

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

VOL 62 DAY 62
November 20, 2019



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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

Defendants

26 --- This is VOLUME 62/DAY 62 of the trial
27 proceedings in the above-noted matter, being held
28 at the Superior Court of Justice, Courtroom 5-1,
29 330 University Avenue, Toronto, Ontario, on the
30 20th day of November, 2019.

31 -----
32 B E F O R E: The Honourable Justice Wendy M.
33 Matheson

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

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& Christopher Evans, Esq., The Chippewas of
Saugeen First Nation,
and the Chippewas of
Nawash First Nation.

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& Jennifer Lepad, Esq., Ontario.
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I N D E X

PAGES

WITNESS: PROFESSOR ALAIN BEAULIEU
Cross-Examination by Ms. Pelletier
(Cont'd)..... 7949 - 8092

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NO.	DESCRIPTION	PAGE/LINE NO.
4385:	Document entitled "The Papers of Sir William Johnson".	7973:24
4386:	Introduction to the book entitled "Empire et Métissages", authored by Professor Gilles Havard.	8066:24
4387:	Chapter 6 of the book entitled "Empire et Métissages", authored by Professor Gilles Havard.	8067:20

09:52:38 1 -- Upon commencing at 10:02 a.m.

09:12:03 2
10:02:36 3 THE COURT: Good morning, Counsel.

10:02:39 4 MS. PELLETIER: Good morning, Your
10:02:40 5 Honour.

10:02:48 6 THE COURT: Well, this was logged in a
10:02:50 7 minute ago, but it is no longer logged in, so this
10:02:52 8 will just take a minute.

10:02:53 9 Please go ahead.

10:03:44 10 MS. PELLETIER: Thank you, Your Honour.

10:03:46 11 PROFESSOR ALAIN BEAULIEU; Under Prior
10:03:46 12 Affirmation.

10:03:46 13 CROSS-EXAMINATION BY MS. PELLETIER
10:03:46 14 (CONT'D):

10:03:47 15 Q. Good morning, Professor Beaulieu.

10:03:48 16 A. Good morning.

10:03:48 17 Q. So yesterday we left off with the
10:03:50 18 Treaty of Detroit, and this morning I would like to
10:03:52 19 speak to you a little bit about the Royal
10:03:55 20 Proclamation.

10:03:56 21 A. Okay.

10:03:57 22 Q. So in your report, you stated that
10:03:59 23 although it appears that the Royal Proclamation was
10:04:01 24 a protective measure for First Nations, that in
10:04:04 25 actuality, it made their dispossession official by

1 prohibiting land sales to private persons.

2 A. Private persons and other European
3 powers.

4 Q. So I just want to clarify,
5 Professor Beaulieu, that when you are describing
6 the Royal Proclamation in this way, you are
7 describing it from what you believe to have been
8 the British perspective; is that correct?

9 A. That is correct.

10 Q. Okay. So you are not offering any
11 kind of opinion on how it may have affected
12 Indigenous land rights as a matter of law?

13 A. No.

14 Q. Okay. Great. So I would like to
15 pull up your first report, which is Exhibit 4380,
16 and I will take you to page 86. Yes. So the
17 second square, the second green box where you say:

18 "The Proclamation recognized
19 Aboriginal territorial rights but
20 unilaterally dictated the nature of
21 those rights: they were usage
22 rights that could only be ceded to
23 the British Crown."

24 A. I'm sorry, I'm not sure where you
25 are.

1 Q. Sorry, the second green box.

2 A. Second. Okay. "[...] clearly
3 declared [...]"]?

4 Q. That's right.

5 A. Okay.

6 Q. So it is that last sentence that I
7 am interested in, and your comment that the
8 Proclamation unilaterally dictated the nature of
9 those rights, that "they were usage rights that
10 could only be ceded to the British Crown".

11 And so my question, my prior question
12 about -- I wanted to make sure that you weren't
13 trying to offer an opinion about how the
14 declaration impacted Indigenous land rights as a
15 matter of law. I would suggest this sounds very
16 much like a legal argument, one that I would argue
17 with you is incorrect, but I want to clarify that
18 you are not trying to say here -- that this is,
19 again, from the British perspective, in your
20 opinion.

21 A. It is only from the British
22 perspective.

23 Q. Okay. Excellent. Now, if I could
24 take you to your first report at page 84. Now, we
25 just talked about how you have been describing --

1 or how you have described in your report the Royal
2 Proclamation as a way of officially dispossessing
3 the Indigenous people of their land rights, but
4 here you have acknowledged -- and I will give you a
5 moment actually to read this paragraph.

6 A. It is page 83 or 84?

7 Q. Oh, sorry, page 83. It's PDF 84.
8 Page 83, that's right.

9 A. [Witness reviews document.]

10 I have read it.

11 Q. Okay. And then I'll take you to
12 the next page.

13 A. [Witness reviews document.]

14 I am ready.

15 Q. So here you are acknowledging
16 that, in fact, the Royal Proclamation was intended
17 to reassure the Indigenous people about their land
18 rights and to offer reassurance about their
19 relationship with the British.

20 A. That's correct.

21 Q. Okay. Now, your first report at
22 page 86. Now, the last sentence, the last -- the
23 bottom, third block, this last sentence here:

24 "The creation of an enormous
25 territory reserved for Aboriginal

10:08:36 1 peoples was also a clear affirmation
10:08:40 2 of Great Britain's sovereign claim."

10:08:43 3 So again, going back to, I think, your
10:08:46 4 argument that the Royal Proclamation from the
10:08:47 5 British perspective was a way to dispossess
10:08:51 6 Indigenous people of their lands, you say here that
10:08:54 7 it was a clear affirmation, and I am wondering a
10:08:57 8 clear affirmation to whom?

10:08:59 9 A. I would not say it's to dispossess
10:09:01 10 the Aboriginal people. It is just a way to define
10:09:04 11 the British perspective, their rights, and not to
10:09:07 12 let the Aboriginal people to define by themselves
10:09:09 13 the nature of their rights, in the British
10:09:13 14 perspective.

10:09:14 15 Q. But we have already established
10:09:17 16 that, in fact, the Royal Proclamation was made to
10:09:19 17 reassure Aboriginal people. So if the idea was
10:09:23 18 that it was to clarify the limits of the Aboriginal
10:09:26 19 people's rights -- and here you say that it was a
10:09:28 20 clear affirmation of that -- I am wondering who do
10:09:31 21 you think it was clear to?

10:09:32 22 A. For the British.

10:09:34 23 Q. For the British. Okay.

10:09:35 24 A. Yes.

10:09:36 25 Q. So you would agree that Aboriginal

1 people would not have accepted something that
2 purported to make them subjects?

3 A. I agree with that.

4 Q. Okay. I would like to bring up,
5 just on that point, Exhibit 653. Now, here we have
6 a letter from Johnson to Gage, which is dated
7 October 31, 1764. Professor Beaulieu, I assume you
8 are familiar with this letter?

9 A. Yes.

10 Q. Okay. And here you would agree
11 this is Johnson commenting on the Treaty that
12 Bradstreet made at Detroit after the Congress of
13 Niagara?

14 A. That's correct.

15 Q. Okay. And he is commenting that
16 the document appears to be describing the First
17 Nations as subjects?

18 A. Yes. I think he was -- he felt
19 very upset by the decisions of Bradstreet to
20 conclude the Treaty and the terms that he used.
21 For him, it was not appropriate, but you have other
22 examples to the east where the British used those
23 notions of subjects when they are concluding
24 treaties with Aboriginal people. So there is, I
25 would say, maybe two practices in the British

1 Empire at that time, to the east a treaty where
2 the -- in which the British tried to write this
3 word "subject", and to the west where the British
4 under, I would say, the supervision of William
5 Johnson, this notion was not put in practice.

6 But at the same time, in his
7 commission, the commission given to William
8 Johnson, he was also Superintendent of the Five and
9 Six Nations, allies and subject to the British. So
10 this notion is used at the time, but William
11 Johnson did not want to recognize that at that time
12 it is the best way to define the Aboriginal people.

13 Q. Okay. So here, let's take a look
14 at some of what Johnson said in this letter. I'll
15 give you a moment to read. We have some square
16 boxes on the next page as well, so I'll give you a
17 moment to read those passages, please, and I'll ask
18 you some questions.

19 A. [Witness reviews document.]

20 I am ready.

21 [Witness reviews document.]

22 I am ready.

23 [Witness reviews document.]

24 I'm ready.

25 Q. Okay. So that is it for that

1 letter. So here we have Johnson saying that he is
2 thoroughly convinced that the nations would never
3 have called themselves subjects, nor would they
4 have approved of it.

5 He also says that the idea of
6 subjection would fill them with horror.

7 And so I am wondering, Professor
8 Beaulieu, if you would agree that this passage from
9 Johnson accurately reflects how the Indigenous
10 people of the Western Nations, specifically at the
11 time, would have viewed their territory and their
12 relationship with Europeans, from the Indigenous
13 perspective?

14 A. They would have never accepted the
15 word "subject" at that time.

16 Q. Thank you. I would like to go
17 back to your second report and page 115. So here
18 is where you say that Johnson chose to
19 deliberately -- or may have chosen to deliberately
20 not read -- this is when you are talking at the
21 point about the Royal Proclamation in your view not
22 having been read at Niagara, and you have said that
23 one of the reasons that Johnson may have chosen not
24 to read it was because he might have been perceived
25 as making a concession.

10:14:19 1 So I'm just trying to understand how
10:14:22 2 this fits with your earlier argument that the Royal
10:14:27 3 Proclamation was, in fact, a way of officially
10:14:29 4 dispossessing Indigenous people from their land.
10:14:32 5 Now you seem to be saying something very different,
10:14:35 6 which is that it would have been seen as a victory
10:14:38 7 for the First Nations.

10:14:38 8 Is this you perhaps acknowledging that,
10:14:41 9 from the First Nations' perspective, it would have
10:14:45 10 been a positive thing for them?

10:14:46 11 A. I have never said that the Royal
10:14:50 12 Proclamation effectively dispossessed the
10:14:53 13 Aboriginal from their land. It is a redefinition
10:14:54 14 of their right to the land, the British
10:14:56 15 perspective. I never tried to argue that by the
10:14:59 16 Royal Proclamation the British really took the land
10:15:03 17 of the Aboriginal people. They just defined in a
10:15:05 18 specific way what would be their rights to this
10:15:08 19 land.

10:15:09 20 For me, it is a kind of dispossession,
10:15:11 21 not concrete dispossession, but a dispossession of
10:15:15 22 their -- of the possibility for the Aboriginal
10:15:17 23 people to define by themselves what were their
10:15:20 24 rights to those lands, and it is a colonial process
10:15:23 25 from the beginning Europeans trying, instead of

10:15:28 1 accepting the way that the Aboriginal people would
10:15:30 2 define themselves, their rights, to define by
10:15:34 3 themselves what would be the rights of the
10:15:36 4 Aboriginal people.

10:15:38 5 It is a part of the colonial process.
10:15:41 6 Even in a dispossession, like in the Royal
10:15:43 7 Proclamation, which is -- the main objective was
10:15:45 8 presented as a way to protect the Aboriginal land,
10:15:48 9 it is a way to define their rights because it is
10:15:50 10 always qualified as hunting grounds, and also, it
10:15:54 11 is the King who established by -- I would say by a
10:15:59 12 unilateral way how he will -- what kind of action
10:16:03 13 he will take to dispossess the Aboriginal people.

10:16:05 14 So he did not ask them, how should
10:16:08 15 we -- what kind of measure should we have taken to
10:16:12 16 take your land or to have your land? He
10:16:14 17 established a very specific rule from a strictly
10:16:18 18 British perspective, and this rule would be put in
10:16:21 19 place in the following years.

10:16:23 20 Q. Okay.

10:16:25 21 A. So I don't want to say that the
10:16:27 22 Royal Proclamation effectively took the land of the
10:16:30 23 Aboriginal people from them.

10:16:32 24 Q. Okay. No, that is helpful. Thank
10:16:34 25 you for that clarification. Okay. So let's move

1 on then. I would like to talk a little bit about
2 the Congress of Niagara.

3 So first, just to recapture, I believe,
4 a little bit of what you discussed yesterday when
5 my friend was taking you through your curriculum
6 vitae, you had acknowledged that you had prepared
7 an expert report previously on this subject in the
8 Restoule case; that's correct?

9 A. The first report that I prepared
10 on the Congress at Niagara is this one for this
11 case, but after that, I was asked to make another,
12 I would say, updated version of this report for the
13 Restoule case.

14 So even if I testified before in the
15 Restoule case, the report was prepared after this
16 one.

17 Q. Okay. Thank you. And you have
18 not published any academic works on the Congress of
19 Niagara; that's correct?

20 A. No, I am working on it. It will
21 be published probably next year, but now there is
22 no publication.

23 Q. Okay. But you have published on
24 other British treaties?

25 A. Yes, on the Treaty of Oswegatchie.

10:17:54 1 Q. And the Murray Treaty?

10:17:56 2 A. Yes.

10:17:57 3 Q. And the Supreme Court of Canada
10:18:00 4 held that the Murray Treaty was a treaty in the
10:18:02 5 Sioui case?

10:18:04 6 A. Yes.

10:18:04 7 Q. And I believe that -- well, the
10:18:06 8 Court created the legal test of whether a document
10:18:09 9 is a treaty in that case, and I understand that you
10:18:13 10 disagree that this was a treaty, that the Murray
10:18:16 11 Treaty was a treaty?

10:18:18 12 A. From a strictly historical
10:18:19 13 perspective, yes. But I recognize that now it is a
10:18:24 14 treaty; since 1990, it is a treaty. But in a
10:18:28 15 strictly historical perspective, I don't take it as
10:18:31 16 a treaty when I try to understand the history of
10:18:34 17 the Wendat in the 18th century and 19th century
10:18:38 18 because this document was never used as a treaty by
10:18:43 19 the Huron before -- very recently.

10:18:47 20 So I know that some historians would
10:18:48 21 like that we re-interpret the history of the Huron
10:18:51 22 based on the decisions of the Supreme Court of
10:18:54 23 Canada, and in my perspective, from a strictly
10:18:58 24 historical perspective, we have to consider this
10:19:01 25 document for what it was at the time when it was

1 given to the Huron by the British and not to do as
2 if we have to re-interpret all the history of the
3 Huron based on the decisions of the Supreme Court
4 of Canada in 1990.

5 Q. So despite the finding that the
6 Sioui -- from the Sioui case that this is, in
7 fact -- the Murray Treaty was a treaty, you have
8 published papers making the argument that it is
9 not, and that would be, as you have said, from a
10 historian's perspective?

11 A. That's correct.

12 Q. You have also published on the
13 different ways that historians and jurists approach
14 history. I believe you spoke a little bit about
15 that yesterday during your qualifications.

16 A. That's correct.

17 Q. Now, you have said in your report
18 that, at Niagara, Britain and the Western Nations
19 renewed and strengthened the Treaty of Detroit.

20 A. That's correct.

21 Q. Okay. So I would like to talk to
22 you a little bit about the treaty process that was
23 followed at Detroit before we get into Niagara.

24 So you would agree with me that at the
25 beginning of the Congress at Detroit, Johnson and

10:20:16 1 the nations smoked a pipe together?

10:20:18 2 A. I think so.

10:20:19 3 Q. And the nations authorized people
10:20:21 4 to speak for them?

10:20:22 5 A. That's correct.

10:20:24 6 Q. And they and Johnson made speeches
10:20:27 7 back and forth to one another?

10:20:28 8 A. That's correct.

10:20:28 9 Q. And they presented wampum belts?

10:20:32 10 A. That's correct.

10:20:32 11 Q. And they addressed each other as
10:20:36 12 "brethren" and as "brother"?

10:20:38 13 A. That's correct.

10:20:38 14 Q. And sometimes the speakers asked
10:20:40 15 for more time before they gave a response? The
10:20:44 16 nations would have asked for more time before
10:20:46 17 giving a response to one of Johnson's speeches?

10:20:48 18 A. It is, I would say, the normal
10:20:50 19 procedure in a meeting between British and
10:20:53 20 Aboriginal people or between French and Aboriginal
10:20:55 21 people or even between Aboriginal people
10:20:58 22 themselves.

10:20:59 23 Q. And so they would have asked for
10:21:01 24 more time so that they could consult with other
10:21:03 25 people before responding? They could have

1 consulted amongst themselves?

2 A. Consult and to think to the
3 propositions how they will answer. If it is a very
4 difficult subject, they want to take the time.
5 Sometimes it could be one day, two days, just to
6 have the time not to be, I would say, on pressure
7 to give an answer but to think about it.

8 Q. And would you agree with me that
9 this process is what was followed at Niagara?

10 A. The process, I would say yes.

11 Q. So I would like to bring up --

12 A. But it is a process.

13 Q. -- your second report, Exhibit
14 4381, page 107.

15 THE COURT: Did you say 1 of 7?

16 BY MS. PELLETIER:

17 Q. 107.

18 Sorry, if you could just give us a
19 moment.

20 Okay. Bottom of page 107, and we just
21 neglected to highlight it. Yes. So the first --
22 so the last sentence in 107:

23 "To examine this question, we
24 must [...]"

25 If you could read until just the first

1 couple of sentences on the next page.

2 A. [Witness reviews document.]

3 Only the first paragraph?

4 Q. Yes, the first -- that paragraph.

5 So here, now we are now in the section of your
6 report dealing with whether or not the Royal
7 Proclamation was read, and that is not necessarily
8 what I want to talk about.

9 I raise this, though, because here you
10 appear to be acknowledging that -- you say:

11 "To examine this question",
12 this is whether something would
13 become a treaty term, "we must keep
14 in mind how diplomatic meetings
15 between the British and the
16 Aboriginal peoples were conducted.
17 For a proposal to be accepted into a
18 treaty or considered a formal
19 engagement, it had to be officially
20 presented and then supported by the
21 presentation of a wampum belt, and
22 then the other party had to
23 respond", et cetera.

24 So proposals had to be explicitly
25 stated and agreed to to be validated and

10:24:00 1 incorporated into a treaty.

10:24:01 2 And so at the end of the Congress at
10:24:03 3 Niagara, Johnson presented a Covenant Chain belt
10:24:07 4 with the Western Nations; correct?

10:24:09 5 A. Yes, I am talking about the
10:24:11 6 process itself. This process which is described
10:24:15 7 here is the process that we find in all the
10:24:17 8 meetings between British and Aboriginal people. So
10:24:19 9 I would say the ritual is always the same, and we
10:24:22 10 have a lot of meetings between British and
10:24:25 11 Aboriginal people, but it doesn't mean that in each
10:24:29 12 meeting we have -- always the same protocol is
10:24:32 13 used, but not all meetings, even if the same
10:24:36 14 protocol is utilized, finish by conclusions of a
10:24:40 15 treaty.

10:24:44 16 The ritual itself is the same in all
10:24:46 17 meetings and sometimes it is just a renewal or a
10:24:50 18 strengthening of the conventions, of the alliance;
10:24:53 19 in other cases -- and we have a good example -- the
10:24:56 20 end was a treaty or a new treaty.

10:24:58 21 So the protocol is one thing, and I
10:25:00 22 would say the result of the negotiations, it's
10:25:03 23 another thing.

10:25:03 24 And we have many examples where the
10:25:07 25 British were only meeting with Aboriginal people,

1 negotiate with them following this ritual without
2 finishing by concluding one treaty, and I think it
3 is an important difference between the protocol
4 itself and what is the result of the process by
5 which British and Aboriginal people decided to
6 follow this protocol.

7 Q. So I am going to get to the
8 results in a moment, but for now, you would agree
9 that the original purpose of the congress was to
10 end Pontiac's War; is that correct?

11 A. Not -- no, Johnson knew that it
12 would be -- it won't be the end. The real
13 objective was to make peace with the Wyandot, to
14 make peace with the Senecas, to meet with other
15 people, try to divide those people.

16 He knew that the war would continue.
17 He said it during this meeting when he talked about
18 trade relations. He said it is not now the time to
19 renew or to restart, to re-open the trade, because
20 the war is not finished. So his real objective was
21 to conclude peace with some Aboriginal Nations and
22 to renew the alliance with others.

23 Q. But it was to ensure that there
24 was peace going forward. In fact, you would agree
25 that Johnson was very intent on finding out which

1 nations had, in fact, fought in Pontiac's War

2 because his objective was to make peace with them?

3 A. He knew that at least two nations
4 would be there to conclude peace treaties, and
5 during his meeting, he tried to get some
6 information about the participation of other
7 nations to the war against the British.

8 It is part of a process which will
9 continue at least until 1765.

10 Q. And he had hoped to identify the
11 nations, other nations who may have been at war
12 with the British and who may have been aligned with
13 Pontiac in order to hopefully -- I think you said
14 you would agree his intention was to conclude peace
15 treaties with those nations that had fought in the
16 war.

17 A. If he decided that he had to
18 consider them as enemies, yes, but he decided it
19 was not the case.

20 Q. And he had, in fact, been given
21 authority to make a treaty on behalf of Britain
22 going into the Congress of Niagara?

23 A. He had the authority to make
24 treaties with Aboriginal people, yes.

25 Q. And at Niagara, the parties

10:27:24 1 made -- the Western Nations and Johnson made
10:27:27 2 requests of one another?

10:27:28 3 A. Requests which were situated, I
10:27:35 4 would say, within the context of the alliance
10:27:37 5 concluded in 1761. Those requests were within the
10:27:42 6 frame -- the frame of the alliance concluded in
10:27:46 7 1761. It was -- and Johnson did not consider them
10:27:49 8 as enemies with whom he had to conclude new peace
10:27:52 9 treaties. They were considered as allies, and the
10:27:57 10 requests were within the frame of what was
10:28:01 11 negotiated at Detroit in 1761.

10:28:04 12 Q. So Johnson requested that Western
10:28:07 13 Nations contribute warriors to Bradstreet's
10:28:09 14 campaign?

10:28:09 15 A. That's correct.

10:28:10 16 Q. And that they compensate British
10:28:12 17 traders for their losses?

