

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

VOL 43 DAY 43
September 16, 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
5 CHIPPEWAS OF NAWASH FIRST NATION

6 Plaintiffs

6 - and -

7 THE ATTORNEY GENERAL OF CANADA,
7 HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, THE
8 CORPORATION OF THE COUNTY OF GREY, THE
8 CORPORATION OF THE COUNTY OF BRUCE, THE
9 CORPORATION OF THE MUNICIPALITY OF NORTHERN
9 BRUCE PENINSULA, THE CORPORATION OF THE TOWN OF
10 SOUTH BRUCE PENINSULA, THE CORPORATION OF THE
10 TOWN OF SAUGEEN SHORES, and THE CORPORATION OF
11 THE TOWNSHIP OF GEORGIAN BLUFFS

11 Defendants
12

13 Court File No. 03-CV-261134CM1

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

15 CHIPPEWAS OF NAWASH UNCEDED FIRST NATION and
15 SAUGEEN FIRST NATION

16 Plaintiffs

16 - and -

17 THE, ATTORNEY GENERAL, OF CANADA and HER MAJESTY
17 THE QUEEN IN RIGHT OF ONTARIO

18 Defendants
19

20 -----
21 --- This is VOLUME 43 / DAY 43 of the trial
21 proceedings in the above-noted matter, being
22 held at the Superior Court of Justice, 330
22 University Avenue, Courtroom 5-1 Toronto,
23 Ontario, on the 16th day of September 2019.
23 -----

24 B E F O R E:

25 The Honourable Justice Wendy M. Matheson

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

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H.W. Roger Townshend, Esq., The Chippewas of
& Benjamin Brookwell, Esq., Saugeen First
& Chris Evans, Esq., Nation, and the
Chippewas of Nawash
First Nation.

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

David Feliciant, Esq., for the Defendant,
& Jennifer Le Pan, Esq., Her Majesty the
& Richard Ogden, Esq. Queen in Right of
Ontario.

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I N D E X

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1 --- Upon commencing 10:03 a.m.

10:03:23 2 THE COURT: Morning, Mr. Townshend.

10:03:24 3 MR. TOWNSHEND: Good morning, Your
10:03:25 4 Honour.

10:03:35 5 THE COURT: Are you calling the next
10:03:36 6 witness, sir, or are you standing for a reason?

10:03:40 7 MR. TOWNSHEND: Yes, I am. I also
10:03:41 8 have some other matters.

10:03:43 9 THE COURT: All right. Please go
10:04:30 10 ahead.

10:04:31 11 MR. TOWNSHEND: Yes, Your Honour.
10:04:32 12 Regarding the voir dire for Dr. von Gernet,
10:04:35 13 there have been some discussions between counsel
10:04:37 14 about schedules and we have come up with the
10:04:39 15 date of October 11th for that.

10:04:41 16 THE COURT: Is that a date that we
10:04:44 17 were otherwise going to be doing something else?

10:04:49 18 MR. TOWNSHEND: Yes, that's at the end
10:04:50 19 of Professor Herring's testimony.

10:04:53 20 THE COURT: Yeah, I see that. That's
10:04:53 21 a good choice, and the witness is available at
10:04:56 22 that time?

10:04:58 23 MR. BEGGS: Yes, Your Honour.

10:05:00 24 THE COURT: Thank you for taking the
10:05:01 25 initiative of sorting that out, Mr. Townshend.

10:05:04 1 So I'm going to mark that for the -- it's a
10:05:07 2 Friday, October the 11th then.

10:05:17 3 Is there anything else?

10:05:21 4 MR. TOWNSHEND: Yes, Your Honour. I
10:05:22 5 had mentioned about reading in of discovery
10:05:24 6 answers.

10:05:25 7 THE COURT: Yes.

10:05:26 8 MR. TOWNSHEND: And arising out of the
10:05:27 9 cross-examination of Professor Brownlie there is
10:05:31 10 a one-sentence question and a one-sentence
10:05:32 11 answer we wish to read in, and since it's that
10:05:35 12 short I thought we could do that now.

10:05:38 13 THE COURT: So in the entirety of the;
10:05:39 14 Plaintiffs' case there is going to be just the
10:05:42 15 one Q&A? Is that --

10:05:45 16 MR. TOWNSHEND: That's all we're
10:05:46 17 planning now. I mean, if something else comes
10:05:49 18 up, we may do something later. We could do it
10:05:53 19 with a USB if it's more than --

10:05:56 20 THE COURT: Just from the standpoint
10:05:57 21 of an orderly record, unless you feel strongly
10:06:00 22 that you want the fact in front of me, which is
10:06:02 23 fine, it would be desirable to have the read-ins
10:06:06 24 all at once. If you think this fact is
10:06:08 25 especially important to the Plaintiff's case,

1 I'll let you do it on an isolated basis, but
2 that would be an exception to the normal
3 practice.

4 So I'll hear from you about what your
5 submission is about this particular read-in.
6 And I assume the defendants have all been put on
7 notice?

8 MR. TOWNSHEND: Yes. It relates
9 directly to cross-examination of Professor
10 Brownlie on a topic that came as a surprise to
11 us. That's --

12 THE COURT: I see. So you'd prefer it
13 to be sort of chronologically in some context?

14 MR. TOWNSHEND: Yes.

15 THE COURT: Yes. Well, in a long
16 trial I can understand that. So just give me
17 one moment, and I'll get the document up that I
18 need to make a note of that and then we'll let
19 you do that. So just give me a moment.

20 All right. Please go ahead. And I
21 would ask that you identify the date and the
22 affiant or the witness, from which party, before
23 you do the question and answer read-in.

24 MR. TOWNSHEND: Yes. Could I have
25 document SC0988? These were -- the discoveries

1 were all written by written questions. And this
2 was a written question to Ontario.

3 THE COURT: And is this the question
4 that you're reading in?

5 MR. TOWNSHEND: Yes, it is.

6 THE COURT: I see. I assume the
7 document is lengthy?

8 MR. TOWNSHEND: Yes, I just excerpted
9 the one question.

10 THE COURT: I see. So is this
11 document that I'm looking at now sort of a
12 one-page excerpt from the written
13 interrogatories summary?

14 MR. TOWNSHEND: Yeah, it's the heading
15 with that one line --

16 THE COURT: I see. Well, I'll permit
17 you to read it in. I generally don't if we can
18 have a written document. But since it's so
19 short, please go ahead and read it in. But I
20 also think that it would be useful to mark the
21 document.

22 MR. TOWNSHEND: Yes, I would like that
23 marked as an exhibit.

24 THE COURT: Just please go ahead.

25 MR. TOWNSHEND: Can we mark it as an

10:09:34 1
10:09:35 2
10:09:36 3
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10:09:43 5
10:09:44 6
10:09:45 7
10:09:45 8
10:09:47 9
10:09:48 10
10:09:52 11
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10:10:15 19
10:10:18 20
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exhibit?

THE COURT: Well, both please. So we can start by marking this document.

Mr. Registrar, the next exhibit is?

THE REGISTRAR: Exhibit Number 4234.

EXHIBIT NO. 4234: One-page excerpt from written interrogatories summary; Document SC0988.

THE COURT: And which of the defendants' discovery is this?

MR. TOWNSHEND: This is our question, the Plaintiff's question to Ontario.

THE COURT: Okay. And it's in relation to the cross-examination suggestion that the protection promise in Treaty 45 1/2 did not relate to the peninsula but only to land which was -- which was or would be cultivated on the peninsula. So our question number 89 to Ontario was:

"Do you admit that the Crown had a duty to protect the peninsula for the use and benefit of the SON due to its (the Crown's) obligations under Treaty 45 1/2?"

The answer:

1 "The Crown was subject to a
2 treaty obligation under the terms of
3 Treaty 45 1/2 to protect the peninsula
4 from encroachments by whites."

5 THE COURT: All right. Thank you,
6 sir. That concludes the read-in.

7 Yes, sir.

8 MR. FELICIAN: Your Honour, in our
9 discussions leading up to this, I'd advised Mr.
10 Townshend, I'd just briefly point out so that
11 it's not lost, that the language of the answer
12 was very specifically chosen and refers to
13 treaty obligation and not duty, so ultimately
14 that will be the subject of submission, Your
15 Honour.

16 THE COURT: Thank you, Mr. Townshend.
17 That read-in now forms part of the evidentiary
18 record for this trial.

19 MR. TOWNSHEND: Thank you.

20 THE COURT: And anything else on your
21 list, sir?

22 MR. TOWNSHEND: Yes, Your Honour.

23 THE COURT: All right.

24 MR. TOWNSHEND: Agreed statements of
25 fact, we have six of them pending, and there's

1 one that is now finalized.

2 We have -- it's been agreed to by the
3 Plaintiffs, Ontario, and Canada, and the
4 municipalities have made no comment, and that is
5 the basis on which many, probably most of the
6 other agreed statements of fact have been
7 entered.

8 So if I could have SC1083 up, please?
9 And this agreed statement of fact regarding
10 visibility of the Bluffs sort of matching --
11 this was something that Your Honour suggested in
12 lieu of going out into the middle of Georgian
13 Bay to see how far you could get and still see
14 the Bluffs. So we did this as an agreed
15 statement of fact.

16 The next page of that will show the
17 location where the photograph is taken, which is
18 close to the middle.

19 And the next page, schedule B shows
20 the -- what can be seen in that location. And
21 depending on how close you are to the screen,
22 the Bluffs are --

23 THE COURT: I do see it, yes.

24 MR. TOWNSHEND: So if we could have
25 this made as an exhibit too, please?

10:12:37 1 THE COURT: And that's on consent?

10:12:37 2 Yes? Mr. Registrar, the agreed statement of
10:12:39 3 fact regarding the visibility of the Bluffs
10:12:41 4 shall be the next exhibit.

10:12:45 5 THE REGISTRAR: Exhibit Number 4235.

10:12:46 6 EXHIBIT NO. 4235: Agreed statement of
10:12:47 7 fact regarding the visibility of the
10:12:47 8 Bluffs; Document SC1083.

10:12:59 9 THE COURT: All right.

10:13:00 10 MR. TOWNSHEND: We are continuing to
10:13:01 11 work on other agreed statements of fact.

10:13:06 12 So I would like to call as a witness
10:13:08 13 Dr. Ronald Williamson.

10:14:04 14 MR. TOWNSHEND: Your Honour, pursuant
10:14:06 15 to agreement counsel have made about dividing
10:14:11 16 counsel examining, I am proposing to deal with
10:14:16 17 Dr. Williamson's qualification step and Chapters
10:14:19 18 1 and 2 of his first report, and the remainder
10:14:22 19 of his first report and the second and third
10:14:24 20 report Ms. Pelletier will be examining him.

10:14:28 21 THE COURT: Right. And have you
10:14:29 22 advised the witness that his reports --

10:14:32 23 Sir, your reports are going in as
10:14:34 24 trial evidence on their own, so counsel is not
10:14:38 25 required to go through every detail and will be

1 asking you questions about points of particular
2 importance, and so on.

3 So I just want you to understand that
4 it is not -- you're not called upon to repeat
5 all of the words in these very lengthy reports.

6 THE WITNESS: Thank you, Your Honour.

7 THE COURT: All right.

8 RONALD WILLIAMSON: AFFIRMED.

9 EXAMINATION IN-CHIEF BY MR. TOWNSHEND

10 ON QUALIFICATIONS:

11 Q. So could I have document number
12 SC1071, please?

13 Dr. Williamson, do you recognize this?

14 A. I do.

15 Q. It is your --

16 A. It is my curriculum vitae.

17 Q. And can we have this added as an
18 exhibit, please?

19 THE COURT: Mr. Registrar.

20 THE REGISTRAR: Exhibit Number 4236.

21 EXHIBIT NO. 4236: Curriculum vitae of
22 Dr. Ronald Williamson; Document
23 SC1071.

24 MR. TOWNSHEND: Your Honour, we're
25 anticipating significant argument about the

10:15:41 1 scope of this witness' testimony, so I will be
10:15:44 2 going in some detail through his CV.

10:15:47 3 BY MR. TOWNSHEND:

10:15:52 4 Q. So, Dr. Williamson, you have a
10:15:54 5 BA, an MA and a Ph.D. in anthropology?

10:15:58 6 A. I do.

10:15:59 7 Q. Your MA and your Ph.D. had a
10:16:02 8 focus on archeology?

10:16:04 9 A. They did.

10:16:05 10 Q. You -- if you just scroll down
10:16:10 11 that -- you founded a firm called Archeological
10:16:14 12 Services Incorporated in 1980?

10:16:18 13 A. I did.

10:16:20 14 Q. That is --

10:16:21 15 THE COURT: Can I interrupt you? Sir,
10:16:24 16 everyone including the people in the very back
10:16:26 17 row have to be able to hear you. I know -- I
10:16:28 18 read your CV that you taught for years in
10:16:30 19 university, so put on that teaching voice,
10:16:32 20 please.

10:16:34 21 THE WITNESS: Thank you. I will.

10:16:38 22 THE COURT: Up, up. Please go ahead.

10:16:41 23 BY MR. TOWNSHEND:

10:16:45 24 Q. Archeological Services
10:16:45 25 Incorporated is a cultural resource management

1 firm?

2 A. That is correct.

3 Q. Can you explain what cultural
4 resource management is?

5 A. Cultural resource management is
6 the management of archeological built heritage
7 resources on the landscape. In our case, at
8 Archeological Services Inc., a great number of
9 the projects are pre-land development, and so
10 it's managing the impacts to these resources in
11 advance of their either protection or
12 destruction.

13 Q. So at ASI you have directed over
14 1,000 archeological surveys, excavations, and
15 comprehensive heritage resource assessments on
16 lands throughout Ontario and some in New York
17 and Michigan?

18 A. That is correct.

19 Q. And they have spanned all major
20 cultural and temporal periods?

21 A. That is correct.

22 Q. In the course of this work you
23 managed a full-time staff of over 50 individuals
24 and additional seasonal staff?

25 A. Correct.

10:18:01 1 Q. You have a professional licence
10:18:03 2 from the Ministry of Tourism and Culture to
10:18:03 3 undertake archeological fieldwork, and you
10:18:06 4 continue to practice at ASI as a senior
10:18:08 5 associate?

10:18:09 6 A. I do.

10:18:09 7 Q. Can you tell us for which clients
10:18:12 8 you work?

10:18:14 9 A. We work for a variety of clients.
10:18:16 10 We work for private land development firms,
10:18:19 11 either directly through those firms or for
10:18:22 12 planners that they retain to deal with the
10:18:26 13 planning aspects of land development.

10:18:30 14 That's a major proportion of our work.
10:18:34 15 We also work for municipalities, both upper tier
10:18:40 16 and lower tier, and in particular helping them
10:18:43 17 deal with managing the archeological resources
10:18:48 18 within their jurisdictions.

10:18:51 19 We also work with those municipalities
10:18:53 20 in helping them to sort out issues around
10:18:56 21 Aboriginal engagement. And often those two
10:19:00 22 things are linked.

10:19:02 23 And finally, there's a proportion of
10:19:05 24 our work that deals with or for First Nations
10:19:10 25 clients.

10:19:12 1 Q. Can you put some rough
10:19:14 2 proportions of the amount of time spent on each
10:19:16 3 of those items?

10:19:18 4 A. So probably about 50 percent of
10:19:19 5 our time we're working with private land
10:19:22 6 development. Those are mostly smaller projects
10:19:25 7 and excavation projects.

10:19:29 8 About 30 percent of the time we're
10:19:30 9 working with public-sector clients, and the
10:19:37 10 other 20 percent with First Nations clients.

10:19:42 11 Q. You're also an adjunct professor
10:19:45 12 at the department of anthropology at the
10:19:47 13 University of Toronto?

10:19:48 14 A. I am.

10:19:49 15 Q. And you have been from 1995 to
10:19:51 16 the present?

10:19:51 17 A. That's correct.

10:19:52 18 Q. And you're also an adjunct
10:19:54 19 professor at the department of anthropology at
10:19:57 20 Western University?

10:19:58 21 A. That is true.

10:19:59 22 Q. From 2013 to the present?

10:20:01 23 A. Yes.

10:20:07 24 Q. And as such, you have been an
10:20:09 25 outside examiner for numerous MA theses, a

1 supervisor for Ph.D reading courses, a committee
2 member for numerous Ph.D. candidates and an
3 examining committee member for numerous theses?

4 A. I have.

5 Q. As a bit of an aside, do you
6 prefer to be called "Professor" or "Doctor"?

7 A. I prefer to be called "Doctor".

8 Q. And why is that?

9 A. The adjunct status as a professor
10 is somewhat limited compared to other
11 full-status professors where, for example, a
12 full-status professor can supervise the
13 dissertation research and dissertation
14 production of a graduate student, an adjunct
15 professor cannot do that.

16 And there's other kinds of status
17 differences between an adjunct and a full
18 professorship. So for example, on passport
19 control an adjunct professor cannot sign that
20 passport.

21 So I don't presume to call myself a
22 professor outside of that immediate environment
23 when I'm dealing with a student who has chosen
24 me for their committee. I prefer to go by
25 Dr. Williamson.

1 Q. You are also a chairman of the
2 board of directors of the Museum of Ontario
3 Archeology/Sustainable Archeology at Western
4 University?

5 A. That is true.

6 Q. And you're also vice chair of the
7 Shared Path Consultation Initiative from 2017 to
8 the present?

9 A. That is true.

10 Q. Can you explain what that
11 organization is?

12 A. Shared Path Consultation
13 Initiative is an organization dedicated to
14 improving the communication between
15 municipalities and Indigenous communities. The
16 goal is to meet the challenge of the PPS and
17 meet the challenge of reconciliation by finding
18 and exploring the ways that we can inform
19 municipal planners and also help municipalities
20 come to terms with those responsibilities of
21 engaging with Indigenous communities in their
22 municipality planning work.

23 Q. You mentioned the PPS. Can you
24 explain what that is?

25 A. The PPS is the Provincial Policy

1 Statement, which provides guidance to
2 municipalities under the Planning Act.

3 Q. I want to talk for a minute about
4 the nature of the subdiscipline of archeology.
5 So can you tell us, how is the placement of
6 archeology within the discipline of anthropology
7 significant for your practice?

8 A. My practice -- I consider myself
9 an anthropological archeologist. So what this
10 means is that in most North American departments
11 of anthropology, archeology is one of the four
12 fields of anthropology. The other fields are
13 biological anthropology, linguistics, and
14 cultural or social anthropology and then
15 archeology.

16 So, in fact, my training in both my MA
17 and Ph.D. work encompassed elements of that, and
18 my undergraduate work for that matter.

19 The importance of that is in the
20 interpretation of the archeological record.
21 There are a few departments in Canada, for
22 example, that are in other -- or there are -- or
23 are allied with other disciplines, for example,
24 history, or sciences. And there's a less focus
25 in those cases on anthropological

10:24:07 1 interpretation.

10:24:08 2 My career has been one that has
10:24:11 3 employed anthropology and the other, at times,
10:24:18 4 disciplines to understand the archeological
10:24:22 5 record with which I was dealing.

10:24:25 6 Q. Can you talk about how that
10:24:27 7 compares with the placement of archeology
10:24:30 8 elsewhere in the world?

10:24:32 9 A. In many other places in the
10:24:33 10 world, for example in the United Kingdom, it
10:24:36 11 occurs outside of sociology and anthropology.
10:24:40 12 It may occur in places in classics departments
10:24:43 13 or Near East departments. It may occur in
10:24:47 14 history departments. It's really a North
10:24:51 15 American tradition regarding the placement of
10:24:57 16 archeology within anthropology departments.

10:25:09 17 Q. What type of sources do
10:25:12 18 archeologists use, generally speaking?

10:25:16 19 A. Well, outside of the
10:25:16 20 archeological record, which is derived from
10:25:19 21 carrying out excavations, we also use the
10:25:21 22 documentary record to a significant degree for
10:25:25 23 both Indigenous and post-contact excavations.

10:25:30 24 We may use biological data that have
10:25:36 25 been gathered from other archeological sites and

10:25:38 1 put that to work. And we often use linguistic
10:25:41 2 evidence as well.

10:25:53 3 Q. To what extent can you understand
10:25:55 4 Indigenous archeological sites without
10:25:57 5 understanding culture and history?

10:25:59 6 A. I don't believe you can. That is
10:26:01 7 why we employ the documentary record to the
10:26:03 8 state that we do.

10:26:04 9 Q. You spoke earlier about
10:26:06 10 Aboriginal engagement. When is it that you do
10:26:08 11 that?

10:26:09 12 A. Well, we do that at various
10:26:10 13 stages throughout the archeological assessment
10:26:15 14 process as mandated by the Ministry of Culture.
10:26:18 15 But our practice also tends to expand on that.

10:26:30 16 Q. You mentioned a bit about how
10:26:32 17 this related to your graduate training. Can you
10:26:34 18 tell us why you chose to go to McGill for your
10:26:39 19 graduate work?

10:26:41 20 A. McGill was the home of Bruce
10:26:45 21 Trigger, who was Canada's preeminent
10:26:49 22 ethnohistorian and archeologist; I should say
10:26:52 23 "was" due to his untimely death in 2006.

10:26:59 24 Dr. Trigger wrote several
10:27:01 25 masterpieces, including the one on "The Children

1 of Aataentsic", which dealt with Wendat history
2 and archeology masterfully combined.

3 I received that two-volume set as a --
4 as a gift in the 1970s, as a young student
5 read it and decided that I wanted to go and
6 study with Professor Trigger.

7 Q. So I'd like to talk about how
8 these concepts relate to the everyday practice
9 of archeology in the field. So could I have
10 document SC1072, please? Just scroll down a bit
11 so we can see the title.

12 Can you explain what this document is?

13 A. This is -- these are the
14 Standards and Guidelines for a consultant
15 archeologist. They guide the actual field
16 methods and report production for various stages
17 of assessment.

18 They have bulletins attached to them,
19 for example one called "Engaging Aboriginal
20 Communities in Archeology".

21 Q. Before we go further, I would
22 like this made an exhibit. It's the Ministry of
23 Culture Standards and Guidelines for Consultant
24 Archeologists.

25 THE COURT: Mr. Registrar.

10:28:42 1 THE REGISTRAR: Exhibit Number 4237.

10:28:44 2 EXHIBIT NO. 4237: Ministry of Culture

10:28:45 3 Standards and Guidelines for

10:28:45 4 Consultant Archeologists; Document

10:28:45 5 SC1072.

10:28:48 6 BY MR. TOWNSHEND:

10:28:48 7 Q. Dr. Williamson, did you play a

10:28:49 8 role in drafting this document?

10:28:50 9 A. Yes, I was on the advisory

10:28:52 10 committee for several years leading to the

10:28:56 11 ultimate adoption of these standards and

10:28:57 12 guidelines.

10:28:59 13 Q. How did you come to be on that

10:29:01 14 committee?

10:29:02 15 A. There were a number of senior

10:29:04 16 archeologists within the province that were

10:29:07 17 asked to participate in those discussions. I

10:29:11 18 was seen as somebody who could contribute to

10:29:14 19 those discussions in a meaningful way.

10:29:18 20 Q. And what is this document used

10:29:20 21 for?

10:29:20 22 A. The document guides the actual

10:29:26 23 fieldwork that is undertaken on every

10:29:28 24 archeological site, the very specific techniques

10:29:31 25 that are used in the field. It guides, at

10:29:36 1 times, the interpretation of the archeological
10:29:39 2 record, and it pertains specifically also to
10:29:44 3 report production.

10:29:45 4 So archeologists will consult with
10:29:48 5 these guidelines as to what should be in their
10:29:50 6 reports.

10:29:53 7 Q. Throughout this document it
10:29:54 8 breaks archeological fieldwork into four stages.
10:29:57 9 Can you explain what those four stages are?

10:30:00 10 A. Yes, there are four stages.
10:30:02 11 Stage 1 is background research. There are
10:30:06 12 various levels of background research that might
10:30:08 13 be taken on any project, but on the whole it is
10:30:12 14 a complete examination of the documentary record
10:30:17 15 as it pertains to a particular parcel of land.

10:30:22 16 It is an examination of archeological
10:30:25 17 sites on or within one kilometre of that
10:30:27 18 property. And it's drawing out the
10:30:33 19 environmental parameters of the property and
10:30:36 20 region in which it's located so that one can
10:30:38 21 arrive usually at a determination of what the
10:30:42 22 archeological potential is on that property.

10:30:46 23 Q. And stage 2?

