cultures
03:03:17 4 you're talking about when you've done
03:03:20 5 cross-cultural comparisons?

03:03:21 6 A. Yes.

03:03:21 7 Q. And will you agree that you would
03:03:23 8 expect to see some cross-cultural transmission in
03:03:26 9 those cases because of their proximity?

03:03:28 10 A. Yes.

03:03:30 11 Q. I want to return to your report
03:03:41 12 for a moment and look at page 6.

03:03:43 13 A. Yes.

03:03:47 14 Q. And if we scroll down to the
03:03:49 15 heading, "Greek myth, oral tradition, and
03:03:52 16 geomythology", the first paragraph is highlighted
03:03:55 17 in a green box; please review that.

03:03:58 18 A. (Witness reviews document).

03:04:06 19 Yes. Okay, I've read it.

03:04:08 20 Q. I take it from this paragraph that
03:04:11 21 the sources you deal with in Greek myth are written
03:04:14 22 records?

03:04:14 23 A. Yes.

03:04:15 24 Q. Is that right?

03:04:15 25 A. Yes.

03:04:16 1 Q. And that's because Greek myths are
03:04:19 2 no longer passed down orally; is that correct?

03:04:21 3 A. Yes, certainly to our time, yes.

03:04:24 4 Q. Am I correct then that you have
03:04:26 5 not ever conducted an interview with a knowledge
03:04:31 6 holder of an oral tradition?

03:04:33 7 A. No, I have not.

03:04:35 8 Q. And you have no expertise with
03:04:41 9 respect to present day oral traditions; is that right?

03:04:43 10 A. That is correct.

03:04:44 11 Q. And you've already told us that
03:04:47 12 you have no expertise in First Nations, Australian
03:04:53 13 Aborigines, and North American cultures; is that right?

03:04:57 14 A. Yes.

03:04:57 15 Q. So you'll agree with me that you
03:04:59 16 do not have the expertise to apply methodology
03:05:02 17 we've talked about to Indigenous people in either
03:05:05 18 Canada, the United States or Australia?

03:05:07 19 A. No. No, I wouldn't agree with
03:05:13 20 that because I would argue, as others who work on
03:05:16 21 oral tradition also argue, that the methodology of
03:05:20 22 analysis for oral tradition can be applied cross
03:05:23 23 culturally and the methodology of the study of
03:05:25 24 Greek myths, since Greek myths are orally, were
03:05:30 25 orally transmitted to the point that they were

03:05:32 1 written down, means that there is a great deal of
03:05:36 2 overlap in the methodology used for analysis.

03:05:40 3 Q. But you have no way of knowing
03:05:44 4 that that methodology would be effective because
03:05:46 5 you don't have expertise in those cultures?

03:05:48 6 A. Well, you're conflating content
03:05:55 7 with method of analysis. And what I'm pointing out
03:06:00 8 is that the content may differ, and does differ,
03:06:04 9 but the methods of analysis are largely -- what's
03:06:10 10 the word I'm looking for -- are largely applicable.
03:06:13 11 And I'm not the only person who says this. I
03:06:17 12 assume that you have read some of the other
03:06:20 13 documents, that people who work on oral tradition
03:06:22 14 are agreed that the methods of analysis are largely
03:06:25 15 -- can be applied generally cross culturally,
03:06:29 16 whatever your original content area of expertise.
03:06:33 17 So mine is Greek myth, Henige's is African oral
03:06:44 18 history, for example. But if you read over his
03:06:46 19 work, we're largely in agreement. He's a little
03:06:50 20 more skeptical than I am.

03:06:51 21 Q. So, in effect, it could apply but
03:06:54 22 you won't know for sure because you haven't done it.

03:06:58 23 A. I don't know how to answer that.

03:07:16 24 I would say that I believe that the
03:07:20 25 methods I set out will work for establishing the

03:07:25 1 historicity of any -- of any historical content
03:07:29 2 transmitted in oral tradition. And that as far as
03:07:35 3 I have seen so far, it does work for any oral
03:07:41 4 tradition that others have looked at and, as I
03:07:44 5 pointed out, other scholars whose areas of
03:07:47 6 expertise are different from mine, nevertheless use
03:07:54 7 methods that are very largely identical.