10:28:14 18 A. The first point, if I may, it is
10:28:17 19 really important because it is -- it was part of
10:28:19 20 the alliances concluded in 1761. So to ask
10:28:23 21 warriors, it was just to ask them to follow their
10:28:26 22 obligations by giving some warriors.

10:28:28 23 Q. And he also asked hem to
10:28:30 24 compensate British traders for their losses?

10:28:32 25 A. It is also part of the agreement

1 of 1761.

2 Q. Was that included in 1761?

3 A. In the spirit of these
4 negotiations of 1761, the British will be treated
5 correctly by the Aboriginal people. There will be
6 no action, no violent action. The British had to
7 be treated correctly, and how they were treated by
8 those who decided to fight the British, it was not
9 in conformity with the agreement concluded in 1761.

10 Q. And to collect in return
11 prisoners?

12 A. From those enemies of the British
13 who had still prisoners and captives. So William
14 Johnson told them -- it was, again, in the spirit
15 of the alliance concluded in 1761 -- you are
16 allies, and you know that some of your other
17 Aboriginal people had some captives, and you have
18 to work to help us to bring them back to the
19 British.

20 So it was within the spirit, I would
21 say, of the alliance concluded in 1761.

22 Q. You would agree with me, however,
23 Professor Beaulieu, that the points -- the requests
24 to the Western Nations to compensate the British
25 traders for their losses and to collect and return

1 prisoners were not mentioned in 1761? Nowhere in
2 the minutes at Detroit can you find a request to
3 compensate British traders or to collect and return
4 prisoners?

5 A. I think I explained yesterday when
6 we are talking about renewing and strengthening a
7 Covenant Chain, the meetings between, I would say,
8 different treaties, it was to discuss very specific
9 aspects, and it is always within the alliance
10 concluded at that time.

11 And in a treaty like this one in 1761,
12 it was not possible to make a list of all -- I
13 would say all the events that could happen, but the
14 spirit is one of alliance and one of mutual
15 assistance in case of war, mutual, I would say -- I
16 would say mutual respect, and this spirit was not,
17 in the mind of Johnson -- or he decided to consider
18 that this spirit was not broken by those that he
19 called the Western Nations.

20 So he asked their help, as he would
21 have asked to other allies. They were still allies
22 of the British, and he asked their help to solve
23 some problems.

24 Q. You would agree, however, that
25 Johnson has said that part of the criteria that

10:31:15 1 terms -- sorry, I'm going back to Detroit now. And
10:31:19 2 you have acknowledged yourself that terms must be
10:31:21 3 stated and accepted explicitly?

10:31:25 4 A. Accepted explicitly to become the
10:31:28 5 allies of the British, and I would say to negotiate
10:31:35 6 with them within the spirit of an alliance and to
10:31:38 7 find a way to solve the very specific problems that
10:31:42 8 would emerge.

10:31:42 9 It is normal in this kind of
10:31:44 10 relationship based on alliance that some problems
10:31:46 11 emerge, but if the alliance negotiated is not
10:31:52 12 broken, it was renewed, strengthened, by trying to
10:31:54 13 find a way to solve those problems that present
10:31:57 14 over the time.

10:31:58 15 Q. Okay. We'll get back to the point
10:32:01 16 that the alliance was not broken in a moment, but
10:32:03 17 would you at least agree with me that an ask to
10:32:06 18 compensate British traders for their losses and to
10:32:09 19 collect and return prisoners when presumably they
10:32:13 20 hadn't fought in the war, as you say, is a big ask?

10:32:16 21 A. The compensation for the merchants
10:32:19 22 was a big request from William Johnson, but for
10:32:25 23 him, it was not the sign that he was trying to
10:32:29 24 negotiate something new. In his spirit, it was
10:32:33 25 just to ask to those Aboriginal people who were

10:32:35 1 still allies with the British to respect the spirit
10:32:41 2 of the alliances concluded in 1761 and to help the
10:32:45 3 British to find a way to compensate those who have
10:32:47 4 not been well treated by the Aboriginal people, who
10:32:52 5 decided to took arms against the British.

10:32:55 6 Q. I would like to pull up the
10:33:06 7 Niagara minutes, which are Exhibit -- so I would
10:33:20 8 like to bring up document SC0433. So, Your Honour,
10:33:29 9 I understand that previously portions of the
10:33:31 10 Niagara minutes have been entered as exhibits.

10:33:34 11 Rather than flip around through
10:33:35 12 different exhibits, we are proposing to put them in
10:33:39 13 in their entirety.

10:33:43 14 THE COURT: We have had considerable
10:33:44 15 evidence about this. Are you telling me the
10:33:45 16 minutes aren't in?

10:33:47 17 MS. PELLETIER: The minutes are in, but
10:33:48 18 they are in several pieces, so I would rather not
10:33:51 19 have to be pulling up several exhibits. So we have
10:33:54 20 uploaded them all into one document and would
10:33:56 21 propose to enter this in as an exhibit.

10:33:58 22 THE COURT: Is this the entirety of the
10:34:00 23 minutes?

10:34:01 24 MS. PELLETIER: Yes, that's correct.

10:34:02 25 THE COURT: Does this include any other

10:34:05 1 documentation other than the minutes?

10:34:07 2 MS. PELLETIER: I don't believe so. Is
10:34:08 3 there a letter at the end? There is a letter at
10:34:12 4 the end.

10:34:12 5 THE COURT: So you are saying there is
10:34:14 6 73 pages of minutes?

10:34:16 7 MS. PELLETIER: Could you scroll to the
10:34:17 8 end?

10:34:38 9 We have Bradstreet's Treaty at the end.

10:34:50 10 THE COURT: I don't have a problem with
10:34:51 11 doing it, but I do ask you to put on the record all
10:34:53 12 of the other exhibit numbers that you say comprise
10:34:55 13 portions of this document.

10:34:59 14 MS. PELLETIER: Would you like me to
10:35:01 15 take a minute to do that now or come back to it?

10:35:04 16 THE COURT: We can do it after the
10:35:06 17 morning break or one of the morning breaks.

10:35:09 18 MS. PELLETIER: Thank you, Your Honour.
10:35:10 19 We'll get back to you on that.

10:35:11 20 THE COURT: So this, Mr. Registrar,
10:35:12 21 would be the next exhibit.

10:35:16 22 THE REGISTRAR: Exhibit number 4385,
10:35:18 23 Your Honour.

10:35:21 24 EXHIBIT NO. 4385: Document entitled
10:35:23 25 "The Papers of Sir William Johnson".

1 BY MS. PELLETIER:

2 Q. Thank you, Your Honour.

3 So go to page 309. So this, Professor
4 Beaulieu, just to situate yourself, is Johnson
5 responding to the Western Nations. This is after
6 several days. Perhaps we could scroll up. Oh, I
7 see here July 31st. I'll give you a moment to read
8 that paragraph.

9 A. Yes.

10 [Witness reviews document.]

11 I'm ready.

12 Q. Okay. And then go down to page
13 311, which is the response from a Chippewa Chief
14 who is addressing Johnson.

15 A. [Witness reviews document.]

16 I'm ready.

17 Q. Okay. So I wonder if you would
18 agree with me, Professor Beaulieu, that from the
19 passage that we just looked at from Johnson and
20 then this response from the Chippewa, that we have
21 both parties acknowledging that coming out of
22 Niagara that there were engagements?

23 A. Renewal and strengthening of their
24 engagement, engagement taken in 1761, and it is the
25 understanding of William Johnson.

1 I think that we have also to consider
2 how he explained to his superiors what he did at
3 Niagara in 1764. It is clear that he followed, as
4 I explained, the protocol, but he understood what
5 he was doing. He knew pretty well the difference
6 between concluded a treaty and renewing and
7 strengthening the Covenant Chain, and he made this
8 clear distinction in the proceedings and also in
9 his official report to the Board of Trade and to
10 his superiors.

11 This distinction for him is really
12 important. He know -- he was the best guy, I would
13 say, at that time to negotiate with the Aboriginal
14 people, and for him to conclude peace treaties was
15 one thing and to renew and strengthening the
16 Covenant Chain was another thing.

17 And it is clear that the renewal and
18 strengthening of the Covenant Chain was renewal and
19 strengthening of the engagement taken at the
20 beginning of the alliances between the British and
21 the Aboriginal people.

22 Q. And you would agree, Professor
23 Beaulieu, that the engagements include these
24 additional items of reimbursement of traders and
25 return of prisoners?

10:38:42 1 A. I think that we have to consider
10:38:44 2 them as part of the general agreement concluded
10:38:47 3 when the British and the Aboriginal people united
10:38:51 4 themselves in a strict alliance in 1761.

10:38:55 5 Q. Okay. I would like to take a look
10:38:58 6 now at the reference to medals. Go back up to the
10:39:03 7 Chief's speech -- no, sorry, the same page. So
10:39:14 8 after that first paragraph, the first Chippewa
10:39:17 9 Chief who is speaking, after he ends his address,
10:39:22 10 it says:

10:39:23 11 "Sir William then gave Medals
10:39:26 12 to the Chiefs, and exhorted them to
10:39:27 13 look at them often in order to
10:39:29 14 remind them of their engagements."

10:39:32 15 Now, this is the same day that Johnson
10:39:34 16 has presented the Western Nations with the Covenant
10:39:37 17 Chain belt with the year 1764 written on it;
10:39:41 18 correct?

10:39:41 19 A. That's correct.

10:39:41 20 Q. So this is after having presented
10:39:43 21 the belt, and you would agree that medals were
10:39:46 22 often given to commemorate the signing of a treaty?

10:39:48 23 A. It could happen, but it is not the
10:39:50 24 case here.

10:39:50 25 Q. In particular, you are aware that

10:39:53 1 all of the numbered treaties in Canada involved the
10:39:56 2 giving of medals?

10:39:57 3 A. And I know other occasions where
10:40:01 4 medals were given to Aboriginal people without
10:40:03 5 necessarily concluding -- leading to the conclusion
10:40:08 6 of a treaty. I think that it is important to
10:40:10 7 understand -- to look at the proceedings, but also
10:40:12 8 to look to how William Johnson explained what he
10:40:15 9 did at that time.

10:40:15 10 So we can -- of course, we can identify
10:40:19 11 some -- and probably many elements that we can find
10:40:23 12 in other, I would say, negotiations between British
10:40:27 13 and Aboriginal people which finished by the
10:40:30 14 conclusion of a treaty, but in that case, it is not
10:40:34 15 the case.

10:40:36 16 As I said, we have the proceedings.
10:40:39 17 Johnson is talking about renewal and strengthening,
10:40:42 18 and it is exactly what he said when he wrote to his
10:40:45 19 superiors, that it was not necessary for him at
10:40:50 20 that time to conclude peace treaties with those
10:40:52 21 Western Nations but only to renew and to strengthen
10:40:57 22 the engagement that they had already, I would say,
10:40:59 23 negotiated in 1761.

10:41:00 24 Q. And going back to Johnson's
10:41:03 25 intentions going into the Congress of Niagara, you

10:41:06 1 have agreed that he had -- he went in knowing that
10:41:10 2 he was going to sign treaties with at least two
10:41:13 3 nations and hoping to sign treaties with more?

10:41:15 4 A. I would not say that he was hoping
10:41:16 5 to sign more treaties, other treaties with more.
10:41:20 6 He was just hoping to -- he went there to conclude
10:41:23 7 two treaties, that is clear. It was the main
10:41:26 8 objective of this meeting. And he went there also
10:41:31 9 not necessarily to conclude new treaties but to
10:41:33 10 renew and to strengthen the alliances, because if
10:41:39 11 he had to go there to conclude other treaties, he
10:41:41 12 would have been in the obligation also to impose to
10:41:43 13 those nations war reparations.

10:41:46 14 He went there to conclude treaties with
10:41:48 15 those who had decided to fight the British, and
10:41:52 16 with those nations, the guidelines were clear. The
10:41:57 17 treaties concluded at Niagara with Aboriginal
10:42:01 18 people who decided to fight the British would have
10:42:04 19 to include some war reparations. And when we look
10:42:07 20 at, I would say, the way that his superior Thomas
10:42:13 21 Gage reacted to the Colonel Bradstreet Treaty, it
10:42:18 22 was not the fact that he was doing something that
10:42:20 23 he did not have the right to do, but he was really
10:42:22 24 upset because the treaty that Bradstreet negotiated
10:42:28 25 did not include, did not mention any war

10:42:31 1 reparations.

10:42:32 2 So this aspect is really important at
10:42:35 3 Niagara. If Johnson had decided that he needed --
10:42:39 4 that he was in the obligation to conclude new
10:42:41 5 treaties with other Aboriginal people, it would
10:42:44 6 have been because he considered that those
10:42:46 7 Aboriginal people decide -- had fought the British.
10:42:53 8 They had become enemies of the British, and it
10:42:56 9 would have been necessary at that time to conclude
10:42:58 10 official peace treaties.

10:42:59 11 But he decided that it was not
10:43:01 12 necessary because he decided not to consider those
10:43:05 13 nations as enemies, and with them, it was enough to
10:43:08 14 renew and to strengthen the engagement taken in
10:43:12 15 1761.

10:43:12 16 Q. You acknowledged yesterday that
10:43:14 17 war reparations are not necessarily a requirement
10:43:16 18 to a treaty?

10:43:17 19 A. War reparations are not an
10:43:20 20 obligation, I would say, as a rule. In that case,
10:43:27 21 peace treaties must include war reparations. I
10:43:31 22 don't pretend that war reparations are always
10:43:35 23 necessary to identify if a treaty had been
10:43:38 24 concluded or not. I just say that, in this
10:43:41 25 specific context, a war reparation was a key

10:43:45 1 element that should be included within the treaties
10:43:49 2 concluded with the Aboriginal Nations.

10:43:51 3 I don't want to say that after that
10:43:53 4 war reparation was always a clause that we have
10:43:57 5 to find in the document, in the treaties. I
10:43:59 6 don't want to pretend that it was the case
10:44:01 7 before.

10:44:01 8 But in this very specific context, it
10:44:06 9 was -- for the British, it was essential to argue
10:44:11 10 with -- not to argue, but to show that they
10:44:13 11 considered that the Aboriginal people were in
10:44:16 12 fault, that they broke their alliance, that they
10:44:19 13 broke their promises, and in that context, they had
10:44:23 14 to make some kind of reparations.

10:44:25 15 So it was connected essentially to this
10:44:28 16 very specific context.

10:44:29 17 Q. So before moving on to that point,
10:44:35 18 you acknowledge the Treaty of Detroit was a treaty
10:44:39 19 and did not include war reputations?

10:44:40 20 A. That's correct, and I explained
10:44:42 21 that it is not -- depending of the context, you can
10:44:46 22 have war reparations. You have specific clauses in
10:44:49 23 the Treaty, and the clauses in the Treaty are not a
10:44:52 24 point, an element that we have to identify as the
10:44:58 25 sign that the Treaty exists or not. We have to

10:45:02 1 look at the context. We have to look at what was
10:45:05 2 the intentions of the British.

10:45:06 3 We have clear indications of what the
10:45:07 4 British wanted to see in the peace treaties
10:45:09 5 negotiated with the Aboriginal people, and in that
10:45:13 6 context, war reparation was a really important
10:45:16 7 element.

10:45:16 8 And I think I mentioned earlier that
10:45:18 9 those who did not conclude treaties at Niagara were
10:45:22 10 in a better position than those who were submitted
10:45:25 11 to war reparations because they could say that they
10:45:28 12 were still the allies of the British, and they went
10:45:33 13 there only to renew and to strengthen their
10:45:35 14 alliances with the British.

10:45:39 15 Q. Okay. So I want to talk about
10:45:42 16 this idea that a renewal of the treaty cannot be a
10:45:46 17 treaty, this idea that -- actually, here, why don't
10:45:49 18 we bring up where you talk about this in your
10:45:51 19 report. I'll pull up report number two, which is
10:45:57 20 Exhibit 4381, at page 71.

10:45:59 21 Actually, Your Honour, before I begin,
10:46:04 22 I forget when we said we would break this morning.

10:46:06 23 THE COURT: I said I would take input
10:46:11 24 from you about what made sense for your
10:46:13 25 cross-examination. I do think that sometime

10:46:16 1 between now and 11 o'clock would be appropriate,
10:46:20 2 but I will hear from you about what makes most
10:46:23 3 sense for your cross-examination.

10:46:26 4 MS. PELLETIER: Well, why don't we ask
10:46:28 5 Professor Beaulieu what he would like. Would
10:46:29 6 you --

10:46:30 7 THE WITNESS: I can wait a few minutes.
10:46:32 8 It is not a problem.

10:46:34 9 THE COURT: So if you are trying to
10:46:35 10 wrap something up, then --

10:46:36 11 MS. PELLETIER: I am about to launch
10:46:37 12 into a new section, so perhaps if it is just a few
10:46:39 13 minutes, why don't we break now then, Your Honour,
10:46:42 14 if that is okay.

10:46:43 15 THE COURT: That sounds fine. We'll
10:46:44 16 take a 15-minute break at this time.

10:46:46 17 -- RECESSED AT 10:46 A.M.

11:04:40 18 -- RESUMED AT 11:02 A.M.

11:04:40 19 THE COURT: Yes. Go ahead.

11:04:43 20 MS. PELLETIER: Thank you, Your Honour.
11:04:44 21 Before I continue with my cross-examination, would
11:04:46 22 you like the list of exhibits that make up the
11:04:47 23 Niagara minutes exhibit?

11:04:50 24 THE COURT: Yes. If you could put them
11:04:51 25 on the record, that would be helpful.

1 MS. PELLETIER: Sure.

2 So with reference to the new exhibit
3 number, Exhibit number 4385, which is a collection
4 of former exhibits of the Niagara minutes, 4385
5 consists of Exhibits 610, 611, 612, 613, and 623.

6 THE COURT: Thank you.

7 BY MS. PELLETIER:

8 Q. Now, Professor Beaulieu, I'm
9 afraid I misspoke when I said I was ready to launch
10 into another section. There is one other point
11 that I wanted to go back to.

12 And it is with respect to your
13 comment -- you had made two comments. One was that
14 Johnson was not going to Niagara hoping to enter
15 into a treaty with the Western Nations.

16 And then the second point that you made
17 was with respect to the -- what I call the
18 additional asks of the Western Nations with respect
19 to the return of prisoners and restitution for
20 traders.

21 I want to talk about your argument that
22 that was a part of the alliance and was not
23 anything additional.

24 So I would like to bring up a document
25 so we can talk about that point, which is Exhibit

11:06:17 1 572. Now, I'm going to take you to this letter a
11:06:20 2 little bit later to look at it more closely, but
11:06:24 3 for now, I just want to focus on this paragraph.
11:06:26 4 Perhaps we can scroll up so Professor Beaulieu can
11:06:28 5 see the letter.

11:06:28 6 This is Johnson's letter to Gage of
11:06:30 7 February 19th, 1764.

11:06:33 8 A. Yes.

11:06:33 9 Q. And this -- again, I'm going to
11:06:36 10 take you to this letter later, and we'll look at it
11:06:39 11 more closely, but you can confirm this is the
11:06:40 12 letter where -- this is before Niagara. This is in
11:06:44 13 anticipation of making treaties at Niagara, and
11:06:47 14 Johnson is saying to Gage, you know, here are the
11:06:50 15 things -- here are the terms that we should be
11:06:53 16 including in the treaties. Does that accurately
11:06:56 17 describe --

11:06:56 18 A. Yes. I think this letter, yes.

11:06:57 19 Q. Okay. Perfect. So then I'll take
11:07:00 20 you to the highlighted portion, which is at page
11:07:05 21 329. So here it says:

11:07:09 22 "It is but Just that the
11:07:12 23 Western Indians should discharge the
11:07:13 24 debts due to the Traders, and I
11:07:16 25 imagine they will readily agree to

11:07:17 1 it when the peace is made, in which
11:07:19 2 it can be stipulated".

11:07:20 3 So here I wonder, Professor Beaulieu,
11:07:23 4 if you would agree with me on two points.

11:07:25 5 The first is, this to me sounds very
11:07:29 6 much like Johnson is hoping to enter into a treaty
11:07:31 7 with the Western Nations at Niagara; that is the
11:07:34 8 first point.

11:07:35 9 A. Maybe I should just try to
11:07:37 10 qualify. If I said that Johnson was not hoping to
11:07:41 11 conclude the treaties, maybe it was just -- I have
11:07:44 12 to say that in English it is not always easy for me
11:07:48 13 to express exactly what I wanted to say.

11:07:52 14 It is clear in my mind that when
11:07:54 15 Johnson went at Niagara, it was with the intention
11:07:57 16 to conclude treaties with Aboriginal people who
11:08:02 17 took arms against the British.

11:08:04 18 In February, what Johnson had in his
11:08:09 19 mind, I am not sure that he was able at that time
11:08:13 20 to identify all those nations who took part in the
11:08:17 21 fight against the British. At that time, only the
11:08:21 22 Wyandots had clearly expressed their desire to make
11:08:25 23 peace with the British. Later, the Senecas will do
11:08:29 24 the same.

11:08:29 25 So we are -- in February 1764, it is

11:08:35 1 within the process of trying to identify what
11:08:40 2 should be done, how it will be done, and I cannot
11:08:45 3 say that Johnson at that time had a clear idea of
11:08:48 4 the identity of the Aboriginal people who had
11:08:52 5 decided, who had really or officially or concretely
11:08:58 6 fight against the British.

11:08:59 7 So I don't know if I say really he was
11:09:02 8 not hoping to do something. He was just going
11:09:05 9 there, at least when he arrived in July 1764, with
11:09:10 10 a better idea of what he had to do. It was clear
11:09:13 11 that he had to conclude two treaties with two
11:09:16 12 nations that were officially at war against the
11:09:20 13 British, and to evaluate, I would say, the
11:09:23 14 situations with the other Aboriginal Nations who
11:09:27 15 came to meet him at that place.

11:09:30 16 And during his meeting, he was asking a
11:09:33 17 series of questions to try to identify those who
11:09:37 18 fought the British, those who stayed allied to the
11:09:41 19 British.