10:30:47 24 A. Stage 2 is the actual fieldwork
10:30:52 25 that is undertaken as a result of that

10:30:55 1 determination. If the property has been
10:31:00 2 ploughed previously, cultivated, then it is
10:31:03 3 freshly cultivated for the assessment, and
10:31:07 4 archeologists will walk over the property in
10:31:10 5 5-metre intervals, 15-foot intervals, and will
10:31:15 6 determine the presence of artifacts in the
10:31:18 7 plough-zone of those fields and discover if
10:31:23 8 there are archeological sites there.

10:31:25 9 In the absence of ploughed land, the
10:31:29 10 work is done by test pitting, again in 5-metre
10:31:31 11 intervals. So, for example, if there was a
10:31:34 12 woodlot the crew would go in 5 metres apart and
10:31:42 13 excavate typically 30-centimetre test units down
10:31:44 14 to subsoil.

10:31:45 15 And same way you would screen the
10:31:46 16 contents of those test pits through quarter-inch
10:31:48 17 screen, 8-millimetre screen, and you would see
10:31:53 18 if you can find artifacts in the contents of
10:31:57 19 those pits.

10:31:58 20 Q. And stage 3?

10:32:01 21 A. Should one or more artifacts be
10:32:04 22 found in the ploughed field or through test
10:32:06 23 units, stage 3 is the exercise of determining
10:32:12 24 what the limit or extent of the site is and what
10:32:16 25 the nature of the site is.

10:32:18 1 So, for example, there are thousands
10:32:22 2 of Indigenous sites that consist of what are
10:32:25 3 called "lithic scatters". This is the
10:32:31 4 assemblages -- somebody has gone there and has
10:32:37 5 produced projectile points or other stone tools.
10:32:41 6 And we find these small flakes from making those
10:32:45 7 tools.

10:32:46 8 On the other hand, it could be as
10:32:49 9 large as a village. And stage 3 is a
10:32:51 10 determination of the extent and also to which
10:32:58 11 community or to which nation in the documentary
10:33:03 12 record that resource may relate.

10:33:06 13 Q. And stage 4?

10:33:09 14 A. Stage 4 is the mitigation of
10:33:10 15 impacts proposed by a development on that
10:33:15 16 resource.

10:33:18 17 We have in Ontario since instituting
10:33:21 18 this kind of work, largely destroyed
10:33:24 19 archeological sites through excavation.
10:33:26 20 We've -- but protection is an option for those
10:33:31 21 sites.

10:33:32 22 But excavation would be removing all
10:33:34 23 of the archeological site. The guidelines in
10:33:38 24 Ontario and our work with Indigenous communities
10:33:42 25 now means the entire excavation of a site. So

1 we have dozens and dozens of archeological
2 sites -- well, hundreds of archeological sites
3 that have been completely excavated since the
4 implementation -- well, and even before these
5 guidelines.

6 Q. In the context of these standards
7 and guidelines what is the difference between
8 standards and guidelines?

9 A. Standards are absolute
10 requirements which Ministry reviewers will
11 ensure that the report indicates that those were
12 the requirements met during the fieldwork and
13 also the reports.

14 Guidelines are where they try to
15 provide guidance to people, to archeologists
16 about best practice that through the discussions
17 in leading up to these did not meet the
18 criterion of standard.

19 Q. So I'd like to turn to stage 1.
20 And could we go to page 14, which is page 24 of
21 the PDF?

22 You'll see under the guidelines it
23 recommends consulting -- actually I think it's
24 on the next page -- primary historical
25 documents, secondary historical documents, oral

1 information and Aboriginal engagement.

2 Can you tell us where in the process
3 this happens and what is the purpose of this
4 guideline?

5 A. So the purpose of this guideline
6 relates to the question of who may have been on
7 this property prior to the time of the
8 assessment.

9 In the case of the colonial period
10 obviously that means consulting with historical
11 atlases and other mapping in the Archives of
12 Ontario to see about the early colonial use of
13 the property.

14 But there is also an important
15 component obviously to do the Indigenous -- the
16 first 12,000 years as to who may have been on
17 this property. The documentary record is
18 essential to know about the various nations that
19 may have treated this property as being within
20 their traditional territory and therefore may
21 relate to the archeological record in question.

22 And that enables our field crews to go
23 into the next stage of work, stage 2, to know
24 themselves, having obviously been familiar with
25 the stage 1, who the various Indigenous nations

1 would be, right from the kind of earliest
2 documentary record around that to the later
3 period.

4 Q. Turning to stage 2, could I go to
5 page 20, which is page 30 of the PDF? And under
6 the guidelines it's talking about recommending
7 Aboriginal engagement. Can you explain this
8 guideline, please?

9 THE COURT: What page was it again?

10 MR. TOWNSHEND: This is page 20, and
11 it's page 30 of the PDF.

12 THE COURT: Is it possible to expand
13 it just a little bit, enlarge the print? That's
14 much better. Thank you.

15 BY MR. TOWNSHEND:

16 Q. Yes, under "Guidelines 1" it's
17 talking about Aboriginal engagement, and I asked
18 you to explain that a bit more.

19 A. The reason for this guideline is
20 some Indigenous communities prefer, within their
21 traditional territories, certainly their treaty
22 area, to have a role in the archeological
23 assessment. Even since these guidelines were
24 issued this has changed considerably and to the
25 degree in which people now engage with

1 Indigenous communities in advance of their stage
2 2.

3 In fact, in one case in the City of
4 London it is now required in their official plan
5 that engagement occur and that it actually
6 specifies that monitors from the Indigenous
7 communities work with the archeological team to
8 examine the property.

9 This has become quite standard
10 practice. It's standard practice in our firm,
11 and proponents have become quite familiar with
12 it.

13 Q. Can you remind us what kind of
14 fieldwork is taking place at this point?

15 A. So at this point we are actually
16 in the field surveying the property in
17 five-metre intervals with surface collection of
18 the ploughed field or the excavation of
19 one-metre testing -- of 30-centimetre test units
20 in a five-metre interval across the property.

21 And the monitors would be involved
22 either participating in that process or
23 observing it.

24 Q. Now I want to turn to stage 3,
25 and if we could go to page 46, which is 56 of

10:39:01 1 the PDF? And scrolling down a bit. I think
10:39:20 2 it's on the next page, actually.

10:39:25 3 Yes, this has a requirement for
10:39:26 4 consulting primary historical documents,
10:39:30 5 secondary historical sources, oral information
10:39:34 6 and Aboriginal engagement.

10:39:36 7 Can you explain the rationale for this
10:39:38 8 and how it relates to stages 1 and 2?

10:39:41 9 A. Yes. If we were to take -- and
10:39:45 10 it may be best to use an example.

10:39:47 11 If we were to discover a village in
10:39:52 12 the North Shore of Lake Ontario area, one would
10:39:57 13 need to be aware of the entire documentary
10:40:00 14 record about the occupation of that area by
10:40:04 15 communities in the past that would have
10:40:06 16 constructed villages of that size and to be
10:40:11 17 aware of the possibilities of whom this village
10:40:16 18 could relate to. And the same is true of
10:40:19 19 smaller sites in various areas.

10:40:23 20 So often we will find material, and if
10:40:26 21 we hadn't consulted extensively with the
10:40:29 22 Indigenous community, we would consult more
10:40:32 23 extensively with them about the find.

10:40:37 24 Q. If you could go to page 57, which
10:40:39 25 is 67 of the PDF? And it's number 2, a little

1 further down. It's a requirement for Aboriginal
2 engagement. So can you explain when Aboriginal
3 communities must be engaged?

4 A. They must be engaged in
5 determining the mitigation strategy for stage 4.
6 However, I should point out that nowadays with
7 practice in the last four or five years, the
8 Aboriginal communities are engaged right from
9 the stage 2 process forward and their monitors.

10 But it is essentially important in
11 that if, for example, it is an ancestral Wendat
12 village, that the Wendat themselves have a role
13 in determining what should happen to that
14 village.

15 That is the original purpose of this
16 Indigenous engagement, is recognition that this
17 is not European history, this is Indigenous
18 history, and to the extent possible the related
19 Indigenous community, the descendants of the
20 archeological site should have a role, if not
21 the determining role, of what should happen on
22 that site.

23 Q. You mentioned Aboriginal
24 monitors. Can you say a bit more about what
25 they do and when they are involved?

10:42:18 1 A. As I indicated, five years ago
10:42:19 2 they were involved in the stage 3 and 4, and now
10:42:22 3 they're involved in stage 2. What it -- at
10:42:27 4 least in Southern Ontario, and I believe in most
10:42:30 5 of Northern Ontario, what is now happening is as
10:42:33 6 part of the documentary research and in various
10:42:43 7 regions, communities have been identified that
10:42:44 8 archeologists will go to and engage with them
10:42:48 9 about the archeological assessment that's about
10:42:52 10 to occur.

10:42:53 11 And one does that not just for one
10:42:56 12 nation, but any nation that may have considered
10:42:58 13 that area within their traditional territory
10:43:00 14 over time.

10:43:01 15 So it may be that you could have an
10:43:04 16 area that's primarily occupied by Wendat, but
10:43:10 17 later Algonquian Nations may also have used that
10:43:14 18 traditional territory or Haudenosaunee. So we
10:43:16 19 go to all of those nations to engage with them,
10:43:19 20 and almost inevitably one or more monitors are
10:43:23 21 assigned by those nations to work on the
10:43:28 22 archeological team that assesses or excavates
10:43:31 23 the archeological site.

10:43:34 24 And that is primarily an agreement
10:43:36 25 reached, an agreement reached between the

10:43:39 1 proponent and those nations, which has become a
10:43:42 2 regular part of archeological assessment in
10:43:46 3 Ontario, and we are helping to reach those
10:43:49 4 agreements.

10:43:56 5 Q. Can I have document SC1073,
10:43:58 6 please? Can you scroll down?

10:44:08 7 Dr. Williamson, can you explain what
10:44:10 8 this document is?

10:44:13 9 A. The whole process of developing
10:44:15 10 standards and guidelines for archeologists, it
10:44:19 11 was realized that a separate document was
10:44:22 12 required to inform archeologists who were not
10:44:28 13 knowledgeable about the requirement and need for
10:44:31 14 engaging Aboriginal communities to produce a
10:44:36 15 bulletin that accompanies these standards and
10:44:38 16 guidelines. And this 2011 bulletin on engaging
10:44:46 17 with Aboriginal communities does that for
10:44:47 18 archeologists in the province.

10:44:53 19 Q. I would like this marked as an
10:44:56 20 exhibit. It's "Engaging Aboriginal Communities
10:44:58 21 in Archeology: A Draft Technical Bulletin for
10:45:01 22 Consultant Archeologists in Ontario".

10:45:06 23 THE COURT: Mr. Registrar.

10:45:08 24 THE REGISTRAR: Exhibit Number 4238.

10:45:10 25 EXHIBIT NO. 4238: 2011 bulletin

10:45:10 1 entitled "Engaging Aboriginal
10:45:10 2 Communities in Archeology: A Draft
10:45:10 3 Technical Bulletin for Consultant
10:45:10 4 Archeologists in Ontario"; Document
10:45:10 5 SC1073.

10:45:13 6 BY MR. TOWNSHEND:

10:45:14 7 Q. Dr. Williamson, why is this
10:45:15 8 marked "Draft"?

10:45:17 9 A. The document was conceived of and
10:45:22 10 written I believe around 2008. It was in
10:45:31 11 practice for a trial period for archeologists
10:45:35 12 during -- the time period during which the
10:45:37 13 practice of engaging with Indigenous communities
10:45:40 14 pushed what was required in this bulletin
10:45:43 15 further.

10:45:45 16 And I think when it was adopted in
10:45:47 17 2011 there was a realization that there would be
10:45:50 18 a requirement for a new one of these when the
10:45:52 19 guidelines, standards and guidelines and the
10:45:55 20 accompanying bulletins were renewed. But I
10:45:58 21 think it was sending the signal that this is a
10:46:01 22 draft that would be revisited.

10:46:07 23 Q. Can you tell us, to what extent
10:46:09 24 does collecting and using oral histories from
10:46:12 25 Indigenous communities factor into the

10:46:15 1 Aboriginal consultation we've been talking
10:46:18 2 about?

10:46:28 3 A. When we're dealing with -- it
10:46:29 4 depends on the scale of the project. But
10:46:30 5 certainly some projects where we're engaging
10:46:32 6 with the Indigenous community, they may have
10:46:35 7 traditional ethnological knowledge or
10:46:41 8 traditional knowledge or even information about
10:46:42 9 areas within certain jurisdictions that relate
10:46:44 10 to their traditional use of that jurisdiction.

10:46:48 11 And, hence, collecting information
10:46:50 12 about that is one way in which we can both
10:46:53 13 identify archeological resources that might be
10:46:56 14 associated with that use but also in terms of
10:47:00 15 protecting it in larger scale studies that we
10:47:03 16 do.

10:47:11 17 Q. You mentioned to me an example
10:47:11 18 regarding Manitoulin Island. Can you tell us
10:47:13 19 that?

10:47:14 20 A. So Manitoulin Island, we have
10:47:16 21 carried out over 20 -- probably 22, 23
10:47:20 22 archeological management plans for communities.
10:47:23 23 As I mentioned earlier, we help communities
10:47:27 24 organize the management of their resources.

10:47:31 25 In Manitoulin's case we did that work

10:47:33 1 for the Ojibwe of Sucker Creek, the Sheguiandah
10:47:37 2 First Nation in the Township of Howland. And
10:47:44 3 the nations wished us, as a considerable part of
10:47:47 4 that exercise, to collect information about
10:47:49 5 traditional places on the landscape where
10:47:53 6 traditional activities were undertaken; so for
10:47:56 7 example, berry-picking, basket storage.

10:48:02 8 And we collected that from elders in
10:48:04 9 the communities and collected information that
10:48:09 10 required, of course, us to be familiar with
10:48:13 11 traditional use and traditional property.

10:48:16 12 So, for example, in the Manitoulin
10:48:19 13 case, which is fascinating, I remember sitting
10:48:21 14 at the kitchen table of an elderly woman who her
10:48:26 15 son was the chief actually of Sheguiandah First
10:48:31 16 Nation. He was translating, she did not speak
10:48:35 17 English very well, and she indicated a spot on a
10:48:38 18 map, and I could kind of figure it out that she
10:48:41 19 had meant Iroquois lookout.

10:48:44 20 So she was referring to a place on the
10:48:46 21 landscape. And we encountered others where the
10:48:50 22 Indigenous people at Manitoulin were watching
10:48:54 23 for Iroquois attacks.

10:48:57 24 So this was quite obviously a very old
10:49:00 25 oral -- or a very old -- a place where

10:49:06 1 activities that occurred well before the time
10:49:09 2 that we were collecting this information.

10:49:12 3 Q. If I can go back to your CV? And
10:49:17 4 at page 5 you have a list that starts here of
10:49:23 5 "heritage feature master/management plans". I
10:49:29 6 counted 36 of those. Can you explain what a
10:49:38 7 master plan is?

10:49:39 8 A. So they used to be called "master
10:49:41 9 plans", and they are now called "management
10:49:43 10 plans", which is why there's a difference in the
10:49:45 11 terminology given the -- the label given to the
10:49:47 12 study.

10:49:48 13 These are two-year studies carried out
10:49:50 14 for municipalities given the ever-strengthening
10:49:56 15 requirement of municipalities to ensure that all
10:49:59 16 land development is preceded by archeology.

10:50:04 17 The question for a municipality is,
10:50:07 18 when do we do this? In what circumstances? So
10:50:12 19 there was a generic set of criteria for
10:50:13 20 municipalities issued by the Ministry of Culture
10:50:18 21 that required it in about 100 percent of the
10:50:22 22 time.

10:50:23 23 So municipalities and the Ministry --
10:50:24 24 well, the Ministry worked together and decided
10:50:28 25 that archeological management plans would be a

1 way of suiting the understanding of potential
2 for that community, based on that -- the
3 environment of that community and the actual
4 record of occupation of that community.

5 So these are very detailed studies of
6 how to manage the archeological resources within
7 that municipality.

8 It is first a listing, an exploration
9 of all of the sources of the archeological sites
10 that are in that municipality. It is secondly a
11 very careful understanding of the environmental
12 change that has gone on in that community in
13 order to arrive at a potential model, which is
14 carried out on a GIS platform and identifies
15 those portions of the community that have
16 archeological potential.

17 And then there is the task of creating
18 a set of management guidelines for those
19 communities. How do they take this model and
20 apply it on a day-to-day basis to various sorts
21 of planning applications?

22 So these studies do exactly that.
23 They're often undertaken around the same time as
24 OP reviews and also the efforts or initiatives
25 on the part of the municipalities to begin the

10:52:07 1 process of bettering their relationships with
10:52:11 2 Indigenous nations that have an interest in
10:52:14 3 those municipalities.

10:52:15 4 So the OP, meaning "official plan"
10:52:18 5 under the Planning Act, is document that guides
10:52:20 6 each municipality. And we're trying to be sure
10:52:24 7 that that OP, through this archeological and
10:52:29 8 municipal plan, has the correct guidelines and
10:52:31 9 standard for them to do archeological assessment
10:52:34 10 in advance of development.

10:52:38 11 Q. In working on master or
10:52:40 12 management plans how often have you consulted
10:52:43 13 primary or secondary historical documents?

10:52:46 14 A. Every single one of them.

10:52:49 15 If one is working, for example, as we
10:52:52 16 recently have in -- and just completed an
10:52:55 17 archeological management plan for Simcoe County,
10:52:59 18 can you imagine properly doing that without
10:53:04 19 understanding the full Wendat record of presence
10:53:10 20 there? Or, indeed, the Wendat record of other
10:53:14 21 Anishinaabe communities that may have used that
10:53:16 22 territory through time?

10:53:19 23 Because you're trying to manage the
10:53:21 24 archeological resources within that county, so
10:53:24 25 you need to be aware of what could be there. So

10:53:28 1 that is part and parcel of carrying out those
10:53:31 2 studies.

10:53:42 3 Q. Can you talk a bit about
10:53:43 4 Toronto's master management plan?

10:53:49 5 A. In 2004 we began that management
10:53:51 6 plan. It's an exceedingly complex one because
10:53:55 7 of the history of occupation of the Toronto
10:53:59 8 area. The jurisdiction itself is large. The
10:54:10 9 actual documentary record in relation to this
10:54:14 10 area is, as we know and as is reflected actually
10:54:17 11 in the reports, very complex.

10:54:20 12 We have, for example, ancestral Wendat
10:54:25 13 communities located within the City of Toronto.
10:54:29 14 We have many archeological sites that precede
10:54:33 15 that ancestral Wendat period that we're finding
10:54:42 16 on an annual basis; "we" meaning the
10:54:44 17 archeological community.

10:54:46 18 We have very clearly the move of
10:54:47 19 ancestral communities out of the Toronto area
10:54:50 20 northward; and in the 1660s the establishment
10:54:56 21 of Seneca, Haudenosaunee villages on the major
10:55:05 22 drainages, Humber and Rouge. And following that
10:55:16 23 we have a rich record of the Mississauga
10:55:19 24 occupation of Toronto.

10:55:24 25 And all of these occupations have

1 archeological sites that need to be recognized,
2 also some traditional use stories about those
3 places. So this forms part of the archeological
4 process in carrying out a master plan in
5 Toronto.

6 Q. Have you worked for Ontario
7 government ministries?

8 A. We regularly carry out work for
9 the Ontario government. We work on many
10 projects, the 407 Indigenous archeology. Our
11 firm was selected as the only firm to do work on
12 Indigenous sites because of our special
13 experience and practice in engaging with
14 Aboriginal communities and understanding the
15 histories of those communities. So the 407 East
16 was undertaken by our firm in regard to that.

17 But I was also retained by Ontario's
18 Ministry of Municipal Affairs and Housing in the
19 mid-2000s, I think in 2006 and '07, into '07,
20 to provide, with an Indigenous colleague,
21 lectures to municipal leaders, usually CEOs
22 and directors of planning for the Ministry of
23 Municipal Affairs and Housing districts where we
24 would explain to them the complex history of
25 that region, meaning the overlapping traditional

1 territories. We would end, of course, with
2 talking about the treaties, to some degree.

3 And then we would talk about how those
4 municipalities might, in many cases, initiate
5 engaging with Indigenous communities as part of
6 their regular process and planning process.

7 So this was a series of lectures given
8 across largely Southern Ontario, from the far
9 southwest to the east, Kingston all the way to
10 the London area, which covers the southwest
11 peninsula.

12 Q. If I can go to page 9 of the CV?
13 And scroll down to the bottom. This is where
14 your list of publications starts.

15 I want to ask you about which of your
16 publications involved research using primary and
17 secondary historical documents. So I'm just
18 going to take you to a few of those and then ask
19 you a more general question.

20 So starting with the first one, the
21 book called "The Mantle Site", can you tell us a
22 bit about that?

23 A. Yes. "The Mantle Site", which is
24 now dated to the late 16th century, is a site
25 located just south of Stouffville, and this book

1 represented the first widely published analysis
2 of an ancestral Wendat village and all of the
3 particularities of its social, political
4 organization, what led to its formation and
5 where they went after its occupation. It's a
6 full discussion of the artifacts, assemblages --
7 the various assemblages that were collected on
8 the site.

9 It is very important in this site in
10 that it's one of the earliest sites to show
11 European trade goods to understand the early
12 routes by which material was reaching the
13 interior and at what time and how those periods
14 changed through time and how this site might
15 relate to that.

16 This book led to a film about early
17 trade in Canada. It's called "Curse of the
18 Axe", which is in another part of the vitae.

19 But this site in particular required
20 us to understand how the Wendat confederacy
21 formed first in the mid-1400s and then in the
22 early 1600s as recorded by Europeans when
23 Wendat told them when the last two nations to
24 join the confederacy occurred.

25 And we believe this to be one of the

1 last occupations in the North Toronto area
2 before that shift into Simcoe County occurred.

3 Q. The next publication is "Toronto:
4 A Short Illustrated History of its First 12,000
5 Years". Can you talk a bit about that book and
6 the historical sources you used for that?

7 A. Yes. We were -- a group of
8 scholars got together to write a book that
9 addressed a serious shortcoming of previous
10 illustrated histories of Toronto, which is why
11 we went to the same publisher, Lorimer Press,
12 who had done, for example, Careless' illustrated
13 history of Toronto, and said, it's fine to
14 produce a record illustrated history of the
15 first -- of the 200-year colonial period or 300,
16 but let's definitely talk about the first 12,000
17 years.

18 And so we prepared a book that was an
19 illustrated history. And to be clear, it's
20 intended for a nonacademic audience, as the
21 previous ones were.

22 And we wrote a book that began by
23 understanding the environmental framework or the
24 bones of the city. And then I wrote a chapter
25 called "Before the Visitors" in which I

11:01:59 1 indicated all of the various occupations -- or
11:02:04 2 occupations of the city, the Indigenous
11:02:07 3 occupations of the city, and that included all
11:02:15 4 of the early occupation through to the Wendat
11:02:18 5 presence and following the Wendat movement out
11:02:23 6 of the Toronto area.

11:02:27 7 It covered the Haudenosaunee
11:02:29 8 establishment of Teiaiagon and Ganatsekwyagaon
11:02:32 9 on the Humber and the Rouge Rivers respectively.
11:02:45 10 And the chapters -- the subsequent chapters
11:02:46 11 carry on. I also in that chapter cover the
11:02:51 12 Mississauga occupation of the areas of those
11:02:53 13 sites as well.

11:02:55 14 So it's -- both of these books
11:02:58 15 actually are comprehensive reviews of the
11:03:02 16 various occupations of those jurisdictions.

11:03:07 17 Q. The third publication is "The
11:03:09 18 Archeology of Bruce Trigger: Theoretical
11:03:13 19 Empiricism". Can you say a bit about that and
11:03:17 20 what sources you drew from?

11:03:19 21 A. So this, again, is an edited
11:03:21 22 volume with scholars from throughout the world.
11:03:29 23 Dr. Trigger was seen as one of the preeminent
11:03:38 24 ethnohistorians and archeologists of that
11:03:41 25 generation.

1 As a student, a former student of his,
2 I graduated in 1985 with my Ph.D. but maintained
3 a close and friendly relationship with
4 Dr. Trigger, exchanging e-mails eventually very
5 frequently and organized a conference in his
6 honour at a Society for American Archeology
7 meeting in which we invited world scholars to
8 come.

9 But as part of that process I asked
10 those scholars to consider the fact that we
11 would be asking them to produce chapters that
12 would address his detailed work. And hence, I
13 asked, because of the importance of "The
14 Children of Aataentsic" and his myriad of
15 papers, no one has yet paralleled Bruce
16 Trigger's production of papers about the history
17 of Canada.