03:07:57 8 So, do I know that my methods would
03:08:01 9 work for Indigenous oral tradition? I can't think
03:08:06 10 of any reason why they wouldn't. I don't know if
03:08:11 11 that helps -- if that's useful.

03:08:14 12 MR. BROOKWELL: One moment, Your Honour.
03:08:22 13 Thank you, Professor Bowman, those are
03:08:24 14 my questions.

03:08:24 15 THE COURT: Any reply?

03:08:26 16 MS. COLIZZA: No, Your Honour.

03:08:28 17 THE COURT: Professor Bowman, I have a
03:08:31 18 question, and after my question, both counsel have
03:08:35 19 an opportunity to ask you additional questions.

03:08:39 20 Earlier in your cross-examination and
03:08:45 21 it was the point in time where I think you and I
03:08:48 22 were both unclear on the question so you might
03:08:50 23 remember it in that context.

03:08:52 24 Mr. Brookwell asked you if -- and,
03:08:59 25 Mr. Brookwell, I'm going to ask you to correct me

03:09:01 1 if I have this wrong.

03:09:03 2 If you assume that there is an oral
03:09:06 3 tradition that refers to a geological event in the
03:09:10 4 distant past, and if you assume that there wasn't
03:09:14 5 such a event in the distant past; those were the
03:09:19 6 first two assumptions.

03:09:20 7 THE WITNESS: Yes.

03:09:21 8 THE COURT: The third assumption that
03:09:23 9 it was an isolated event, by which I mean there
03:09:26 10 wasn't a multiplicity of those sorts of events,
03:09:31 11 just one?

03:09:31 12 THE WITNESS: Uhm-hmm.

03:09:32 13 THE COURT: Would the fact there was
03:09:34 14 only one be corroboration? I believe you said it
03:09:39 15 would be, and I just wanted you to explain why.

03:09:41 16 THE WITNESS: Yes. I was hesitating on
03:09:43 17 that, and the reason why I'm hesitating is the use
03:09:45 18 of the word "corroboration".

03:09:52 19 If your hypothesis is this story about
03:10:04 20 aliens landing must refer to an event in which
03:10:08 21 aliens landed.

03:10:11 22 THE COURT: I appreciate you're trying
03:10:12 23 to be specific, but aliens is way too out of the
03:10:18 24 field here. Let's just take -- it's a geological
03:10:21 25 event so --

03:10:22 1 THE WITNESS: Okay, let's go with
03:10:23 2 geological event.

03:10:25 3 All right. This story about a volcano
03:10:31 4 must refer to a volcano, an actual time that there
03:10:36 5 was a volcano. And you have no evidence that there
03:10:44 6 was ever a volcano in this area, okay? So let's start.

03:10:49 7 Your hypothesis is -- your hypotheses
03:10:52 8 is that this story about a volcano must refer to a
03:10:55 9 volcanic eruption, even though you don't have any
03:10:58 10 evidence that there was ever a volcanic eruption.

03:11:01 11 But then, geologists stumble on
03:11:05 12 evidence that there was at one time, a single
03:11:09 13 volcano in this area, of which no present visual
03:11:12 14 evidence exists and there couldn't have been any
03:11:14 15 clue, well, under those circumstances, then the
03:11:18 16 geological evidence that there was a -- that here
03:11:21 17 was this volcano is corroboration of your
03:11:27 18 hypothesis that this story must refer to a volcano
03:11:31 19 in this area.

03:11:32 20 So it's only corroboration because you
03:11:35 21 weren't initially assuming that this story about a
03:11:41 22 volcano is referring to a particular volcanic event
03:11:46 23 that you already know about. Does that make sense?

03:11:52 24 Because then the geologic evidence of a
03:11:56 25 volcano would be independent corroboration.

03:11:58 1 THE COURT: All right.

03:12:01 2 THE WITNESS: But if you already knew
03:12:02 3 there was a volcano, well then you would need more
03:12:05 4 -- another thing to corroborate it. Like, show me
03:12:15 5 why it's this volcano and not some other volcano
03:12:18 6 since there have been several in this area.

03:12:23 7 THE COURT: And Ms. Colizza, do you
03:12:26 8 have any questions arising from my question?

03:12:30 9 MS. COLIZZA: No questions, Your Honour.