11:09:42 20 So when he arrived there, it was clear
11:09:45 21 that he wanted to conclude -- he had to conclude
11:09:47 22 two treaties and to evaluate what he will do with
11:09:50 23 the other representatives of Aboriginal people.

11:09:53 24 We know that he invited many, many
11:09:57 25 Aboriginal people. He sent messages to invite

1 Aboriginal people. So at that moment I would say
2 that when he arrived, maybe that the situation was
3 not as clear as it will become at the end of the
4 Congress, because after his meetings, he took the
5 decisions that he would not consider those Western
6 Nations as enemies.

7 Q. Okay. So we'll come back to that
8 point later as well.

9 But now, keeping with this passage, so
10 the second point is about the term of restitution
11 to traders.

12 A. Yes.

13 Q. And you had said previously before
14 the break that this fell well within what had been
15 agreed to at Detroit and was just a part of the
16 original alliance.

17 And what I would suggest to you is,
18 based on this letter in February, that Johnson is
19 very much treating this as an additional -- as a
20 term.

21 A. As a term for those who decided to
22 fight the British, those who took arms and who had
23 some debts about the British soldiers.

24 But the idea to pay to the traders
25 there what was due to them, it was part of the

1 alliance with the Aboriginal people. It is not
2 something which should be add. It is a normal, I
3 would say, relationship between Aboriginal people
4 and traders. They offer something, they receive
5 something in exchange. And if there is some debts
6 which were not paid because a war was declared at
7 that time, the traders need to be paid, need to
8 receive their money for what they gave to the
9 Aboriginal people.

10 Q. But he is not saying here that --
11 that the Western Nations that fought with Pontiac
12 would have once upon a time been a part of the
13 Covenant Chain. He is not saying here remind them
14 of the agreement that we made in Detroit. He seems
15 to be suggesting here that this would be:

16 "[...] I imagine they will
17 readily agree to it when the peace
18 is made, in which it can be
19 stipulated".

20 So this is an additional term.

21 A. An additional terms for those who
22 decided to fight the British. Those who decided to
23 stay allies to the British and who had not paid
24 their due, what they have to pay to the merchants,
25 they have just to respect this very general

11:12:33 1 principle. It is one of the basis of the alliance,
11:12:36 2 is a good relationship between Aboriginal people
11:12:39 3 and traders, and the Aboriginal people were asking
11:12:41 4 for a better price, they were asking to be treated
11:12:45 5 correctly, and the merchants want to be paid for
11:12:49 6 what they gave in exchange.

11:12:50 7 So it is not, if you renew the Covenant
11:12:53 8 Chain, that you know that you have not respect
11:12:54 9 exactly what you have to do in this context. You
11:12:57 10 discuss it, and you accept that you will respect
11:13:02 11 your engagements, and you will have to pay the
11:13:05 12 merchants who were put in a -- not in a -- in a
11:13:10 13 difficult situation following the War of Pontiac.

11:13:17 14 Again, I think that we have to go back
11:13:19 15 to the official report of William Johnson, what he
11:13:22 16 said when the operation was finished, what is his
11:13:24 17 view of what he did at that time.

11:13:29 18 Q. Okay. We will go to those in a
11:13:31 19 little while, but here, just to move on from this
11:13:33 20 point, it sounds like what you are saying is this
11:13:35 21 is a term that was intended to be applied both to
11:13:39 22 people with whom he was going to enter into a
11:13:42 23 treaty because they had fought in the war, but it
11:13:44 24 was also a term that would apply to those who had
11:13:46 25 not? So everyone was going to have to abide by

11:13:50 1 this; is that what you are saying?

11:13:51 2 A. If it is a part of the treaty
11:13:54 3 concluded at Detroit, of course. Those who have to
11:13:58 4 pay something will have to pay. If they just renew
11:14:01 5 and strengthen, they have to continue their good
11:14:03 6 relationship with the British, and if they have to
11:14:05 7 pay something, they will be obliged to do that,
11:14:10 8 because otherwise they won't be -- they won't
11:14:11 9 respect the agreement that they made in 1761.

11:14:14 10 Q. And as of 1764, February 19th, in
11:14:18 11 this letter, Johnson is viewing it as a term of the
11:14:21 12 treaty?

11:14:21 13 A. As a condition to impose to those
11:14:24 14 who broke the peace with the British.

11:14:26 15 Q. Okay. So we can move on from this
11:14:28 16 letter. So what I want to talk a little bit about
11:14:35 17 is your argument, as I understand it, that there
11:14:37 18 isn't a treaty if it is just a renewal.

11:14:40 19 And so perhaps we can go to a paragraph
11:14:42 20 that I think encapsulates that from your report.
11:14:45 21 So report number two, Exhibit 4381, page 71,
11:14:52 22 please.

11:14:53 23 So, Professor Beaulieu, I think this is
11:15:18 24 the point you have been trying to make, is "He did
11:15:23 25 however [...]", starting with that sentence.

11:15:38 1 A. [Witness reviews document.]

11:15:41 2 I'm ready.

11:15:43 3 Q. Okay. So specifically the point
11:15:44 4 that he did not feel it necessary to formalize this
11:15:47 5 with a new treaty is certainly because he
11:15:50 6 considered these elements to fall under the
11:15:52 7 commitments already made in 1761. I think that is
11:15:55 8 the point you have been trying to make this
11:15:56 9 morning.

11:15:56 10 A. It was his decision, his
11:15:59 11 understanding, his decision to act in a specific
11:16:07 12 way based on what he understood and what he
11:16:11 13 considered to be the best way to facilitate the
11:16:16 14 peace process. He could maybe have been more
11:16:20 15 radical and tried to oblige all the people there to
11:16:22 16 pay some war reparations. He decided to adopt
11:16:28 17 another strategy. He knew, as I said, that maybe
11:16:31 18 some of the Western Nations did fight the British,
11:16:34 19 but he decided, and he was clear, he explained his
11:16:37 20 decision was to do as if they were still allies of
11:16:41 21 the British.

11:16:41 22 And it is why he decided just to renew
11:16:45 23 and to strengthen. It is clear that he could have
11:16:50 24 taken another decision, but we have to consider his
11:16:53 25 point of view. He was there to negotiate with the

1 Aboriginal people. If we want to understand what
2 he did, in what context, with what motives, we have
3 to look at his report, at his official report to
4 understand his perspective.

5 If we don't have his point of view, we
6 can speculate a lot, but we have a clear
7 presentation of what he wanted to do and what means
8 he used to achieve his end.

9 Q. So again, I will promise I will
10 take you to those, and we'll talk about them in
11 detail. But for now, I just want to talk about
12 this idea that the renewal of a treaty is not a
13 treaty.

14 So putting aside all of the -- you know
15 what I was asking you before about were there
16 additional terms that fell outside of what was
17 decided at Detroit, put all that aside for a
18 second, and just this argument that what happened
19 at Niagara wasn't a treaty because it was just
20 renewing what happened at Detroit.

21 So I think -- I'm hoping you will agree
22 with me that if we want to accept that premise,
23 then we have to -- that would mean accepting that
24 all of the Western Nations that were at Niagara
25 were also at Detroit.

11:18:03 1 A. No, I disagree with this argument.

11:18:07 2 I think that when he negotiated with the Western
11:18:13 3 Nations, he included a lot of old French allies in
11:18:17 4 this region, and he qualified them under the term
11:18:21 5 "Western Nations".

11:18:22 6 So it is not necessary to establish
11:18:25 7 that there is a strict, I would say,
11:18:28 8 correspondence -- I don't know if that is a good
11:18:30 9 word -- clear that we have exactly the same list of
11:18:35 10 people being at Detroit and the other one at
11:18:37 11 Niagara, and if there is not a strict equivalence
11:18:42 12 between those two lists, it is the sign that he did
11:18:45 13 not conclude a treaty, or he didn't renew a treaty
11:18:49 14 or renew the Covenant Chain with them.

11:18:50 15 So I think that we have to consider who
11:18:53 16 were at Niagara in 1764. He was the guy in charge
11:18:59 17 at Detroit and at Niagara, so he knew what he was
11:19:02 18 doing. And when he saw some Western Nations, the
11:19:06 19 nations that he qualified as Western Nations at
11:19:09 20 Niagara in 1764, and he decided to renew and to
11:19:12 21 strengthen the Covenant Chain with them, it is
11:19:15 22 because he considered that they were part of this
11:19:19 23 chain, and they had been integrated within this
11:19:22 24 chain, Covenant Chain with the British.

11:19:25 25 Q. You would agree, Professor

1 Beaulieu, that the Western Nations is not, you
2 know, one small umbrella group. It encompasses
3 numerous nations?

4 A. The term "Western Nations" is a
5 very -- I would say not a term that we can
6 necessarily clearly define. We have this
7 expression in the documents prepared by William
8 Johnson. It is a very -- it is a term for
9 integrating a lot of Aboriginal people.

10 In some -- I don't -- in 1763, I think
11 William Johnson submitted a report to the Board of
12 Trade where he tried to classify the Aboriginal
13 people who were now under the protection of the
14 King of Great Britain, and he has those great
15 categories, Western Nations, Six Nations, people
16 from other regions.

17 So we can't -- it is possible that in
18 some documents you can find some inconsistency
19 between the use of the word "Western Nations" and
20 the list of the nations that the British or some
21 British or William Johnson considered should be
22 classified within this category.

23 It is a very large and sometimes, I
24 would say, vague category.

25 Q. Okay. So why don't we look at who

1 was present -- of the Western Nations who was
2 present at Niagara, and you list them at page 46 of
3 your second report. So let's focus on the Western
4 Nations only.

5 We have here the - and I'm going to
6 mispronounce some of these, my apologies -
7 "Menomenies".

8 A. Yes.

9 Q. The "Jibbeways", the "Ottawas",
10 the "Fox & Sacs". So you would agree with me that
11 the "Jibbeways" would mean the Ojibwe, as we
12 referred to them today --

13 A. Yes.

14 Q. -- or Anishinaabe, and that they
15 likely represented a number of different nations?

16 A. Yes, but as we said earlier, in
17 some occasions some nations were in charge to speak
18 for other people. So it is not necessarily an
19 obligation that a specific nation should be at a
20 specific place if someone is taking charge of the
21 message, is taking the role to represent these
22 nations.

23 And it is why for me -- again, if we
24 want to understand what happened at Niagara, we
25 have to look at what Johnson considered, that those

11:22:08 1 nations were members of the Covenant Chain.

11:22:09 2 Q. So are you suggesting that those
11:22:12 3 Western Nations that were at Niagara were speaking
11:22:14 4 on behalf of all Western Nations?

11:22:16 5 A. No, I don't make this assertion.

11:22:19 6 Q. Okay. Let's pull up Exhibit 641,
11:22:26 7 which is a letter from Johnson to Colden. And
11:22:32 8 Colden, Professor Beaulieu -- and you can correct
11:22:35 9 me if I'm wrong -- was the Governor of New York at
11:22:38 10 the time. This is a letter of August 23rd, 1764,
11:22:44 11 and I believe he was also Johnson's friend; is that
11:22:46 12 right?

11:22:46 13 A. That's correct.

11:22:46 14 Q. So I'll give you a moment to read
11:22:48 15 the highlighted paragraph.

11:22:49 16 A. [Witness reviews document.]

11:23:12 17 I'm ready.

11:23:13 18 Q. So first you would agree that
11:23:14 19 Johnson himself was not taking the minutes at
11:23:16 20 Niagara?

11:23:16 21 A. I don't think so.

11:23:18 22 Q. That's right. So when we were
11:23:20 23 looking at the minutes before -- or sorry, we
11:23:23 24 didn't look at the minutes. In your report, the
11:23:25 25 names of the Western Nations is virtually identical

1 from what was taken from the minutes?

2 A. From the minutes and from another
3 source, but I am not sure that it was a straight,
4 complete list. We can -- I'm unable to say, look,
5 this list is a complete list of all those people
6 who were present because we know when we look at
7 the proceedings that there is some nations who are
8 mentioned that we are not able to see in the list.

9 And sometimes those who are preparing
10 those documents, Johnson himself or someone else,
11 could have a very general description. It is not
12 their objective to be, I would say, as precise that
13 we would like to see them, that is, with a strict,
14 precise list with clear classifications and
15 categorizations of Aboriginal people.

16 So sometimes there is some
17 fluctuations, I would say, between the way that the
18 Aboriginal people were put in some lists.

19 Q. So I would agree with you there,
20 and I think that is precisely what I am trying to
21 point out here, is the minutes were taken not by
22 Johnson, and this is now Johnson's account of who
23 was present, and this list is, I would say, more
24 specific. So I had mentioned to you before, I
25 wondered if you would agree with me that the term

11:24:51 1 "Jibbeways" would have encompassed a number of
11:24:54 2 nations, and here I'm suggesting that this is a
11:24:56 3 more detailed list.

11:24:58 4 So we see here that Johnson is saying
11:25:00 5 that "the nations who attended from the Westward" -
11:25:03 6 so the Western Nations - "were [...]", and he lists
11:25:05 7 a number of them. And perhaps more importantly
11:25:08 8 what I had wanted to point out was:

11:25:11 9 "[...] in short all ye Chiefs
11:25:13 10 of the Western Nations, except about
11:25:15 11 300 under Pontiac at the Miamis
11:25:18 12 River, and the Potawatamiies who did
11:25:20 13 not choose to trust themselves down
11:25:23 14 [...]"

11:25:23 15 A. Yes. It is -- if I can make just
11:25:26 16 a point. It is clear that Johnson did not prepare
11:25:30 17 himself the proceedings, but it is also his
11:25:32 18 official document, so I am not -- I don't -- I am
11:25:34 19 unable to say if he probably read those documents
11:25:40 20 if he did not prepare himself.

11:25:42 21 Q. Okay. And, sorry, just to make
11:25:45 22 myself clear, I am not trying to suggest that they
11:25:47 23 are inconsistent. What I am suggesting to you is
11:25:50 24 that you have sort of broad categories listed in
11:25:54 25 the minutes, which are reflected in your report,

11:25:55 1 and I'm suggesting that this is a more detailed
11:25:59 2 list, would include several of the nations falling
11:26:02 3 under the umbrella group of the "Jibbeways", for
11:26:07 4 example, and then again I wanted to point out that
11:26:10 5 Johnson has said that all of the Chiefs of the
11:26:12 6 Western Nations, except 300 under Pontiac and the
11:26:17 7 Pottawatomies, were present?

11:26:18 8 A. Yes. And in this list, he put
11:26:21 9 also Hurons, who generally were classified under
11:26:23 10 the category of Western Nations, but it is clear
11:26:25 11 that at Niagara he considered them as a specific
11:26:29 12 group because he went there to make a peace treaty
11:26:32 13 with them.

11:26:32 14 So it is why, when I said earlier that
11:26:35 15 it is a very general term, and it is sometimes --
11:26:40 16 in a specific case at Niagara, the Huron did not, I
11:26:44 17 would say, did not fit within the category that he
11:26:49 18 used when he talked about those with whom he only
11:26:53 19 renewed and strengthened the Covenant Chain. The
11:26:56 20 Huron cannot be placed within this category.

11:27:01 21 Q. So now I would like to look to
11:27:03 22 compare the list of nations that were at Detroit.
11:27:05 23 So for that, I will pull up Exhibit 491, which are
11:27:08 24 the Detroit minutes, and we have at page 475 of
11:27:14 25 those minutes the list of nations who attended at

1 Detroit.

2 So I wonder, Professor Beaulieu, if --
3 I will perhaps give you the list of -- well,
4 actually, why don't I ask you if you could identify
5 those nations that you would consider to be Western
6 Nations.

7 A. In that list --

8 Q. Yes.

9 A. -- the "Wiandots" are the Hurons,
10 so they were, as I said on the list prepared by
11 Johnson, to consider as Western Nations.

12 The "Saguenays", I think that they were
13 considered also as Western Nations, the "Ottawas",
14 the "Chipeweighs", the "Powtewatamis", the
15 "Kickapous". I'm unable to pronounce correctly the
16 following.

17 But again, it is very interesting, he
18 placed the "Delawares", the "Shawanese", within the
19 nations who were there at that time, and I cannot
20 tell you with -- I am not totally sure that in the
21 list -- I am unable to go to the list to show -- to
22 see it, but I am not sure that the Delawares and
23 the Shawanese were not sometimes included within
24 the list of the Western Nations. So they were
25 there at Detroit, but they were not there at

1 Niagara.

2 And as I said, in that case, I think
3 that we have to consider that William Johnson, who
4 were at the two places as a representative of the
5 Aboriginal people, we have to consider that he knew
6 what he did when he negotiated with those that he
7 called the Western Nations.

8 So if the argument is that a clear,
9 perfect connection between the list at Detroit and
10 the list of nations at Niagara, I have no problem
11 to admit that it is not possible to establish this
12 clear connection between the two lists of the
13 different nations, but for me, it is not -- it is
14 not really, I would say, the more important point.

15 What for me is important is, if we want
16 to understand what Johnson did, it is to look at
17 how he understand his operations, his negotiations
18 with the Aboriginal people, and how he tried to --
19 not how to try, but how he explained his actions to
20 his superior.

21 So I am not sure that the list of the
22 Aboriginal people at Detroit was clearly and, I
23 would say, established with all the -- how can I
24 say that, with all the precision that we would
25 be -- what we could hope and that the same thing

1 was done at Niagara in 1764.

2 So for me the comparisons of the two
3 lists as an argument, for me it is not an argument.

4 Q. Putting aside the, you know -- and
5 I am happy to hear you acknowledge that the lists
6 are different, but it is also the number of people
7 who were there. You would agree that Niagara, the
8 Congress was one of the best attended congresses
9 ever in terms of the number of Indigenous people
10 and Indigenous nations represented that showed up;
11 correct?

12 A. In terms of numbers, it was
13 certainly one of the greatest meetings, certainly
14 the greatest meeting since the conquest of New
15 France by the British.

16 Q. And it was, in fact, four times
17 bigger than Detroit?

18 A. I don't remember the exact number
19 at Detroit, but for me it is -- I would not be
20 surprised if it is the case.

21 Q. So I would suggest to you then,
22 Professor Beaulieu, that it would stand to reason
23 that there would have been a number of nations
24 present at Niagara who were not present at Detroit;
25 would you agree with that?

11:31:04 1 A. Not necessarily, because at
11:31:05 2 Detroit, it could be only that those who were
11:31:09 3 present were Chiefs, representatives of their
11:31:12 4 respective nations. We know that at Niagara there
11:31:15 5 was a lot of members of First Nations who were not
11:31:19 6 necessarily there to negotiate something. They
11:31:22 7 went there with the hope to be able to trade. We
11:31:24 8 know that some trading operations was authorized by
11:31:30 9 William Johnson at Niagara. He mentioned it. So
11:31:32 10 we know that some women, some children, were also
11:31:35 11 there.

11:31:38 12 And we have in some occasions the names
11:31:40 13 of those who were the representative of their
11:31:44 14 respective nations.

11:31:45 15 So sometimes we can be tempted to say,
11:31:49 16 look, there is 2,000 leaders there. It is not
11:31:51 17 true. There was probably a great majority of men,
11:31:55 18 majority of warriors, a majority of people who came
11:31:59 19 there with the hope to be able to trade with the
11:32:02 20 British.

11:32:02 21 So more people, not necessarily more
11:32:06 22 nations than at Detroit. We know, for example,
11:32:09 23 that the Delaware were not there, the Shawnees were
11:32:14 24 not there. Some very important nations present at
11:32:16 25 Detroit, not necessarily in great numbers but with

11:32:19 1 their representatives, were not present at Niagara.

11:32:22 2 Q. So, Professor Beaulieu, you have
11:32:24 3 been saying repeatedly that we really need to look
11:32:27 4 at what Johnson wrote after the Congress to
11:32:29 5 understand, have a better idea what happened. We
11:32:31 6 have just looked at a letter where he says, in
11:32:34 7 short, all of the Chiefs of the Western Nations
11:32:36 8 were present at Niagara.

11:32:38 9 A. It is what he said.

11:32:38 10 Q. So would you agree then that --
11:32:41 11 are you suggesting then that all of the Chiefs of
11:32:46 12 the Western Nations were at Detroit?

11:32:47 13 A. I'm sorry, I cannot answer quickly
11:32:52 14 like that to this question. It is not -- I know
11:32:54 15 that many nations were represented. I know that
11:32:58 16 many nations discussed, integrated the alliances.
11:33:01 17 It is clearly not the same kind of event. The
11:33:06 18 context is different. I would say Johnson did not
11:33:09 19 try maybe to collect as many people there that he
11:33:12 20 tried to attract people at Niagara.

11:33:15 21 So I am -- I would say I am unable to
11:33:21 22 answer with precision to this question.

11:33:23 23 Q. I don't want to beat this to
11:33:32 24 death, but just to make sure I understand your
11:33:35 25 answer, are you saying that you will not agree with

1 me that there were nations present at Niagara who
2 were not present at Detroit? I think you have
3 agreed with me, but it is not -- I am unclear now.

4 A. Can you repeat, just because -- I
5 would say that in an academic context, I would say,
6 Oh, look, we look -- I know that here I have to say
7 an answer, and if I am not sure, I prefer to say
8 I'm not sure than to --

9 Q. That is fine.

10 A. -- not to help the Court with an
11 answer which is not be -- if I don't have the time
12 to go back to the document and -- it is a
13 complicated question, and I was not necessarily
14 prepared because it is not the kind of question
15 that -- for me what I want to understand at the end
16 of Congress of Niagara was the perspective of
17 William Johnson. Was he wrong when he wrote that
18 all the Chiefs were there? It is not from a
19 strictly, I would say, historical perspective what
20 he wanted to do, what he wanted to achieve, and how
21 he explained what he did.

22 Is it exactly the same nations there
23 than at Detroit? I have never been -- I have never
24 done research to confirm or to contradict this
25 point.