18 His masterpiece, it's called that a
19 number of times in the book, "Children of
20 Aataentsic". But we also, the students that he
21 had that produced perspectives on the
22 ethnohistoric record, so for example, Toby
23 Morantz who was familiar and wrote about Quebec
24 ethnohistory, and Alex von Gernet who has
25 provided evidence about various cases in Eastern

11:05:11 1 Canada, and asked them to provide their input as
11:05:17 2 part of this book to a fully, kind of,
11:05:22 3 comprehensive treatment of Dr. Trigger's
11:05:25 4 research.

11:05:29 5 Q. I'm not going to go through every
11:05:31 6 one of your publications, but can you tell us
11:05:34 7 approximately how many of the -- your other
11:05:36 8 publications involve work with the documentary
11:05:39 9 record?

11:05:43 10 A. Anything certainly that deals
11:05:44 11 with the Iroquoian record post 15, 1600 in South
11:05:51 12 Central Ontario, in Southwestern Ontario, I've
11:05:56 13 dealt with the documentary record.

11:06:00 14 The most -- there are a series of
11:06:02 15 papers that have occurred most recently that I'm
11:06:05 16 working with a larger team on that has to do
11:06:08 17 with the repatriation of human remains from the
11:06:12 18 University of Toronto in 2013. There were 1,700
11:06:16 19 sets of remains that were held by the University
11:06:19 20 of Toronto.

11:06:21 21 And through very detailed, long-term
11:06:23 22 negotiation with the Huron-Wendat Nation, we
11:06:28 23 found agreement to use teeth, primarily molars
11:06:34 24 from these remains in research in an
11:06:38 25 exceptionally collaborative way.

11:06:41 1 There are Wendat folks involved in all
11:06:43 2 of those -- one guy in particular, Louis Lesage,
11:06:48 3 who is the head of their Niowentsio division.
11:06:55 4 In other words, he deals with traditional land
11:06:57 5 use and their history.

11:06:58 6 And Louis has worked with us carefully
11:07:02 7 in the use of these teeth to understand more
11:07:03 8 about the Wendat in the historic period -- well,
11:07:07 9 in the period leading up to the historic period
11:07:10 10 and the historic period.

11:07:12 11 So for example, we have discovered
11:07:14 12 through isotopic analysis that we believe that
11:07:18 13 weaning was shortened in the very stressful
11:07:21 14 period in the 1630s through 1650 because of
11:07:24 15 the Haudenosaunee attacks. So this relates
11:07:28 16 actual physical evidence in teeth from people
11:07:32 17 living in those communities to the documentary
11:07:35 18 record.

11:07:37 19 In another case we look at -- we
11:07:40 20 looked at the amount of maize in the diet of
11:07:51 21 people. There had been a fair amount of work on
11:07:54 22 that since the mid-1990s. But the most recent
11:07:56 23 study we did about that documented, again, an
11:07:58 24 increase -- a slight increase in the amount of
11:08:00 25 maize that people were ingesting as part of

11:08:05 1 their diet -- and by "maize" I mean corn --
11:08:08 2 ingesting as part of their diet.

11:08:15 3 And in the case of a community like
11:08:17 4 Mantle and just slightly more in the later
11:08:20 5 period, we're talking here of a pound or more of
11:08:22 6 corn per day per person, which translates into
11:08:27 7 hundreds of acres of corn fields around
11:08:30 8 villages.

11:08:36 9 So this in fact was an exploration,
11:08:39 10 these papers are an exploration of that. Right
11:08:43 11 now we're working on one for submission -- it's
11:08:46 12 our last paper in that series -- on strontium
11:08:47 13 isotopes to track the movement of people across
11:08:52 14 the landscape.

11:08:52 15 Strontium is absorbed into the human
11:08:55 16 body through ground water, and you can -- and
11:08:57 17 it's reflected in the enamel formation in teeth.
11:09:03 18 And you can see the actual origin -- area of
11:09:10 19 origin on the basis of that by comparing those
11:09:14 20 strontium values. This is an exceptionally
11:09:18 21 novel and new paper that's being developed. But
11:09:20 22 it's in keeping with using the record to talk
11:09:24 23 about the movement of people across the
11:09:26 24 landscape.

11:09:27 25 Q. Do you have a rough estimate of

11:09:28 1 how many of your publications have involved
11:09:31 2 historical documentation?

11:09:35 3 A. 50, 60 percent of them I would
11:09:37 4 think.

11:09:40 5 Q. You mentioned earlier about oral
11:09:42 6 history. To what extent have you collected and
11:09:47 7 used oral history in your work?

11:09:48 8 A. Well, we've done a fair amount of
11:09:50 9 it. I mentioned the Manitoulin Island master
11:09:58 10 plan in which we collected oral history from
11:10:01 11 Anishinaabek elders.

11:10:05 12 In the case of the York Region
11:10:06 13 management plan, we engaged with all of the
11:10:08 14 Williams Nations and also the Haudenosaunee and
11:10:12 15 Wendat. And the Williams Nations shared some of
11:10:22 16 their family information in a mapped form about
11:10:25 17 traplines and traditional use sites which were
11:10:29 18 incorporated into the model of potential areas
11:10:36 19 for archeological sites.

11:10:42 20 This obviously is data that were kept
11:10:44 21 confidential and cannot be shared with the
11:10:46 22 public. Actual site information can't be shared
11:10:49 23 with the public in Ontario, which is why only
11:10:51 24 the potential map -- if you went to various
11:10:53 25 places where that's occurred you can only really

1 see the potential map.

2 But that was a very direct and -- work
3 with the historic use of properties in York
4 Region.

5 We collected information from
6 communities. We asked for information from
7 communities when we did one around -- for Sault
8 Ste. Marie.

9 We had a separate volume on the
10 collection of intangible heritage or oral
11 history and oral tradition, both Indigenous and
12 non-Indigenous for the district of Muskoka.
13 That exercise was undertaken for Muskoka and the
14 Wahta Mohawks together.

15 So a number of our studies have
16 required or have involved collecting oral
17 history as part of our work.

18 Q. And to what extent are you
19 familiar with historical sources on the Iroquois
20 Wars?

21 A. Well, the Iroquois -- the sources
22 on the Iroquois Wars, when I was just speaking
23 about the Haudenosaunee attacks on Wendat
24 villages, in both the area in the central North
25 Shore area and after, in the early historic

1 record the Wendat speak of a traditional enmity
2 with the -- or traditional hostilities with the
3 Iroquois.

4 And we believe that that traditional
5 hostility occurred in the mid-16th century and
6 is thus responsible for the coalescence of sites
7 into villages like Mantle.

8 So when you get to the early period of
9 villages in Wendake or the very last ones to
10 leave the drainages in the North Shore, we
11 believe that relates specifically to the
12 Haudenosaunee or the Iroquois -- period known as
13 the Iroquois Wars. It's the earliest period in
14 that it then, in doing our Simcoe management
15 plan or -- actually informed all of my work with
16 the Wendat in the past, the actual location of
17 villages, the Iroquois attacks in the first part
18 of the 17th century and where various villages
19 were and where people went.

20 So the discovery of the Warminster
21 Village where we've been trying to reconstruct
22 the settlement pattern of that site from
23 55-year-old records, that's the place that
24 Champlain visited.

25 So the work that we do for the Wendat

1 is informed by the documentary record and
2 certainly is informed by the Iroquois Wars and,
3 of course, where people went after that.

4 Q. Can you mention a few of the
5 historical documentary sources that you keep
6 close at hand to you?

7 A. Actually, close at hand, defined
8 by, on my desk, beside my computer is the third
9 volume of Champlain, Sagard. I don't keep the
10 Jesuits there because they're still available
11 online. But I use those on such a regular
12 basis, including a summary of the ethnography of
13 the Huron by Elizabeth Tooker, who also has a
14 rich source for the Haudenosaunee, it's a rich
15 source for the Haudenosaunee.

16 So these are -- this is part of the
17 record that I look at fairly constantly.
18 Obviously when we're working with the
19 Haudenosaunee period in Toronto or the North
20 Shore, there are other documents that we look at
21 fairly regularly like maps and descriptions of
22 the -- of those villages forming.

23 Q. To what extent are you familiar
24 with assessing the ethnicity of those who
25 deposited material on the site?

11:15:22 1 A. Well, archeologists work on a
11:15:25 2 literally daily basis in trying to identify the
11:15:29 3 ethnicity of the material that we find.

11:15:36 4 That process deals with various kinds
11:15:39 5 of archeological artifacts. Ceramics plays an
11:15:48 6 important role. And it also has to do with
11:15:53 7 understanding where those kinds of artifacts are
11:15:57 8 typically found.

11:16:00 9 So if a pot with a particular design
11:16:02 10 is usually found in this area and we know that
11:16:05 11 that's, for example, an ancestral Wendat area or
11:16:09 12 an ancestral Neutral area, then we know that
11:16:12 13 that's probably where that -- or that is
11:16:15 14 probably what that artifact relates to.

11:16:18 15 So defining ethnicity is a major
11:16:22 16 issue. That extends, by the way, well back into
11:16:25 17 the precontact past. When we're looking at
11:16:28 18 projectile points that have a particular form,
11:16:31 19 those points change through time, and it's
11:16:36 20 important to understand all of those changes on
11:16:40 21 the part of those -- on the part of those tools
11:16:44 22 in order to understand who they may relate to.

11:16:51 23 Q. You mentioned something earlier
11:16:52 24 about Indigenous trade routes. Can you talk
11:16:55 25 about how often that comes up for you?

11:16:59 1 A. Well, that comes up very often
11:17:01 2 once we get -- we're dealing with a site past
11:17:05 3 the late 16th century.

11:17:07 4 So, for example, at Mantle we found
11:17:11 5 copper beads, four of them, two of which were
11:17:19 6 consistent with European chemistry for brass and
11:17:22 7 two of which were native copper. But we also
11:17:25 8 found an iron piece which was the subject of
11:17:29 9 much scrutiny as to how that piece made its way
11:17:32 10 at that time from the St. Lawrence Valley. We
11:17:34 11 believe to this day that that's probably a piece
11:17:36 12 of Basque iron that made its way here.

11:17:41 13 But we're -- we're confronted with
11:17:44 14 collections on an almost-weekly basis that have
11:17:49 15 historic trade goods in them. And it's
11:17:52 16 important for us to understand the trade routes
11:17:55 17 by which those pieces may have entered the
11:17:58 18 archeological record at a particular locale. So
11:18:02 19 we study that with some detail.

11:18:06 20 Q. If I could go to page 2 of the
11:18:08 21 CV? This is just a selection of your -- the
11:18:17 22 excavations which you have been involved in.
11:18:20 23 Can you give us a rough estimate of how many
11:18:25 24 excavations and assessments you have done? And
11:18:28 25 you can break that down into the stages 1 to 4,

1 just a rough idea.

2 A. So you will see here, it's the
3 heading is "project director/manager". There
4 are hundreds of stage 1, 2 assessments that I
5 have directed throughout, largely, Southern
6 Ontario.

7 The switch between directing and
8 managing the assessments, which obviously means
9 reviewing the reports and being clear about the
10 archeological resources that are found as part
11 of those assessments, this is -- this piece is
12 about the extent of salvage excavations of
13 sites.

14 And there are well over 100 sites that
15 I've also been intimately involved with in terms
16 of their investigation and their reporting out
17 of the years working at Archeological Services
18 Inc., and that is continuing to today.

19 And these span the archeological
20 record of Ontario from the Paleo-Indian period
21 through what is called the Archaic and Woodland
22 period into the historic Indigenous period and
23 the colonial period.

24 So there's another section in my CV
25 about historic sites as well just like this.

1 It's just far too many to list in a
2 CV, but I wanted to give a notion of the
3 variability and the variety of sites that I've
4 done.

5 Q. Can you tell us about where you
6 have done excavations?

7 A. I've done excavations from the
8 Lake St. Clair area through to Simcoe County --
9 all through Southwestern Ontario into South
10 Central Ontario into Simcoe County and into
11 Durham County. We've done excavations further
12 east as well into the Kingston area. So it's a
13 pretty broad area of Southern Ontario.

14 Q. Have you gone outside of Southern
15 Ontario?

16 A. We have. Our firm has looked at
17 and excavated sites in Northern Ontario. I've
18 been less involved with those sites. But, of
19 course, part of the Sheguiandah master plan was
20 re-excavating a section of the Sheguiandah site
21 that a national museum archeologist had
22 excavated in the 1950s. Our goal -- he had
23 concluded that there was a -- he thought a
24 pre-Wisconsin glaciation occupation of the site,
25 which would extend the earliest peopling of

1 Ontario to -- prior to 14,000 years ago or
2 13,000 years ago.

3 And we re-excavated that with a team
4 and determined that, no, what he had identified
5 as till before that, or as a layer before that
6 was not, it was post-Wisconsin. And that was
7 part of the same project that really it was the
8 Sheguiandah First Nation who wanted to determine
9 once and for all just how old that site was.

10 So we worked at great length there.
11 And our firm has worked in other areas,
12 Killarney and along the north shore of Lake
13 Superior, actually, in trying to determine
14 various sites.

15 Q. Have you worked outside of
16 Ontario?

17 A. We have worked outside of
18 Ontario. We've worked in Quebec with sites. We
19 carried out an archeological -- kind of an
20 archeological management plan -- not really, it
21 was a light one -- for Regina to help Regina
22 figure out how to engage with the communities in
23 their -- in their vicinity in dealing with and
24 managing archeological resources.

25 Ontario is seen as a leader in the

11:22:48 1 management of archeological resources and in --
11:22:52 2 these archeological management plans that we
11:22:55 3 undertake here, that our firm has undertaken
11:22:58 4 that I have directed are unique in the world.

11:23:01 5 Often other places have had sections
11:23:02 6 of municipalities that have been looked at in
11:23:05 7 detail but not this kind of planning process
11:23:12 8 that provides a model by which municipalities
11:23:16 9 call for assessment in advance of development.

11:23:24 10 Q. Just to summarize a couple of
11:23:26 11 other sections in your CV, in the publication
11:23:30 12 section you have one called "books, monographs
11:23:33 13 and book chapters", and we looked at a few of
11:23:34 14 those. I counted 16 of those, is that right?

11:23:39 15 A. Yes.

11:23:39 16 Q. For articles I counted 88 of
11:23:47 17 those.

11:23:47 18 A. Yes.

11:23:47 19 Q. And for presentations there's a
11:23:50 20 list that's ten-pages long?

11:23:52 21 A. Yes, and there are probably
11:23:53 22 others that didn't make that list.

11:23:55 23 Q. If I could go to page 27 of your
11:23:57 24 CV? There is a section at the bottom,
11:24:08 25 "scholarships, grants, awards and recognitions".

11:24:16 1 There are a few of them I'd like you to explain
11:24:19 2 a bit. The first one, the Smith-Wintemberg
11:24:27 3 award, can you tell us what that is?

11:24:27 4 A. Yes. That's an award given by
11:24:29 5 the Canadian Archeological Association to
11:24:31 6 archeologists with a distinguished career. The
11:24:37 7 award was given to Bruce Trigger, so you can
11:24:41 8 imagine how I feel about having received this
11:24:43 9 award.

11:24:44 10 It's the Association's premier award,
11:24:48 11 and this was given to me in 2016. So I consider
11:24:54 12 it an exceptionally important one.

11:25:01 13 Q. This third one down is Ontario
11:25:03 14 Archeological Society Award of Excellence in
11:25:07 15 publishing "The Mantle Site". Can you tell us
11:25:10 16 about that? I know you talked about the book.

11:25:15 17 A. We talked about the book. But
11:25:16 18 the book was received well in the archeological
11:25:18 19 community because it was the first time that an
11:25:21 20 Ontario archeological site, an ancestral Wendat
11:25:25 21 site had formed a widely accessible focus of a
11:25:31 22 widely accessible academic or scholarly book by
11:25:33 23 a very well-known scholarly production firm that
11:25:38 24 explored completely or more thoroughly what the
11:25:41 25 occupation of that site entailed, how it got to

1 be there from what had come before.

2 Jennifer Birch had been a Ph.D.
3 student of mine, and we had become close working
4 colleagues as is reflected in some of the
5 papers.

6 And so it's -- The Mantle -- producing
7 "The Mantle Site" book was a joy, and in fact it
8 was wonderful for it to get acknowledged for the
9 work that we put into that.

10 Q. The next item is the Ontario
11 Archeological Society Award of Excellence in
12 cultural resource management in 2012.

13 A. So our firm, Archeological
14 Services Inc. have been leaders in, first of
15 all, the quality of the work that we have tried
16 to undertake in every case. Our work is guided
17 by a mission statement and core values.

18 One of those core values is the
19 dissemination of knowledge, the production and
20 dissemination of knowledge. We believe that
21 there's not much good that comes from doing all
22 this cultural resource management work if we
23 can't make that record accessible both to our
24 colleagues in archeology and beyond.

25 And so we were recognized by the

1 Ontario Archeological Society for our approach
2 to carrying out cultural resource management.

3 Q. And the next item is Heritage
4 Toronto Award of Merit for "Toronto: An
5 Illustrated History." You've spoken about the
6 book, but can you mention the award?

7 A. Yeah, the award was given -- it
8 was recognized almost immediately that it was
9 important to have another illustrated history of
10 Toronto that dealt with the first 12,000 years.

11 It still had to cover the other
12 periods, the post-Indigenous periods or the
13 post-precontact and early contact periods, but
14 the book was the first to do that. And Heritage
15 Toronto recognized that this was an important
16 contribution to scholarship around Toronto.

17 Q. Over on page 28 there's a section
18 called "professional appointments", and the
19 first two you've already talked about. Can you
20 tell us about the third, member of the advisory
21 committee, cultural heritage strategy
22 initiative?

23 A. The Ministry of Tourism, Culture
24 and Sport decided it was time to update their
25 cultural heritage strategy initiative, and they

11:28:43 1 formed a committee of about 12 people from
11:28:51 2 across the province to help their senior staff
11:28:55 3 come up with what that strategy should look
11:28:58 4 like. And I was one of the people chosen to do
11:29:06 5 that I think mainly for my background in the
11:29:09 6 complex history of the province.

11:29:13 7 Q. The next item is member of the
11:29:15 8 editorial advisory board of Ontario archeology.
11:29:18 9 Can you talk about that a bit?

11:29:20 10 A. Yes. I spent quite a bit of time
11:29:23 11 working for the Ontario Archeological Society as
11:29:29 12 a member of their editorial board but also as
11:29:32 13 the editor of a section of the journal now
11:29:37 14 called "From Grey to Print".

11:29:40 15 This -- first of all, the work for the
11:29:43 16 editorial board, advisory board is regarding the
11:29:47 17 selection of articles for publication. It may
11:29:55 18 be proactive, going to people and saying, We've
11:29:59 19 heard about this work, we'd like you to do an
11:30:02 20 article for the journal.

11:30:03 21 But it's also about identifying proper
11:30:05 22 reviewers. This a peer-reviewed journal. And
11:30:09 23 so identifying reviewers to read papers and
11:30:12 24 provide comment.

11:30:13 25 The "Grey to Print" is a very unique

1 section on trying to find papers that people
2 refer to in their work but have never been
3 published.

4 The grey literature in Ontario is
5 huge. And our attempts to find the most, kind
6 of, influential papers that young students today
7 may not have copies of those papers in their --
8 available to them. Some of them aren't
9 available online like Huron sweat baths, so we
10 -- or at least at that time. So when we decided
11 to publish a paper it's really to make an
12 influential paper that sits in the grey
13 literature public.

14 Q. A few more down there's member of
15 the editorial advisory board, Canadian Journal
16 of Archeology. Can you tell us what that is?

17 A. So the Canadian Journal of
18 Archeology is the journal of the Canadian
19 Archeological Association who granted me the
20 Smith-Wintemberg award. That organization, I
21 did the same kind of work for them, trying to
22 identify potential authors for the journal and,
23 again, helping to decide who might review
24 articles, which articles are deserving of
25 review.

11:31:41 1 There's a brief review of articles.

11:31:50 2 The actual editor of the journal may not have
11:31:52 3 expertise in that area in as broad a place as
11:31:55 4 Canada, so they may go for a regional subeditor
11:31:59 5 on the board to look at it to say whether or not
11:32:02 6 this should get the next step of going through
11:32:04 7 review. So that's the kind of role I played.

11:32:11 8 Q. And if we go to page 29 at the
11:32:14 9 very bottom, the last two items regarding the
11:32:21 10 Canadian Association of Professional Heritage
11:32:23 11 Consultants. This was back in the '80s and
11:32:26 12 early '90s. Can you talk about that a bit?

11:32:36 13 A. It was recognized in the '80s.
11:32:39 14 Because of the advent of legislation regarding
11:32:41 15 identification of resources and assessments that
11:32:47 16 were -- there was a burgeoning number of them in
11:32:51 17 both built heritage, cultural landscapes,
11:32:54 18 archeology.

11:32:56 19 And at first there was a group that
11:32:58 20 met periodically to talk about this for Ontario,
11:33:01 21 but it was bringing all of those disparate
11:33:05 22 disciplines together into an organization to
11:33:07 23 explore how to promote excellence in heritage
11:33:14 24 consultation. And that organization eventually
11:33:18 25 became Canada-wide.

1 But I was part of the founding members
2 of that organization and served as president in
3 '89 to '90, vice president the year before.

4 So today that's a vibrant organization
5 that continues to provide guidance and training,
6 actually, to junior practitioners. It's an
7 important social networking tool for heritage
8 practitioners where they can meet others and
9 when they need particular expertise that they
10 perhaps don't have themselves, this is a place
11 they can go to get it.

12 MR. TOWNSHEND: Your Honour, I have
13 finished my questions on Dr. Williamson's CV,
14 and I'm ready to tender a qualification
15 statement, but I notice it's past time for a
16 break.

17 THE COURT: It is, but I assume you
18 have the tender in a written document, is that
19 correct?

20 MR. TOWNSHEND: That's right.

21 THE COURT: So I think it would be
22 helpful to bring that document up and get it
23 marked as a lettered exhibit. And while you're
24 doing that, are either of the two present
25 defendants intending to cross-examine this

11:34:25 1 gentleman on his credentials?

11:34:28 2 MR. McCULLOCH: Canada does not intend

11:34:30 3 to cross-examine.

11:34:34 4 THE COURT: All right. Ontario?

11:34:38 5 MR. OGDEN: Yes, Your Honour.

11:34:38 6 THE COURT: All right. So we'll do

11:34:38 7 that after the break.

11:34:38 8 MR. OGDEN: Thank you.

11:34:38 9 THE COURT: If you could just go ahead

11:34:38 10 with the tender, sir, and then we'll take our

11:34:38 11 morning break.

11:34:40 12 MR. TOWNSHEND: This is document

11:34:40 13 SC1074. It's on the screen. And -- well, as

11:34:47 14 far as I'm concerned, it can be an exhibit.

11:34:51 15 THE COURT: It's not evidence, so it

11:34:52 16 would be a lettered exhibit. Mr. Registrar,

11:34:54 17 what is the next lettered exhibit?

11:34:55 18 THE REGISTRAR: Lettered Exhibit Q1.

11:34:58 19 EXHIBIT NO. Q-1: Statement of

11:35:01 20 qualification for Dr. Ron Williamson;

11:35:01 21 Document SC1074.

11:35:05 22 THE COURT: And there is no need to

11:35:06 23 read it out loud, but with some of our other

11:35:09 24 witnesses there was a phrase or a few words that

11:35:12 25 was disputed, but the rest was not disputed.

11:35:15 1 Is that the situation here, or is it
11:35:17 2 more complex than that? Just so I understand
11:35:25 3 before we go further where the dispute may be.

11:35:28 4 MR. TOWNSHEND: I'm not quite sure
11:35:30 5 anymore.

11:35:31 6 THE COURT: That's a fair comment. It
11:35:32 7 really isn't a question for you, sir, as I
11:35:35 8 appreciate that this is what you're asking for.

11:35:40 9 Mr. Ogden, is there a phrase or a
11:35:42 10 sentence or a few words, or is it more complex
11:35:45 11 than that?

11:35:47 12 MR. OGDEN: It's not more complex.
11:35:48 13 It's a few words.

11:35:49 14 THE COURT: Can you just direct me to
11:35:50 15 where the dispute is so that as we proceed I
11:35:52 16 know what the issue is?

11:35:55 17 MR. OGDEN: Yes, Your Honour. In the
11:35:57 18 first line, the word "history", "with expertise
11:35:59 19 in the history".