03:12:31 10 THE COURT: Mr. Brookwell?

03:12:32 11 MR. BROOKWELL: No, Your Honour.

03:12:33 12 THE COURT: Thank you very much for
03:12:34 13 travelling to Ontario to assist us in this matter.
03:12:37 14 We even had some snow just so you knew where you
03:12:41 15 were. You can step down now from the witness box.

03:12:44 16 THE WITNESS: Thank you.

03:12:44 17 (Laurel Bowman was excused from the
03:12:45 18 proceedings.)

03:12:45 19 THE COURT: I don't see Mr. Feliciant
03:12:48 20 in the courtroom. Mr. Lemmond is here, though.
03:12:52 21 Come on forward, Mr. Lemmond.

03:12:55 22 MR. LEMMOND: Good afternoon, Your Honour.

03:12:59 23 THE COURT: Actually, I did ask you to
03:13:01 24 come forward, but just before I do that.

03:13:03 25 Mr. Beggs, I know you've already put

03:13:05 1 this on the record, but I ask you again to put on
03:13:08 2 the record that now we've heard from Professor
03:13:11 3 Bowman that that concludes your case.

03:13:16 4 MR. BEGGS: Yes, Your Honour that
03:13:17 5 concludes Canada's case.

03:13:19 6 THE COURT: Thank you, Mr. Beggs.
03:13:19 7 (Canada rests).

03:13:21 8 THE COURT: Now back to Mr. Lemmond.
03:13:22 9 How is Ontario's case coming along,
03:13:25 10 Mr. Lemmond?

03:13:26 11 MR. LEMMOND: So we're set to start
03:13:28 12 with Mr. Graves on Thursday morning as scheduled.
03:13:32 13 We have worked out -- we have confirmation that we
03:13:33 14 have agreement on the Agreed Statement of Facts
03:13:36 15 being discussed, so we'll be in a position to put
03:13:39 16 that in the record on Thursday morning. And we
03:13:42 17 also will be able to enter the further redacted
03:13:44 18 report of Mr. Graves at that time, at the beginning
03:13:47 19 of court.

03:13:48 20 THE COURT: And there's ample time, is
03:13:50 21 there? Who's cross-examining Mr. Graves?

03:13:57 22 MR. TOWNSHEND: Ms. Pelletier and
03:14:01 23 Ms. Guirguis.

03:14:01 24 THE COURT: Mr. Townshend, you have the
03:14:03 25 two days booked, I assume that's sufficient.

03:14:05

1

MR. TOWNSHEND: Yes.

03:14:06

2

THE COURT: All right. What about

03:14:07

3

tomorrow? I guess we're --

03:14:09

4

MR. LEMMOND: He's travelling tomorrow,

03:14:11

5

Your Honour.

03:14:11

6

THE COURT: He's traveling tomorrow.

03:14:11

7

He's from Montreal?

03:14:15

8

MR. LEMMOND: Just outside of Ottawa,

03:14:17

9

Your Honour.

03:14:17

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THE COURT: Ottawa. I want you to tell

03:14:18

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Mr. Feliciant when you get back to the office, that

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12

this week and last, he has two more unintended days

03:14:23

13

off, since he's unhappy about the schedule, it

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14

seems. All right? Can you report that to

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15

Mr. Feliciant for me?

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16

MR. LEMMOND: I will, Your Honour.

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THE COURT: All right. We're adjourned

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until Thursday.

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-- Court adjourned at 3:15 p.m.

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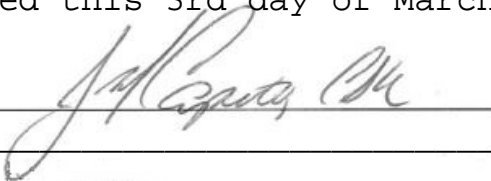
I, JUDITH M. CAPUTO, RPR, CSR, CRR,
Certified Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth at which time the witness was put under oath
by the court registrar;

That the testimony of the witness and
all objections made at the time of the examination
were recorded stenographically by me (Note: Not
all quotes have been verified against source
document, but transcribed as read into the record);

That the foregoing is a Certified
Transcript of my shorthand notes so taken.

Dated this 3rd day of March, 2020.



NEESON COURT REPORTING INC.

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

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