11:34:48 1 So I can try to answer but very
11:34:52 2 cautiously because I don't -- I want to help the
11:34:56 3 Court and not to give an answer which would not be
11:34:59 4 exactly what I would say after, I would say, maybe
11:35:04 5 a few weeks of research and thinking about this
11:35:06 6 very complex question.

11:35:06 7 Q. Okay. That is okay, Professor
11:35:08 8 Beaulieu. I am prepared to move on. Thank you. I
11:35:10 9 think we have exhausted this topic.

11:35:11 10 A. Okay.

11:35:12 11 Q. Okay. So moving on, still within
11:35:15 12 the Congress of Niagara, but I would like to talk
11:35:18 13 to you a little bit about this notion that the
11:35:20 14 Western Nations had not participated in the war.

11:35:23 15 So for that, I'll bring up -- I'll ask
11:35:26 16 to have brought up Exhibit 4381, your second
11:35:29 17 report, and I will take you to page 70, at the
11:35:58 18 first box. So here again this is -- what I am
11:36:07 19 trying to do, Professor Beaulieu, is sort of break
11:36:09 20 down your argument that there was not a treaty at
11:36:12 21 Detroit with the Western Nations, and so we just
11:36:15 22 talked about exhaustively this idea that --

11:36:17 23 A. At Detroit or at Niagara ?

11:36:18 24 Q. At Niagara, my apologies. We
11:36:22 25 talked about this idea that it wasn't a treaty

11:36:25 1 because it was simply a renewal, part of why it was
11:36:29 2 simply a renewal. Now I want to talk about is the
11:36:33 3 reason that you say is because the Western Nations
11:36:34 4 had not participated in the war.

11:36:36 5 And so you make that point in that
11:36:39 6 first box.

11:36:43 7 A. It was the reasoning of William
11:36:48 8 Johnson. In other sections of my report I explain
11:36:50 9 that he knew pretty well that some Western Nations
11:36:54 10 probably fought the British. He knew that. And he
11:36:57 11 decided to do as if they had not. And it was this
11:37:04 12 reasoning -- his understanding -- not his
11:37:08 13 understanding, his decision that to negotiate with
11:37:12 14 them as if they had not fought the British.

11:37:19 15 Even if he knew that some of them
11:37:21 16 probably did, he decided to negotiate as if they
11:37:31 17 had not fought the British.

11:37:32 18 Q. So yes, I appreciate that you
11:37:35 19 clarified that Johnson knew that some had probably
11:37:38 20 fought in the war. I believe in your report you
11:37:41 21 are not as clear. Actually, I believe that you
11:37:43 22 haven't said that in your report, so that was
11:37:44 23 helpful for me to understand that you acknowledge
11:37:50 24 that.

11:37:50 25 I do want to pull up a letter that you

11:37:52 1 have based -- what is in your report, that the
11:37:55 2 nations had not taken part in the hostilities. You
11:37:58 3 base that on a letter from Johnson to Gage. You
11:38:03 4 cite it there, the letter of August 22nd. So I
11:38:06 5 would like to pull that up so we can look at it,
11:38:08 6 and that is at Exhibit 640.

11:38:14 7 A. May I make a comment? I think it
11:38:17 8 is within my report. I think that was cautious. I
11:38:21 9 don't know if it is within a footnote, but I was
11:38:24 10 very cautious to say that it was -- Johnson was
11:38:28 11 conscious that some Aboriginal people came to meet
11:38:33 12 him at Niagara probably fought the British.

11:38:39 13 I could go back to my report and find
11:38:41 14 the exact passage, but I think that I was clear to
11:38:46 15 explain that it was within his understanding that
11:38:52 16 he decided to do that, not because he was convinced
11:38:54 17 that all the Western Nations present there did not
11:38:57 18 fight the British.

11:38:59 19 If I am -- if it is not in my report --
11:39:04 20 I think it is in my report.

11:39:06 21 Q. I believe --

11:39:07 22 A. I'm surprised -- maybe that this
11:39:09 23 sentence is a little bit -- it is maybe, I would
11:39:14 24 say, not a problem with translation, but I just
11:39:19 25 want to be sure when I wrote this sentence, the

11:39:22 1 reason behind is this view, this view of William
11:39:25 2 Johnson. It is his view that those Western Nations
11:39:27 3 did not fight the British.

11:39:31 4 So I think it is in my report.

11:39:34 5 Q. I believe what you said in your
11:39:35 6 report is that William Johnson knew that some of
11:39:38 7 the members of the nations had probably sort of
11:39:41 8 defected and fought.

11:39:42 9 A. Yes.

11:39:43 10 Q. Yes. And what I am saying is what
11:39:47 11 you have said in your testimony I have understood
11:39:50 12 as being a bit stronger than that, that it's more
11:39:53 13 than just William Johnson knew that there were some
11:39:55 14 rogue members who had gone off and sort of
11:39:57 15 disobeyed their nations. It sounds like you are
11:40:00 16 acknowledging that Johnson knew that some of the
11:40:01 17 people with whom he was meeting at Niagara had, in
11:40:03 18 fact, participated in Pontiac's War.

11:40:08 19 A. I think that he knew that, and I
11:40:10 20 think it is in my report.

11:40:10 21 Q. All right. In that case, I don't
11:40:15 22 think we need to go to this letter.

11:40:17 23 The next point that I want to touch on
11:40:37 24 is at page 80 of your report. You have said this
11:40:43 25 in your testimony, this notion that, in fact, those

11:40:51 1 who had not participated in the war were better off
11:40:54 2 at Niagara than those who had, and so I'll take --
11:41:00 3 we can look at the paragraph where I'm taking this
11:41:04 4 from.

11:41:12 5 A. [Witness reviews document.]

11:41:31 6 That's correct.

11:41:32 7 Q. So I'm wondering if you would
11:41:35 8 agree with me that, read another way, there was
11:41:38 9 really no advantage to the Western Nations -- for
11:41:47 10 the Western Nations to admit participating in the
11:41:47 11 war?

11:41:47 12 A. No, because they wanted to see the
11:41:47 13 trade re-opened. So for them, it was really
11:41:50 14 important to "dissimilate" as much as possible that
11:41:56 15 they participate in this war. They knew at that
11:41:59 16 time that the war would not be successful. It
11:42:01 17 won't be possible to expel the British. It won't
11:42:04 18 be possible to achieve the most important, I would
11:42:06 19 say, objective of this war.

11:42:13 20 So most of the Western Nations went
11:42:16 21 there with the hope to reaffirm their alliance with
11:42:19 22 the British and to confirm that they had no bad
11:42:23 23 intentions and that they want to continue their
11:42:26 24 good relationship with the British.

11:42:28 25 Q. Okay. Now, I would like to take

11:42:31 1 you to page 39 of your report. Here is where you
11:42:48 2 say that:

11:42:50 3 "The 1764 Congress [at Niagara]
11:42:54 4 was a direct response to the
11:42:55 5 large-scale Aboriginal uprising of
11:42:57 6 1763 [...]"

11:42:58 7 And you are talking about Pontiac's
11:43:07 8 War, and I believe you have said elsewhere in your
11:43:07 9 report, you have referred to Pontiac's War as a
11:43:07 10 large-scale Aboriginal uprising, as a large
11:43:09 11 military coalition, as a wide-scale Indigenous
11:43:12 12 uprising. I believe yesterday in your testimony
11:43:14 13 you referred to it as one of the great moments of
11:43:18 14 concertation?

11:43:20 15 A. Yes.

11:43:20 16 Q. Yes. Okay. And of the 12 forts
11:43:25 17 in the Great Lakes and Ohio River Valley, the First
11:43:29 18 Nations captured nine during Pontiac's War.

11:43:30 19 A. I think, yes.

11:43:31 20 Q. And they laid siege to two others?
11:43:33 21 We discussed this yesterday.

11:43:34 22 A. Yes.

11:43:34 23 Q. Correct. We have just looked at a
11:43:38 24 letter where Johnson said that all of the Western
11:43:46 25 Nations with the exception of Pontiac and 300 were

1 present at Niagara.

2 So given the large-scale nature of
3 Pontiac's War, given the number of people that were
4 present at Niagara, what I would suggest to you,
5 Professor Beaulieu, is there were actually a number
6 of nations at Niagara who had fought in Pontiac's
7 War.

8 A. I think that some nations there
9 had fought, maybe officially, maybe unofficially.
10 It is clear that it is not possible in this -- we
11 have to remember that in Aboriginal society there
12 is no political leadership very strong, so it is
13 possible that many warriors decided to fight the
14 British without, I would say, the consent or the
15 official acknowledgement of the Chiefs of the
16 different communities.

17 So it is not always possible in these
18 societies to be sure that the decisions of the
19 Chief will be respected by the young warriors.

20 So I did not try to say that it was a
21 small war. The result was very important. And
22 some nations played a very active role in this war,
23 the Delawares, the Shawnees, the Senecas, the
24 Ottawa from Detroit, the Huron from Detroit, and we
25 know that some attacked the posts of the Fort of

11:45:12 1 Michilimackinac.

11:45:12 2 So we know that many people took part
11:45:17 3 in this war. But again, I go back to the decisions
11:45:22 4 of William Johnson who decided not to treat them as
11:45:28 5 if they had taken arms against the British but
11:45:30 6 instead to consider that they did not break the
11:45:34 7 Covenant Chain.

11:45:35 8 Q. And so I would like to pull up
11:45:38 9 Exhibit 645 now, which is a letter from Johnson to
11:45:42 10 Gage of September 1st, 1764, and this of course is
11:45:48 11 after the Congress of Niagara.

11:45:52 12 I'll give you a moment to read what we
11:45:57 13 have highlighted.

11:45:57 14 A. [Witness reviews document.]

11:45:59 15 Yes, I'm ready.

11:46:16 16 Q. So here, just to build on what we
11:46:22 17 have been discussing, that, in fact, Johnson likely
11:46:23 18 knew, I believe you said, that some of the nations
11:46:28 19 that were present at Niagara had, in fact, been at
11:46:30 20 war with Britain, here he is saying that -- oh,
11:46:37 21 I'll just read the excerpt:

11:46:39 22 "I had Deputys at Niagara from
11:46:40 23 all the Western Nations, except the
11:46:44 24 Powtewatamis, they feared to come
11:46:45 25 down & altho the Ottawas, with

11:46:47 1 Pondiac did not attend, there were
11:46:49 2 notwithstanding most of the Chiefs
11:46:49 3 of that Nation, from different
11:46:51 4 Quarters, & from Villages the most
11:46:52 5 numerous of any, many of whom
11:46:55 6 undoubtedly were last year against
11:46:56 7 us tho' we could not point them out
11:46:59 8 with any Certainty [...]"

11:47:02 9 A. It is a document that I quote in
11:47:04 10 my report.

11:47:05 11 Q. I believe you have it cited in a
11:47:07 12 footnote, yes. I don't --

11:47:09 13 A. Well, I think it is within my
11:47:12 14 report because for me it is -- the letter is
11:47:17 15 quoted. I don't have the time to --

11:47:21 16 Q. I am sure you are familiar with --

11:47:23 17 A. Yes, yes.

11:47:23 18 Q. Sorry, I didn't mean to speak over
11:47:25 19 you.

11:47:26 20 So here we see that, in fact -- and you
11:47:28 21 have said a lot so far today -- that to really
11:47:31 22 understand what happened at Niagara, you need to
11:47:33 23 look at what Johnson said afterwards.

11:47:34 24 A. Yes.

11:47:35 25 Q. And here we have what Johnson is

11:47:37 1 saying afterwards, and he very clearly knew -- what
11:47:41 2 I am suggesting to you is he knew that when he
11:47:43 3 entered into an agreement with the Western Nations,
11:47:45 4 that he was, in fact, entering into an agreement
11:47:48 5 with nations who had been at war with Britain.

11:47:50 6 A. I think that one sentence is
11:47:52 7 really important is this -- in this document when
11:47:56 8 he wrote:

11:47:58 9 "[...] we could not point them
11:47:59 10 out with any Certainty [...]"

11:48:01 11 So he knew that some of them took part
11:48:04 12 in the war, but it was impossible for him to
11:48:07 13 identify clearly some nations, and it is why he
11:48:10 14 decided to treat them as a people who did not
11:48:16 15 fought the British.

11:48:18 16 I'm sorry to come back again and again
11:48:20 17 on that point, but he decided something. He
11:48:24 18 decided to make a renewal with some nations even if
11:48:27 19 he knew that some of them fought against the
11:48:32 20 British. So --

11:48:36 21 Q. Okay. Let's build on that point.

11:48:42 22 Your Honour, I have lost track of our
11:48:44 23 breaks this morning. Did we want to take another
11:48:47 24 before lunch?

11:48:48 25 THE COURT: Yes, but unless it is a

11:48:50 1 problem for you, I would prefer to take it after a
11:48:54 2 little bit more time.

11:48:55 3 BY MS. PELLETIER:

11:48:56 4 Q. That is great.

11:48:56 5 Professor Beaulieu, are you okay if we
11:48:58 6 continue for a little more?

11:49:00 7 A. Yes.

11:49:01 8 Q. Okay. So I want to talk a little
11:49:02 9 bit more about this notion that Johnson decided to
11:49:06 10 treat them as though they had not participated in
11:49:07 11 the war.

11:49:08 12 So I think we have acknowledged that,
11:49:10 13 in fact, he knew that many undoubtedly had
11:49:14 14 participated in the war. You have just said that
11:49:16 15 despite that he decided to treat them as though
11:49:19 16 they hadn't.

11:49:19 17 So I want to go back to that letter we
11:49:21 18 looked at earlier. Actually, I believe you have it
11:49:28 19 summarized in your report. You recall the letter
11:49:29 20 of February 19th, 1764, Johnson to Gage where he is
11:49:32 21 anticipating going to Niagara, anticipating making
11:49:35 22 treaties with the nations who had been at war
11:49:38 23 with -- who had been with Pontiac at war with the
11:49:41 24 British, and lays out the terms that should be
11:49:43 25 included in these treaties.

11:49:44 1 A. Yes.

11:49:44 2 Q. So you have nicely summarized
11:49:46 3 those terms in your report. So we'll go to report
11:49:49 4 number two, please, Exhibit 4381, at page 33.
11:50:07 5 Okay. So I'm going to try to summarize these
11:50:07 6 points, how I understand them, and then you can let
11:50:10 7 me know if I'm correct. I'll wait until you are
11:50:12 8 there, though.

11:50:13 9 Okay. Before I begin, though, I just
11:50:17 10 want to point out that I think you have
11:50:19 11 acknowledged in your report that -- so this again,
11:50:22 12 before Niagara, and this is what Johnson is
11:50:24 13 suggesting to Gage should be some of the terms
11:50:27 14 included in the treaties that he is hoping to
11:50:30 15 negotiate, but you have acknowledged that not all
11:50:32 16 of these terms would have to be imposed on
11:50:35 17 everyone, that the terms would match the severity
11:50:39 18 of participation in Pontiac's War. I believe that
11:50:43 19 is what you have said.

11:50:43 20 A. That's correct.

11:50:44 21 Q. Okay. Great.

11:50:45 22 So number 1 is about the surrender of
11:50:50 23 prisoners?

11:50:51 24 A. Yes.

11:50:51 25 Q. Two and three, you would agree,

1 are about having an allegiance to Britain?

2 A. Two and three, it is about the
3 French people and Jesuits.

4 Q. Yes.

5 A. Okay.

6 Q. So agree not to allow the French
7 and agree to eject the Jesuits. So this is about
8 an alliance, an agreement -- I would argue it is
9 part of an alliance and a part of the agreement to
10 have an alliance with Britain?

11 A. It is a way to be sure that French
12 people would not be there to maneuver against the
13 British. I think I explained yesterday that the
14 British were -- thought that the French were behind
15 this great war.

16 Q. Yes.

17 A. So they wanted to be sure that no
18 Jesuits and no French people would try to
19 encourage, I would say, the hostilities against the
20 British.

21 Q. Yes, because they want -- Johnson
22 would want to make sure that those entering into a
23 treaty with the British had an allegiance to
24 Britain?

25 A. Yes.

11:51:49 1 Q. Okay. Four and five, you would
11:51:50 2 agree, are about access to the posts?

11:51:52 3 A. Yes.

11:51:53 4 Q. And number 6 is about
11:51:56 5 reimbursement of debts to merchants?

11:51:57 6 A. Yes.

11:51:58 7 Q. And about providing them safe
11:52:01 8 passage?

11:52:01 9 A. Yes.

11:52:02 10 Q. Seven and eight appear to be
11:52:04 11 specific to the Senecas and Mississaugas?

11:52:07 12 A. Yes.

11:52:07 13 Q. Number 10 is to surrender members
11:52:09 14 of the nations that have been accused of theft or
11:52:12 15 murder?

11:52:12 16 A. Yes.

11:52:12 17 Q. Would you say 11 is about renewing
11:52:17 18 the Covenant Chain?

11:52:17 19 A. It is talking about those made
11:52:28 20 with the French, so it is maybe more ambiguous in
11:52:30 21 that case, but it is clear that if they wanted to
11:52:33 22 be re-integrated within the Covenant Chain, they
11:52:37 23 will be -- they will have to renew all the previous
11:52:42 24 agreements made before. They go out of the
11:52:45 25 Covenant Chain, they will be re-integrated within

11:52:48 1 the Covenant Chain, and they will have to reaffirm
11:52:51 2 their engagements for the previous agreements made
11:52:56 3 before.

11:52:56 4 Q. And 12, lastly, is about
11:53:00 5 restitution for traders?

11:53:01 6 A. Yes.

11:53:01 7 Q. And then the next page, we have
11:53:06 8 what Britain would be prepared to give. So free
11:53:11 9 and open trade at the main posts and free access to
11:53:13 10 the colonies, and then this is Britain's promise to
11:53:18 11 not encroach on the treaty without the permission
11:53:24 12 of the Aboriginal Nations, to bring legal
11:53:26 13 proceedings against anyone who commit robberies or
11:53:29 14 murders.

11:53:29 15 A. Yes.

11:53:29 16 Q. And to strictly uphold their
11:53:35 17 commitments.

11:53:35 18 A. Yes.

11:53:36 19 Q. Okay. So that was what Johnson
11:53:37 20 hoped would become the terms of treaties that would
11:53:40 21 be entered into at Niagara.

11:53:42 22 A. The guidelines of what -- the
11:53:44 23 basis, the guidelines, what he will have to follow
11:53:47 24 during his negotiations. It is not -- I don't
11:53:52 25 think that he had the obligations to integrate all

11:53:54 1 those elements. It was the principles, general --
11:54:00 2 sometimes very specific principles that he had to
11:54:02 3 keep in mind when he will negotiate with the
11:54:04 4 Aboriginal people.

11:54:04 5 Q. Yes, and I think you have said in
11:54:07 6 your report that these -- yes, right the next
11:54:10 7 paragraph:

11:54:11 8 "These general conditions
11:54:12 9 varied by nation, based on how much
11:54:14 10 they were involved in the conflict."

11:54:17 11 A. Yes.

11:54:18 12 Q. So those that Johnson could prove
11:54:20 13 were very seriously involved would be reprimanded
11:54:23 14 from Johnson's perspective more severely?

11:54:27 15 A. We have to keep in mind that he
11:54:30 16 has a margin of maneuvers. He can -- he had some
11:54:32 17 basic guidelines, but he was on the field. He
11:54:34 18 could take some decisions. Of course, he could not
11:54:37 19 go against some very strict orders, but otherwise,
11:54:42 20 he could maneuver to be sure that it would be --
11:54:46 21 that he will achieve something in the best
11:54:47 22 interests of the British Empire.

11:54:49 23 Q. Now I would like to take a look at
11:54:51 24 the Niagara minutes, which is Exhibit 4385, and go
11:54:59 25 to page 280, please. Just to situate ourselves,

11:55:06 1 this is - and if you need me to scroll up,
11:55:11 2 Professor Beaulieu, please let me know - this is
11:55:13 3 Johnson addressing several Western Nations on July
11:55:15 4 17, 1764. Would you like to look at the beginning?

11:55:18 5 A. Yes.

11:55:18 6 Q. Okay. If you could scroll up,
11:55:20 7 please.

11:55:21 8 A. Oh, no, I'm sorry, I just want the
11:55:22 9 beginning --

11:55:23 10 Q. Oh, okay.

11:55:24 11 A. The beginning of the -- maybe I
11:55:26 12 will need a little break after. Again, we can have
11:55:30 13 this question, and if it is possible to have a
11:55:31 14 break after?

11:55:32 15 THE COURT: Yes, after this question
11:55:33 16 we'll take a break.

11:55:37 17 BY MS. PELLETIER:

11:55:37 18 Q. After this question.

11:55:38 19 A. [Witness reviews document.]

11:55:47 20 Q. Oh, and sorry, I actually wanted
11:55:48 21 to -- if you could begin with "Brethren [...]". we
11:55:51 22 don't have to talk about the first. My apologies.
11:55:53 23 So this is the section.

11:55:54 24 A. Okay.

11:56:05 25 [Witness reviews document.]

11:56:08 1
11:56:35 2
11:56:39 3
11:56:41 4
11:56:43 5
11:56:46 6
11:56:48 7
11:56:54 8
11:56:58 9
11:57:02 10
11:57:08 11
11:57:13 12
11:57:18 13
11:57:22 14
11:57:27 15
11:57:29 16
11:57:33 17
11:57:38 18
11:57:42 19
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11:57:57 25

That's correct.

Q. So this is after some back and forth between Johnson and the Western Nations. You would agree with me that the first few sentences are about allegiance to Britain?

A. Yes, but it is in conformity with what Johnson said in 1761. It was the new British rules. It was a part of the general alliances concluded between the Aboriginal people and the British. It was just he repeats some basic, I would say, elements that should be included of part of the Covenant Chain or the alliance between the Aboriginal people and the British.

Q. And next we have the ask about access to the posts and providing free passage.

A. Again, we have this kind of element in the negotiations in 1761. It is not -- he went there in '61 to be sure to integrate the Aboriginal people, to integrate them formally into the Covenant Chain, and those aspects were part also of the negotiations in 1761.