11:35:59 20 THE COURT: History. All right.

11:35:59 21 MR. OGDEN: In the second line the
11:36:00 22 words from "drawn from", starting "drawn from"
11:36:03 23 down to "knowledge, and".

11:36:13 24 THE COURT: All right.

11:36:14 25 MR. OGDEN: And then under paragraph 3

1 -- perhaps the word "history", we'll start with
2 that, and -- but then also the whole of
3 subparagraph (c), 3(c).

4 THE COURT: All right. Thank you for
5 identifying that. We'll take the morning break
6 at this time for 20 minutes.

7 -- RECESSED AT 11:37 A.M. --

8 -- RESUMED AT 12:03 P.M. --

9 THE COURT: Please go ahead.

10 CROSS-EXAMINATION BY MR. OGDEN

11 ON QUALIFICATIONS:

12 Q. Dr. Williamson, good morning.

13 A. Good morning.

14 Q. I just have some brief questions
15 for you. You were very careful about not
16 calling yourself a professor outside of the
17 university context.

18 And so my question is, do you call
19 yourself an historian?

20 A. To the extent to which that
21 applies to First Nations history, yes.

22 Q. Within the university context do
23 you call yourself an historian?

24 A. No. I'm an anthropologist with a
25 specialty in archeology, but my specialty in

1 archeology has to do with the Iroquoian and
2 Algonquian history and the documents about that.

3 Q. You said that you have Champlain
4 and Sagard on your desk and that you have
5 internet access to "The Jesuit Relations".
6 Where else do you go to look at primary
7 documents?

8 A. It depends on the task at hand.
9 Obviously if I'm dealing with the period
10 after -- or dealing with, for example, the
11 Haudenosaunee occupation of the period I might
12 look at documents that have been written that
13 summarize that, like Conrad 1981.

14 I might look at historic maps like the
15 Raffeix map of 1680 that locates where those
16 sites are and what those sites are and the
17 documents that actually are in this report that
18 relate to that period. I mean, I'm aware of
19 them. They're not used daily, that's for sure.
20 But I'm aware of them and use them when I write
21 about that period.

22 Q. How do you determine the
23 reliability of these primary documents?

24 A. So primary documents are written
25 by people with agendas. And I am aware, for

12:06:15 1 example, of the Jesuits throughout the early --
12:06:20 2 well, the early 17th century and late 17th
12:06:22 3 century, having particular agendas, and I read
12:06:26 4 them with those agendas in mind.

12:06:29 5 I'm aware of the weaknesses of some
12:06:34 6 primary writers. For example, some might have
12:06:38 7 problems getting the dates right or -- so I'm
12:06:40 8 aware that even primary sources have some
12:06:42 9 weaknesses, but I can use them judiciously.

12:06:47 10 Q. How do you cross-reference
12:06:51 11 primary documents with each other?

12:06:53 12 A. I'm not sure I understand what
12:06:54 13 you mean.

12:06:56 14 Q. Well --

12:06:58 15 A. If you mean do I look at a
12:07:00 16 document, if someone said something in a
12:07:03 17 document will I check another document that says
12:07:05 18 the same thing or similar thing, then of course
12:07:08 19 I will do that.

12:07:13 20 Q. How do you go about interpreting
12:07:16 21 primary documents? Interpreting what -- the
12:07:23 22 text in the primary documents?

12:07:25 23 A. Well, it's interpreted against my
12:07:28 24 experience reading documents of the period. If
12:07:30 25 Sagard says one thing and a Jesuit says another,

1 I will consider what both say and then figure
2 out what I think the proper interpretation is.

3 Q. And can you describe any
4 different historical theories of approaching
5 primary documents?

6 A. I'm not sure what you mean.

7 Q. The theory that an historian
8 might have as to how one should approach and
9 interpret a primary document.

10 A. Well, I think I described that
11 earlier, what my approach to that is.

12 Q. In your reports you don't give a
13 definition of "control", do you?

14 A. I don't know that I do.

15 Q. And there's no generally accepted
16 definition amongst archeologists of what it
17 means to control a space, is there?

18 A. There's quite a broad literature
19 about this question. I think if a nation
20 refuses to allow canoes to pass by a very -- a
21 particular place, that strikes me as
22 controlling, which is one of the uses in the
23 first report.

24 MR. OGDEN: Your Honour, I don't have
25 any more questions.

12:08:57 1 THE COURT: Is there any
12:08:57 2 re-examination based on that cross-examination,
12:08:59 3 Mr. Townshend?

12:09:20 4 MR. TOWNSHEND: No, I don't have any
12:09:21 5 questions.

12:09:21 6 THE COURT: Mr. Ogden?

12:09:21 7 MR. OGDEN: Thank you, Your Honour.

12:09:21 8 THE COURT: Are you standing up
12:09:21 9 because you're about to make submissions?

12:09:21 10 MR. OGDEN: Yes.

12:09:33 11 THE COURT: All right. Have a seat.

12:09:33 12 MR. OGDEN: Thank you.

12:09:33 13 THE COURT: Sir, I have a question for
12:09:33 14 you, after which you may have other questions.
12:09:34 15 You explained why you prefer to be called a
12:09:38 16 doctor, and I have some familiarity with the
12:09:41 17 title "adjunct professor", and I understand it
12:09:45 18 can mean a great deal of different things,
12:09:48 19 depending on the university, the nature of the
12:09:50 20 appointment and so on. Is that your
12:09:51 21 understanding as well, sir?

12:09:53 22 THE WITNESS: Yes.

12:09:55 23 THE COURT: And it doesn't always mean
12:09:56 24 that each year you may actually teach a
12:10:00 25 university course.

12:10:03 1 So my question is, in your time at the
12:10:06 2 University of Toronto, with what regularity did
12:10:09 3 you teach university courses for that
12:10:11 4 university?

12:10:20 5 THE WITNESS: Irregularly. I taught
12:10:22 6 reading courses, not --

12:10:24 7 THE COURT: Okay. So I'm talking
12:10:24 8 about not the individual-directed courses, but a
12:10:24 9 calendared course, if you will. And so --

12:10:26 10 THE WITNESS: I did not teach a
12:10:27 11 calendared course.

12:10:28 12 THE COURT: You did not teach a
12:10:28 13 calendared course. And what about --

12:10:28 14 THE WITNESS: I was too busy to do
12:10:29 15 that.

12:10:30 16 THE COURT: What about Western, sir?

12:10:32 17 THE WITNESS: Same thing.

12:10:33 18 THE COURT: All right. Thank you for
12:10:33 19 clarifying that, sir.

12:10:36 20 Does anyone, starting with
12:10:38 21 Mr. Townshend, have a question arising from my
12:10:40 22 questions?

12:10:40 23 MR. TOWNSHEND: No question.

12:10:46 24 THE COURT: And Mr. Ogden?

12:10:48 25 MR. OGDEN: None.

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THE COURT: Canada?

MR. McCULLOCH: No, Your Honour.

THE COURT: All right. It's not strictly necessary for Dr. Williamson to sit in the witness box while I hear legal submissions. I don't have a problem with him sitting there if he wants to. But I guess we'll -- if he's comfortable where he is, you can sit there, sir. No one has asked for any other arrangement to be made.

Before you stand up, I think customarily, Mr. Townshend would have the opportunity to say whatever he wants to say about his tender and in anticipation of what may come next.

I'm not suggesting that you should go on at length, Mr. Townshend, especially if you haven't planned on it. But having heard before the break the aspects of the tender that are the subject of an objection, I would give you an opportunity to say a few words, if you wish to do so, about why you think this gentleman is qualified on that subset of the tender that is apparently challenged.

MR. TOWNSHEND: Thank you, Your

1 Honour. I had specifically asked at various
2 points about when Dr. Williamson used historical
3 sources and how often and what ones, and I think
4 we're not qualifying him as a historian, but
5 we're qualifying him as an archeologist who
6 works with historical documents and combines
7 together the archeology and the history and the
8 oral history, in fact, to come up with his
9 conclusions as an anthropological archeologist.

10 That's -- I think that covers most of
11 the objection. The only other thing was control
12 of land and trade routes. I did ask him
13 specifically about trade routes, and he said it
14 came up quite regularly.

15 If the issue is the word "control", I
16 mean, maybe there is some nuance that can be
17 made there.

18 THE COURT: Just on the issue of
19 wording, because this may be semantics, but I'm
20 going to -- I'm just noticing, sir, leaving
21 aside the issue that Ontario has raised, which
22 is not a challenge to this gentleman's
23 credentials as an archeologist at all, the
24 tender the way it's phrased doesn't ask for me
25 to accept this gentleman as an archeologist, per

1 se, it's just a phrasing issue.

2 It says "archeologist with expertise
3 in". So should I read this, sir, as an expert
4 in archeology? That's really what the main
5 focus should be? You're asking me to accept
6 that he's an expert in archeology, and then you
7 go on to say "with expertise in" as well. Or is
8 there something I'm missing?

9 MR. TOWNSHEND: I think if I were
10 going to be more precise I would say "an
11 anthropological archeologist", as he identified
12 himself.

13 THE COURT: "An expert anthropological
14 archeologist" as he has described himself.

15 MR. TOWNSHEND: Yes.

16 THE COURT: The next phrase is the
17 disputed one, "with expertise in history", blah,
18 blah, blah. But then it's not disputed, for
19 example, just picking item number 2, the
20 archeological record of Manitoulin and so on is
21 not disputed.

22 So that helps me understand the
23 location of the dispute, sir. Thank you.

24 Mr. Ogden?

25 MR. OGDEN: Thank you, Your Honour.

12:14:53 1 My first objection was to the use of the word
12:14:56 2 "history" in the first line of the proposed
12:15:01 3 qualification.

12:15:02 4 I would ask that that be changed to
12:15:04 5 "presence" so that it reads, perhaps, as amended
12:15:08 6 by Mr. Townshend, "an expert anthropological
12:15:13 7 archeologist with expertise -- "

12:15:16 8 THE COURT: You're going a bit too
12:15:16 9 fast.

12:15:16 10 MR. OGDEN: Sorry.

12:15:16 11 THE COURT: I want to get this down.
12:15:16 12 So you're saying change to --

12:15:20 13 MR. OGDEN: Well, "an expert
12:15:22 14 anthropological archeologist with expertise in
12:15:25 15 the presence -- "

12:15:27 16 THE COURT: Still going too fast.

12:15:30 17 MR. OGDEN: "An expert anthropological
12:15:42 18 archeologist".

12:15:48 19 THE COURT: And then where would you
12:15:50 20 submit it should go from there?

12:15:52 21 MR. OGDEN: "With expertise in
12:15:52 22 the...", and I would suggest that we change it
12:15:53 23 to:

12:15:53 24 "[Presence] of First Nations in
12:15:54 25 the Great Lakes area from the

12:16:00 1 Paleo-Indian period to the mid-18th
12:16:03 2 century".

12:16:04 3 And then we part ways again.

12:16:09 4 THE COURT: Okay. And where do you
12:16:10 5 part ways in the next phrase?

12:16:12 6 MR. OGDEN: From the -- take out the
12:16:14 7 words "drawn from" up to "knowledge, and". The
12:16:20 8 reason for that is -- well, there is more than
12:16:22 9 one reason.

12:16:23 10 Firstly, this seeks to establish the
12:16:23 11 evidence for his particular opinions, which
12:16:23 12 should be left to the examination proper. And
12:16:23 13 it tends to suggest a value to his opinion, to
12:16:41 14 be extended some value, and that's unnecessary
12:16:47 15 in the tender.

12:16:53 16 We're not going to object to the
12:16:55 17 witness giving evidence about the archeological
12:16:56 18 record or about documents or oral history or
12:17:02 19 traditional knowledge, but to have it in there
12:17:05 20 as a description of his expertise is unhelpful
12:17:12 21 to the court, in my submission.

12:17:25 22 Going back to the use of the word
12:17:26 23 "history" in the first line, I want to read out
12:17:31 24 some evidence that Dr. Brownlie gave about the
12:17:34 25 historical method on July 22nd talking about a

12:17:47 1 course that he gives on historical methods. And
12:17:48 2 he said:

12:17:49 3 "The goal of the course is to
12:17:50 4 give students a solid grounding in the
12:17:51 5 correct methods for conducting
12:17:52 6 history. So that means that they need
12:17:55 7 to learn about how to locate records,
12:17:57 8 how to determine their reliability,
12:17:58 9 how to cross-reference them with each
12:18:00 10 other and so on and how to interpret
12:18:02 11 those records. And then they need to
12:18:04 12 understand historical analysis. So we
12:18:07 13 also teach a lot of historical methods
12:18:09 14 about historical theories, so ways of
12:18:12 15 approaching the records."

12:18:15 16 And there's no evidence -- so my
12:18:21 17 submission is that evidence so far is that
12:18:21 18 Dr. Williamson does not have an expertise in the
12:18:25 19 historical method.

12:18:27 20 Now, in the paragraph 3 of the
12:18:30 21 proposed tender, it starts off, "The history of
12:18:34 22 peoples...", and that would be better changed to
12:18:38 23 "Archeology of peoples in the Great Lakes area".

12:18:45 24 And it may be that at some point
12:18:49 25 during his examination or in his report he does

1 at least -- Dr. Williamson will give evidence on
2 the history or the histories of the area. And
3 we won't object at that time to him doing so.

4 But that's a different question as to
5 whether or not he should be described as having
6 expertise in the history of the First Nations in
7 the Great Lakes.

8 And then that could also be altered
9 instead of "archeology" -- and this is in
10 paragraph 3 -- to "the documentary record
11 relating to peoples in the Great Lakes area",
12 but that might unduly restrict Dr. Williamson's
13 evidence to the detriment of the court's
14 appreciation of the issues in this case.

15 Now, 3(c) we ask be struck entirely as
16 Dr. Williamson does not give a definition of
17 "control" in his report and did not say that
18 there was a generally accepted definition of
19 "control" in the field of archeology.

20 Our submission is that "control" is an
21 abstract concept that can't be determined from
22 artifacts. The question of --

23 THE COURT: You agree that -- leaving
24 aside that word, that this gentleman is
25 qualified to testify about archeological -- call

12:20:42 1 it "discoveries", for lack of a better word,
12:20:45 2 artifacts, and other evidence, archeological
12:20:49 3 evidence that's been discovered that may inform
12:20:53 4 the question of what was or wasn't done by the
12:20:57 5 peoples who happened to be there at the relevant
12:20:59 6 time?

12:21:00 7 MR. OGDEN: Well, certainly. You
12:21:01 8 know, for instance --

12:21:03 9 THE COURT: Which could theoretically
12:21:05 10 support an argument for control or an argument
12:21:10 11 against it?

12:21:11 12 MR. OGDEN: Yes. Yes.

12:21:13 13 THE COURT: So is it the -- that would
12:21:17 14 be historical -- well, let me choose a different
12:21:21 15 phraseology in the circumstances.

12:21:26 16 That would be archeological evidence
12:21:28 17 of events taking place hundreds of years ago
12:21:32 18 that would be within this gentleman's expertise
12:21:35 19 as far as the location, discovery, assessment
12:21:40 20 and analysis of those artifacts and what they
12:21:43 21 might be and what they might indicate.

12:21:48 22 None of that is the subject of your
12:21:49 23 objection, is that correct?

12:21:51 24 MR. OGDEN: No, that should be fine.

12:21:53 25 THE COURT: So is it the conclusions

12:21:59 1 under "control" that you're concerned about?

12:22:01 2 All by way of saying, would this problem be
12:22:05 3 addressed if subparagraph 3(c) was prefaced by
12:22:11 4 the phrase "archeological evidence about"?

12:22:23 5 MR. OGDEN: No, no, it wouldn't, Your
12:22:25 6 Honour. I am not satisfied that there's any
12:22:27 7 evidence that an archeologist -- that it's
12:22:45 8 within the archeological expertise to describe
12:22:50 9 the existence of control.

12:22:52 10 THE COURT: That's the fault of my
12:22:53 11 prefix in that case. What I'm trying to get at
12:22:56 12 is the evidence that was -- or may have been
12:23:02 13 discovered, analyzed, dated and understood
12:23:05 14 through the archeological process that then
12:23:12 15 could be interpreted as potentially relevant to
12:23:14 16 control.

12:23:14 17 MR. OGDEN: Correct.

12:23:16 18 THE COURT: So why is it not possible
12:23:18 19 to rephrase 3(c) bearing in mind your objection,
12:23:23 20 which I'm not suggesting -- Mr. Townshend may
12:23:26 21 say it's unacceptable to him, but there does
12:23:32 22 seem to be some room there for this gentleman to
12:23:35 23 testify, perhaps not about conclusions, but
12:23:41 24 about the archeological substratum.

12:23:45 25 MR. OGDEN: That might be a little

12:23:46 1 bit, perhaps not circular, but I'm not sure how
12:23:54 2 one would interpret archeological artifacts
12:23:57 3 using the concept of "control" and then
12:23:59 4 determining how they indicate or don't indicate
12:24:04 5 control.

12:24:05 6 I think the problem there is how an
12:24:09 7 archeologist might use the concept of "control".
12:24:12 8 And my objection is to whether or not an
12:24:16 9 archeologist is capable of finding as to when
12:24:20 10 control does or does not exist.

12:24:23 11 And so that would create a prism, I
12:24:26 12 think, in which to interpret those artifacts,
12:24:29 13 and I'm not sure that capacity has been
12:24:32 14 established.

12:24:32 15 My suggestion, Your Honour, is to
12:24:34 16 strike 3(c) and as the evidence arises to deal
12:24:38 17 with it under 3(b) and to deal with it as a
12:24:48 18 matter of examination and cross-examination.

12:24:57 19 I think that's enough.

12:24:58 20 THE COURT: All right. Mr. Townshend,
12:25:06 21 what do you have to say about all of this?

12:25:09 22 MR. TOWNSHEND: May I have a moment?

12:25:09 23 THE COURT: Yes.

12:25:29 24 I don't mean to overstate the point,
12:25:31 25 but this particular heading is -- marks one

12:25:36 1 sentence, paragraph in this report, so I'm
12:25:36 2 assuming, the evidence aside, the archeological
12:25:45 3 evidence that you may wish, which doesn't seem
12:25:46 4 to be the problem, to have in your case as to
12:25:48 5 who was doing what where during whatever period
12:25:51 6 of time.

12:25:52 7 But the conclusion on this isn't a
12:25:56 8 feature of this report. It's in there, but it
12:25:59 9 is not a feature of it.

12:26:01 10 So just include that amongst your
12:26:02 11 remarks, sir.

12:26:03 12 Yes, sir, have I misunderstood
12:26:05 13 something?

12:26:06 14 MR. OGDEN: No, no, I haven't
12:26:12 15 explained adequately what I was the thinking,
12:26:16 16 Your Honour.

12:26:16 17 In parts of the report there is a
12:26:18 18 discussion of control of trade routes and of
12:26:20 19 land areas. And in those parts Dr. Williamson
12:26:26 20 is largely repeating analysis given by others
12:26:30 21 without adding his own --

12:26:32 22 THE COURT: You mean other expert
12:26:34 23 witnesses?

12:26:35 24 MR. OGDEN: Other experts, yes. Not
12:26:36 25 in this case, but from a list of secondary

12:26:40 1 resources.

12:26:41 2 And that relates to areas outside the
12:26:43 3 claim area, and so we're not going to object to
12:26:51 4 those going in.

12:26:52 5 There's only one point of which
12:26:54 6 Dr. Williamson provides an opinion as to control
12:26:57 7 within the claim area. And I'll read it. It's
12:27:03 8 on page --

12:27:04 9 THE COURT: Yes, page?

12:27:06 10 MR. OGDEN: -- 137.

12:27:08 11 THE COURT: That's the bit I was
12:27:09 12 referring to.

12:27:13 13 MR. OGDEN: 137 of his 2013 report.

12:27:15 14 THE COURT: Yes, the one sentence I
12:27:15 15 was referring to is on that page.

12:27:16 16 MR. OGDEN: Yes. I'll read it for the
12:27:20 17 record.

12:27:21 18 THE COURT: You can if you wish to.
12:27:21 19 Please go ahead.

12:27:21 20 MR. OGDEN: "From the beginning of the
12:27:22 21 18th century -- "

12:27:24 22 THE COURT: Well, hold on, we're on
12:27:25 23 the wrong track here. So to be clear, what I
12:27:27 24 was referring to was what is described as
12:27:29 25 section 4.3.4, which has the heading "Control of

12:27:36 1 the Trade Routes", the identical heading to the
12:27:40 2 issue that we're now concerned with. And there
12:27:41 3 is a one-sentence reference to what the French
12:27:44 4 may have understood, which I don't think we need
12:27:47 5 to read.

12:27:47 6 What you're about to read is a summary
12:27:48 7 of this 137-page report, which I don't think is
12:27:54 8 limited to that one issue.

12:28:07 9 MR. OGDEN: Well, that's partly my
12:28:07 10 point there, Your Honour. It's a summary of the
12:28:07 11 section, I think. But there's --

12:28:07 12 THE COURT: Yeah. I see that it does
12:28:09 13 use that phraseology in a generic way, yes.

12:28:12 14 MR. OGDEN: It does, and it supposes
12:28:13 15 that there was control. And there's no analysis
12:28:15 16 or discussion of whether or not the Anishinaabe
12:28:19 17 in Southern Ontario had that control.

12:28:20 18 And so this could be left to
12:28:22 19 cross-examination, but the rest of it we --
12:28:25 20 we're not going to object entirely to discussion
12:28:28 21 or evidence from the witness about control
12:28:29 22 because it doesn't concern the primary.

12:28:32 23 THE COURT: I understand what you're
12:28:34 24 saying. Yes, thank you for that clarification.

12:28:36 25 Mr. Townshend. Please go ahead.

12:28:47 1 MR. TOWNSHEND: Your Honour, what I've
12:28:48 2 been trying to establish with this witness, and
12:28:52 3 he is identified as an anthropological
12:28:56 4 archeologist, is that the goal of
12:28:58 5 anthropological archeology is not just to dig a
12:29:02 6 hole and find an artifact and look at it. It's
12:29:05 7 to interpret it, and it's to interpret it
12:29:07 8 together with historical documentation, together
12:29:09 9 with oral history, to give a picture of prior
12:29:14 10 human behaviour. That's what an anthropological
12:29:21 11 archeologist does.

12:29:23 12 So I'm concerned that if some of these
12:29:26 13 changes are made it will in fact narrow the
12:29:29 14 scope to just the archeological resources and
12:29:34 15 not the other resources that he uses completely
12:29:37 16 intermeshed with the archeological finds.

12:29:42 17 THE COURT: So you're not now being
12:29:43 18 challenged on the ground that he should not be
12:29:47 19 permitted to talk about the comprehensive
12:29:51 20 sources of information that he consults to reach
12:29:55 21 his opinion. That is not the subject of the
12:29:57 22 challenge.

12:30:01 23 The subject of the challenge is very
12:30:05 24 narrow. Now, you've covered some of it already
12:30:09 25 by making it clear that you're not tendering

12:30:12 1 this gentleman as a historian. That covers part
12:30:14 2 of the challenge.

12:30:15 3 The other main challenge seems to be
12:30:23 4 rendering opinion evidence, his professional
12:30:26 5 opinion, excuse me, of what is or isn't control.
12:30:29 6 And it isn't a big feature of these reports to
12:30:33 7 begin with.

12:30:35 8 He can't give opinion evidence that
12:30:37 9 hasn't been disclosed, so we do look at what's
12:30:39 10 in those reports. And it is not a challenge to
12:30:43 11 his ability to testify about archeological facts
12:30:54 12 that may or may not support your argument at the
12:30:55 13 end of this trial about things like control.

12:30:58 14 So I guess I need to know what else
12:31:00 15 you have to say about this, seems to me,
12:31:01 16 extremely narrow objection with respect to this
12:31:08 17 concept of "control".

12:31:12 18 MR. TOWNSHEND: Just on 3(c) or the
12:31:15 19 other points?

12:31:16 20 THE COURT: This particular one is
12:31:17 21 just 3(c), yes, sir. And Mr. Ogden has made it
12:31:21 22 clear that the archeological, I'm calling it
12:31:24 23 "evidence", you know, what I had described to
12:31:27 24 him as archeological investigations,
12:31:32 25 assessments, establishing what was or wasn't

1 done by who hundreds of years ago, all of which
2 is a big part of this report, is not the subject
3 of an objection.