Q. The return of prisoners is also in there?

A. The return of prisoners, it is the result of the war of Pontiac, so it was not -- it

11:58:01 1 is part -- the allies had to help the British to be
11:58:05 2 able to be sure that they will -- to bring back the
11:58:16 3 prisoners.

11:58:18 4 Q. And then after saying what he is
11:58:19 5 asking of the Western Nations, he says on Britain's
11:58:23 6 part he notes that if these things are done, he
11:58:26 7 will "once more receive you into an Alliance". So
11:58:31 8 I note here he says "receive" and not "renew".

11:58:34 9 A. Yes, but if they did not agree
11:58:36 10 with that point, they were not members of the
11:58:37 11 alliance. So it was a word to reformulate the
11:58:43 12 alliance with the Aboriginal people and the
11:58:48 13 British. It is not -- we cannot stop with just a
11:58:51 14 word saying in that case it is not different.

11:58:53 15 We have to look of what he said before
11:58:56 16 and when he met them; we have met for many days; we
11:59:02 17 have discussed a lot of things; we have renewed; we
11:59:04 18 have strengthened. Now what we have to do is to
11:59:06 19 exchange this Covenant Belt which will confirm that
11:59:13 20 we have renewed and strengthened this alliance.

11:59:17 21 And it is what he said in his official
11:59:21 22 report. Again, we have to compare what is within
11:59:25 23 the proceedings with what he explained to his
11:59:28 24 superior. If he had wrote or judged that it was
11:59:31 25 necessary to conclude a treaty with them, he would

11:59:34 1 have written this without any problems. But he did
11:59:39 2 not write it because he knew pretty well that if he
11:59:43 3 wanted or if he needed to conclude a treaty with
11:59:46 4 the Western Nations, he would have to impose them
11:59:49 5 some war reparations.

11:59:51 6 That is why I said those who did not
11:59:53 7 conclude a treaty with the British at Niagara were
11:59:56 8 in a better position. They had all the old
12:00:00 9 agreements. The Treaty of Detroit is -- noting is
12:00:07 10 really important is the beginning of the alliance
12:00:10 11 between the British and the Aboriginal people. We
12:00:12 12 cannot say that this treaty was not important,
12:00:14 13 everything happened at Niagara. For me, as an
12:00:17 14 historian, the Treaty at Detroit was really an
12:00:20 15 important moment in the first step of the alliance
12:00:22 16 between the British and the Aboriginal people.

12:00:24 17 So what is done, what Johnson decided
12:00:26 18 to do, not to impose -- not to treat them as
12:00:30 19 enemies but to consider that they were still allies
12:00:35 20 with the British and to renew and strengthen the
12:00:37 21 Covenant Chain.

12:00:37 22 So again, as an historian, I cannot say
12:00:40 23 because now we are interested by the Treaty or the
12:00:45 24 Congress at Niagara that it is more important than
12:00:48 25 the operation, the negotiation that was done in

12:00:50 1 1761. If we want to find the starting point of the
12:00:53 2 alliance between the British and the Aboriginal
12:00:56 3 people after the conquest of New France, for me, as
12:00:59 4 a historian, Detroit is much more important than
12:01:01 5 Niagara. Detroit is the beginning of the new
12:01:04 6 alliance, military, the promises by each party to
12:01:09 7 help together.

12:01:10 8 So for me, it is a founding moment in
12:01:13 9 this new relationship between the British and the
12:01:17 10 Aboriginal people.

12:01:18 11 Then after the war, the Pontiac War,
12:01:20 12 something has to be done, and Johnson decided to
12:01:23 13 conclude some peace treaties with some Aboriginal
12:01:25 14 people, and with others, just to consider that they
12:01:28 15 were still allies with the British and to
12:01:33 16 re-negotiate, to renew, to strengthen their
12:01:36 17 agreements, their previous agreements, those of
12:01:39 18 1761.

12:01:41 19 Q. So going back to this letter,
12:01:43 20 Professor Beaulieu, my final point is that then we
12:01:45 21 have a term about the resumption of trade. So what
12:01:49 22 I am going to suggest to you is that these look a
12:01:52 23 lot like the treaty terms that Johnson came up with
12:01:54 24 before the Congress in his letter to Gage of
12:01:57 25 February 19th.

1 A. Again, we cannot say it looks like
2 it is. It could look like a treaty. If we don't
3 have the letters of William Johnson, if we don't
4 have the letters where he explained what he did at
5 that time, of course we could speculate about what
6 happened at Niagara. If we have only the
7 proceedings, we could argue about the nature of the
8 negotiations, about the real intentions of William
9 Johnson at that time.

10 But we have the previous letter where
11 some guidelines were given to him. We have the
12 proceedings where he thought that he renewed and
13 strengthened the alliance with them, and we have
14 his letter in which he explained what he did.

15 If we did not have those letters, it
16 would be possible to argue much about the nature of
17 the negotiations between the Western Nations and
18 the British at Niagara. But we have his
19 explanations, and as an historian, I cannot say
20 this is not important, I should not consider those
21 documents, because they contradict the idea that
22 the Treaty was concluded. For me, those documents
23 are really important. He was the guy in charge of
24 the negotiations, and his perspective for me is
25 really important.

12:03:15 1 Q. Why don't we look at the letters
12:03:18 2 afterwards, I think the letters that you are
12:03:19 3 referring to perhaps after the break.

12:03:22 4 THE COURT: All right.
12:03:23 5 15 minutes.

12:03:24 6 -- RECESSED AT 12:03 P.M.

12:23:03 7 -- RESUMED AT 12:22 P.M.

12:23:03 8 THE COURT: Please go ahead.

12:23:04 9 BY MS. PELLETIER:

12:23:04 10 Q. Thank you, Your Honour.

12:23:06 11 Okay. Professor Beaulieu, you have
12:23:07 12 mentioned a number of times that we need to look at
12:23:09 13 the correspondence after the Congress to have a
12:23:11 14 better understanding of what from Johnson's
12:23:14 15 perspective happened at Niagara.

12:23:15 16 So this is the moment you have been
12:23:16 17 waiting for. We'll do that now.

12:23:18 18 So first, I would like to pull up your
12:23:20 19 report, report number two, Exhibit 4381, and have
12:23:25 20 you go to page 70, and this is where you cite one
12:23:30 21 of the letters.

12:24:01 22 THE COURT: You are bouncing around on
12:24:04 23 the screen, Counsel. Is there something in
12:24:06 24 particular that you were planning on asking about?

12:24:08 25 MS. PELLETIER: Oh, sorry. Yes, I was

12:24:09 1 just giving Professor Beaulieu a moment to review
12:24:11 2 what he had written.

12:24:12 3 THE COURT: Well, that is a good idea,
12:24:13 4 except that I don't know what you are referring to.

12:24:16 5 MS. PELLETIER: So the passage here is
12:24:18 6 a letter from Johnson to the Board of Trade. This
12:24:19 7 is after the Treaty of Niagara, and this is a
12:24:22 8 letter that -- there is an excerpt from that letter
12:24:25 9 that Professor Beaulieu cited. So I want to ask
12:24:27 10 some questions about that excerpt.

12:24:30 11 THE COURT: Is the letter an exhibit,
12:24:32 12 or do you know?

12:24:33 13 MS. PELLETIER: It should be, yes. We
12:24:35 14 can bring up the actual letter, if that would be
12:24:37 15 more helpful.

12:24:38 16 THE COURT: I'm not asking that you do
12:24:39 17 that, but I need to know where you are in the
12:24:41 18 situation. So August 30, 1764.

12:24:49 19 MS. PELLETIER: And the primary
12:24:50 20 document is Exhibit 640, but I don't think that we
12:24:52 21 need to bring it up for the purposes of my
12:24:54 22 question.

12:24:55 23 THE COURT: You don't. However, while
12:24:59 24 you are asking your questions, maybe your colleague
12:25:02 25 could check, because my note is that it is Exhibit

12:25:04 1 643.

12:25:07 2 Now, you don't need to stop and check
12:25:09 3 that, Counsel, but perhaps your colleague could do
12:25:12 4 that while you are asking your questions.

12:25:15 5 Please go ahead.

12:25:16 6 BY MS. PELLETIER:

12:25:20 7 Q. All right. You are okay?

12:25:21 8 A. Yes.

12:25:21 9 Q. Perfect. So on page 70, I want to
12:25:24 10 direct your attention to the last sentence on that
12:25:28 11 page, specifically where Johnson says:

12:25:33 12 "[...] I thought it best to
12:25:35 13 promise them", we are talking about
12:25:37 14 the Western Nations here, "that they
12:25:38 15 should be admitted into the Covenant
12:25:40 16 Chain of Friendship, on their
12:25:42 17 agreeing to the re-establishment of
12:25:44 18 Michilimackinac [...]"

12:25:45 19 So here I point out that he says that
12:25:47 20 he promised to admit them into the Covenant Chain
12:25:50 21 of friendship. He doesn't say that he promised to
12:25:53 22 renew or strengthen the Covenant Chain of
12:25:55 23 friendship.

12:25:56 24 A. In this excerpt, I think that we
12:26:06 25 have to read the remarks of William Johnson with

12:26:08 1 the preceding sentence, that they declared that
12:26:10 2 they only came to renew their engagements, not
12:26:14 3 having approved of the war or engaged in it. So it
12:26:18 4 is within this context that -- considering that
12:26:20 5 they came only to renew their engagements that he
12:26:25 6 admit them in the Covenant Chain. It is not that
12:26:29 7 he was reintegrating them. They just came and
12:26:31 8 renewed.

12:26:32 9 And in my report, just the previous
12:26:34 10 example, William Johnson said I only renewed and
12:26:38 11 strengthened the Covenant Chain with them.

12:26:40 12 So if we have to read this excerpt, we
12:26:47 13 have to consider how he understood the actions of
12:26:52 14 the Aboriginal people. They came to renew their
12:26:55 15 engagement, and it is what he did. So he did -- he
12:26:59 16 said it before, and he repeat in a different way,
12:27:06 17 placing at that time the accent on the intentions
12:27:11 18 of the Aboriginal people, they came only to renew
12:27:15 19 their engagement.

12:27:16 20 Q. And so you have said, you have
12:27:18 21 pointed out, that he said that they came, and they
12:27:20 22 declared that they had not fought in the war. I
12:27:23 23 think we have established that, in fact, William
12:27:25 24 Johnson knew that that was untrue of many of them.

12:27:29 25 So what I am suggesting to you is when

12:27:32 1 he says that he decided because they wouldn't admit
12:27:35 2 to participating in the war, he decided that he was
12:27:39 3 going to then instead admit them into the Covenant
12:27:43 4 Chain, he knew that they had broken the alliance
12:27:46 5 formed in 1761?

12:27:50 6 A. He knew, but as I said many times,
12:27:52 7 he decided to do as they had not, and he wrote I
12:28:01 8 just renewed and strengthened the Covenant Chains.
12:28:04 9 Of course we can say that he knew that he could
12:28:05 10 have done something else, but it is what he decided
12:28:08 11 to do. I cannot change his words, change his
12:28:10 12 vision, change his decisions. He knew, but he
12:28:14 13 decided to do as if those people did not make war
12:28:20 14 against the British.

12:28:24 15 Q. To clarify, though, Professor
12:28:26 16 Beaulieu, you have said "He knew, but as I said
12:28:29 17 many times, he decided to do as they had not", and
12:28:31 18 he wrote that he decided to renew and strengthen.
12:28:34 19 But that is not what he wrote here. Here you have
12:28:37 20 said repeatedly that we need to look to his
12:28:39 21 correspondence after. Here he said that they
12:28:42 22 should be admitted to the Covenant Chain.

12:28:44 23 A. If we want to look at what he
12:28:46 24 said, there is a very important sentence just a
12:28:49 25 little bit higher when he wrote I only renewed and

12:28:55 1 strengthened the Covenant Chain with them. So this
12:28:59 2 is also the words of William Johnson. We cannot
12:29:02 3 say this is insignificant, and the only thing is
12:29:05 4 important is that he wrote in another letter that
12:29:09 5 they only came to renew. When he said that they
12:29:13 6 came to renew their engagement and writing -- and
12:29:17 7 when he wrote in another letter that I only renew
12:29:19 8 and strengthen with them the Covenant Chain, the
12:29:22 9 two excerpts fit pretty well. They are the same
12:29:26 10 logic. In the case he placed the emphasis, can we
12:29:30 11 say the emphasis, on his perspective, I decided
12:29:34 12 only to renew and strengthen; in the other excerpt,
12:29:38 13 he said they came only to renew their engagement.

12:29:41 14 So he understood, even if he knew that
12:29:44 15 some of them were probably enemies of the British,
12:29:47 16 probably that they fought against the British, he
12:29:51 17 knew, but he decided to do otherwise.

12:29:53 18 So the two excerpts are not
12:29:57 19 contradictory affirmations of William Johnson, but
12:29:59 20 only the same thing said in the case with the
12:30:04 21 emphasis on his decisions, and the other one on the
12:30:08 22 emphasis of the will, of the desire of the
12:30:11 23 Aboriginal people, they only came to renew their
12:30:15 24 engagements.

12:30:16 25 Q. Yes. I am not suggesting,

1 Professor Beaulieu, that we should be looking at
2 one passage to the exclusion of the other, but you
3 have spoken a lot about the passages where Johnson
4 has talked about renewing the Covenant Chain, and
5 here I am noting specifically that he has said that
6 they should be -- it says:

7 "[...] I thought it best to
8 promise them, that they should be
9 admitted into the Covenant Chain of
10 Friendship [...]"

11 Which I will note is what you said was
12 the basis of the Treaty of Detroit.

13 A. He did not say that I will
14 re-admit them. He accepted that they were members.
15 They came to renew their engagements, and I admit
16 them in the Covenant Chain. Admit -- how can I
17 say --

18 Q. Well, this is what you said was
19 the Treaty of Detroit and admitting into the
20 Covenant Chain; correct?

21 A. They integrated the old allies of
22 the French within the Covenant Chain. They
23 integrate them. It was a new step. Before they
24 were enemies of the British, now they became allies
25 of the British. It is a very different thing than

12:31:17 1 what he said. He didn't go to Detroit just to
12:31:22 2 renew an alliance. He go there to integrate those
12:31:26 3 people within the Covenant Chain.

12:31:27 4 Q. Yes. So at Detroit, they were
12:31:29 5 enemies of the British and then became allies.
12:31:32 6 Here we know we have enemies of the British who are
12:31:35 7 becoming allies.

12:31:36 8 A. Yes, but Johnson himself said that
12:31:38 9 he decided to consider that they were not enemies.

12:31:41 10 Q. Would you accept that he said that
12:31:58 11 he is -- in the context where he has made the
12:32:00 12 statements that he accepted to treat them as though
12:32:03 13 they were not enemies, he was distinguishing what
12:32:05 14 he had done with the Western Nations to what he had
12:32:08 15 done with the Huron and the Seneca?

12:32:12 16 A. In the case of the Huron and
12:32:14 17 Seneca, he clearly said that he concluded two
12:32:18 18 treaties, and he sent those -- the copies of those
12:32:22 19 treaties to London to be kept in the archives. He
12:32:25 20 produced very official documents associated with
12:32:30 21 these negotiations with the Hurons and with the
12:32:31 22 Senecas, and he sent copies of those treaties to
12:32:37 23 London, and he wrote in that case, for the Western
12:32:40 24 Nations, they just renewed their engagements and
12:32:43 25 they just renewed and strengthened.

12:32:44 1 So he did not send in this case a copy
12:32:47 2 of a treaty that he would have concluded with the
12:32:51 3 Aboriginal people, because he said it was not
12:32:53 4 necessary to conclude a treaty with them.

12:32:57 5 I can repeat it many times, but it is
12:33:00 6 my understanding based on what I know of the
12:33:03 7 documents, of the proceedings, of the letters of
12:33:07 8 William Johnson. As I said, if we did not have
12:33:09 9 those letters, we could speculate, and probably
12:33:14 10 that I will be -- I could change, but we have those
12:33:17 11 letters, and we have to consider them as a good
12:33:19 12 indication of what he did at that time.

12:33:21 13 Q. The treaty of the alliance, the
12:33:26 14 admitting into the Covenant Chain at Detroit, did
12:33:28 15 not need to be written down? In fact, it was not
12:33:31 16 written down. There was no written treaty coming
12:33:32 17 out of Detroit.

12:33:33 18 A. It is another distinction between
12:33:35 19 what happened in Detroit in 1761 and what Johnson
12:33:38 20 decided to do at Niagara in 1764. He wrote before
12:33:41 21 the meeting that in that case he would try to
12:33:45 22 combine two means in his negotiations with the
12:33:51 23 Aboriginal people. He will exchange wampum, but he
12:33:54 24 insisted that in the case of the peace treaties,
12:33:57 25 those treaties will be written and officially, I

12:34:00 1 would say, record so to be sure that those treaties
12:34:05 2 could be presented again to the Aboriginal people
12:34:07 3 for remembering them what was their promises at
12:34:09 4 that time.

12:34:11 5 And he did exactly -- the British did
12:34:13 6 exactly the same thing with the Shawnees, with the
12:34:17 7 Delawares, in 1765.

12:34:18 8 I don't try to say that every time that
12:34:20 9 the British wanted to conclude a treaty with the
12:34:23 10 Aboriginal people they needed to have a written
12:34:25 11 document. That is not my argument. I just say
12:34:28 12 that in that specific case, William Johnson had
12:34:31 13 decided that the written -- that the treaties would
12:34:35 14 be written and officially recorded. And we know
12:34:38 15 that those copies -- the copies of those treaties
12:34:40 16 were sent to London.

12:34:43 17 We can find a lot of other occasions
12:34:47 18 where treaties were concluded without any written
12:34:50 19 documents. I have worked, as I said earlier, on
12:34:53 20 the Treaty of Oswegatchie. We don't even have the
12:34:58 21 proceedings of the negotiations, but we can be
12:35:00 22 sure, when we look at different documents, oral
12:35:05 23 traditions and other documents, that the Treaty was
12:35:08 24 concluded there.

12:35:08 25 And it's not -- the fact that a written

12:35:10 1 document is present or absent is not only -- it is
12:35:13 2 not the main factor if you don't try to understand
12:35:15 3 the context in which those negotiations took place.

12:35:20 4 Q. So what I will suggest to you,
12:35:21 5 Professor Beaulieu, is what we have here, yes, we
12:35:23 6 have written treaties where the treaties include
12:35:27 7 war reparations, and we have something else that is
12:35:29 8 very consistent with what was done at Detroit,
12:35:32 9 which is an agreement that was not written down.

12:35:34 10 A. At Niagara, it is also another
12:35:37 11 distinction. I mentioned it, war reparations was
12:35:40 12 essential, an essential clause in the treaty, and I
12:35:45 13 talked, I think, earlier of the reactions of Thomas
12:35:48 14 Gage to the treaty concluded by Colonel Bradstreet.
12:35:53 15 Gage, the superior of Johnson, was really upset
12:35:56 16 because Bradstreet negotiated a treaty, a peace
12:35:59 17 treaty with Aboriginal people without imposing some
12:36:02 18 war reparations, and for Gage, it was a dishonour
12:36:06 19 for the British. Bradstreet should not have done
12:36:12 20 this.

12:36:12 21 So from my understanding of the
12:36:15 22 documents, of the context, it was totally
12:36:18 23 impossible for Johnson to conclude a peace treaty
12:36:23 24 or treaty with the Aboriginal people at Niagara
12:36:25 25 without imposing some war reparations. And in my

12:36:29 1 understanding, it is why he decided to consider
12:36:33 2 that those Western Nations were not enemies of the
12:36:37 3 British, and with them, it was simpler, easier,
12:36:41 4 just to renew and strengthen the Covenant Chain.

12:36:43 5 Q. So on the topic of Bradstreet,
12:36:54 6 let's pull up Exhibit -- oh, actually, before I do,
12:36:57 7 Your Honour, you were correct, the excerpt on page
12:37:01 8 70 of Professor Beaulieu's report actually does --

12:37:03 9 THE COURT: I'm sure you don't mean to
12:37:05 10 sound surprised when you say that.

12:37:06 11 MS. PELLETIER: No, as we all
12:37:09 12 anticipated, Your Honour, you were correct, it is
12:37:11 13 Exhibit 463 is where that letter can be found.

12:37:14 14 THE COURT: All right. Thank you.

12:37:18 15 BY MS. PELLETIER:

12:37:18 16 Q. Now let's go, however, to Exhibit
12:37:20 17 652, which is again on the note, Professor
12:37:23 18 Beaulieu, that we need to look at the
12:37:25 19 correspondence after Niagara to better understand
12:37:29 20 what happened at Niagara.

12:37:29 21 Here we have a letter from Johnson to
12:37:35 22 the Lords of Trade dated October 30th, 1764.
12:37:42 23 Perhaps we can scroll to the top, please, or to the
12:37:44 24 beginning of this letter. Sorry.

12:37:46 25 THE COURT: What was the date again?

1 BY MS. PELLETIER:

2 Q. It is a letter dated October 30th,
3 1764, right at the beginning of the letter.

4 Okay. And I am going to direct your
5 attention, Professor Beaulieu, to a passage. The
6 passage is found at page 674.

7 A. [Witness reviews document.]

8 I am ready.

9 Q. So here Johnson is referring to
10 the Treaty Bradstreet made with the Hurons and some
11 of the Ottawas and Mississaugas, and at Niagara
12 Johnson considered the Ottawas and Mississaugas to
13 be Western Nations; correct?

14 A. Yes.

15 Q. So here Johnson says:

16 "These people had subscribed to
17 a Treaty with me at Niagara in
18 August last [...]"

19 So what I would suggest to you,
20 Professor Beaulieu, is he appears to be saying that
21 he made a Treaty with the Western Nations at
22 Niagara.

23 A. I disagree with that. Again, we
24 have to understand this letter within this context.
25 Johnson was really upset by the actions taken by

1 Colonel Bradstreet. We have to understand that at
2 this time William Johnson has been considered as
3 the sole Superintendent of Indian Affairs, the only
4 person who had the responsibility -- who had the
5 responsibility to negotiate treaties with the
6 Aboriginal people.