4 MR. TOWNSHEND: I must say I'm a
5 little puzzled by -- I was understanding the
6 larger objection. Leaving aside 3(c), if the
7 reference to history and documentary sources are
8 taken out, then what's the basis of him being
9 able to testify? I mean, those things don't fit
10 together to me.

11 THE COURT: I understand that, but --
12 I think I understand your position on those two
13 things. It's this third thing that I'm asking
14 about, unless you have something more that you
15 want to say about those things.

16 MR. TOWNSHEND: All right. If (c)
17 were to say "evidence about control of land and
18 trade routes", that would be fine with me.

19 THE COURT: But you've heard that
20 that's the objection that is maintained. That
21 is okay because you don't have to agree, but I
22 put that forward --

23 MR. TOWNSHEND: I understand the point
24 --

25 THE COURT: -- and Ontario rejects

12:32:55 1 that as a solution to their difficulty.

12:32:57 2 MR. TOWNSHEND: I understand the point
12:32:58 3 about that being too conclusive to say
12:33:01 4 "control", yeah. To say "evidence about" or
12:33:04 5 even "evidence concerning" --

12:33:07 6 THE COURT: But if you look at (b) --

12:33:09 7 MR. TOWNSHEND: Yes.

12:33:10 8 THE COURT: -- does that not cover all
12:33:11 9 of the relationship interactions that -- which
12:33:16 10 would be relevant to this subject anyway, as far
12:33:19 11 as the underlying archeological evidence is
12:33:23 12 concerned?

12:33:27 13 MR. TOWNSHEND: I think it would --

12:33:29 14 THE COURT: And Ontario says that's
12:33:30 15 fine with them.

12:33:34 16 MR. TOWNSHEND: Yeah, if (b) is
12:33:37 17 understood that comprehensively, then I think
12:33:40 18 (c) can go.

12:33:43 19 THE COURT: All right. Thank you,
12:33:43 20 sir. I'm just going to take a few minutes to
12:33:46 21 prepare a ruling, so we'll take a ten-minute
12:34:14 22 break at this time.

12:34:16 23 -- RECESSED AT 12:34 P.M. --

12:42:05 24 -- RESUMED AT 12:53 P.M. --

12:42:05 25 -- RULING --

1 THE COURT: This is my ruling on the
2 objection to part of the tender in respect of
3 Dr. Williamson, as shown in Exhibit Q-1.

4 I note that there is no objection in
5 respect of this witness being qualified to
6 testify as an expert anthropological
7 archeologist, which covers most of the tender,
8 and I accept that he is so qualified.

9 The objections are focused and can be
10 broken down into three categories.

11 First, there is an objection to the
12 opening phrase of the tender, which begins,
13 "Archeologist with expertise in the history of
14 First Nations [...]", on the basis that it
15 suggests that this gentleman is being tendered
16 as an expert historian.

17 As Mr. Townshend fairly admits, this
18 witness is not being tendered as an expert
19 historian.

20 We've certainly have had a number of
21 historians in this trial already, and I'm sure
22 there will be more to come.

23 The alternative wording suggested by
24 Ontario clarifies this issue, along with some
25 phraseology changes.

12:55:45 1 The word "history" is also used in
12:55:48 2 subparagraph 3 of the tender and should be
12:55:50 3 revised so that the tender does not give the
12:55:53 4 wrong impression that this witness is being
12:55:55 5 tendered as an expert historian.

12:56:03 6 The second type of objection relates
12:56:05 7 to a phrase in the opening sentence, which
12:56:09 8 reads:

12:56:10 9 "[...]drawn from the
12:56:12 10 archeological record, documentary
12:56:14 11 record, oral history and traditional
12:56:17 12 knowledge".

12:56:18 13 Ontario accepts that this witness can
12:56:21 14 testify about information -- the information he
12:56:24 15 used to reach his opinions, including in those
12:56:29 16 categories, but disputes that the information an
12:56:35 17 expert refers to in reaching an opinion should
12:56:39 18 form part of the tender itself.

12:56:44 19 I agree that it is unnecessary to
12:56:47 20 catalogue the types of information sources an
12:56:49 21 expert uses in the tender itself. And again to
12:56:52 22 avoid confusion, that phrase should be removed.

12:57:00 23 The third topic relates to
12:57:03 24 subparagraph 3 sub (c), which reads:

12:57:09 25 "Control of land and trade

12:57:11 1 routes."

12:57:20 2 The concept of "control" is not a
12:57:21 3 major feature of the reports of this witness.
12:57:24 4 And the evidence about his qualifications does
12:57:27 5 not support a conclusion that there is a
12:57:29 6 specific concept of control within the
12:57:34 7 anthropological-archeological discipline that
12:57:38 8 would fall within this witness' qualifications.

12:57:41 9 However, he is qualified to testify
12:57:43 10 about what I will call "archeological evidence"
12:57:47 11 derived through the archeological process that
12:57:49 12 he has testified about, which evidence may
12:57:53 13 inform arguments to be made before me about
12:57:56 14 control of land and trade routes.

12:57:59 15 That archeological evidence would also
12:58:02 16 fall under subparagraph 3 sub (b), which is not
12:58:08 17 challenged. I will, therefore, remove
12:58:11 18 subparagraph 3 sub (c) since it may overstate
12:58:14 19 what this witness can opine on.

12:58:17 20 And I will take my ruling into account
12:58:19 21 when assessing the very few references to
12:58:21 22 "control" in these reports that could be
12:58:24 23 described as an opinion emanating from this
12:58:27 24 gentleman since the reports themselves are going
12:58:30 25 into evidence as part of a consent arrangement

12:58:32 1 between the parties.

12:58:36 2 I will therefore read out loud the
12:58:38 3 parts of the tender that I have amended as
12:58:43 4 follows. I accept this gentleman as qualified
12:58:47 5 to testify as follows:

12:58:54 6 "An anthropological archeologist
12:58:57 7 with expertise in the presence of
12:58:59 8 First Nations in the Great Lakes area
12:59:00 9 from the Paleo-Indian period to the
12:59:04 10 mid-18th century and capable of giving
12:59:06 11 opinion evidence on:"

12:59:09 12 And paragraphs 1 and 2 are unchanged,
12:59:12 13 so I'm not going to read them.

12:59:13 14 Paragraph 3:

12:59:14 15 "Archeological evidence regarding
12:59:16 16 peoples in the Great Lakes area and
12:59:19 17 the SONTL from 1615 to 1763, with
12:59:28 18 particular emphasis on:"

12:59:30 19 And (a) and (b) remain the same, and
12:59:32 20 (c) is removed.

12:59:34 21 That concludes my ruling, Madam
12:59:36 22 Reporter.

12:59:37 23 Given the time, unless someone has
12:59:39 24 something which they wish to raise, I propose
12:59:41 25 that we break for lunch and, Mr. Townshend, you

12:59:44 1 can begin the examination-in-chief of your
12:59:47 2 witness at 2:15. Is that satisfactory?
12:59:50 3 MR. TOWNSHEND: Thank you, Your
12:59:50 4 Honour.
12:59:51 5 THE COURT: We'll return at 2:15.
12:59:51 6 -- RECESSED AT 12:59 P.M. --
02:15:34 7 -- RESUMED AT 2:15 P.M. --
02:16:07 8 THE COURT: Please go ahead,
02:16:08 9 Mr. Townshend.
02:16:21 10 FURTHER EXAMINATION IN-CHIEF
02:16:23 11 BY MR. TOWNSHEND:
12 Q. Thank you. May I have document
13 SC1075, please?
02:16:30 14 Dr. Williamson, do you recognize this
02:16:32 15 document?
02:16:32 16 A. Yes, I do.
02:16:33 17 Q. It is?
02:16:34 18 A. It is the first report that I
02:16:36 19 prepared on the archeology and history of the
02:16:40 20 SON traditional land and region. It's dated
02:16:43 21 2013.
02:16:46 22 Q. I'd like this as an exhibit.
02:16:50 23 THE COURT: Mr. Registrar.
02:16:51 24 THE REGISTRAR: Exhibit Number 4239.
02:16:58 25 EXHIBIT NO. 4239: Dr. Williamson's

02:16:58 1 first report on archeology and history
02:16:58 2 of the SON traditional land and
02:16:58 3 region, 2013; Document SC1075.
02:17:01 4 BY MR. TOWNSHEND:
02:17:02 5 Q. I'd like to go on with the rest
02:17:03 6 of the exhibits for the moment. Can I have
02:17:05 7 document SC1076?
02:17:17 8 Can you tell us what this is,
02:17:18 9 Dr. Williamson?
02:17:19 10 A. Yes. This a report that we
02:17:24 11 prepared on the analysis, the chemical analysis
02:17:27 12 of glass beads from the River Mouth Speaks site.
02:17:33 13 Q. And I'd like to add this as an
02:17:34 14 exhibit.
02:17:37 15 THE REGISTRAR: Exhibit Number 4240.
02:17:39 16 EXHIBIT NO. 4240: Report prepared by
02:17:40 17 Dr. Williamson et al. on the chemical
02:17:40 18 analysis of glass beads from the River
02:17:40 19 Mouth Speaks site; Document SC1076.
02:17:43 20 MR. TOWNSHEND: Your Honour, I want to
02:17:43 21 make one note about this. This report has four
02:17:47 22 co-authors and because of the different
02:17:51 23 disciplines that it involves, it includes, for
02:17:54 24 example, substantial parts of nuclear physics
02:17:58 25 and statistical correlational analysis.

02:18:01 1 Our understanding is that that part of
02:18:04 2 it is not contested. Those are parts that
02:18:07 3 Dr. Williamson is not particularly expert in.
02:18:11 4 If they were contested we would call one of the
02:18:15 5 other co-authors as well, Dr. Brandi MacDonald.

02:18:21 6 BY MR. TOWNSHEND:

02:18:21 7 Q. Can I have document SC1081,
02:18:23 8 please?

02:18:30 9 What is this, Dr. Williamson?

02:18:31 10 A. This is a supplementary report
02:18:34 11 that I issued shortly after the bead project,
02:18:38 12 addressing cultural continuity in the SONTL.

02:18:47 13 Q. I would like to add this as an
02:18:48 14 exhibit.

02:18:50 15 THE REGISTRAR: Exhibit Number 4241.
02:18:52 16 EXHIBIT NO. 4241: Supplementary
02:18:52 17 report by Dr. Williamson about
02:18:52 18 cultural continuity in the SONTL;
02:18:52 19 Document SC1081.

02:18:53 20 BY MR. TOWNSHEND:

02:18:54 21 Q. Can I have Exhibit SC1078?

02:19:01 22 And, Dr. Williamson, can you explain
02:19:02 23 what this is?

02:19:03 24 A. Yes, this is a listing of errata
02:19:06 25 in the -- or changes to citations that are in

02:19:09 1 the report.

02:19:14 2 Q. The first report?

02:19:15 3 A. The first report.

02:19:16 4 Q. I would like this added as an

02:19:18 5 exhibit.

02:19:20 6 THE COURT: So that's errata in

02:19:22 7 Exhibit 4239? Is that what it is?

02:19:25 8 MR. TOWNSHEND: That's correct.

02:19:27 9 THE REGISTRAR: Exhibit Number 4242.

02:19:28 10 EXHIBIT NO. 4242: Errata in Exhibit

02:19:29 11 4239; Document SC1078.

02:19:31 12 BY MR. TOWNSHEND:

02:19:32 13 Q. Can I have document SC1079?

02:19:38 14 And, Dr. Williamson, if you could

02:19:39 15 explain this?

02:19:40 16 A. Similarly, these are errata that

02:19:44 17 should be accepted for the nondestructive

02:19:49 18 analysis bead report.

02:19:52 19 Q. I would like this added as an

02:19:54 20 exhibit.

02:19:55 21 THE COURT: And for the record, that's

02:19:55 22 errata in Exhibit 4240, is that correct?

02:20:00 23 MR. TOWNSHEND: That's correct.

02:20:01 24 THE COURT: Mr. Registrar.

02:20:03 25 THE REGISTRAR: Exhibit Number 4243.

02:20:04 1 EXHIBIT NO. 4243: Errata in Exhibit
02:20:05 2 4240; Document SC1079.
02:20:07 3 BY MR. TOWNSHEND:
02:20:07 4 Q. And finally I would like document
02:20:09 5 SC1077.
02:20:12 6 A. Similarly, these are citation
02:20:13 7 issues and errata related to the supplementary
02:20:17 8 report concerning cultural continuity.
02:20:19 9 Q. And these will be errata related
02:20:22 10 to Exhibit 4241.
02:20:25 11 THE COURT: All right.
02:20:26 12 BY MR. TOWNSHEND:
02:20:26 13 Q. And I would like this made an
02:20:28 14 exhibit.
02:20:29 15 THE REGISTRAR: Exhibit Number 4244.
02:20:31 16 EXHIBIT NO. 4244: Errata related to
02:20:31 17 Exhibit 4241; Document SC1077.
02:20:38 18 BY MR. TOWNSHEND:
02:20:38 19 Q. Now, if we could go to the first
02:20:40 20 report, Exhibit 4239? And starting at page 4,
02:21:05 21 and scrolling down a bit?
02:21:20 22 At this point these are setting out
02:21:24 23 the questions you were asked to answer, is that
02:21:28 24 correct?
02:21:29 25 A. That is correct.

02:21:30 1 Q. Now, then you have a section on
02:21:33 2 the methodology of what you did to answer the
02:21:36 3 questions starting at page 6.

02:21:40 4 So we go to page 6 and it talks
02:21:45 5 about -- the next page. It talks about the
02:21:55 6 archeological data. So can you talk to us about
02:21:59 7 what archeological sources you looked at?

02:22:01 8 A. The primary manager of
02:22:06 9 archeological resource data for the Province of
02:22:08 10 Ontario is the Ministry of Tourism, Culture and
02:22:12 11 Sport who maintain an archeological database.
02:22:18 12 Every time a site is found, an archeologist
02:22:22 13 registers a site record form, and these make up
02:22:25 14 the record of archeological sites in the
02:22:28 15 province.

02:22:29 16 So we examined or we requested of that
02:22:33 17 database information which helped to inform this
02:22:36 18 report.

02:22:37 19 We also looked at the professional
02:22:40 20 archeological literature for information about
02:22:42 21 those archeological sites. And we were also
02:22:45 22 aware of other reports that dealt with
02:22:48 23 archeological sites that were not published.

02:22:55 24 MR. TOWNSHEND: Your Honour, there's
02:22:56 25 one procedural issue I wish to draw to your

02:22:59 1 attention. The raw archeological data, by which
02:23:02 2 I mean this artifact was dug up at this
02:23:05 3 particular location, is, to my knowledge, not
02:23:08 4 disputed, while the interpretation of it is
02:23:11 5 disputed.

02:23:13 6 That data is found in dozens or
02:23:16 7 perhaps hundreds of reports of archeological
02:23:20 8 investigations and excavations.

02:23:24 9 And these reports were entered in the
02:23:26 10 trial database as secondary rather than primary
02:23:29 11 sources, although the archeologists are using
02:23:33 12 them, in effect, as primary sources. So that
02:23:40 13 does mean they're not exhibits as of now.

02:23:42 14 It didn't seem necessary or helpful to
02:23:44 15 go to all these reports because they're very
02:23:46 16 detailed and technical, but Dr. Williamson does
02:23:49 17 refer to them as the source of the facts on
02:23:52 18 which his opinions are based.

02:23:54 19 So I'm seeking your guidance on if you
02:23:58 20 wish all those background raw data reports
02:24:02 21 entered as exhibits. I am not inclined to do
02:24:05 22 that and neither are my friends, but I thought I
02:24:08 23 should raise that with you.

02:24:10 24 THE COURT: Is that another way of
02:24:11 25 saying that the defendants agree that there's no

02:24:14 1 need to mark that?

02:24:21 2 MR. McCULLOCH: Your Honour, I have
02:24:22 3 made it clear to my friend that we will in fact
02:24:25 4 be referring to at least some of those reports.

02:24:28 5 THE COURT: I'm not talking about
02:24:29 6 whether you refer to them or not.

02:24:33 7 Mr. Ogden?

02:24:36 8 MR. OGDEN: No objection.

02:24:37 9 THE COURT: I have raised before with
02:24:40 10 counsel the hope for efficiency of not taking up
02:24:44 11 in-court time to mark secondary sources that are
02:24:46 12 not, as regards to their authenticity, disputed
02:24:52 13 just because they need to be in the record.

02:24:54 14 So there are other ways of dealing
02:24:56 15 with that. So they can be marked. There is no
02:24:59 16 problem with that, but you don't have to go
02:25:01 17 through them one-by-one with this gentleman.
02:25:04 18 And you can -- anyone can use them obviously.

02:25:11 19 I understood your request to be a
02:25:13 20 little different from the efficient offline
02:25:15 21 marking of uncontested reports, which is, do you
02:25:19 22 wish to be relieved from the ordinary rule that
02:25:23 23 the underlying facts upon which an expert relies
02:25:27 24 must form part of the record?

02:25:29 25 MR. TOWNSHEND: That was my question.

02:25:30 1 THE COURT: All right. And depending
02:25:32 2 on the position of the defendants, I certainly
02:25:34 3 may do that.

02:25:37 4 So let me ask the defendants, each of
02:25:41 5 them, in this specific witness, not as a general
02:25:47 6 proposition, do you agree to proceed on the
02:25:53 7 basis that the raw data found in the secondary
02:25:57 8 sources does not have to formally be introduced
02:26:01 9 into the record and that that would not be an
02:26:05 10 objection raised later, that the foundation
02:26:08 11 wasn't in the court record?

02:26:10 12 Is it your witness, sir? Do you want
02:26:12 13 to speak to that first?

02:26:15 14 MR. McCULLOCH: Subject of course to
02:26:16 15 the ability to make any of the underlying
02:26:18 16 reports part of the record.

02:26:20 17 THE COURT: Of course. Of course.

02:26:23 18 Mr. Ogden.

02:26:24 19 THE WITNESS: That's fine as long as
02:26:25 20 we're clear that the raw data is limited to a
02:26:28 21 very basic description of an item, where and
02:26:32 22 when it was found, rather than any
02:26:34 23 interpretation of what that item might be
02:26:36 24 contained in the report.

02:26:37 25 THE COURT: All right. So here is

02:26:38 1 what we're going to do, Mr. Townshend. You've
02:26:40 2 heard what Mr. Ogden and Mr. McCulloch --
02:26:47 3 Mr. McCulloch, it's been a long two weeks off or
02:26:49 4 something.

02:26:51 5 I'm not going to ask you to respond to
02:26:53 6 it right now. What I would like you to do is
02:26:56 7 proceed, and then when you get your transcript
02:26:58 8 and look over what the positions of the
02:27:01 9 defendants are, you can either tell me tomorrow
02:27:03 10 morning that you find that an acceptable way to
02:27:05 11 move forward, or you can bring with you a list
02:27:09 12 of the secondary sources and they can get marked
02:27:12 13 on -- offline, "offline" meaning not needing to
02:27:18 14 go through this witness.

02:27:19 15 If you choose the latter course,
02:27:20 16 please provide your list in advance to the other
02:27:23 17 side, okay?

02:27:24 18 MR. TOWNSHEND: Yes.

02:27:25 19 THE COURT: But I don't think you
02:27:26 20 should need to respond right now. You might
02:27:28 21 want to think about it.

02:27:30 22 So proceed now as if you don't have to
02:27:32 23 do it because one way or the other tomorrow
02:27:34 24 you'll either agree that it's unnecessary or
02:27:37 25 you'll do it in an offline fashion.

02:27:40 1 MR. TOWNSHEND: Thank you, Your
02:27:40 2 Honour.

02:27:41 3 THE COURT: All right. Please go
02:27:41 4 ahead.

02:27:48 5 BY MR. TOWNSHEND:

02:27:49 6 Q. So Dr. Williamson, can you tell
02:27:50 7 us, what was the geographic scope of your
02:27:54 8 investigation?

02:27:56 9 A. It was the archeology of Bruce
02:27:59 10 and Grey Counties, the archeological sites in
02:28:03 11 Bruce and Grey Counties and Manitoulin Island.

02:28:07 12 Q. And why did you include
02:28:08 13 Manitoulin Island?

02:28:10 14 A. Because the documentary record is
02:28:11 15 clear that the Odawa were on Manitoulin Island,
02:28:13 16 as they were in the Bruce Peninsula and parts of
02:28:17 17 Grey and -- sorry, Bruce and Grey Counties. So
02:28:21 18 that is the archeological data I requested.

02:28:25 19 THE COURT: So, sir, you were clear as
02:28:27 20 a bell this morning. And these are tiring
02:28:33 21 proceedings, but if you could try and revert to
02:28:35 22 that a little bit?

02:28:38 23 THE WITNESS: Yes.

02:28:38 24 THE COURT: It's close.

02:28:40 25 THE WITNESS: I'll be better, Your

02:28:41 1 Honour .

02:28:42 2 THE COURT: I had a little trouble
02:28:44 3 hearing that answer, so we might as well get
02:28:46 4 that in your mind. Please go ahead.

02:28:48 5 BY MR. TOWNSHEND:

02:28:49 6 Q. Would you like the question and
02:28:49 7 answer --

02:28:51 8 THE COURT: I got it, but I got it
02:28:52 9 with some difficulty, so I'm going to try and
02:28:55 10 get the witness to help me out a bit. Thank
02:28:57 11 you.

02:29:16 12 BY MR. TOWNSHEND:

02:29:17 13 Q. At page 7 of the report you begin
02:29:18 14 a section on oral traditions and histories that
02:29:21 15 you looked at. Can you tell us what oral
02:29:27 16 history sources you looked at?

02:29:29 17 A. I looked at the recorded
02:29:30 18 interviews of SON people as it related to the
02:29:38 19 tradition regarding the Anishinaabek-Iroquois
02:29:44 20 hostilities of the late 18th century -- sorry,
02:29:48 21 late 17th century. And I also looked at records
02:29:52 22 of those as reflected in certain publications,
02:29:59 23 for example, Copway.

02:30:07 24 Q. And when you said "those" such as
02:30:10 25 in Copway, what do you mean?

02:30:14 1 A. I mean histories provided by
02:30:17 2 Anishinaabek authors who review the evidence for
02:30:21 3 or provide oral tradition around the
02:30:28 4 Anishinaabek hostilities with Iroquois.

02:30:32 5 Q. And the date, for example, of
02:30:33 6 Copway is?

02:30:34 7 A. The 1850s, and there are a few
02:30:37 8 others that we looked at as well.

02:30:40 9 Q. How did you assess the
02:30:42 10 reliability of the oral history you looked at?

02:30:45 11 A. I looked at that -- I looked at
02:30:48 12 those -- I looked at this oral tradition with
02:30:55 13 the knowledge and belief that oral tradition can
02:30:59 14 be used to convey the general events of that
02:31:09 15 tradition, the general gist, as I used, of that
02:31:10 16 tradition. The actual details may have been
02:31:17 17 misforgotten or misremembered, and that is how I
02:31:20 18 view them in regard to other evidence.

02:31:30 19 Q. The bottom of page 8, you have an
02:31:31 20 example about Rice Lake and the Serpent Mounds.
02:31:35 21 Can you explain that example?

02:31:37 22 A. Yes, as part of that tradition
02:31:39 23 there is a record of Anishinaabek battle with
02:31:47 24 Haudenosaunee in the Trent Valley and in the
02:31:49 25 area of the Peterborough -- or the Serpent

02:31:55 1 Mounds in the south of Peterborough. This
02:31:58 2 tradition includes details of the mounds being
02:32:05 3 created as a result of that battle and the bones
02:32:07 4 of the dead being included in that -- in such
02:32:12 5 mounds.

02:32:13 6 This was looked at by David Boyle, who
02:32:18 7 is the father of Canadian archeology in the
02:32:22 8 1880s and looked at that situation and argued
02:32:26 9 that -- or identified the fact that those mounds
02:32:33 10 had actually been created many centuries
02:32:35 11 earlier.

02:32:36 12 And this didn't mean that the battle
02:32:38 13 hadn't occurred in that area but that these
02:32:41 14 mounds had nothing to do with that battle. And
02:32:44 15 that has been borne out by modern research as
02:32:49 16 well.

02:32:49 17 Q. And how do you relate that to how
02:32:51 18 you assess the reliability?

02:32:53 19 A. So that's a perfect example of
02:32:56 20 where a detail about a particular oral tradition
02:32:59 21 is incorrect, but it doesn't affect the general
02:33:05 22 gist of what happened.