7 And Bradstreet, after the Treaty of
8 Niagara, decided by himself, without consulting
9 him, to conclude some peace treaties, at least one
10 treaty with Aboriginal people in the Detroit
11 region.

12 And it was a clear -- how I can say
13 that, a clear contest of the authority of William
14 Johnson. So he was upset by this decision, and he
15 decided to write to say that it was not necessary.
16 And it is clear that in that context we cannot say
17 this letter is better than his official report
18 written a few weeks after the events when he
19 explained exactly what he did.

20 In that context, he was, I would say,
21 supercede, can we say that, by a simple colonel who
22 decided to play his role, and his reaction has to
23 be connected with this decision.

24 When Johnson said that I have some
25 treaties with the Hurons, that is correct, with

1 some Ottawas and Mississaugas, it is not correct.

2 But we know that the treaty negotiated by Colonel
3 Bradstreet with some Ottawas in the Detroit region,
4 that those were not represented at Niagara in 1764.

5 So we have to look at this document
6 only as a reaction, I would say, of frustration
7 from William Johnson toward the action taken by a
8 colonel who had no authority to negotiate with the
9 Aboriginal people. So Johnson was upset, as I said
10 earlier. Gage was also upset by this decision.

11 Q. So, Professor Beaulieu, I have to
12 confess, I'm struggling a bit here, because you
13 have said repeatedly we need to look at Johnson's
14 writings after Niagara to get a better
15 understanding of what happened, and we have been
16 doing that. And you seem to be saying that when he
17 uses the word "renew and strengthen", he is to be
18 believed. If he uses the terminology "admitted
19 into", he has misspoken.

20 And here we are not supposed to take
21 his words at face value all.

22 A. We cannot, when we are looking at
23 a document, consider that one person is always
24 telling the truth. We have to look at the
25 documents and to place them in their context and

12:41:44 1 try to understand what could lead some people to
12:41:49 2 make some kind of -- some affirmations in a
12:41:50 3 specific context and say something different or a
12:41:53 4 little bit different or totally different in
12:41:55 5 another context.

12:41:56 6 I am not trying -- when I said that the
12:42:00 7 letters of William Johnson are really important to
12:42:04 8 understand what he did at the Congress at Niagara,
12:42:07 9 we have to look at his official reports. When he
12:42:11 10 wrote those official reports, he had no
12:42:15 11 circumstances which could have led him to hide the
12:42:19 12 fact that he concluded a treaty with the Western
12:42:22 13 Nations if he had. He had all the authority to
12:42:24 14 conclude treaties with Western Nations. He could
12:42:28 15 have concluded many treaties with all the Western
12:42:32 16 Nations if he had decided. But in his official
12:42:37 17 report, he wrote that with them I only renewed and
12:42:41 18 strengthened the Covenant Chain.

12:42:46 19 In this letter written a few weeks
12:42:49 20 later, he learned that somebody was trying to play
12:42:51 21 his role, to take his position, and he reacted by
12:42:54 22 saying -- in arguing -- and we have seen it
12:42:56 23 earlier, by arguing that the Aboriginal people
12:43:01 24 could never be considered as subjects. It was one
12:43:05 25 point of his argument, and he was trying to

1 convince that it was not necessary for Bradstreet
2 to negotiate with these nations.

3 So of course, the letters of William
4 Johnson are important, but the context in which
5 those letters were written is also fundamental to
6 understand what happened at that time.

7 Q. So, Professor Beaulieu, when you
8 say you need to look at Johnson's official report,
9 you are referring to the letter he wrote to the
10 Lords of Trade where he attaches the two -- here
11 are two treaties that are written?

12 A. Yes.

13 Q. Including war reparations, and
14 with the other nations, I have renewed and
15 strengthened the Covenant Chain. So by official
16 report, you are referring to that letter; correct?

17 A. To the letter following --
18 immediately in the weeks following the Congress at
19 Niagara in which he explained what he did in this
20 very specific moment.

21 Q. And that letter was to the Lords
22 of trade, and the Lords of Trade were effectively
23 his boss?

24 A. His boss in the colony was Thomas
25 Gage. It was also -- but the Lords of Trade was

1 supervising, I would say, the colonial operation,
2 but his official boss in the colonies was Thomas
3 Gage, whom he also explained what he did at that
4 time.

5 Q. Okay. Yes, sorry, I misspoke.
6 The ultimate, the person -- the people to whom he
7 would submit the official report would be the Lords
8 of Trade?

9 A. He submitted the official treaties
10 concluded at Niagara to the Lords of Trade. But I
11 think that what he had to do, considering his
12 commission, considering his position in the colony,
13 what he had to do first of all was to deliver -- to
14 explain to Thomas Gage what he did. It was his
15 first authority.

16 But I knew that he was -- at that time
17 at least, it was possible also for him to write
18 directly to the Lords of the Board Trade, and it
19 was not always the case. I don't know exactly when
20 it changed, but at that time, it was possible for
21 him to send a letter to the Lords of Trade.

22 Q. And so that is what he did
23 immediately after the treaty -- or sorry, after the
24 Congress of Niagara. That is what you have been
25 relying on for the proposition that he is -- you

12:45:31 1 have said that he is clear in that correspondence
12:45:33 2 with the Lords of Trade that there was not a treaty
12:45:36 3 because he uses the terms "renew and strengthen".

12:45:40 4 You acknowledge, however, this letter
12:45:43 5 where he says that he entered into a treaty:

12:45:46 6 "These people had subscribed to
12:38:44 7 a Treaty with me at Niagara in
12:38:46 8 August last [...]"

12:45:49 9 Is also to the Lords of Trade?

12:45:51 10 A. Yes, but if in this letter he
12:45:55 11 would have written, I'm sorry, I made a big mistake
12:45:57 12 when I sent you these first letters, to be honest I
12:46:02 13 forgot to say that I concluded treaties also with
12:46:05 14 the Western Nations, we could consider this letter
12:46:07 15 as a kind of correction, I would say, from what he
12:46:14 16 said first.

12:46:14 17 In that context, he did not mention all
12:46:16 18 the nations present. He just mentioned the Huron,
12:46:20 19 the Ottawas. It was only a reaction to the
12:46:24 20 decisions taken by Bradstreet to conclude the
12:46:30 21 treaty with the Aboriginal people.

12:46:31 22 For me, when I compare the documents,
12:46:34 23 when I try to understand what happened at Niagara,
12:46:36 24 the letters written after the event when Johnson
12:46:42 25 had no reasons to -- absolutely no reason to hide

12:46:46 1 the fact that he would have concluded treaties with
12:46:49 2 Aboriginal people, they are the most important
12:46:51 3 documents, except, as I said, if in a letter
12:46:56 4 written at the end of October, a few weeks later,
12:47:01 5 he had written, I forgot to say that I also
12:47:05 6 concluded some treaties with the Western Nations, I
12:47:08 7 would consider this as a kind of correction, he
12:47:13 8 tried to correct what he said earlier. But that is
12:47:15 9 not what he did in that context. And in that
12:47:19 10 context, he had some reason to lie, which he had
12:47:22 11 not when he wrote his letter after the Congress at
12:47:27 12 Niagara.

12:47:27 13 Q. Professor Beaulieu, I'm going to
12:47:28 14 suggest to you an alternate explanation, which is
12:47:31 15 that he considered himself in that first letter to
12:47:34 16 the Lords of Trade to be sending them the two
12:47:38 17 written treaties that were negotiated with those
12:47:41 18 who had declared and admitted that they had
12:47:43 19 participated in the war and those treaties had more
12:47:48 20 sort of serious terms about war reparations in
12:47:50 21 them, and then the other agreement was, as he did
12:47:54 22 in Niagara, which was about -- a treaty about
12:47:57 23 alliance.

12:47:58 24 So I'm suggesting to you, would you not
12:47:59 25 agree that it is possible that in Johnson's mind

12:48:03 1 there were two written treaties, and there was one
12:48:05 2 that was similar to what he did at Detroit which we
12:48:07 3 know was not written, which was about -- you have
12:48:10 4 said that the Treaty of Detroit was about admitting
12:48:13 5 into the Covenant Chain of friendship, that that
12:48:15 6 was the basis of the Treaty, and we see here
12:48:17 7 language again from Johnson saying, with the
12:48:19 8 Western Nations, I chose to admit them into the
12:48:22 9 Covenant Chain of friendship. That is exactly what
12:48:24 10 happened at Detroit, and Detroit was a treaty.

12:48:26 11 A. If it was not in the specific
12:48:28 12 context of the Congress at Niagara, again I think
12:48:30 13 that maybe we can argue on that point, but at
12:48:33 14 Niagara, the objective was to conclude peace
12:48:36 15 treaties with nations who decided to fight the
12:48:39 16 British. It was the logic behind his actions at
12:48:44 17 Niagara.

12:48:45 18 And it was not possible for him at that
12:48:49 19 time -- and I think it is one of the reasons why he
12:48:51 20 decided not to conclude a treaty, it was not
12:48:54 21 possible for him to conclude a treaty with the
12:48:57 22 Aboriginal people without considering them as
12:49:02 23 enemies. If they were not enemies, it was not
12:49:05 24 necessary to conclude a treaty. William Johnson at
12:49:08 25 Niagara did not conclude a treaty with the

12:49:11 1 Aboriginal people from the St. Lawrence Valley who
12:49:13 2 came to help me. He did not conclude a treaty with
12:49:17 3 the Six Nations who went there to help me.

12:49:19 4 So some Aboriginal people stayed in the
12:49:21 5 alliance with the British, and with them, it was
12:49:23 6 not necessary to conclude a treaty. They had not
12:49:27 7 broken the Covenant Chain. They stayed as allies
12:49:30 8 of the British.

12:49:32 9 So it is why we cannot say that he
12:49:34 10 concluded some peace treaties and other treaties
12:49:37 11 with other Aboriginal people. It would be -- in my
12:49:41 12 understanding of the context, in my understanding
12:49:43 13 of the documents, it was not possible for him to do
12:49:48 14 that.

12:49:48 15 Q. Okay. I would like to switch
12:49:50 16 gears slightly, still on the topic of the Congress
12:49:53 17 of Niagara, but we have talked a lot about the
12:49:55 18 Western Nations having broken the Covenant Chain by
12:49:59 19 Pontiac's War. The one thing we haven't talked
12:50:02 20 about is from the Indigenous perspective, from the
12:50:04 21 perspective of the Western Nations, whether they
12:50:07 22 too would have seen Britain to have broken the
12:50:10 23 Covenant Chain, and I think that you would agree
12:50:11 24 with me on this point, but would you agree that the
12:50:16 25 Western Nations coming to Niagara also would have

12:50:19 1 seen Britain as having broken the alliance that was
12:50:23 2 formed at Detroit?

12:50:24 3 A. I don't think so, not in the
12:50:29 4 context of the Pontiac's War. Those who broke the
12:50:33 5 Covenant Chain were the Aboriginal people, and I
12:50:36 6 think that they had pretty good reason to do that.
12:50:38 7 But those who put -- who took the action, military
12:50:45 8 action, were Aboriginal people, and they knew
12:50:48 9 pretty well that they were considered by the
12:50:51 10 British as the responsible of these actions.

12:50:55 11 So maybe in their mind, they considered
12:50:58 12 that those who fought the British had pretty good
12:51:01 13 reason to do that, but they knew that there were
12:51:05 14 those who broke the covenant by attacking the
12:51:08 15 British.

12:51:11 16 So when we look at the proceedings, we
12:51:13 17 can see that the Aboriginal leaders were always
12:51:17 18 trying to reassure to the British that they were
12:51:20 19 still disposed to maintain the alliance with them.
12:51:26 20 They just want to re-start, to re-open the trade.
12:51:29 21 They are not trying to say to William Johnson, you
12:51:32 22 are guilty, you are responsible of this war, and
12:51:37 23 you have also to negotiate with us to rebuild, I
12:51:42 24 would say, the Covenant Chain. They were in a
12:51:43 25 position that they were considered as those who

12:51:49 1 potentially or effectively broke the Covenant
12:51:52 2 Chain.

12:51:52 3 Q. At Detroit, Johnson said that
12:51:55 4 Britain would promote to the utmost an extensive,
12:52:03 5 plentiful commerce on the most equitable terms; is
12:52:06 6 that right?

12:52:06 7 A. That's correct, yes.

12:52:07 8 Q. And we know that he also assured
12:52:09 9 the Western Nations that Britain would not
12:52:12 10 dispossess them of their lands; that's something
12:52:14 11 else that was said at Detroit?

12:52:15 12 A. Yes, that's correct.

12:52:16 13 Q. And you have acknowledged that
12:52:17 14 Amherst's restrictions on trade was one of the
12:52:19 15 causes of Pontiac's War?

12:52:21 16 A. As I said, Aboriginal people could
12:52:24 17 consider that the British were not good allies, but
12:52:29 18 those who took the arms, those who decided to
12:52:31 19 attack, to declare the war, it was the Aboriginal
12:52:37 20 people, not the British. As I said, they had
12:52:39 21 probably pretty good reasons to do that, but they
12:52:43 22 were -- instead of trying to negotiate again, they
12:52:45 23 decided to fight the British. And by doing that,
12:52:51 24 there were those who decided to become enemies of
12:52:55 25 the British.

1 Q. Do you not agree, however,
2 Professor Beaulieu, that the response -- that
3 Pontiac's War was in response to Britain having
4 broken the Covenant Chain?

5 A. I would say that it was a
6 response, an answer to a series of bad treatment
7 that the Aboriginal people considered that they had
8 received, but they were not -- we can say that they
9 would have sent some leaders to William Johnson and
10 told him, came again at Detroit, and we tried to
11 negotiate something, and we tried to convince you
12 that you are not a good ally, we tried to do
13 something to repair the Covenant Chain. But it was
14 not what they did.

15 They decided to broke the Covenant
16 Chain by attacking the British.

17 Q. But that is exactly what they did
18 after it. That is exactly, I would suggest to you,
19 what they did at Niagara, is they came, and they
20 said, We want trade. That is a term that was
21 promised at Niagara. That is a term that you
22 faulted on. Yes, true, it is one of the things
23 that led to Pontiac's War, but now we are back, and
24 you have to maintain your end of the bargain.

25 A. When they came at Niagara, it was

12:54:05 1 for asking the British to re-open the trade, and
12:54:08 2 they wanted to be sure that the trade will be
12:54:11 3 re-opened. But they did not say to the British,
12:54:16 4 you have broken the Covenant Chain; you are
12:54:19 5 responsible, and now if you want to restore it, you
12:54:21 6 have to re-open the trade.

12:54:23 7 They came there, tried to convince the
12:54:25 8 British to stop their embargo and to let the
12:54:30 9 merchants come within -- in the interior of the
12:54:35 10 continent to re-start the trade with the Aboriginal
12:54:38 11 people.

12:54:41 12 MS. PELLETIER: Your Honour, I'm about
12:54:42 13 to -- finishing up one section and about to enter
12:54:45 14 another now. I wonder if we should break for lunch
12:54:48 15 now.

12:54:49 16 THE COURT: All right. We can do that.
12:54:50 17 Today, Counsel and sir, we'll be
12:54:52 18 resuming at 2:30.

12:54:54 19 MS. PELLETIER: Thank you.

12:54:55 20 -- RECESSED AT 12:55 P.M.

14:31:21 21 -- RESUMED AT 2:31 P.M.

14:31:21 22 THE COURT: Please go ahead.

14:31:22 23 MS. PELLETIER: Thank you, Your Honour.

14:31:23 24 Before I begin, if I could just get a
14:31:28 25 sense of when you would like to break for the day.

14:31:30 1 THE COURT: Well, I think we said
14:31:31 2 approximately one hour, unless the gentleman -- if
14:31:33 3 that turns out to be too long, you should just say
14:31:36 4 so, but I think you should err on the side of
14:31:38 5 slightly less than that based on this morning.

14:31:42 6 MS. PELLETIER: Sure.

14:31:44 7 THE COURT: All right.

14:31:45 8 BY MS. PELLETIER:

14:31:45 9 Q. So you let us know, Professor
14:31:48 10 Beaulieu.

14:31:48 11 A. I think one hour would be okay.

14:31:49 12 Q. Okay. Great.

14:31:49 13 THE COURT: I just don't want you to
14:31:51 14 find yourself in the full flight in an hour, so you
14:31:54 15 can keep that in mind.

14:31:55 16 BY MS. PELLETIER:

14:31:55 17 Q. Yes. Fair.

14:31:56 18 A. But if you -- if I may, if you
14:31:57 19 need some more minutes just to finish a point, I
14:32:00 20 don't have problems to have a little bit more time
14:32:02 21 than one hour.

14:32:03 22 Q. Okay.

14:32:04 23 THE COURT: I appreciate that, sir, but
14:32:05 24 I suspect that Ms. Pelletier will not finish today,
14:32:07 25 so I just want her to keep that in mind. Please go

14:32:10 1 ahead.

14:32:11 2 BY MS. PELLETIER:

14:32:11 3 Q. Thank you.

14:32:18 4 Okay. Professor Beaulieu, I would like
14:32:19 5 to pick up on something we were talking about just
14:32:22 6 before the lunch break, which is -- we were talking
14:32:23 7 about who broke the alliance, did the First Nations
14:32:26 8 perceive Britain as having also broken the
14:32:31 9 alliance.

14:32:31 10 One of the things I believe you said
14:32:33 11 was that, you know, at Niagara it was clearly
14:32:35 12 Britain who was the one kind of imposing terms.
14:32:37 13 I'm paraphrasing a little bit, but let me know if
14:32:40 14 that kind of captures what you were trying to say.

14:32:42 15 A. I think that they were at that
14:32:46 16 time in a position to -- imposing it is maybe too
14:32:49 17 strong, but they were in a position to make a lot
14:32:52 18 of pressure on Aboriginal people, especially
14:32:57 19 because the Aboriginal people needed to see the
14:33:03 20 trade re-opened. So it was, I think, one of their
14:33:05 21 main points in favour of the British.

14:33:11 22 And they also know that there was a lot
14:33:15 23 of military at Niagara at that time, and many
14:33:18 24 Aboriginal people were behind the British and ready
14:33:23 25 to attack the villages of the Aboriginal people.

14:33:26 1 So they were in a position of strength,
14:33:27 2 I would say.

14:33:28 3 Q. And so that was exactly sort of
14:33:30 4 the point that I wanted to pick up on, is you have
14:33:35 5 also said in your report that Johnson brought
14:33:36 6 military troops to Niagara, and I believe you said
14:33:39 7 that he had hoped that their presence would tilt
14:33:40 8 the power towards the British in the negotiations
14:33:43 9 and would help gain concessions.

14:33:44 10 A. I think it is a good conclusion.

14:33:47 11 Q. Now, the British force was
14:33:50 12 commanded by Bradstreet; correct?

14:33:52 13 A. That's correct.

14:33:52 14 Q. So I would like to bring up
14:33:54 15 Exhibit 635. So here we have a letter from Johnson
14:34:12 16 to Gage of August 5th, 1764, and that is the same
14:34:16 17 day that Johnson made the Treaty with the Senecas;
14:34:19 18 correct?

14:34:19 19 A. That's correct.

14:34:21 20 Q. And you cite a passage from this
14:34:24 21 letter explaining the Senecas' late arrival in your
14:34:27 22 report.

14:34:28 23 A. Yes.

14:34:28 24 Q. So I would like to give you a
14:34:30 25 moment to read the paragraph that we have

14:34:31 1 highlighted.

14:34:32 2 A. Okay.

14:34:33 3 [Witness reviews document.]

14:34:47 4 That's correct.

14:34:58 5 Q. Okay. So here you would agree we
14:35:00 6 have Johnson saying that Bradstreet's force didn't
14:35:03 7 want to leave because they didn't want to leave
14:35:07 8 themselves exposed to attack and that Johnson was
14:35:10 9 also concerned that the Western Nations might join
14:35:12 10 in?

14:35:13 11 A. I think it was a good military
14:35:16 12 reasoning.

14:35:17 13 Q. Sorry?

14:35:17 14 A. Reasoning. A good way to think
14:35:20 15 about military strategy at that time, not to expose
14:35:22 16 the soldiers if it was possible to avoid that.

14:35:24 17 Q. So an acknowledgment, however,
14:35:27 18 that there was a military force, that the First
14:35:31 19 Nations presented a military strength as well?

14:35:33 20 A. The Senecas, the Delawares, the
14:35:37 21 Shawnees, were a military force, of course. But I
14:35:45 22 may add that the Treaty with the Senecas, I would
14:35:49 23 say the first negotiations was -- the terms of the
14:35:54 24 Treaty had already been negotiated in April, so
14:35:56 25 they were just supposed to come to sign the Treaty

14:35:58 1 at that time.

14:35:58 2 Q. Yes. No, the point I was more
14:36:00 3 trying to make is that you have pointed out in your
14:36:03 4 report that Johnson showed up with troops in an
14:36:07 5 attempt to, you know, intimidate the First Nations,
14:36:10 6 and I am pointing out that similarly the First
14:36:13 7 Nations were intimidating themselves, and this is
14:36:14 8 Johnson, I would argue, acknowledging that he
14:36:18 9 didn't want to leave -- that he didn't want to
14:36:21 10 leave them exposed because of the potential for an
14:36:24 11 attack by the First Nations.

14:36:25 12 A. I think it was a good strategy.

14:36:27 13 Q. Okay. So now I would like to
14:36:30 14 bring up Exhibit 643, which we looked at the
14:36:38 15 excerpt earlier, which is Johnson to the Board of
14:36:42 16 Trade, his letter dated August 30th, 1764. And I
14:36:51 17 will ask you to read the highlighted paragraph.

14:36:55 18 A. [Witness reviews document.]

14:36:56 19 Yes, that is good.

14:37:24 20 Q. Okay. Now I'll go further down in
14:37:26 21 this document at page 649, so another passage I
14:37:30 22 would like for you to review, please.

14:37:39 23 A. [Witness reviews document.]

14:38:08 24 Can I -- is it only that --

14:38:17 25 Q. No, we'll scroll down. Yes.

14:38:20 1 A. [Witness reviews document.]

14:38:21 2 I am ready.

14:38:59 3 Q. Okay. So here you would agree
14:39:01 4 with me that these passages demonstrate that the
14:39:05 5 First Nations have a significant military force?
14:39:09 6 We have Johnson here saying:

14:39:12 7 "The Indians all know, we
14:39:13 8 cannot be a match for them in the
14:39:14 9 midst of an extensive, woody
14:39:17 10 Country, where, tho' we may at a
14:39:20 11 large expence convey an army, we can
14:39:23 12 not continue it there, but must
14:39:25 13 leave our small Posts at the end of
14:39:28 14 the Campaign, liable either to be
14:39:29 15 blockaded, surprised, or taken by
14:39:30 16 Treachery."

14:39:31 17 A. I think that the two parties were
14:39:32 18 in a position to fight. There was a war in 1763,
14:39:37 19 so it is a sign that the Aboriginal people were
14:39:40 20 able to fight. And it was not in the interests of
14:39:42 21 the British to invest continually a lot of money to
14:39:46 22 impose, I would say, or to conquest more formally
14:39:52 23 this region. And Johnson was clear on this point.
14:39:54 24 It was easier to offer them some good conditions
14:39:58 25 than to continue to fight them.

14:40:00 1 And what surprised me in that context,
14:40:02 2 if you consider the balance of power, the
14:40:06 3 possibility for the British to impose two peace
14:40:11 4 treaties to the Huron and to the Senecas, the
14:40:13 5 Senecas were the most -- probably the most
14:40:16 6 important military force from the Aboriginal
14:40:18 7 perspective, that sector, and they accepted to sign
14:40:21 8 a peace treaty with William Johnson, and they
14:40:25 9 accepted to give some amounts, and they accepted to
14:40:28 10 be considered as responsible for that.

14:40:29 11 So we have this text. We have a
14:40:32 12 complex reality, and we have different actors,
14:40:35 13 British and Aboriginal people, who had to
14:40:38 14 negotiate. And it is clear that the Aboriginal
14:40:40 15 people were able to fight, but the British in
14:40:43 16 that context -- it was in that context the British
14:40:47 17 were able to impose their terms to force the
14:40:50 18 Senecas to achieve the peace. It was not the
14:40:52 19 Senecas who were imposing their conditions to the
14:40:55 20 British. At Niagara, the treaty was negotiated in
14:40:58 21 a strict -- a strict way by the British and imposed
14:41:01 22 to the Senecas.

14:41:02 23 So we have to consider also the
14:41:04 24 possibility for the British to use the Aboriginal
14:41:08 25 power of other Aboriginal Nations. So we cannot

14:41:11 1 consider the Aboriginal people as a unified group,
14:41:16 2 and the British, as the French, were able to play
14:41:20 3 the rivalries between Aboriginal people to get some
14:41:23 4 people with them and to make pressure on other
14:41:25 5 Aboriginal people.

14:41:25 6 So a force, I would say, of 1,000
14:41:31 7 soldiers at Niagara, British soldiers, it was not
14:41:35 8 nothing, and it is of course a force of many
14:41:39 9 hundred thousand warriors. It was not nothing at
14:41:45 10 that time. But those at Niagara were able to
14:41:47 11 impose their conditions was the British and not the
14:41:50 12 Aboriginal people.

14:41:50 13 Q. Yes, but here -- although I
14:41:52 14 appreciate that sometimes the British or the French
14:41:54 15 may have had Aboriginal alliances, here Johnson
14:41:56 16 appears to be acknowledging that there is a fear
14:41:58 17 from the British perspective, from his perspective,
14:42:01 18 that the Aboriginal Nations would align.

14:42:04 19 A. I think that the fear were from
14:42:06 20 both sides. Nobody -- how can I say that? The
14:42:11 21 Aboriginal people were threatened by the British,
14:42:15 22 were threatened by the allies of the British, and
14:42:17 23 they were trying to find also a peace.

14:42:22 24 I think that the two parties could have
14:42:26 25 something to fear in this war, but again, those who

14:42:31 1 were in positions to impose their conditions at
14:42:34 2 that time were not the Aboriginal people. It was
14:42:36 3 the British.

14:42:37 4 Q. Okay. So I want to move away from
14:42:39 5 talking about the Senecas and just focus on the
14:42:43 6 Western Nations. One thing I want to talk about on
14:42:46 7 this topic of sort of who had the balance of power,
14:42:51 8 you are familiar with the term "pity speeches"?

14:42:57 9 A. I think -- can you just explain
14:43:00 10 just to be sure that I understand?

14:43:01 11 Q. Why don't we put up an example.
14:43:03 12 I'll bring up the Niagara minutes which -- exhibit
14:43:10 13 is now Exhibit 4385.

14:43:30 14 Okay. So I'll take you to page 265 of
14:43:38 15 the Niagara minutes. So this is not something that
14:44:03 16 you focussed on in your report, Professor Beaulieu,
14:44:05 17 but I did wonder whether this might have influenced
14:44:10 18 your conclusion or your statements in your report
14:44:14 19 about the British, you know, being the ones who
14:44:18 20 were intimidating the First Nations, whether some
14:44:22 21 of the language that we see coming from the First
14:44:25 22 Nations, particularly when they talk about trade,
14:44:27 23 you will see here -- why don't I let you read the
14:44:31 24 passage, and then I'll highlight a few points.

14:44:36 25 A. Yes.

14:44:38 1 [Witness reviews document.]
14:44:58 2 That's right. I'm ready.
14:44:59 3 Q. So that middle paragraph, we have
14:45:02 4 language:
14:45:03 5 "We are become very poor,
14:45:05 6 having no Trade or Goods, which
14:45:08 7 reduced some of us to great
14:45:10 8 necessity last Winter & we fear some
14:45:13 9 of us may starve the next, unless
14:45:15 10 supplied."
14:45:16 11 Are you aware that -- well, first off,
14:45:20 12 sorry, let me stop there. Just by reading this, on
14:45:23 13 its words, you would agree this, you know, makes
14:45:25 14 them, the First Nations, sound weak and almost
14:45:27 15 pathetic?
14:45:28 16 A. In a peace situation, I would be
14:45:36 17 tempted to see in these speeches a kind of
14:45:39 18 solicitation to get more presents, to get a better
14:45:41 19 price.
14:45:42 20 But in the context of the war, in the
14:45:43 21 context when the British stopped trading, their
14:45:46 22 trading operations, in the context where the
14:45:49 23 Aboriginal people of the Great Lakes and of the
14:45:50 24 Ohio Valley were unable to buy new merchandise from
14:45:56 25 any Europeans, they were in a position of

14:45:58 1 dependence at that time.

14:45:59 2 So I understand what you say about this
14:46:02 3 kind of discourse, and it is true that we can find
14:46:07 4 them in other circumstances, with the French, with
14:46:10 5 the British, but in that context, we are in a war
14:46:12 6 context and in a context where we are not just
14:46:15 7 trying to get the better price. They were just
14:46:18 8 trying to get the re-opening of the trade because
14:46:22 9 for them it was absolutely at that time essential.

14:46:25 10 If they were -- if we considered that
14:46:29 11 it is only not a real discourse, it is just to ask
14:46:33 12 something to the British, the war -- I'm sorry, the
14:46:37 13 war would have continued.

14:46:39 14 One of the main reasons why the war
14:46:41 15 stopped so quickly, it was the dependence of the
14:46:43 16 Aboriginal people toward the European merchandise.

14:46:47 17 So I cannot take this discourse as just
14:46:49 18 an expression of a false reality to ask something
14:46:51 19 to the British.

14:46:53 20 Q. Okay. I would like to bring up
14:46:56 21 document SC1352. This is a book by Gilles Havard
14:47:15 22 entitled "Empire et Métissages"?

14:47:20 23 And I believe this is a book listed or
14:47:22 24 cited in your publications; is that correct?

14:47:23 25 A. That's correct.

14:47:24 1 Q. So this is a book that you
14:47:25 2 assisted Mr. Havard in writing?

14:47:28 3 A. Not assisted. We have discussed
14:47:30 4 about many aspects of his research. I know him
14:47:33 5 when I was doing my Ph.D. at Université Laval. We
14:47:38 6 are good friends, and we were discussing a lot of
14:47:40 7 things about the history. So it may be that I gave
14:47:42 8 him some documents, some insights on some specific
14:47:46 9 aspects, but we did not really discuss, I would
14:47:48 10 say, the object of his book. He were discussing
14:47:52 11 about the history of the relationship between
14:47:53 12 French and Aboriginal people.

14:47:55 13 Q. Okay. I'll just scroll down to
14:47:57 14 the third -- or PDF 3 of this page, the
14:48:02 15 "Remerciements" or "Acknowledgments", as we say in
14:48:05 16 English, and here it says:

14:48:05 17 "J'aimerais aussi remercier
14:48:05 18 particulièrement Alain Beaulieu
14:48:05 19 [...]

14:48:05 20 So:

14:48:11 21 "I would like to thank in
14:48:12 22 particular Alain Beaulieu [...]"

14:48:12 23 A. Yes.

14:48:15 24 Q. Would you say that is a good
14:48:16 25 translation?

14:48:16 1 A. Yes.

14:48:16 2 Q. Yes. Okay. And Professor Havard

14:48:21 3 is a reputable historian. I take it you would

14:48:24 4 agree?

14:48:24 5 A. Yes.

14:48:25 6 MS. PELLETTIER: Okay. Your Honour, I

14:48:27 7 would ask that this be marked the next exhibit.

14:48:29 8 THE COURT: What is it?

14:48:29 9 MS. PELLETTIER: Oh, sorry. It is --

14:48:30 10 THE COURT: The entirety of the book?

14:48:32 11 MS. PELLETTIER: No, it is a chapter,

14:48:35 12 Chapter 6 of -- it is the introduction.

14:48:45 13 THE COURT: The introduction is 30

14:48:46 14 pages long? I suppose it could be.

14:49:07 15 MS. PELLETTIER: Sorry. One moment,

14:49:08 16 Your Honour.

14:49:18 17 I apologize. I am confused. I am

14:49:20 18 going to be bringing up Chapter 6 in a moment.

14:49:22 19 This is simply the introduction to "Empire et

14:47:20 20 Métissages", a book by Professor Havard. So I

14:49:32 21 would like to enter this as an exhibit, please.

14:49:34 22 THE COURT: Mr. Registrar?

14:49:35 23 THE REGISTRAR: Exhibit 4386.

14:49:23 24 EXHIBIT NO. 4386: Introduction to the

14:49:28 25 book entitled "Empire et Métissages",

14:49:31 1 authored by Professor Gilles Havard.

14:49:38 2 THE COURT: Counsel, I want to remind

14:49:40 3 you of what I said on Monday about French, which it

14:49:43 4 is terrific if your French and the witness's French

14:49:50 5 are at a conversational level, but no one else can

14:49:53 6 be assumed to be in that situation, so that was

14:49:55 7 simply too fast.

14:49:55 8 MS. PELLETIER: Okay. Understood.

14:49:56 9 THE COURT: And you are going to have

14:49:58 10 to stop by Madam Reporter on a break as well to

14:50:01 11 assist her.

14:50:02 12 MS. PELLETIER: I understand.

14:50:03 13 THE COURT: Please go ahead.

14:50:03 14 MS. PELLETIER: Thank you. So now I

14:50:04 15 would like to pull up SC1384. I'm sorry, this is

14:50:14 16 now Chapter 6, so I would also like to enter this

14:50:17 17 as an exhibit, Your Honour.

14:50:18 18 THE COURT: Mr. Registrar.

14:50:30 19 THE REGISTRAR: Exhibit No. 4387.

14:50:34 20 EXHIBIT NO. 4387: Chapter 6 of the

14:49:28 21 book entitled "Empire et Métissages",

14:49:31 22 authored by Professor Gilles Havard.

14:50:37 23 BY MS. PELLETIER:

14:50:38 24 Q. Okay. Now I would take you to

14:50:41 25 page 382. Perhaps we can enlarge that, and I'll

14:50:51 1 give you a moment, Professor Beaulieu, to read this
14:50:55 2 section, please.

14:50:57 3 A. [Witness reviews document.]

14:50:58 4 I have read it.

14:51:16 5 Q. So would you agree with me that
14:51:18 6 what this section effectively says is the author is
14:51:23 7 saying that this idea of pity speeches, as I'm
14:51:26 8 calling them, First Nations sounding as though they
14:51:30 9 are pitiful, that it is really -- it's a
14:51:33 10 negotiation strategy, and it is intended to force
14:51:36 11 the hand of the other and to create, you know, in
14:51:41 12 the British in this instance feelings of
14:51:44 13 benevolence so that they will agree to what the
14:51:48 14 First Nations are asking. Would you say that
14:51:50 15 accurately reflects that passage?

14:51:52 16 A. In a peace context, yes, because
14:51:54 17 we have other sources to establish that the
14:51:56 18 Aboriginal people at that time were not really in a
14:51:59 19 bad position, that they used this discourse, these
14:52:02 20 speeches to influence the Governor.

14:52:05 21 In a war context, when it was not
14:52:07 22 possible for the Aboriginal people to trade to get
14:52:10 23 what they need, the ammunition, the weapons and all
14:52:15 24 those stuff that they needed for their life, we
14:52:17 25 have to take not only the speeches and assemble the

14:52:24 1 reality, but to look if it could fit within a new
14:52:26 2 reality imposed by the empire, imposed by the
14:52:29 3 French.

14:52:30 4 So I agree with Gilles on this aspect,
14:52:34 5 that in the negotiations between French and
14:52:36 6 Aboriginal people, you will find these kind of
14:52:39 7 speeches by which you try to influence the
14:52:42 8 Governor, but nobody was -- everybody was conscious
14:52:45 9 that it was these kind of speeches used in a very
14:52:50 10 specific context. And the French knew sufficiently
14:52:53 11 well the reality of the Aboriginal people to know
14:52:56 12 that it was also a strategy.

14:52:58 13 And this is very different from what
14:53:00 14 happened in 1764 at Niagara in a war context, when
14:53:04 15 it was not possible for the Aboriginal people to
14:53:07 16 get what they needed.

14:53:12 17 Q. But, Professor Beaulieu, you have
14:53:14 18 said that with the Western Nations they were in a
14:53:16 19 peace context, that at Niagara that Johnson treated
14:53:22 20 them as though they were in a peace context.

14:53:24 21 A. Johnson told to the Aboriginal
14:53:26 22 people, to all the Aboriginal people, the trade
14:53:29 23 will be opened when the war will be finished with
14:53:31 24 all the nations. I will not re-open the trade if
14:53:35 25 the war is not finished with all the nations.

14:53:38 1 So even those who were in a peaceful
14:53:41 2 relationship with the British were unable to get
14:53:45 3 what they need, and it is why they asked so often
14:53:51 4 this re-opening of the trade at that moment, and it
14:53:54 5 is why they insist so much on the fact that they
14:53:57 6 were in a bad condition at that time.

14:53:59 7 Q. So let's pick up on that. You
14:54:02 8 have said in your report that you have acknowledged
14:54:05 9 that the nations came to Niagara seeking the
14:54:09 10 re-opening of trade, but one of the things that you
14:54:11 11 have also said is that your position is that
14:54:14 12 Johnson did not give it to them.

14:54:15 13 A. At that time, no. And he used
14:54:18 14 this refusal, I would say, to be sure that those
14:54:21 15 nations would make pressure on other nations to
14:54:25 16 stop the war. It was a strategy to divide the
14:54:29 17 Aboriginal people.

14:54:32 18 Q. So I would like to bring up again
14:54:34 19 Exhibit 4385, the Niagara minutes, page 280. So we
14:55:18 20 looked at the second highlighted portion earlier,
14:55:22 21 and I would like to go to the first now.

14:55:23 22 So, sorry, perhaps we can -- just to
14:55:28 23 situate ourselves, this is where Johnson is still
14:55:31 24 addressing the Menominees and the Ottawas of La
14:55:38 25 Bay, and those were two Western Nations; correct?

14:55:40 1

A. Correct.

14:55:41 2

Q. So I'll give you a moment to look

14:55:43 3

at the first highlighted passage, please.

14:55:45 4

A. [Witness reviews document.]

14:56:04 5

I have read it.

14:56:04 6

Q. So here in the very end:

14:56:09 7

"The English will deal fairly

14:56:11 8

with you - they will treat you

14:56:15 9

kindly, and trade with you honestly.

14:56:17 10

You will grow Rich, and happy, and

14:56:19 11

your Brothers Contented, so that our

14:56:20 12

Union cannot be shaken."

14:56:22 13

So, Professor Beaulieu, I suggest to

14:56:26 14

you that this sounds very much like Johnson

14:56:30 15

agreeing to restore trade.

14:56:33 16

A. Not at that time. When the war

14:56:35 17

will be finished, you will have good trade

14:56:38 18

conditions, but Johnson refused to re-open the

14:56:41 19

trade at that time, and the trade will be only

14:56:46 20

re-opened in 1765 when the road will be open.

14:56:50 21

Until that time, the Ottawa River route was

14:56:54 22

blocked, was closed. No merchant can go up the

14:57:00 23

Ottawa River to trade with the Aboriginal people.

14:57:02 24

And from memory, I know that there is

14:57:06 25

ordinances from the Governor of the Province of

14:57:11 1 Quebec to re-open the trade in 1765. I don't
14:57:14 2 remember the date exactly, but the trade was not
14:57:18 3 re-opened before 1765 officially, after the
14:57:23 4 Delawares and the Shawnees decided to conclude
14:57:26 5 their peace with the British.

14:57:28 6 Q. Actually, Professor Beaulieu, the
14:57:31 7 trade at Detroit was open almost immediately,
14:57:34 8 September 8th, 1764, and then again at
14:57:39 9 Michilimackinac on September 22nd.

14:57:41 10 A. The trade was officially re-opened
14:57:44 11 in 1765.

14:57:44 12 Q. Did trade begin at Detroit? Do
14:57:47 13 you acknowledge -- why don't we pull up Exhibit
14:57:50 14 4207. You are familiar with this book, I assume?

14:58:04 15 A. Yes.

14:58:04 16 Q. From Widder, "Beyond Pontiac's
14:58:10 17 Shadow". So if I could first go to, with respect
14:58:13 18 to trade re-opening at Detroit, page 202. And
14:58:29 19 perhaps we can highlight that passage.

14:58:42 20 We are on 203. Go to 202, please.

14:58:55 21 A. [Witness reviews document.]

14:58:56 22 I have read the -- I'm sorry.

14:58:57 23 Q. No, no, just wondering if now you
14:59:01 24 will agree with me that, in fact, it says here:

14:59:04 25 "On September 8, Bradstreet

14:59:06 1 confidently proclaimed peace and
14:59:08 2 reopened the fur trade to 'the
14:59:10 3 Inhabitants and others trading at
14:59:11 4 Detroit.'"

14:59:13 5 A. If Bradstreet did that at Detroit,
14:59:15 6 it was not the official re-opening of the trade.
14:59:17 7 I'm sorry, the trade was closed officially until
14:59:21 8 1765, and the road was closed. No merchants were
14:59:24 9 able to go there with merchandise. We know that
14:59:27 10 when Johnson met Aboriginal people at Niagara in
14:59:32 11 1764, he accepted to trade with the Aboriginal
14:59:37 12 people but on a small level.

14:59:40 13 The official re-opening of the trade by
14:59:48 14 the British authorities, not only by Bradstreet,
14:59:48 15 who did also conclude a treaty when he had no right
14:59:51 16 to do it, but the official re-opening of the trade
14:59:54 17 was in 1765.

14:59:55 18 Q. Okay. Well, here would you agree
14:59:57 19 with me that whether it is official or unofficial,
14:59:59 20 there was trade happening at Detroit as of
15:00:01 21 September 8th?

15:00:02 22 A. Maybe at Detroit, but not
15:00:04 23 elsewhere in the Great Lakes region.

15:00:05 24 Q. Michilimackinac. Let's go to the
15:00:07 25 next page, please. Here at September 22, 1764.

15:00:15 1 A. [Witness reviews document.]

15:00:18 2 For overseeing the restoration of the
15:00:21 3 fur trade.

15:00:21 4 Q. Yes, on September 22, 1764.

15:00:29 5 A. Right, at that date for overseeing
15:00:32 6 the restoration of the trade. The trade was not at
15:00:37 7 that time officially re-opened between the British
15:00:40 8 and the Aboriginal people. I'm sorry, we can --
15:00:45 9 maybe that in some specific points some British
15:00:47 10 trade with the Aboriginal people, but the official
15:00:51 11 re-opening of the trade was only in 1765, and when
15:00:55 12 we read carefully the proceedings, the conference
15:01:00 13 at Niagara, William Johnson always told to the
15:01:04 14 Aboriginal people, we will not re-open the trade
15:01:06 15 until the peace was concluded with all the
15:01:10 16 Aboriginal Nations.

15:01:11 17 So -- and the peace, the final peace
15:01:15 18 with the Delawares and the Shawnees, it was in
15:01:18 19 1765, and at that time, the embargo, the decisions
15:01:22 20 to stop the merchants from going to the Great Lakes
15:01:26 21 to trade with the Aboriginal people was abandoned
15:01:30 22 in 1765.

15:01:32 23 Maybe that it is mentioned in my report
15:01:35 24 in some footnotes, but I know that this was decided
15:01:39 25 in 1765. Maybe, as I said, someone decided that

15:01:46 1 they will in some specific point, especially in
15:01:48 2 Detroit where it was also a place of colonization,
15:01:51 3 to authorize the trade.

15:01:52 4 But the possibility for the merchant
15:01:55 5 engaged in the fur trade to send merchandise, to
15:01:59 6 bring back the fur, it was only official in 1765.

15:02:03 7 Q. Okay. Well, what I am suggesting
15:02:04 8 to you is we have a document here that is saying
15:02:07 9 that at least unofficially the trade was opened at
15:02:09 10 Detroit, and you say perhaps in certain instances.
15:02:13 11 I would suggest these are not small areas. These
15:02:15 12 are very significant trading posts that very
15:02:21 13 shortly after Niagara there was trade happening at
15:02:23 14 both Detroit and Michilimackinac.