02:33:11 23 Q. Can I have document number
02:33:12 24 SC1080, please? This is an excerpt from
02:33:21 25 Dr. von Gernet's report, which is sought to

02:33:24 1 be -- eventually sought to be entered. And
02:33:28 2 there's a portion of it that directly addresses
02:33:31 3 Dr. Williamson, so I'd like to make this a
02:33:34 4 lettered exhibit and then ask Dr. Williamson to
02:33:37 5 comment on that.

02:33:38 6 THE COURT: That's fine, subject to
02:33:39 7 any objections. No one is standing up. But is
02:33:42 8 this already a lettered exhibit perhaps?

02:33:44 9 Mr. Registrar, can you help us with
02:33:44 10 that?

02:34:03 11 THE REGISTRAR: Yes, Your Honour.
02:34:03 12 It's not an exhibit.

02:34:05 13 THE COURT: No? All right. The part
02:34:06 14 that's showing on the screen doesn't have a date
02:34:08 15 on it. I'm sure there must be a date on it.

02:34:10 16 MR. TOWNSHEND: It's 2019.

02:34:12 17 THE COURT: Is it the one from a few
02:34:14 18 months ago?

02:34:15 19 MR. TOWNSHEND: Yes, it is.

02:34:16 20 THE COURT: Mr. Registrar, the July
02:34:17 21 2019 report of Dr. von Gernet will be the next
02:34:22 22 lettered exhibit.

02:34:25 23 THE REGISTRAR: Exhibit Q-2.

02:34:29 24 EXHIBIT NO. Q-2: Excerpt from the
02:34:32 25 July 2019 report of Dr. von Gernet;

02:34:32 1 Document SC1080.

02:34:32 2 MR. TOWNSHEND: An expert from the
02:34:34 3 report, a short excerpt from the report.

02:34:38 4 THE COURT: Okay. Exhibit Q-2 shall
02:34:41 5 be an excerpt from the July 2019 report of
02:34:45 6 Dr. von Gernet. Please go ahead.

02:34:47 7 BY MR. TOWNSHEND:

02:34:47 8 Q. So, Dr. Williamson, you've read
02:34:49 9 this selection. Can you provide comments on
02:34:54 10 Dr. von Gernet's criticism of you?

02:34:57 11 A. First of all, the position that
02:35:00 12 the general gist or general storyline is based,
02:35:06 13 as I lay out in my report, psychological
02:35:10 14 research on memory, human memory, and it is a
02:35:13 15 position that seems utterly rational in terms of
02:35:16 16 how human memory works and the fact that people
02:35:19 17 will invent details about events that they have
02:35:21 18 seen recently and also the details around it,
02:35:26 19 but it doesn't affect the general gist of what
02:35:29 20 happened.

02:35:30 21 So I view oral history in that way. I
02:35:34 22 view the fact that things can occur and we can
02:35:39 23 tell stories, we can have that tradition and the
02:35:41 24 general details about it change.

02:35:49 25 Dr. von Gernet challenges the fact

02:35:51 1 that he can come up with examples where the
02:35:54 2 general gist of the tradition is not accurate.
02:35:57 3 And I have no doubt he can come up with other
02:36:00 4 examples of that, just as many more examples can
02:36:02 5 be found of where the actual oral tradition, the
02:36:06 6 general gist of the story is true.

02:36:09 7 And at the end of the 17th century we
02:36:11 8 find ourselves in Ontario, and by the mid-18th
02:36:14 9 century we find the British signing all of the
02:36:17 10 land deeds or land treaties with the Mississauga
02:36:21 11 Anishinaabek, who had contributed to the removal
02:36:25 12 of Haudenosaunee from Southern Ontario.

02:36:31 13 I believe that that general storyline
02:36:33 14 is true.

02:36:35 15 THE COURT: Just before you move past
02:36:37 16 this, Mr. Townshend, because I can't see it on
02:36:39 17 the screen, can you just put on the record which
02:36:41 18 pages of the report form part of this excerpt?
02:36:43 19 I can see the first page, number 57, but is
02:36:46 20 there a section?

02:36:48 21 MR. TOWNSHEND: It's pages 57 to 61.

02:36:50 22 THE COURT: Thank you very much. Got
02:36:51 23 it.

02:37:13 24 BY MR. TOWNSHEND:

02:37:15 25 Q. So at pages 9 and 10 you also

02:37:15 1 discuss primary sources of historical documents.

02:37:18 2 Can you tell us what documents you looked at?

02:37:20 3 A. I looked at the early accounts
02:37:22 4 and writings of the earliest explorers in the
02:37:25 5 region, missionaries, traders, and surveyors as
02:37:31 6 it related to the first Europeans to be in this
02:37:36 7 area for the period in question.

02:37:49 8 Q. How did you assess their
02:37:52 9 reliability?

02:37:53 10 A. So I looked at their reliability
02:37:56 11 in the question -- in terms of the
02:37:58 12 contextualization of the document in the record
02:38:01 13 of that time and our understanding of how that
02:38:06 14 record was formed.

02:38:07 15 So, for example, maps that are created
02:38:10 16 that accompany those accounts, the account might
02:38:13 17 be from the early 17th century and the maps
02:38:18 18 provided decades later. All of that kind of
02:38:22 19 information is important in assessing those
02:38:25 20 documents, also the agendas of the people
02:38:29 21 writing those documents and their reliability in
02:38:34 22 question to that.

02:38:39 23 Q. On page 10 you have a section on
02:38:41 24 secondary sources. Can you tell us what
02:38:43 25 secondary sources you used and how you used

02:38:45 1 them?

02:38:48 2 A. Here I looked at published
02:38:50 3 journal records, I looked at conference papers,
02:38:53 4 conference proceedings, and I looked at research
02:38:57 5 reports prepared by consultants and agencies and
02:39:01 6 local histories; all of these in an effort to
02:39:04 7 augment the data about the period in question.

02:39:11 8 Q. And do you have some criteria for
02:39:12 9 looking at their reliability?

02:39:15 10 A. Certainly in the case of journal
02:39:17 11 articles which have been peer-reviewed, I place
02:39:21 12 more reliability on those, not that a
02:39:29 13 nonpeer-reviewed paper can't have -- can't be a
02:39:32 14 reliable document. It's the vagaries of whether
02:39:36 15 someone had it published or not. But I think
02:39:38 16 there's a slight difference there.

02:39:48 17 Q. At page 13 you have a chapter
02:39:51 18 titled "Identity" that I want to turn to now.
02:39:55 19 And I direct your attention to the bottom of
02:39:57 20 page 14 and ask you if you could just tell us in
02:40:03 21 summary your opinion on how an Indigenous person
02:40:08 22 living on what is now called the Bruce Peninsula
02:40:12 23 prior to 1615 would have identified?

02:40:16 24 A. This was a textual quote of
02:40:20 25 Charles Cleland who asked the question for 1600,

02:40:24 1 how would someone identify themselves?

02:40:27 2 I agree with what is indicated here,
02:40:29 3 which is that they would identify first as
02:40:32 4 Anishinaabe, and then they would probably
02:40:35 5 identify by their clan, their family, and then
02:40:38 6 by the place in which they -- or the place in
02:40:43 7 which they lived. And I think that is clear in
02:40:48 8 that quote.

02:40:51 9 Q. Maybe you can just tell us who
02:40:53 10 Charles Cleland is?

02:40:55 11 A. Charles Cleland is an eminent
02:40:56 12 archeologist who uses the documentary record in
02:41:03 13 their work as excavated at several important
02:41:07 14 Odawa sites.

02:41:16 15 Q. On page 23 you have a section
02:41:18 16 called "European Identification of Aboriginal
02:41:22 17 Peoples". So what can we tell from what
02:41:26 18 Europeans called Anishinaabek Groups?

02:41:31 19 A. I think one does need to be
02:41:32 20 careful in the use of European names for people.
02:41:46 21 It varied throughout the 17th century, and in
02:41:49 22 some cases in the early period there are quite,
02:41:52 23 kind of, clear discussions of the identity of
02:42:00 24 people, and then it can be quite broad.

02:42:04 25 Q. What significance would it have

02:42:05 1 for Indigenous peoples how Europeans identified
02:42:09 2 them?

02:42:10 3 A. I think it would have relatively
02:42:12 4 little significance if they themselves refer as
02:42:17 5 Anishinaabek or a clan, a place from which
02:42:19 6 they're located, they may find whatever European
02:42:23 7 says about who they are to be not very
02:42:26 8 important.

02:42:30 9 Q. So you're using -- you're talking
02:42:32 10 about the Odawa in these pages as an example of
02:42:35 11 the -- so pages 23 through 25. So can you tell
02:42:42 12 us, what did the term "Odawa" mean to the French
02:42:48 13 in the early 17th century?

02:42:50 14 A. I think it meant the four nations
02:42:52 15 of the Odawa, meaning the Kiskakon, the Sauble,
02:42:57 16 the Sinago and the Nassawaketon.

02:43:18 17 Q. And at the bottom of page 24
02:43:20 18 you're talking about the French usage in the
02:43:22 19 mid-17th century --

02:43:23 20 A. Yes. In the mid-century the term
02:43:25 21 "Odawa" was used to refer to all of the Nations
02:43:30 22 of the Great Lakes who were trading, a very
02:43:34 23 nondiscriminatory use of the word.

02:43:37 24 Q. And then what happened to the use
02:43:38 25 of the word in the late 17th century?

02:43:41 1 A. It seemed to return back to the
02:43:43 2 Nations of the Odawa in particular.

02:43:50 3 Q. What is your opinion on how
02:43:54 4 successor groups to the Odawa would identify
02:43:59 5 today?

02:44:01 6 A. I think pretty broadly people
02:44:05 7 refer to themselves as Anishinaabek or Ojibwe.
02:44:08 8 I think that is used quite frequently.

02:44:17 9 Q. Could I have document S0699?
02:44:20 10 This is an article that Dr. Reimer refers to in
02:44:35 11 her reports, so I'd like to get your -- some of
02:44:37 12 your comments on it.

02:44:39 13 But can we have it made an exhibit?

02:44:46 14 THE COURT: Is this an excerpt?

02:44:47 15 MR. TOWNSHEND: No, this is an
02:44:48 16 article.

02:44:48 17 THE COURT: It's an article. Can you
02:44:49 18 describe it for the record, please? It says
02:44:52 19 "volume 29" on it. Is it the whole of volume
02:45:05 20 29?

02:45:06 21 MR. TOWNSHEND: No, it's an article
02:45:08 22 called "Group Identities in the Boreal Forest"
02:45:13 23 by Adolph Greenberg and James Morrison published
02:45:17 24 in Ethnohistory, volume 29.

02:45:19 25 THE COURT: Mr. Registrar?

02:45:21 1 THE REGISTRAR: Exhibit Number 4245.
02:45:23 2 EXHIBIT NO. 4245: Article entitled
02:45:23 3 "Group Identities in the Boreal
02:45:23 4 Forest", authored by Adolph Greenberg
02:45:23 5 and James Morrison; Document S0699.

02:45:39 6 BY MR. TOWNSHEND:

02:45:40 7 Q. Perhaps we can start with who is
02:45:41 8 James Morrison?

02:45:43 9 A. James Morrison is a respected
02:45:44 10 ethnohistorian for the -- out of the northeast.

02:45:50 11 Q. Do you consider his work to be
02:45:52 12 reliable?

02:45:53 13 A. I do.

02:45:53 14 Q. And can you tell us what it says?

02:45:56 15 A. It's a discussion of the groups
02:45:58 16 that had been located along the north shore of
02:46:02 17 Lake Superior and to the west, groups that had
02:46:07 18 traded at Hudson's Bay and were in that area.

02:46:14 19 And it's a description of what they
02:46:15 20 were called and what was understood to be their
02:46:20 21 origins. And the article is about really the
02:46:27 22 hypothesized expansion of the Ojibwe when in
02:46:35 23 fact what they conclude is that it's the term
02:46:39 24 itself that was broadened to include these
02:46:43 25 groups that lived in that area and that there

02:46:46 1 wasn't an actual population expansion of the
02:46:48 2 Ojibwe into that area, but that this article
02:46:52 3 summarizes that mistake and concludes that what
02:46:56 4 actually happened was the broadening of the term
02:46:59 5 itself.

02:47:05 6 Q. Can you tell us whether that
02:47:07 7 relates to the topic of identity that we're
02:47:09 8 discussing?

02:47:09 9 A. Well, it certainly is a similar
02:47:11 10 one to the use of "Odawa" by the French to look
02:47:15 11 at all of the groups in the late 17th century.
02:47:19 12 But I think it's also true of a catch-all term
02:47:21 13 for all of the First Nations under the term
02:47:25 14 "Ojibwe".

02:47:37 15 Q. That concludes my questions on
02:47:39 16 Chapters 1 and 2, so I'd like to turn it over to
02:47:42 17 Ms. Pelletier.

02:47:44 18 THE COURT: Please go ahead,
02:47:44 19 Ms. Pelletier. Do you need a minute to set up?

02:47:49 20 MS. PELLETIER: Yes, please, Your
02:47:49 21 Honour. Thank you.

02:47:50 22 THE COURT: Just take your time.

02:48:23 23 EXAMINATION IN-CHIEF BY MS. PELLETIER:

02:48:34 24 Q. Thank you, Your Honour.

02:48:47 25 Dr. Williamson, I would like to begin

02:48:48 1 by asking you to define a few terms, and I'll
02:48:51 2 also ask you a few preliminary questions.

02:48:54 3 First is, what are the periods that
02:48:55 4 are talked about in archeology and the dates
02:48:57 5 that attach to them?

02:49:03 6 A. So, as is outlined in my report,
02:49:06 7 I talk about the Paleo-Indian period in Ontario,
02:49:14 8 which is in Ontario roughly 13,000 years ago to
02:49:18 9 about 9,000 years ago.

02:49:21 10 These are the very first peoples to
02:49:24 11 arrive in what we now call Ontario. There is a
02:49:28 12 transition from that Paleo-Indian period. By
02:49:35 13 the way, there's a very rich presence of
02:49:37 14 Paleo-Indian in the SONTL in Manitoulin.

02:49:41 15 There is then a transition from that
02:49:46 16 Paleo-Indian period into the subsequent Archaic
02:49:49 17 period, which actually mimicked or occurred at
02:49:56 18 about the same time as there was some
02:49:57 19 environmental change due to warming climate.

02:50:01 20 We get -- we go from a kind of open,
02:50:06 21 spruce, boreal-type environment to one which is
02:50:12 22 more like the southern climate we have today,
02:50:14 23 deciduous-forest based, although the SONTL has a
02:50:21 24 couple of environmental zones that are kind of
02:50:24 25 transitional, for example, between the Shield

02:50:26 1 and south of it.

02:50:27 2 And all of that changes with the
02:50:29 3 climate at around 9,000 BP. And the Archaic
02:50:34 4 period itself is split into three periods, not
02:50:40 5 surprisingly, Early, Middle and Late Archaic.

02:50:43 6 And the early is for about 2,000
02:50:47 7 years, from roughly 7,000 or 9,000 years ago to
02:50:53 8 about 7,000 years ago. We have a Middle Archaic
02:50:57 9 period followed by a Late Archaic period that
02:51:02 10 goes to about 4,000 years ago -- well, maybe
02:51:05 11 4,000 to 3,000 years ago.

02:51:08 12 During this period we have a
02:51:11 13 population expansion. We have increased
02:51:16 14 population but also expansion across the
02:51:20 15 Southern Ontario landscape and Northern Ontario
02:51:23 16 landscape such that we see Archaic period
02:51:29 17 peoples in most of the province.

02:51:34 18 This is followed by the Early Woodland
02:51:39 19 period or the Woodland period, which, again, is
02:51:42 20 divided into Early, Middle/Transitional and Late
02:51:49 21 Woodland. This is all outlined in my report.

02:51:56 22 The Early Woodland period differs
02:51:59 23 little from the Late Archaic period but does
02:52:01 24 include the appearance of ceramics for the first
02:52:04 25 time. We see ceramic vessels on site. There is

02:52:09 1 also increased ceremonialism during the Early
02:52:11 2 Woodland period with the use of red ochre over
02:52:14 3 large areas. We see the use of objects that are
02:52:20 4 made and exchanged broadly.

02:52:23 5 And all of this speaks to an expanding
02:52:29 6 kind of mortuary practice. And there's -- we
02:52:32 7 certainly see social integration increase and
02:52:35 8 expand relative to earlier times. That's the
02:52:39 9 Early Woodland period.

02:52:40 10 The Middle Woodland period similarly
02:52:43 11 represents a continuation of the same kind of
02:52:44 12 settlements and subsistence pattern with
02:52:49 13 spring-spawning fish being especially important.

02:52:52 14 I think it's exceptionally important
02:52:54 15 to note that this period is now seen quite
02:53:01 16 differently than it was 40 years ago or 50 years
02:53:04 17 ago. There are now Middle Woodland bands on
02:53:06 18 most of the major drainages in Southern Ontario.
02:53:10 19 They are thought to be autonomous politically,
02:53:14 20 kin-based with seasonal movements restricted to
02:53:17 21 fairly small areas, such as the drainage basin
02:53:21 22 in which they are located.

02:53:23 23 This is particularly important for the
02:53:26 24 Middle Woodland focus of the SONTL.

02:53:30 25 I might add that the original

02:53:32 1 documentation of the Middle Woodland was done in
02:53:34 2 the late 1950s and 1960s when the entire
02:53:40 3 outline of the historical development of people
02:53:43 4 was done on the basis of a couple of dozen
02:53:46 5 sites, and there are now over 18,000 sites of
02:53:48 6 Indigenous sites in the archeological record
02:53:51 7 because of work in the last several decades.

02:53:55 8 So we have a much enhanced and better
02:53:58 9 understanding of that period.

02:54:02 10 The Late Woodland period, coming out
02:54:05 11 of the Transitional Woodland and
02:54:07 12 Middle-Transitional Woodland we have a virtual
02:54:11 13 revolution at least in the parts of Southern
02:54:14 14 Ontario, south of the Shield where we have
02:54:19 15 increasing reliance on farming.

02:54:24 16 And so people use larger settlements,
02:54:26 17 and they can do that. They can come together
02:54:28 18 for larger periods of time, longer periods of
02:54:31 19 time because they can grow and store a surplus
02:54:36 20 of food, which was not available to them prior
02:54:39 21 to the advent of farming.

02:54:42 22 That was not -- it was possible in
02:54:46 23 some southern Shield communities to do some
02:54:50 24 farming, but the Jesuits noted that the -- or
02:54:56 25 early explorers noted that the -- the Wendat was

02:55:02 1 the granary of the north. So they were
02:55:04 2 providing corn to northern communities.

02:55:12 3 We do have a -- an Iroquoian-speaking
02:55:17 4 presence in the SONTL that comes in in the late
02:55:19 5 16th century called the Tionontaté. It's felt
02:55:29 6 that they were an intrusive group that
02:55:32 7 negotiated their way in, much like, I think, the
02:55:34 8 Wendat did in Simcoe County.

02:55:36 9 All of this relates, I guess,
02:55:38 10 eventually to the question of the co-residence
02:55:41 11 of Iroquoians and Algonquians in that part of
02:55:44 12 the world for 4,000 years and how all of that
02:55:47 13 was negotiated through into the historic period.

02:55:51 14 Q. Thank you, Dr. Williamson. And
02:55:52 15 how do archeologists date a site?

02:55:56 16 A. There are two basic methods. In
02:55:59 17 this area, let me talk about Ontario, two basic
02:56:02 18 ways, one is absolute dating and one is relative
02:56:05 19 dating.

02:56:05 20 Absolute would be through the use of
02:56:07 21 radiocarbon analysis, which we're all familiar
02:56:10 22 with, which is now done at a level that can
02:56:14 23 provide, if the samples are organic annuals like
02:56:19 24 maize or berry, can provide a date that is a
02:56:25 25 date of, let's say, for example, 1500 plus or

02:56:30 1 minus 40 years, which has -- and even less,
02:56:34 2 which has diminished significantly from times
02:56:39 3 when there could be ranges as much as 60 years
02:56:42 4 either side of the date. So we have better
02:56:46 5 chronological control through what's called
02:56:48 6 "accelerator mass spectrometry dating".

02:56:53 7 The other way that we use is
02:56:57 8 seriation, which is looking at archeological
02:57:02 9 assemblages off of sites or subassemblages that
02:57:07 10 tell us the date of the site based on the nature
02:57:09 11 of that assemblage.

02:57:10 12 So you can have several sites, let's
02:57:16 13 say one has a radiocarbon date of X. You
02:57:19 14 find -- you look at the assemblages and you can
02:57:23 15 relate those assemblages to those sites that
02:57:26 16 have known radiocarbon dates.

02:57:32 17 An example would be if you had a
02:57:34 18 parking lot here of Model T's, you had a parking
02:57:37 19 here of Thunderbirds, and you had a parking lot
02:57:37 20 here of modern SUVs. And of course, actually
02:57:43 21 artifacts change the same way through time, and
02:57:46 22 we can look at those artifacts and place them in
02:57:48 23 those periods.

02:57:49 24 We do that both with Indigenous
02:57:51 25 artifacts, ceramics being one of the ones that

02:57:54 1 we do. Ceramics are not just about ethnicity.
02:57:57 2 And in fact with the new dating project of the
02:57:59 3 last few years in all of Iroquoia we're now able
02:58:07 4 to take particular attributes and link them as
02:58:09 5 to how they behave through time.

02:58:11 6 So for example, the development of
02:58:12 7 collars on ceramic pots. We can see how that
02:58:15 8 changes, at what century to what century.

02:58:18 9 We also look at trade goods that are
02:58:20 10 introduced based on their distribution in the
02:58:24 11 archeological records. So these are the ways
02:58:27 12 through both absolute and relative methods that
02:58:31 13 we can date sites.

02:58:33 14 Q. Thank you. For the absolute
02:58:34 15 method, radiocarbon, can you carbon date every
02:58:40 16 site?

02:58:40 17 A. No, you cannot.

02:58:41 18 Q. And why is that?

02:58:44 19 A. Almost -- I mean, very rarely
02:58:47 20 would anyone now take an old piece of charcoal
02:58:51 21 or a piece of charcoal that came off an old tree
02:58:56 22 and date that because it's not an annual.

02:59:00 23 Now, annuals provide you the
02:59:01 24 opportunity to get that tight date range.

02:59:04 25 If you found no organic material on a

02:59:07 1 site, radiocarbon dating is based on the
02:59:11 2 absorption of carbon in a living being, a living
02:59:16 3 plant or animal. So you need to have that in
02:59:20 4 the archeological record of the site to use
02:59:24 5 radiocarbon dating. And as I said, to qualify
02:59:27 6 it slightly, most people only rely now on
02:59:30 7 annuals.

02:59:33 8 Q. Thank you. And what is an
02:59:34 9 assemblage?

02:59:39 10 A. So if we have a site, like
02:59:42 11 Mantle, which we talked about this morning, that
02:59:44 12 was occupied probably for something like 20
02:59:47 13 years, during the occupation of that village
02:59:49 14 they will leave behind all the remnants of the
02:59:53 15 ceramic pots that they used and were broken
02:59:55 16 during the occupation of the village.

02:59:59 17 There are dozens of sites that have
03:00:05 18 assemblages similar to that. So you can look at
03:00:09 19 how those assemblages compare to one another
03:00:12 20 over space and over time, but you can also have
03:00:16 21 an assemblage of stone tools, stone material,
03:00:20 22 and that also changes over time and space.

03:00:27 23 And assemblages, you can think of it
03:00:32 24 as all of the material off the site or the
03:00:34 25 particular class of artifact on that site.

03:00:36 1 Q. Thank you. And now I'd like to
03:00:38 2 bring up your supplementary report. It used to
03:00:42 3 be document SC1081, but I believe we now have an
03:00:47 4 exhibit number? I regret that I did not keep
03:00:54 5 note. 4244.

03:00:57 6 THE COURT: That's the errata.

03:01:02 7 THE REGISTRAR: This document is not
03:01:03 8 marked as an exhibit.

03:01:07 9 MS. PELLETIER: 4241. My apologies.

03:01:09 10 THE COURT: Yes. That sounds right.
03:01:09 11 The supplementary report?

03:01:11 12 MS. PELLETIER: That's correct.

03:01:12 13 THE COURT: Yes, 4241.

03:01:13 14 BY MS. PELLETIER:

03:01:13 15 Q. Thank you. And I will take you
03:01:14 16 to map 1. That is at page 30 of your
03:01:17 17 supplementary report. And could you tell us,
03:01:30 18 Dr. Williamson, what does this show?