15:02:25 15 A. If Bradstreet did that, it was not
15:02:27 16 with the authorization of William Johnson, who was
15:02:31 17 at that time the only one who could take this kind
15:02:33 18 of decisions.

15:02:34 19 And we discussed that Johnson was upset
15:02:37 20 by the actions of Bradstreet who decided to take
15:02:41 21 decisions who was not in conformity with the
15:02:44 22 general policy.

15:02:45 23 It was clear in the mind of Gage, in
15:02:47 24 the mind of those who were in the positions of
15:02:49 25 power at that time, that the trade will not be

1 re-opened officially before the end of the war.

2 And of course, if you show me some examples of

3 trading operations, we can say that also at Niagara

4 in 1764 there was some trading operations, but it

5 was Johnson who decided to let those trading

6 relations functioning. That is not a good word,

7 but -- so it is clear, the trade was officially

8 re-opened in 1765.

9 Q. In fact, in 1764, during the
10 Congress, Johnson permitted trade to happen.

11 A. Yes. It was a favour that he
12 said -- that he gave to the Aboriginal people
13 because he knew, as I said, many probably came with
14 fur. They wanted to trade. And we know also
15 unofficially that those merchants who were there at
16 that moment were probably in connection with
17 William Johnson.

18 So we know -- and Johnson wrote it,
19 that at some occasions he authorized the Aboriginal
20 people to sell their furs and to get some
21 merchandise. But at the same time, he said it is
22 not the official -- the trade is not yet re-opened.

23 Q. Okay. So putting aside official,
24 unofficial. Would you not agree with me that you
25 can have a conditional promise?

15:04:14 1 A. I'm not sure that I understand
15:04:16 2 your question.

15:04:17 3 Q. By that, I mean, yes, I will do
15:04:20 4 something if certain conditions are met.

15:04:21 5 A. It is what he did.

15:04:22 6 Q. That is what he did. Thank you.

15:04:24 7 So I would like to now move to a point
15:04:38 8 you have made in your report about the
15:04:42 9 re-occupation by the British of Michilimackinac.
15:04:46 10 So if I could take you to -- so I take you to your
15:05:03 11 second report, Exhibit 4381, to page 57.

15:05:08 12 So I apologize. We don't have it
15:05:48 13 highlighted. It is the third line from the bottom,
15:05:55 14 the sentence beginning with:

15:05:58 15 "If the Aboriginal nations
15:06:02 16 wanted to resume trade [...]"

15:06:05 17 Do you see that?

15:06:06 18 A. Yes.

15:06:07 19 Q. So if you could read from that to
15:06:09 20 the bottom of the page, please.

15:06:13 21 A. [Witness reviews document.]

15:06:20 22 That is okay.

15:06:21 23 Q. So here again we spoke earlier
15:06:23 24 about when you have talked about Britain imposing
15:06:27 25 unilateral terms. We talked about it at Detroit

1 and now here we are at Niagara. Here you are
2 saying that the resumption or the re-occupation of
3 Michilimackinac by the British was something that
4 was not optional from the British perspective in
5 that it was a condition for the resumption of
6 trade.

7 A. I think so, yes.

8 Q. So let's look at the Niagara
9 minutes where Johnson speaks to this point. So if
10 I could go back to Exhibit 4385, page 267, please.

11 So I'll take you to the passage in a
12 little bit, but just to situate ourselves, here we
13 have Johnson holding a conference on July 12th with
14 the Ottawas, Chippewas, Nipissings, in the presence
15 of the Six Nations. And aside from the Six
16 Nations, Johnson considered these to be members of
17 the Western Nations, you would agree?

18 A. The Six Nations?

19 Q. Aside from the Six Nations, the
20 others were considered Western Nations?

21 A. Not the Nipissing.

22 Q. Not the Nipissing?

23 A. Yes.

24 Q. Okay. I'm not sure that really
25 matters for the purposes of what I am trying to get

1 at. So Ottawa and Chippewas, you would agree,
2 however, Western Nations?

3 A. Yes.

4 Q. Okay. Great. Now we'll go to
5 page 269, and there is a passage I would like you
6 to look at, please. I apologize. We haven't
7 highlighted it. It begins with "I am sensible of
8 the Inconvenience [...]", if we can find it on the
9 page.

10 Do you see, Professor Beaulieu, kind of
11 midway down, we have blocked it here.

12 A. Okay.

13 [Witness reviews document.]

14 I need -- I just need to read the full
15 paragraph.

16 Q. Would you like us to scroll up?

17 A. No, it is okay.

18 Q. Okay.

19 A. [Witness reviews document.]

20 Yes, I'm ready.

21 Q. Okay. So here you would agree we
22 have Johnson acknowledging the inconvenience of
23 travelling to Niagara and having a post again would
24 remedy that inconvenience.

25 A. Yes, but we have to read it with

15:10:06 1 the preceding lines. He exposed exactly what are
15:10:10 2 the conditions, the trade will not be re-opened,
15:10:16 3 you have suffered these prohibitions, and it will
15:10:18 4 be maintained until your enemies are subdued:

15:10:23 5 "What you suffer by this
15:10:25 6 prohibition should Convince you of
15:10:27 7 the ill consequences of Quarrelling
15:10:30 8 with the English who Command all the
15:10:36 9 Doors in your Country & without
15:10:37 10 whose Consent you can receive no
15:10:39 11 Supplys, as we shall never suffer
15:10:40 12 any goods to be transported into an
15:10:43 13 Enemys Country."

15:10:45 14 The first part of this speech is really
15:10:48 15 important if you want to understand the second
15:10:49 16 part.

15:10:49 17 Q. Sure. No, I appreciate, and I
15:10:52 18 think we have established that what Johnson was
15:10:54 19 doing was making a conditional promise, that there
15:10:56 20 were conditions that the First Nations had to
15:10:58 21 fulfil before they were prepared to resume trade.
15:11:02 22 We can argue about when trade officially resumed,
15:11:05 23 but it did resume.

15:11:06 24 I'm talking about Michilimackinac now.
15:11:09 25 So you had said in your report that

15:11:11 1 Michilimackinac, not negotiable. It was something
15:11:14 2 that was -- that the First Nations, they must
15:11:18 3 admit. And what I am getting at here and trying to
15:11:22 4 get you -- to see if you agree with me is Johnson
15:11:27 5 here is acknowledging that it was very inconvenient
15:11:31 6 for the Western Nations to have to travel to
15:11:33 7 Niagara for trade. I mean, that is what he is
15:11:35 8 saying in the second part of this paragraph.

15:11:37 9 A. Yes, but the first part of the
15:11:39 10 paragraph is essential. He established the
15:11:41 11 conditions. You are not in a position to
15:11:43 12 negotiate. If you want to see the trade re-opened,
15:11:48 13 he was establishing the balance of power in favour
15:11:52 14 of the British, and after that, he used the
15:11:55 15 language of diplomacy to argue his point about
15:11:58 16 trade and the advantage that the Aboriginal people
15:12:01 17 will get from this post.

15:12:03 18 When I say that it is not negotiable,
15:12:06 19 non-negotiable, it is a condition. It will not be
15:12:11 20 possible if you continue -- if the war continues,
15:12:17 21 it will not be possible to trade with the British.

15:12:19 22 Q. Oh, yes, of course, but that is
15:12:22 23 why they are at Detroit. That is why -- or at
15:12:25 24 Niagara, sorry. That is why the Western Nations
15:12:28 25 are there, is because they want to trade.

1 So to this point, I think you would
2 agree that -- you have already agreed that the
3 Western Nations very much wanted trade to resume.

4 A. Yes.

5 Q. And so what I am saying here is,
6 when you say in your report that Michilimackinac
7 and the British re-opening -- or re-establishing
8 themselves at Michilimackinac was not negotiable,
9 it was, in fact, in the best interests of the
10 Western Nations. It is something that, if they
11 wanted trade to resume, was better for them.

12 A. We can ask at that time why did
13 they decide to attack the fort and to expel the
14 British? You know, they made a war operation
15 against the British at Michilimackinac. They would
16 have preferred only to have a post trade -- a
17 post -- a trading post there than a fort, than a
18 military fort. They would have preferred just to
19 have some -- and probably that the trade continue
20 as before under the French regime when the traders,
21 the "coureurs de bois", those guys who went into
22 the interior of the country to trade with the
23 Aboriginal people.

24 So they were not satisfied with the
25 idea to be obliged to trade at a military fort. It

1 was in the interests of the British to impose, and
2 it was in the clear intention of William Johnson to
3 concentrate the trade at this military post.

4 But it was not at the advantage of the
5 Aboriginal people to be there, to be obliged to go
6 there to negotiate under the supervision of the
7 military, and it would -- for them, it would have
8 been better just to have traders and know those
9 military -- those soldiers established in the fort.

10 Q. Sure. So from the British
11 perspective, they wanted to have -- use
12 Michilimackinac also as a military post, and from
13 the First Nations' perspective, they wanted trade?

14 A. They wanted trade, but not
15 necessarily at the fort. It was one of the
16 problems after the conquest of New France, this
17 desire of the British to concentrate all trading
18 operations at military forts, and it was in the
19 conception of William Johnson a way to stop bad
20 actions or bad treatment to the Aboriginal people.
21 It was a way to supervise the trading operation.

22 But for the Aboriginal people, it was
23 not in their advantage. Before the conquest of New
24 France, they just waited the arrival of the traders
25 in their villages. There were those who would

15:15:13 1 receive, I would say, the traders, not those who
15:15:15 2 were obliged to go to a trading -- to a military
15:15:18 3 post to be obliged to trade there with the
15:15:20 4 merchants that the British will authorize to go
15:15:22 5 there.

15:15:23 6 And after a few years, the British will
15:15:25 7 have to change their policy and to re-open -- not
15:15:29 8 to renounce to this idea that all the trade
15:15:31 9 operations had to be concentrated at the military
15:15:34 10 post.

15:15:34 11 Q. Okay. So then let's take a look
15:15:38 12 at -- you said it wasn't in the First Nations' best
15:15:43 13 interests, and it's not what they wanted. Let's
15:15:45 14 take a look at what they say in response to this.
15:15:46 15 The first actual thing that I do want to point out
15:15:50 16 before we go to their response is if we could go to
15:15:52 17 page 272. Sorry, 271. Oh, no, that's right, 272.

15:16:02 18 So here Johnson makes the proposal
15:16:06 19 about Michilimackinac. You see here:

15:16:08 20 "They deferred answer with
15:16:11 21 regard to the Post at
15:16:12 22 Michilimackinac till the arrival of
15:16:14 23 the Warriors Arrived."

15:16:16 24 And then we have a footnote, if we can
15:16:18 25 go down, that says:

15:16:20 1 "Apparently intended for

15:16:21 2 'remainder'."

15:16:22 3 So in other words, I think it is
15:16:24 4 intended to suggest that it should read they
15:16:27 5 deferred answers with regard to the post at
15:16:28 6 Michilimackinac until the remainder of the warriors
15:16:31 7 arrived; correct?

15:16:32 8 A. Yes. Correct.

15:16:34 9 Q. Okay. So then I would like to go
15:16:37 10 to page 286. Now, this is the Western Nations'
15:16:54 11 response. I'll give you a moment to read this
15:16:58 12 paragraph.

15:16:59 13 A. [Witness reviews document.]

15:17:14 14 I'm ready.

15:17:38 15 Q. So you will note here, Professor
15:17:43 16 Beaulieu, that what is being said is:

15:17:44 17 "We shall be very glad to see
15:17:47 18 our Brothers again at
15:17:48 19 Michilimackinac. We have always
15:17:50 20 loved them, but we now like them
15:17:53 21 better than ever, as they come for
15:17:54 22 our Good."

15:17:56 23 A. If we read this extract out of its
15:17:58 24 context, we have the impressions that they really
15:18:00 25 loved the British, but they have started a war

15:18:04 1 against many nations, in the Great Lakes started a
15:18:08 2 war against them, and the British could say we love
15:18:10 3 the Aboriginal people, but we see by other
15:18:15 4 contextual elements that it is diplomatical
15:18:19 5 discourse. It is not necessarily a good reflection
15:18:21 6 of the reality of the real comprehensions of the
15:18:25 7 Aboriginal people.

15:18:27 8 It is not for nothing that they decided
15:18:29 9 to wait the arrival of their warriors. I think it
15:18:33 10 was a very important aspect for them to accept the
15:18:37 11 fact that the British will re-occupy with soldiers
15:18:41 12 a post that have been, I would say, conquest or
15:18:46 13 attacked and subdued by the Aboriginal people.

15:18:50 14 So it is not -- we have to take those
15:18:52 15 expressions of, I would say, gratitude for what
15:18:56 16 they are, as diplomatical language, as the British
15:19:02 17 used the same formula. It is not -- I cannot as an
15:19:05 18 historian read it as, oh, this is the real feeling
15:19:08 19 of the Aboriginal people there. They were in a
15:19:11 20 diplomatic meeting with William Johnson, and they
15:19:15 21 wanted to reassure him, and they used the words
15:19:20 22 that you would use normally in diplomatical
15:19:22 23 relationship.

15:19:23 24 It is not -- I would never take the
15:19:25 25 speeches of William Johnson as the expressions of

15:19:27 1 the real intentions of the British. I am able
15:19:30 2 to -- I think that we have to compare with the
15:19:32 3 context with their actions and not only with
15:19:34 4 their -- the way that they enunciated some of their
15:19:40 5 intentions.

15:19:40 6 Q. You have just said that the reason
15:19:42 7 they are not to be believed here is because they
15:19:44 8 were at war, but I mean, this is the Western
15:19:47 9 Nations we are talking about, right?

15:19:49 10 A. Some of them, as you said, and as
15:19:51 11 we know and William Johnson know, have taken part
15:19:54 12 in some attacks against the -- especially against
15:19:58 13 Michilimackinac. And those who attacked that time
15:20:01 14 Michilimackinac, I'm not sure that they were
15:20:03 15 present. We have no certitude, but I am not sure
15:20:05 16 that they were present at Niagara in 1764.

15:20:08 17 So we don't have necessarily sufficient
15:20:13 18 enough information to establish that those Western
15:20:19 19 Nations who decided to fight the British were also
15:20:21 20 represented at Niagara. And again, we have to
15:20:26 21 be -- to go to try to understand from what Johnson
15:20:30 22 said about what he understood at that time.

15:20:33 23 Q. But the point whether -- to say
15:20:38 24 this passage can't be taken for face value because
15:20:45 25 clearly they didn't love the British, they had been

15:20:47 1 at war with them, the point of Niagara was to end
15:20:50 2 the war; you have acknowledged that.

15:20:52 3 The point was to come back to an
15:20:55 4 alliance, to set those terms, to resume trade, to
15:20:59 5 have peace.

15:21:01 6 A. A lot of people died during this
15:21:03 7 war. A lot of anger was at the basis of this war.
15:21:09 8 A lot of anger subsisted after this war. There was
15:21:13 9 always a -- there was always threat of a new war
15:21:19 10 after 1763, after 1764, 1765. It was not a
15:21:29 11 relationship based on love. The Aboriginal people
15:21:34 12 would have preferred to see the French coming
15:21:38 13 back -- that the French came -- I'm sorry, that the
15:21:41 14 French come back in this, not because they were so
15:21:45 15 much -- because they considered they were more
15:21:46 16 aggressive, maybe more respectful, they gave them
15:21:50 17 more presents. They were more respectful of their
15:21:53 18 way of life, of their diplomacy.

15:21:58 19 So we cannot say that because they
15:22:01 20 decided to conclude the peace treaty, that because
15:22:04 21 they decided to renew, to strengthen the alliance,
15:22:06 22 that suddenly all the anger disappeared. It was
15:22:09 23 the objective, but it will take many years, and the
15:22:14 24 real change I think will happen only when the war
15:22:19 25 for the American independence will start. At that

1 time, the Aboriginal people of the Great Lakes and
2 the Ohio Valley will be in a more close alliance
3 with the British against the Americans.

4 But the first year following the
5 conquest of New France, it was always a time of
6 tensions, of anger, also a time of violence and not
7 only in the context of the Pontiac's War.

8 Q. So perhaps we are getting too
9 caught up on some of the language. Just to
10 clarify, I am not asking that we all agree that, in
11 fact, the Western Nations have always loved them,
12 you know, always loved the British. I appreciate
13 that that's not true.

14 What I am trying to get at here is you
15 have said that in your report that Britain, it was
16 non-negotiable that they re-occupy Michilimackinac,
17 that it was a unilateral term. And you just said
18 in your testimony that it was not something that
19 the Western Nations wanted.

20 And I am pointing to this passage.
21 Whether they are using diplomatic language, saying
22 we love you because they want -- because they just
23 want trade, the point is they just want trade, and
24 they are getting it back here. This is them
25 agreeing.

15:23:35 1 A. I think that this speech is --
15:23:38 2 again, if we consider this speech in its context,
15:23:45 3 those Aboriginal leaders came there, and they were
15:23:47 4 confronted to some obligations, some pressure, and
15:23:56 5 if they want to save the face, I don't know if this
15:23:58 6 is a good --

15:23:58 7 Q. To save face?

15:24:00 8 A. To save face, they agreed on these
15:24:02 9 conditions, and they knew very well -- if they have
15:24:03 10 said, you know, let us talk about it, we will see
15:24:07 11 if it fits our interests, they knew pretty well
15:24:11 12 that the trade would not have been re-opened at
15:24:15 13 that time, so they have to express that they were
15:24:17 14 sensitive, that they wanted to see the British
15:24:21 15 coming back in this region.

15:24:23 16 So they have to use a language which
15:24:32 17 expressed their desire, even if it was not their
15:24:34 18 real intention to see British soldiers coming back
15:24:37 19 in their land after this war.

15:24:40 20 Q. But would you not agree, Professor
15:24:41 21 Beaulieu, that is the nature of negotiations?
15:24:43 22 Sure, perhaps in an ideal world, the post at
15:24:47 23 Michilimackinac would have been solely for trading.
15:24:49 24 But if the British are coming and saying, Okay,
15:24:52 25 here is one of our conditions; you want trade, we

1 want a military presence. And they explained
2 later -- and we have looked at some of the passages
3 where Johnson explains why the military presence is
4 needed. It is to protect the commerce. Would you
5 not agree that the First Nations -- just in normal
6 negotiations, you don't always get the first thing
7 that you want. Okay. Fine. We really want trade.
8 This is part of your package deal. Okay. I can
9 live with that.

10 A. It is a good illustration of the
11 balance of power. In a negotiation like that, the
12 Aboriginal people, if they had been in a strong
13 position, in a position of dominance, they would
14 have said to Johnson, Look, we are agreed to have
15 traders in our country, but we don't want anyone to
16 see your soldiers. And it was the point -- the
17 main point was the presence of the military, the
18 military presence of the British on the land of the
19 Aboriginal people. And they were unable to put --
20 to present something; this is our land. You will
21 come, but under our conditions, not under your
22 conditions.

23 And they had to accept -- if they want
24 to see the trade re-opened, they had to accept the
25 presence of the soldiers at that time.

1 Q. You don't think that the Western
2 Nations had any conditions that they brought to
3 Niagara or that they brought to the British in
4 Niagara? Wasn't a condition the restoration of
5 peace? That is something they brought to the
6 table?

7 A. My point is that peace was
8 negotiated on British terms. That is my point. Of
9 course, the British want the return of the peace.
10 Aboriginal people want the return of the peace.
11 Everybody -- those who were there, who had fought
12 the British, wanted to conclude peace treaties.
13 Others want to see the renewal of the trade. Of
14 course, the peace, the general peace was what, I
15 think, the British was looking for and also the
16 people who were there at that time, Aboriginal
17 people who were there.

18 MS. PELLETIER: Your Honour, this
19 concludes this section. I actually don't have that
20 much more, but probably not enough to finish today,
21 and then of course I'll hand it off to my
22 colleague, Mr. Evans.

23 So would this be a good time to end for
24 the day?

25 THE COURT: Yes, and I am not sure it

15:27:15 1 matters how much more you have, since you have
15:27:17 2 split your cross-examination. I am not sure where
15:27:19 3 that takes us exactly.

15:27:22 4 MS. PELLETIER: Oh, I just meant it
15:27:24 5 probably wouldn't make sense for my part to finish
15:27:26 6 today, because I do have a little bit more. We
15:27:29 7 will be done by tomorrow, I think I can safely say.

15:27:32 8 THE COURT: I was going to ask just so
15:27:34 9 the witness can understand his travel obligations.

15:27:36 10 With the time restrictions that I have
15:27:37 11 set, I take it you say there is at least a prospect
15:27:44 12 of concluding tomorrow; is that correct?

15:27:46 13 MS. PELLETIER: Yes.

15:27:47 14 THE COURT: And how fully should the
15:27:48 15 witness count on that? I only ask because he has
15:27:51 16 to make travel arrangements and --

15:27:58 17 MS. PELLETIER: I can't speak for any
15:28:01 18 redirect, Your Honour, but I think our portion will
15:28:03 19 be done by tomorrow, I can say quite certainly.

15:28:06 20 THE COURT: All right. Well, there is
15:28:08 21 fairly strict limitations on re-examination, so I'm
15:28:10 22 not going to worry about that.

15:28:12 23 And we have someone else coming on
15:28:14 24 Friday.

15:28:15 25 MS. PELLETIER: That's correct.

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THE COURT: Well, that is good news for
you, sir.

THE WITNESS: Good news.

THE COURT: So we'll resume at 10:00
o'clock tomorrow morning.

-- Adjourned at 3:30 p.m.

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REPORTER'S CERTIFICATE


I, DEANA SANTEDICOLA, RPR, CRR,
CSR, Certified Shorthand Reporter, certify:

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

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

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

Dated this 27th day of November, 2019.



NEESONS, A VERITEXT COMPANY

PER: DEANA SANTEDICOLA, RPR, CRR, CSR

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