03:01:34 19 A. This shows sites that are
03:01:37 20 substantial enough to have yielded information,
03:01:40 21 sufficient information about the sites to know
03:01:43 22 something about them, they're not just isolated
03:01:48 23 findings or small scatters of artifacts, and
03:01:51 24 they cover the Bruce Peninsula and portions of
03:01:54 25 both Grey and Bruce Counties.

03:02:00 1 Q. How heavily surveyed is SON's
03:02:03 2 territory, and are there gaps in the record?

03:02:06 3 A. To begin with, that huge
03:02:13 4 expansion in archeological sites that I
03:02:16 5 explained earlier, it's largely within areas
03:02:18 6 that have very heavy development pressure.

03:02:21 7 So the GTA has expanded significantly
03:02:23 8 in the number of sites. The areas within the
03:02:29 9 SONTL include the Southampton-Port Elgin area.
03:02:33 10 The River Mouth Speaks, for example, was found
03:02:37 11 during road development. There are housing
03:02:40 12 subdivisions occurring in Grey County where
03:02:43 13 sites are being found every year.

03:02:47 14 There are also areas where people have
03:02:49 15 done intensive research. Charles Garrad spent
03:02:53 16 45, 50 years looking at Tionontaté archeology in
03:03:02 17 the Blue Mountain-Collingwood area. And this
03:03:05 18 area has far less extensive survey than other
03:03:08 19 parts of the province, the southern part of the
03:03:11 20 province, yet it's starting to fill in.

03:03:14 21 The -- there's no gap in terms of time
03:03:19 22 period. It goes all the way through, which is a
03:03:23 23 difference from 50, 60 years ago when a lot of
03:03:26 24 comment was made about gaps in that record, just
03:03:29 25 about the entire -- well, all of those periods

03:03:33 1 are covered in the SONTL.

03:03:35 2 Q. And when you say "periods", do
03:03:37 3 you mean the periods we spoke about earlier?

03:03:40 4 A. Yes, I do.

03:03:41 5 Q. Thank you. And are there finds
03:03:43 6 other than sites that are not represented on
03:03:46 7 this map?

03:03:47 8 A. Yes.

03:03:54 9 Q. There are many sites that are
03:03:56 10 represented by single projectile point finds or
03:04:00 11 other kinds of stone tools, like scrapers or
03:04:03 12 other tools or, in fact, single pieces of
03:04:07 13 debitage. Debitage is the material created when
03:04:12 14 sharpening a projectile point in the field, or
03:04:15 15 if someone is making one there may be more of
03:04:19 16 that debitage, for example, in a couple of
03:04:23 17 hundred pieces. It's in a small circumscribed
03:04:26 18 area. But without the diagnostic we can't link
03:04:29 19 it to a particular period.

03:04:30 20 And there are literally dozens of
03:04:31 21 sites throughout the SONTL that have not been
03:04:34 22 linked to a particular period but speak to a
03:04:38 23 density of occupation.

03:04:40 24 I did look at sites within northern
03:04:45 25 Huron County as well that there's only one out

03:04:51 1 of 40 sites that seems to be substantial enough,
03:04:55 2 found by the way not because of land development
03:04:57 3 but because of the placement of a wind farm,
03:05:00 4 which has to also be examined in advance of the
03:05:04 5 placement of those.

03:05:06 6 Q. And moving on to a few more
03:05:11 7 definitions, you use the term "Algonquian" and
03:05:16 8 "Iroquoian" in your report. Could you define
03:05:18 9 those terms for us, please?

03:05:20 10 A. Yes. I'm speaking here of the
03:05:21 11 family -- language families.

03:05:26 12 So Anishinaabek people spoke
03:05:38 13 Anishinaabemowin, which is the language, and
03:05:40 14 Iroquoian spoke various dialects of Iroquoian.
03:05:42 15 So when I speak about the distribution of
03:05:43 16 people, I'm really talking about the language
03:05:43 17 family and groups within those language
03:05:47 18 families.

03:05:48 19 Q. Thank you. Now I'd like to bring
03:05:50 20 up document S0224. And this is an article in
03:05:55 21 the Journal of Anthropological Archeology titled
03:06:00 22 "Navigating Ancestral Landscapes in the Northern
03:06:04 23 Iroquoian World". Do you recognize it?

03:06:07 24 A. I do.

03:06:07 25 Q. Could you tell us about it,

03:06:08 1 please?

03:06:09 2 A. This was an article that came out
03:06:11 3 of the realization that as people moved off the
03:06:16 4 very southern portions of the North Shore of
03:06:21 5 Lake Ontario, they moved in a northern direction
03:06:24 6 up the drainages and rarely reoccupied sites to
03:06:29 7 the south. This is documented in this article.

03:06:32 8 And we wondered, Dr. Birch and I, if
03:06:39 9 this had to do with the well-documented care for
03:06:41 10 ancestral places, especially cemeteries, that
03:06:46 11 would be in the landscape.

03:06:49 12 And we talked about how living above
03:06:55 13 and beyond places in the past how there are, for
03:06:59 14 example, ethnographic examples of people feeding
03:07:10 15 people, the dead. And this is something Darlene
03:07:12 16 Johnston has spoken about as well about care for
03:07:14 17 the dead, and that is what this article is
03:07:14 18 largely about.

03:07:17 19 Q. Thank you.

03:07:17 20 Your Honour, can this be marked as the
03:07:19 21 next exhibit, please?

03:07:20 22 THE COURT: Mr. Registrar.

03:07:21 23 THE REGISTRAR: Exhibit Number 4246.

03:07:23 24 EXHIBIT NO. 4246: Article entitled,
03:07:23 25 "Navigating Ancestral Landscapes in

03:07:23 1 the Northern Iroquoian World";

03:07:23 2 Document S0224.

03:07:26 3 BY MS. PELLETIER:

03:07:27 4 Q. Thank you. Now I'd like to bring
03:07:28 5 up figure 1, which is on page 141 of this
03:07:31 6 article.

03:07:31 7 Dr. Williamson, could you describe
03:07:37 8 what we're looking at here, please?

03:07:40 9 THE COURT: Just before the witness
03:07:41 10 does that, can you enlarge that a little bit for
03:07:42 11 me, please? That's much better. Thank you.

03:07:52 12 THE WITNESS: So we're looking at, as
03:07:54 13 we're talking about the northern Iroquoian
03:07:58 14 landscape, this is the -- if we look at
03:08:05 15 precontact Iroquoian settlement you'll see the
03:08:09 16 areas of precontact Iroquoian settlement above
03:08:14 17 Lake Ontario and to the west of Lake Ontario and
03:08:17 18 kind of broadly throughout central New York
03:08:20 19 State and along the St. Lawrence Valley.

03:08:24 20 It -- with time, in the 17th century
03:08:29 21 specifically, these areas shrink to the areas
03:08:35 22 that you see here so that by the historic period
03:08:40 23 the Wendat are between Lake Simcoe and Georgian
03:08:44 24 Bay; the Tionontaté are to the immediate west of
03:08:51 25 them; the Neutral are at the west end of Lake

03:08:53 1 Ontario and the Niagara Peninsula, slightly into
03:08:55 2 Halton County; you have the Erie and Wenro,
03:08:59 3 which were also Iroquoian speakers, just south
03:09:03 4 of the southwest basin, Ontario basin; and you
03:09:05 5 have the Haudenosaunee Nations in those areas as
03:09:11 6 indicated, including the Susquehannock.

03:09:17 7 In the St. Lawrence Valley, up until
03:09:19 8 roughly AD 1580 or the late 1500s we have a
03:09:25 9 presence of Iroquoian-speaking peoples in the
03:09:29 10 St. Lawrence Valley who are subsequently, it
03:09:35 11 seems, adopted or dispersed. They don't
03:09:38 12 disperse. They're not dispersed, but they're
03:09:42 13 choosing to go in different directions, some
03:09:44 14 into the Trent Valley and eventually live with
03:09:46 15 the Wendat.

03:09:48 16 In the 50 to 100 years earlier there
03:09:51 17 are some living in ancestral Wendat communities
03:09:54 18 along the North Shore, and still others get
03:09:58 19 adopted into Haudenosaunee. So they're not
03:10:03 20 really seen well in the historic period.

03:10:08 21 What we do see is direct evidence in
03:10:10 22 this map of the Jesuit observation that
03:10:22 23 Iroquoians are living in a sea of Algonquians.
03:10:25 24 As you can see here, the Ottawa Valley is
03:10:28 25 inhabited by the Algonquin. We have the

03:10:32 1 Nipissing living by the lake of that name. We
03:10:32 2 have the Odawa kind of between, including both
03:10:34 3 Bruce Peninsula and Manitoulin and south and
03:10:37 4 next to the Tionontaté. And we have eastern
03:10:43 5 Algonquian groups, speaking groups, Algonquian
03:10:44 6 and Mohican.

03:10:48 7 And so we have this sense of an island
03:10:49 8 of Iroquoian speakers, which refers to that
03:10:52 9 section in my report about Iroquoian and
03:10:55 10 Algonquian homelands overlapping.

03:11:00 11 BY MS. PELLETIER:

03:11:00 12 Q. Thank you. Can you tell us a bit
03:11:01 13 more about who the Wendat and Tionontaté were?

03:11:10 14 A. So the Wendat are known primarily
03:11:11 15 from the archeologic -- or the ethnohistoric
03:11:15 16 accounts of Wendat people who inhabited the area
03:11:18 17 between Georgian Bay and Lake Simcoe as
03:11:21 18 indicated on this map.

03:11:22 19 The Tionontaté, who are immediately to
03:11:25 20 the west, they are thought to be very closely
03:11:28 21 related. The Bear Nations of both are closely
03:11:35 22 related. The dialect is pretty close when you
03:11:38 23 compare the dialect of Tionontaté and Wendat to,
03:11:42 24 for example, the Haudenosaunee.

03:11:44 25 The whole confederating of the Wendat

03:11:50 1 is out of the Trent Valley and out of the North
03:11:53 2 Shore of Lake Ontario over a period of time, we
03:11:58 3 believe from roughly AD 1300 through to AD 1600
03:12:03 4 when other areas of Southern Ontario, for
03:12:06 5 example, the south shore and Trent, are
03:12:08 6 abandoned and the Wendat end up in Simcoe
03:12:12 7 County, which is their -- what they call
03:12:14 8 "historic Wendake".

03:12:20 9 Q. Thank you. Now moving onto the
03:12:21 10 Odawa, first let's begin -- you use the term
03:12:25 11 "Odawa" in your report. Could you begin by
03:12:29 12 explaining who you are referring to when you use
03:12:32 13 that term?

03:12:32 14 A. I'm referring to the Algonquian
03:12:33 15 people, Algonquian-speaking people who inhabited
03:12:36 16 the Bruce Peninsula, Manitoulin Island and
03:12:39 17 portions of -- or other areas in, for example,
03:12:44 18 Michigan and the SONTL. They are referred to in
03:12:50 19 the historic documents as "Cheveaux relevéz",
03:12:58 20 and I believe that they can be equated with the
03:13:01 21 Odawa.

03:13:03 22 Q. What are the archeological
03:13:03 23 signatures of Odawa presence?

03:13:16 24 A. One of the primary ones is the
03:13:16 25 actual stone that they -- well, where to start?

03:13:19 1 There are a number of signatures of Odawa.

03:13:21 2 Maybe the most important one is the ceremonies
03:13:23 3 that they carry out.

03:13:25 4 So, for example, they have a very
03:13:27 5 particular practice, as do other northern
03:13:34 6 Algonquians, of burying young dogs, in fact
03:13:38 7 puppies, but in a very particular way where they
03:13:41 8 are butchered and placed as ceremony.

03:13:44 9 But they also place other animals in
03:13:49 10 similar ways. It's a very particular Odawa
03:13:52 11 practice we see. It occurs on a number of sites
03:13:58 12 within the SONTL.

03:14:00 13 We also note that sites that belong to
03:14:07 14 the Odawa use chert. Chert is a technical term
03:14:13 15 for flint, the kind of flint that stone
03:14:18 16 arrowheads and scrapers and other tools are used
03:14:21 17 by them, and they are used based on where that
03:14:25 18 stone is quarried from.

03:14:27 19 And there are a number of stone
03:14:29 20 quarries in the Upper Great Lakes that seem to
03:14:34 21 be the tool stone of choice for the Odawa.
03:14:40 22 Those sources are outlined on map 1 in my main
03:14:44 23 report, first report.

03:14:46 24 The other very significant correlates
03:14:55 25 would be red stone beads, that that kind of red

03:15:04 1 stone outcrops on Manitoulin and is thought by
03:15:07 2 researchers to have been made by the Odawa and
03:15:11 3 traded south to sites not only in the SONTL but
03:15:20 4 beyond.

03:15:23 5 There's one other item which seems to
03:15:25 6 be restricted to the Odawa, which are these --
03:15:29 7 or traded by the Odawa, which are these
03:15:32 8 perforated bear mandibles which relates back to
03:15:37 9 some of the animal ceremonialism.

03:15:40 10 Q. Thank you. You mentioned map 1
03:16:02 11 of your first report. I'm pulling that up now.
03:16:02 12 That's Exhibit Number 4239, and this was the map
03:16:05 13 that you were referring to just now?

03:16:07 14 A. It was -- is.

03:16:08 15 THE COURT: I have the report, but
03:16:09 16 what page are you on?

03:16:12 17 MS. PELLETIER: Page 159, Your Honour.

03:16:13 18 THE COURT: Just give me a moment
03:16:13 19 here. All right.

03:16:13 20 BY MS. PELLETIER:

03:16:13 21 Q. Could you say a little bit more,
03:16:26 22 Dr. Williamson, about what this map shows?

03:16:27 23 A. This is showing chert sources or
03:16:30 24 outcrop areas for these various kinds of chert
03:16:34 25 that are found on Odawa sites. So we have the

03:16:37 1 Norwood on the east shore of Lake Michigan,
03:16:46 2 Detour on the island -- on an island in Lake
03:16:49 3 Huron.

03:16:50 4 You have Manitoulin sources that
03:16:54 5 yield, as I noted earlier, that red siltstone
03:17:01 6 but also Lorraine quartzite. The very famous
03:17:04 7 Sheguiandah archeological site is in fact a
03:17:07 8 quarry site of Lorraine quartzite, a
03:17:07 9 Paleo-Indian site, but it has other components
03:17:12 10 beside it, for example, midWoodland

03:17:14 11 There are local Bruce cherts in the
03:17:17 12 north end of the Bruce Peninsula. There is
03:17:20 13 Fossil Hill chert appearing in the Fossil Hill
03:17:21 14 formation, sometimes called "Collingwood" by
03:17:25 15 archeologists. That occurs just on the
03:17:27 16 shoreline, Algonquin shoreline above Collingwood
03:17:34 17 and former glacial Lake Algonquin.

03:17:37 18 You have Kettle Point chert that
03:17:37 19 occurs south in Lake Huron that is used by these
03:17:42 20 folks.

03:17:42 21 There is also a chert that occurs in
03:17:44 22 minor quantities, which is the primary chert
03:17:49 23 used by Iroquoian sources which is called
03:17:50 24 Attignawantan chert, that's the one that's --
03:17:53 25 we've located it near the Peace Bridge near the

03:17:56 1 Fort Erie-Buffalo interface because that's one
03:18:00 2 of the areas that large outcrops exist.

03:18:05 3 Q. Thank you. What kinds of
03:18:12 4 ceramics are characteristic of Odawa sites?

03:18:16 5 A. So Odawa sites will have what are
03:18:17 6 called Juntunen, Mackinac Punctate. They will
03:18:17 7 have Blue Mountain Punctate, Sauble Collar.
03:18:24 8 There are a number of ceramic types that are
03:18:28 9 common on Odawa and Upper Great Lakes sites and
03:18:33 10 at Providence Bay, for example, Manitoulin
03:18:35 11 Island. But there are also ceramics that make
03:18:39 12 their presence on these sites that are more
03:18:42 13 Iroquoian-style ceramics.

03:18:49 14 Q. Just to clarify, when you say
03:18:51 15 "Iroquoian style", could you elaborate on what
03:18:53 16 you mean by that?

03:18:54 17 A. So on Providence Bay, for
03:18:57 18 example, at the Providence Bay site or the
03:19:00 19 Nodwell site or at Plater-Fleming, which we
03:19:06 20 believe is occupied by Odawa, you will find pots
03:19:09 21 that are consistent with the Iroquoian-type
03:19:13 22 pots, for example, Sidey Notched or some of
03:19:19 23 those types that we recognize mainly from
03:19:21 24 Iroquoian sites.

03:19:23 25 Q. Do you know why they present

03:19:25 1 themselves on these sites?

03:19:29 2 A. Most people argue that either
03:19:33 3 they were traded to Algonquians from the
03:19:39 4 communities with which they're interacting.
03:19:41 5 It's also possible that they were made there
03:19:45 6 when there was visitation to those Iroquoian
03:19:49 7 communities and brought back with them to their
03:19:52 8 homeland.

03:20:01 9 Q. Thank you. Dr. Williamson, what
03:20:02 10 does the archeological record tell us about the
03:20:05 11 Odawa seasonal round?

03:20:08 12 A. The seasonal round of the Odawa,
03:20:11 13 like other Algonquian Nations in the Upper Great
03:20:19 14 Lakes area or this area of the Great Lakes, was
03:20:21 15 based on seasonally spawning fish in the spring
03:20:26 16 and in the fall, which is why most of their kind
03:20:30 17 of sites that have substance in terms of their
03:20:33 18 settlement pattern and subsistence remains are
03:20:37 19 on shorelines. It's where the fish are. They
03:20:41 20 disperse into the interior.

03:20:44 21 The Odawa have also the ability to
03:20:52 22 grow and trade for maize. In the case of the
03:20:55 23 Kiskakon who were living next to the Tionontaté,
03:21:02 24 we see villages that we believe corn was grown
03:21:05 25 around them, and these provided a kind of base

03:21:08 1 settlement from which they would go to carry out
03:21:11 2 their seasonal rounds, but it may be a slightly
03:21:15 3 more permanent kind of place.

03:21:17 4 I think that's what was happening at
03:21:19 5 Nodwell. I think that's what's also clearly
03:21:22 6 happening at Providence Bay where you have
03:21:25 7 longhouse forms of buildings, and you have that
03:21:29 8 same fish focus or particular mammals that
03:21:34 9 you're hunting but also evidence of corn,
03:21:40 10 whether it's been brought there or grown
03:21:43 11 locally.

03:21:46 12 Q. If I could bring up, again, your
03:21:56 13 supplementary report, Exhibit 4241, map 1 that
03:22:02 14 we looked at that noted these sites. I'm
03:22:06 15 wondering if you can show us -- you just
03:22:07 16 mentioned Nodwell and Providence Bay -- where
03:22:17 17 those sites are located on the map?

03:22:19 18 A. Yes.

03:22:19 19 Q. Here we go.

03:22:20 20 A. So if you look at -- let's start
03:22:22 21 with Nodwell. It's near Port Elgin north of
03:22:28 22 Kincardine.

03:22:29 23 Q. Perhaps we can zoom in?

03:22:32 24 A. Yes, we need to do that. There
03:22:34 25 you go. You can see it more clearly there. So

03:22:37 1 there's Rocky Ridge, and Thede, and Inverhuron
03:22:40 2 and above that is Nodwell in Port Elgin.

03:22:45 3 Q. So Lake Huron?

03:22:47 4 A. That is on the coast of Lake
03:22:48 5 Huron, yes.

03:22:52 6 You have sites like Plater-Fleming
03:22:55 7 there, which are located on Georgian Bay in the
03:22:59 8 Craigleith area, exactly. The one that --
03:23:05 9 beside it is Plater-Martin. Did I mention other
03:23:16 10 sites?

03:23:22 11 Q. Providence Bay?

03:23:23 12 A. And Providence Bay is on
03:23:25 13 Manitoulin Island on a sandy stretch on the --
03:23:29 14 is it on this map? I don't believe it's on this
03:23:32 15 map. It's outside of the SONTL. Let me show
03:23:35 16 you here on these maps.

03:23:42 17 Q. I believe we have it on the map
03:23:44 18 now, Dr. Williamson.

03:23:45 19 A. Thank you. Perfect. So if you
03:23:55 20 are familiar with the ferry where it lands it's
03:23:58 21 on the kind of south shore just west of where
03:24:02 22 the ferry lands. There's not a dot on this map
03:24:05 23 unfortunately, but that's where it is.

03:24:08 24 Q. Thank you. And could you also
03:24:20 25 tell us some of the usual features of Odawa

03:24:21 1 settlements?

03:24:34 2 A. Perhaps to speak first of
03:24:36 3 subsistence issues, we often find fairly
03:24:39 4 extensive fish deposits, which speak to that
03:24:42 5 seasonal use of those sites for fishing.

03:24:44 6 And I don't want to leave the
03:24:46 7 impression that mammals aren't hunted. They
03:24:49 8 are, but they're perhaps -- take less importance
03:24:51 9 to fish in the subsistence schedule.

03:24:58 10 The other feature that shows up
03:24:59 11 regularly on Odawa sites are these animal
03:25:06 12 burials of both young puppies, but also other
03:25:10 13 animals, which just is very unusual in the
03:25:13 14 archeological record of Ontario but for this
03:25:16 15 area. So for example, loon, eagle, at Nodwell
03:25:21 16 passenger pigeon. These are all instances of
03:25:28 17 behaviour of burying animals that is
03:25:31 18 particularly Odawa.

03:25:35 19 Q. And what do the locations of the
03:25:36 20 settlements tell us about the role of water
03:25:39 21 bodies in the Odawa way of life?

03:25:41 22 A. So I touched on this a little bit
03:25:43 23 earlier in the sense that site locations are
03:25:48 24 obviously on water relating to fishing because
03:25:51 25 it was a major subsistence activity. But water

03:25:56 1 is also obviously crucially important. In fact,
03:26:00 2 of that over 18,000 Indigenous sites in Ontario,
03:26:05 3 well over 90 percent of them are located within
03:26:08 4 300 metres of water, whether that's a river
03:26:11 5 marine source or a lakeshore.

03:26:13 6 In this case you have the fish and you
03:26:15 7 have potable water immediately available to the
03:26:18 8 community. But also the Odawa are known as
03:26:24 9 important traders, and so obviously they are
03:26:25 10 also canoeists, and this provides water access
03:26:28 11 for transportation.

03:26:37 12 Q. Thank you. You touched on this a
03:26:37 13 little already, but could you say a bit more
03:26:38 14 about what the archeological record shows about
03:26:42 15 how the Odawa provided for themselves?

03:26:44 16 A. It's -- as I mentioned, fishing
03:26:48 17 is exceptionally important. The Odawa are
03:26:52 18 interesting in that at least two of the nations
03:26:54 19 seem to have had regular access to maize or
03:26:57 20 corn.

03:26:58 21 And we believe in the case of the
03:27:01 22 Kiskakon, which is recorded in the historic
03:27:07 23 documentary record, but also based on
03:27:09 24 archeological evidence at Plater-Fleming and
03:27:13 25 other sites at the Tionontaté, you have some of

03:27:16 1 these signature artifacts that speak to them
03:27:24 2 living next to the Tionontaté in villages that
03:27:26 3 we believe that they could easily have been
03:27:28 4 growing maize around.

03:27:30 5 So these two -- these two kinds of
03:27:36 6 lifestyles are important in their subsistence
03:27:38 7 range.

03:27:39 8 Q. On that note, you say in your
03:27:40 9 report that unlike the Iroquoian cultures in
03:27:43 10 Southern Ontario, that the Odawa didn't practice
03:27:47 11 large-scale agriculture, and why is that?

03:27:56 12 A. So for the Bruce Peninsula and
03:27:58 13 even Manitoulin the environment isn't conducive
03:27:59 14 to large-scale agriculture because of the soils
03:28:05 15 and the environment that they're in, so that's
03:28:07 16 what I was referring to earlier when I spoke
03:28:09 17 about in the Shield -- in some places in the
03:28:12 18 southern Shield we may get a small patch of soil
03:28:15 19 that one can grow on. You can see that as you
03:28:18 20 drive up the 400 and see small patches of
03:28:21 21 farmland.

03:28:22 22 But largely you cannot find the kinds
03:28:25 23 of land that is required by southern Iroquoian
03:28:28 24 villages.

03:28:29 25 A Wendat village would have been

03:28:31 1 surrounded by 2 to 3 kilometres of corn in every
03:28:35 2 direction. That's how you feed 2,000 people a
03:28:39 3 pound of corn per day per person. That's not
03:28:42 4 possible here. You didn't have villages quite
03:28:44 5 that size, of course, among the Odawa, but you
03:28:47 6 also don't have that kind of soil around which
03:28:50 7 to grow.

03:28:50 8 Although, at the Nodwell site I think
03:28:53 9 that is possible that they were growing corn in
03:28:55 10 some quantity there.

03:28:57 11 MS. PELLETIER: Thank you.

03:28:57 12 Your Honour, I am about to ask a
03:28:59 13 question that may elicit a lengthy answer.

03:29:02 14 THE COURT: We'll take the afternoon
03:29:03 15 break.

03:35:48 16 -- RECESSED AT 3:29 P.M. --

03:35:48 17 -- RESUMED AT 3:52 P.M. --

03:52:10 18 THE COURT: Please go ahead.

03:52:11 19 BY MS. PELLETIER:

03:52:12 20 Q. Thank you, Your Honour.

03:52:13 21 Dr. Williamson, you touched on this a
03:52:14 22 bit already, but could you please describe the
03:52:18 23 ceremonial animal burial practices of the Odawa?

03:52:22 24 A. What was first documented or what
03:52:24 25 was first noted were the preponderance of the

03:52:29 1 number of puppy burials that occur on Odawa
03:52:40 2 sites. These are young dogs that are butchered
03:52:43 3 and placed in features, and the bone itself is
03:52:54 4 rarely burned or calcined.

03:52:58 5 It occurs with some frequency on
03:53:00 6 sites. The other Odawa burials are of other
03:53:06 7 animals that occur in association with places
03:53:12 8 that have -- some have dogs and some don't. So
03:53:15 9 you may have a loon burial, you may have -- for
03:53:19 10 example, at Providence Bay; you have some bear
03:53:26 11 there as well. You have passenger pigeons at
03:53:33 12 the Nodwell site.

03:53:40 13 These occur sometimes early on, at
03:53:43 14 least, associated with human burials, and then
03:53:45 15 they don't have to be associated with human
03:53:47 16 burials. They can occur individually.

03:53:53 17 At the famous Frank Bay site there
03:53:55 18 were six dogs that were found that date to
03:54:00 19 approximately 1,000 years ago. These also were
03:54:04 20 young puppies that were butchered, so it's a
03:54:10 21 widespread practice and it's unique. We don't
03:54:13 22 find that kind of burial pattern on Iroquoian
03:54:20 23 sites to the south.

03:54:23 24 Q. And how far back is there
03:54:24 25 evidence of this practice?

03:54:26 1 A. The evidence for dog
03:54:30 2 ceremonialism is quite ancient actually. One of
03:54:33 3 the things we're finding here of course is the
03:54:35 4 survival of bone in the archeological record.
03:54:39 5 Bone will only survive after about 4,000, 5,000
03:54:47 6 years ago. Before then you don't see it. But
03:54:49 7 there's ample evidence of dog ceremonialism
03:54:54 8 before that in other ways.

03:54:55 9 In the SONTL there's a dog at the --
03:54:58 10 at the Donaldson site, so you can date it back
03:55:01 11 to at least 8500. You have in other parts of
03:55:05 12 Southern Ontario dog burials similar to these
03:55:08 13 that go back to the Archaic period, roughly 2800
03:55:17 14 BC or 3 or 4,000 years ago.

03:55:21 15 But older than that, you don't
03:55:23 16 typically see it. And I think that's a function
03:55:27 17 of the survival of the bone because you don't
03:55:29 18 find human burials either.

03:55:36 19 Q. Thank you. You've mentioned that
03:55:37 20 this practice, ceremonial animal burials is
03:55:40 21 unique to the Odawa. However, at page 21 of
03:55:43 22 your supplementary report you refer to animal
03:55:46 23 burials at two ancestral Wendat sites near
03:55:49 24 Barrie; namely, the Wellington and Holly sites.

03:55:54 25 A. Yes.

03:55:55 1 Q. How do you explain the presence
03:55:57 2 of ceremonial animal burials at these sites?

03:56:01 3 A. So if we recall the map that we
03:56:03 4 referred to in navigating ancestral landscapes
03:56:07 5 and the large area of ancestral Wendat territory
03:56:12 6 in the Trent Valley and along the North Shore,
03:56:15 7 we have the historic concentration of Wendat in
03:56:19 8 old Wendake.

03:56:22 9 In order to move to old Wendake I
03:56:25 10 believe it was necessary -- I and others believe
03:56:27 11 it was necessary to negotiate a wholesale
03:56:32 12 movement into that area. So on this map, figure
03:56:36 13 1 here in this report, you can see the light
03:56:40 14 grey shaded area of ancestral Wendat presence
03:56:44 15 that extends across much of the North Shore of
03:56:47 16 Lake Ontario, the Trent Valley and southern,
03:56:53 17 kind of right around Campenfeld Bay at Lake
03:56:57 18 Simcoe there.

03:56:59 19 And that is the location of a cluster
03:57:01 20 of sites that I believe -- well, they do include
03:57:05 21 Holly and Wellington, and that is the area I
03:57:08 22 think where the negotiation was occurring first,
03:57:10 23 because they are the earliest sites in Simcoe
03:57:13 24 County for Iroquoian occupation.

03:57:15 25 They come into that area. They are

03:57:18 1 bringing foodstuffs from the North Shore, so we
03:57:21 2 know they come from the North Shore. They
03:57:23 3 arrive there, and I think they're encountering
03:57:25 4 people -- I don't think it's new. I think
03:57:27 5 they've been working with those communities
03:57:33 6 through trade for some time.

03:57:36 7 For example, the Mantle site required
03:57:38 8 7,000 hides annually, which would far outstrip
03:57:43 9 their ability to get it out of their own
03:57:45 10 drainage. They needed Algonquian support to
03:57:50 11 clothe their community. I think the
03:57:51 12 relationship between the Algonquian people in
03:57:56 13 that area was quite strong in antiquity.

03:58:01 14 So they move into that area and they
03:58:03 15 begin, I think, first to negotiate with those
03:58:06 16 local Algonquians. I think that area was used
03:58:11 17 not because they lived there permanently. There
03:58:13 18 was no archeological record of them living there
03:58:17 19 year-round. I think what happens is it's an
03:58:18 20 area that they used periodically, possible
03:58:21 21 seasonal use.

03:58:21 22 They must have left a very light
03:58:24 23 footprint because we don't see a lot of
03:58:26 24 archeological evidence of that. And, actually,
03:58:28 25 Simcoe County has had a fair amount of

03:58:31 1 archeological examination.

03:58:33 2 These features at Wellington were
03:58:35 3 affiliated with a cabin that also had cherts
03:58:41 4 that are some of those Odawa chert types.

03:58:46 5 The practice itself of multiple
03:58:50 6 furbearing animals within pits, not burned, not
03:58:55 7 calcined is consistent with the puppy burial and
03:58:59 8 the burial of other animals.

03:59:01 9 But they're a bit unusual in that you
03:59:03 10 have all of these animals together in a mixed
03:59:06 11 ossuary kind, which I think is consistent with
03:59:11 12 that other animal burial pattern, as do other
03:59:15 13 archeologists who have now written about it.

03:59:19 14 So I believe they're there on what are
03:59:19 15 largely ancestral Huron sites. They point to an
03:59:25 16 Algonquian presence. I think it's about
03:59:26 17 negotiation. That presence is also demonstrated
03:59:28 18 by the house type, which are small cabins and
03:59:31 19 also the presence of chert types that speak to
03:59:34 20 that.

03:59:36 21 Q. Thank you. And to clarify, when
03:59:37 22 you say you think that they are there, who is
03:59:41 23 the "they" you're referring to?

03:59:43 24 A. I think that -- in all likelihood
03:59:45 25 are the Odawa.

03:59:47 1 Q. Thank you. And what are the
03:59:54 2 distinctive patterns you see in the mortuary
03:59:59 3 practices of the Odawa for their ancestors?

04:00:03 4 A. There's a small variety of burial
04:00:03 5 practices which are evident. A number of
04:00:03 6 burials have been found in caves.

04:00:06 7 Nautkamegwanning has a practice of
04:00:13 8 capped burials where there is a stone slab, and
04:00:17 9 the person is placed and the stone slab atop.
04:00:22 10 There's been serious investigation of those
04:00:25 11 kinds of burial places at that site.

04:00:28 12 There are also death houses. These
04:00:31 13 are placement of the individual covered by
04:00:36 14 longitudinal logs arranged over the body or, in
04:00:40 15 fact, structures built out of wood that cover
04:00:44 16 the body as well. These are the main ways.

04:00:48 17 Q. Thank you. Now I would like to
04:00:54 18 briefly review the evidence of use of SON's
04:00:57 19 territory up to 1650.

04:01:01 20 You say that the Odawa arose in situ.
04:01:04 21 What do you mean by that?

04:01:11 22 A. I believe based on the evidence
04:01:12 23 that we have now of every period being occupied
04:01:16 24 that there's no reason to think that there was
04:01:20 25 some kind of other party that came in that

04:01:24 1 replaced the populations that were there
04:01:27 2 originally. That's why you have sites in the
04:01:31 3 Archaic, Middle Woodland and Late Woodland that
04:01:34 4 all have the same use of chert types from the
04:01:38 5 kind of Middle Woodland period onward, the
04:01:40 6 animal ceremonialism.

04:01:42 7 I believe that that is evolving right
04:01:47 8 there. Other people have argued in the late
04:01:51 9 '80s and in 1990 that there is no reason to
04:01:56 10 suspect that the Middle Woodland population
04:01:58 11 there didn't derive from what came before. I
04:02:01 12 think you can trace the Middle Woodland
04:02:03 13 population into the historic -- or into the Late
04:02:05 14 Woodland period.

04:02:09 15 I think Donaldson has dates and
04:02:12 16 evidence of occupation pretty much into the AD
04:02:21 17 500, 800 period. You see other sites that pick
04:02:25 18 up on that from 1,000 AD through, let's say,
04:02:27 19 1300 AD. At Inverhuron-Lucas we have sites that
04:02:32 20 date -- or we have ceramics on that site that
04:02:33 21 date to the 15th century. And we also have good
04:02:44 22 evidence of presence throughout the first part
04:02:46 23 of the 17th century.

04:02:48 24 I should mention that in recent years,
04:02:50 25 not yet published data, there are sites

04:02:53 1 occurring in the Collingwood area that have
04:02:57 2 animal burials on them that are indicative of
04:03:07 3 15th century and maybe early 16th century.

04:03:11 4 These are sites there and in the
04:03:15 5 Beaver Valley that are showing possible,
04:03:22 6 immediate predecessors to the Late Woodland
04:03:25 7 period.

04:03:28 8 Q. What is the Beaver Valley?

04:03:30 9 A. Beaver Valley is -- and the
04:03:36 10 Beaver River is a river that extends southward
04:03:40 11 from Georgian Bay, and that area is an area of
04:03:42 12 some recent research where people have been
04:03:45 13 looking for sites.

04:03:46 14 I might also mention that right in
04:03:48 15 front of the Plater-Fleming site on the -- the
04:03:51 16 Plater-Fleming village, which is thought to be
04:03:54 17 occupied by the Odawa, has a newly found site.
04:03:57 18 It's in the report, but it's immediately below
04:04:01 19 the village dating to the Middle Woodland period
04:04:06 20 that has two dog burials that are of that
04:04:09 21 nature.

04:04:09 22 And the Plater-Fleming site by the
04:04:12 23 researchers who did the test excavation there
04:04:14 24 wanted to call it the "Dog Site" because of the
04:04:17 25 number of dogs that they had found on that site.

04:04:22 1 Q. And you say that the best-known
04:04:23 2 Middle Woodland site in SON's territory is the
04:04:27 3 Donaldson site, which you describe as:

04:04:28 4 "The defining site for the Middle
04:04:32 5 Woodland Saugeen focus, a reference
04:04:34 6 for the archeological manifestation of
04:04:35 7 the Middle Woodland occupation of
04:04:38 8 Central Southwestern Ontario."

04:04:40 9 Could you explain to us what you mean
04:04:42 10 by that?

04:04:44 11 A. Sure. So Donaldson is a site
04:04:47 12 located near the mouth of the Saugeen River.
04:04:50 13 It's a rich fishing locale, but it also has a
04:05:00 14 cemetery attached to it, or actually two house
04:05:01 15 structures that were documented, small house
04:05:04 16 structures that were documented on it.

04:05:06 17 One of the burials at Donaldson has a
04:05:10 18 deposit of animal bone, dog and other animal
04:05:13 19 bone actually in the same feature. This is a
04:05:15 20 place where there were a lot of ceramics found
04:05:20 21 that became known in the archeological record as
04:05:24 22 Saugeen.

04:05:26 23 It was found at a time, as I mentioned
04:05:29 24 earlier today, when there were only about two
04:05:33 25 dozen sites that were known about and when

04:05:36 1 people found ceramics that looked like Saugeen
04:05:43 2 ceramics, meaning the ceramics found at
04:05:47 3 Donaldson, they thought this meant this was one
04:05:51 4 culture, and so you might create a map, for
04:05:53 5 example, I believe Reimer has a map in her
04:05:56 6 report that shows Saugeen across much of
04:05:58 7 Southern, South Central and Southwestern
04:06:02 8 Ontario, which made sense perhaps at a time when
04:06:05 9 there were a couple of dozen sites.

04:06:09 10 But now that we know every major
04:06:11 11 drainage in Southern Ontario seems to have a
04:06:14 12 Middle Woodland cluster of sites and we see that
04:06:17 13 the ceramics on those sites can resemble Saugeen
04:06:21 14 ceramics, and they can also resemble the
04:06:24 15 ceramics found further east, which is known as
04:06:26 16 "Point Peninsula" or further west which is known
04:06:30 17 as "Couture", their ceramics tend to look more
04:06:35 18 like their neighbours than the far distant
04:06:37 19 bands.

04:06:38 20 So Saugeen became a cultural reference
04:06:45 21 which generally has been abandoned. It's not
04:06:48 22 used anymore. People talk about Middle Woodland
04:06:51 23 sites and the actual movement of Middle Woodland
04:06:54 24 through -- or Early Woodland through Middle
04:06:58 25 Woodland into Late Woodland has been documented

04:07:02 1 on a few sites.

04:07:06 2 Nevertheless, the activities that
04:07:08 3 occurred there relate immediately to the Middle
04:07:12 4 Woodland occupation of the SONTL that I think
04:07:14 5 leads into other settlements.

04:07:21 6 Q. In your report you also speak
04:07:22 7 about the Hunter's Point or Nochimowanaoing
04:07:32 8 site. What can you tell us about it?

04:07:36 9 A. Nochimowanaoing is an
04:07:36 10 exceptionally important site. It was found as
04:07:37 11 part of a proposed housing subdivision. And I
04:07:37 12 say "found", I mean by archeologists. The
04:07:41 13 community certainly knew about this site
04:07:43 14 previously.

04:07:43 15 What wasn't known is the actual
04:07:46 16 structure of the archeological features that
04:07:49 17 could be found on that site. And there was
04:07:52 18 pretty much over a decade of intermittent
04:07:55 19 research on the archeological site that resulted
04:08:06 20 on the part of researchers that there was
04:08:08 21 potentially fishing activities on the site, but
04:08:11 22 certainly it was a ceremonial centre.

04:08:14 23 There were over 70 features that could
04:08:16 24 have been burial features and many that are now
04:08:18 25 known to have been burial features.

04:08:21 1 "That could have been" means in my
04:08:24 2 report I talk about the fact that Fitzgerald, in
04:08:28 3 looking at these, comments on the fact that
04:08:33 4 original scaffold burials during the winter
04:08:36 5 placed -- some of the bone might have scattered
04:08:39 6 and may not have been placed or may not have
04:08:41 7 been recovered in the 1990s.

04:08:44 8 So these occur in the form of
04:08:46 9 depressions or of rock burials and -- or slab
04:08:53 10 burials, I should say. And is it's obviously an
04:08:55 11 exceptionally rich site and burial place for the
04:08:59 12 Odawa.

04:09:00 13 Q. You just mentioned scaffold
04:09:02 14 burials. Could you explain what those are?

04:09:04 15 A. Yeah, sorry. Sometimes if in --
04:09:09 16 a primary burial may be placed on a scaffold if
04:09:12 17 the burial ceremony is not ready to go or if
04:09:15 18 there's a weather issue. And so the burial
04:09:17 19 might be taken from there and placed into -- and
04:09:20 20 placed into a permanent burial.

04:09:22 21 Q. Thank you. And how far back is
04:09:29 22 there evidence of ceremony at Nochimowanaoing.

04:09:33 23 A. Well, there's a Middle Woodland
04:09:33 24 presence on that site. It's not been affiliated
04:09:33 25 with any particular burial, but that -- given

04:09:38 1 that the site is -- by some to be a ceremonial
04:09:42 2 site, the presence of Middle Woodland pottery on
04:09:45 3 the site suggests that it goes back at least to
04:09:48 4 that time.

04:09:49 5 Q. And what more can you tell us
04:09:51 6 about the burial features present at
04:09:53 7 Nochimowanaoing?

04:09:55 8 A. I mentioned that one of the
04:09:59 9 burial types that occurs for the Odawa is slab
04:10:00 10 burials where you have a slab and then the body
04:10:02 11 is placed in a slab above it, and that was found
04:10:06 12 at that site.

04:10:09 13 There are also depressions that when
04:10:11 14 investigated a few had human remains in them,
04:10:13 15 and these might have been covered in some way
04:10:16 16 but the archeological evidence of that --
04:10:21 17 there's no archeological evidence of that, but
04:10:24 18 it's thought that that could have occurred.
04:10:26 19 There's also evidence of ceremony around these
04:10:30 20 burial sites -- around these burial places.

04:10:30 21 Q. What can you tell us about the
04:10:31 22 soil condition at Nochimowanaoing?

04:10:33 23 A. Like much of the Bruce there's
04:10:34 24 very little soil, which is why people are using
04:10:39 25 rock crevices, rock caves, and using rock slabs.

04:10:44 1 You have a rock slab that may be on the surface
04:10:46 2 of the site area, you place the body and put
04:10:50 3 another rock slab to kind of cover it, which is
04:10:53 4 a practice we see with dog burial at River Mouth
04:10:56 5 Speaks. It's a common way of dealing with
04:11:00 6 burial.

04:11:01 7 Interestingly, at River Mouth Speaks
04:11:02 8 there was probably enough soil to do it, but
04:11:02 9 they chose that method in keeping with what was
04:11:08 10 occurring at Nochimowanaoing.

04:11:10 11 Q. At page 8 of your supplementary
04:11:13 12 report you say that there are 25 registered
04:11:16 13 sites with Late Woodland components throughout
04:11:18 14 the SONTL. Most are small Odawa camps or
04:11:23 15 fishing stations and burials and demonstrate
04:11:25 16 that the entire SONTL was well populated during
04:11:29 17 this period.

04:11:31 18 How do you -- how do we know that the
04:11:33 19 peninsula was well populated?

04:11:36 20 A. So when you have archeological
04:11:38 21 sites that are distributed throughout the whole
04:11:40 22 area, regardless of the density of sites, we can
04:11:42 23 see that the whole area was occupied during the
04:11:45 24 Late Woodland period.

04:11:47 25 In addition to these well-known sites

04:11:49 1 that we've talked about and I talk about in the
04:11:52 2 report, we know they're Late Woodland sites. It
04:11:55 3 may be that there's some Late Woodland pottery
04:12:00 4 found on the site, but there's not much else
04:12:01 5 about the site. So we don't go into a whole lot
04:12:04 6 of detail about the site because we don't know a
04:12:07 7 whole lot about the site.

04:12:09 8 But it shows that people were there
04:12:13 9 during that time period.

04:12:15 10 Q. Thank you, Dr. Williamson. I
04:12:15 11 would now like to discuss some of the
04:12:16 12 documentary evidence that you consulted for this
04:12:19 13 period leading up to 1650. When does the
04:12:22 14 documentary record of SON's territory begin?

04:12:25 15 A. I think it begins with Champlain
04:12:28 16 in his visit in 1615 to the Wendat and
04:12:32 17 eventually the Tionontaté and Odawa adjacent to
04:12:37 18 them. It begins with an encounter for Champlain
04:12:41 19 with, I believe, Odawa at the mouth of the
04:12:42 20 French River on Georgian Bay when he encounters
04:12:46 21 300 people he describes as the "High Hairs".
04:12:49 22 And he provides a physical description of them,
04:12:52 23 but more importantly, he says he encounters the
04:12:56 24 same people next to the Tionontaté in the SONTL.

04:13:04 25 Q. Can you describe what happened in

04:13:05 1 this encounter between Champlain and the
04:13:09 2 Cheveaux relevéz?

04:13:10 3 A. Yes, there were -- he's
04:13:10 4 travelling down the French River with Algonquin
04:13:13 5 and other Native guides and other Frenchmen.

04:13:17 6 He arrives and there are 300 Odawa
04:13:21 7 warriors dressed. And they tell Champlain that
04:13:27 8 they were there to pick blueberries, which I
04:13:30 9 don't think any scholar believes, that they were
04:13:34 10 there to investigate this intrusion into
04:13:37 11 territory and to interrogate Champlain.

04:13:42 12 They actually describe their territory
04:13:44 13 to Champlain on a birch-bark map, which
04:13:51 14 unfortunately has not survived. It would have
04:13:53 15 been lovely to have that.

04:13:54 16 And he progresses on to Huronia where
04:14:04 17 he eventually in 2016 (sic) ends up going to the
04:14:08 18 Tionontaté and encounters Algonquians living
04:14:11 19 next to the Tionontaté and realizes it's the
04:14:16 20 same people that he had encountered in the
04:14:18 21 French River.

04:14:20 22 Q. And what is the primary source
04:14:22 23 for this meeting between Champlain and the
04:14:24 24 Cheveaux relevéz?

04:14:27 25 A. There is Champlain's account in

04:14:29 1 his third volume.

04:14:30 2 Q. I'd like to bring up Exhibit 47,
04:14:32 3 please. And here we have the works of Samuel de
04:14:33 4 Champlain.

04:14:46 5 And, Dr. Williamson, is this a
04:14:47 6 reliable source of primary documents?

04:14:50 7 A. I believe it's a reliable source
04:14:51 8 of what Champlain did, yes.

04:14:54 9 Q. If we can go to page 43? There
04:14:57 10 is a paragraph that begins:

04:15:02 11 "We met with 300 men of a tribe
04:15:17 12 named by us, the Cheveaux relevéz or
04:15:21 13 High Hairs."

04:15:22 14 Is this the entry that you were
04:15:24 15 referring to?

04:15:25 16 A. This is exactly the entry.

04:15:27 17 Q. What is the relationship between
04:15:27 18 the Cheveaux relevéz and the Odawa in the Late
04:15:27 19 Woodland period?

04:15:29 20 A. I believe they are one and the
04:15:30 21 same people.

04:15:31 22 Q. And how do we know that?

04:15:33 23 A. I think because of the
04:15:37 24 description that Champlain has of the people he
04:15:40 25 encountered next to the Tionontaté, which are

04:15:47 1 consistent with accounts of the Kiskakon living
04:15:51 2 next to the Tionontaté and living in -- or
04:15:52 3 growing corn for their people.

04:15:55 4 So I believe the Kiskakon are known to
04:15:58 5 one of the nations of the Odawa, so I believe
04:16:01 6 we're talking about the same people.

04:16:08 7 Q. Thank you. And what did
04:16:12 8 Champlain and other Europeans from this period
04:16:15 9 understand the Cheveaux relevéz's territory to
04:16:17 10 be?

04:16:17 11 A. I think they had a limited
04:16:18 12 understanding of it, but they refer to it as to
04:16:21 13 the west of the Tionontaté.

04:16:23 14 Q. Can we have the map we had
04:16:26 15 earlier with the different groups?

04:16:42 16 And Dr. Williamson, can you perhaps
04:16:43 17 point out for the court where the Tionontaté are
04:16:46 18 on this map?

04:16:46 19 A. So if you look at the area
04:16:48 20 between Lake Simcoe and Georgian Bay you'll see
04:16:51 21 the historic Wendat, and next to them, west of
04:16:53 22 them in the Collingwood area are the Tionontaté.
04:16:55 23 They are on this map. And so the area described
04:16:58 24 for them for Champlain was to the west of the
04:17:01 25 Tionontaté.

04:17:04 1 Q. Thank you. And when is the last
04:17:12 2 archeological evidence of the Wendat and
04:17:15 3 Tionontaté in their historic homeland?

04:17:18 4 A. I believe it's in 1650, '51 in
04:17:27 5 the case of Gahoendoe or Christian Island for
04:17:32 6 the Wendat.

04:17:33 7 Q. And why is that the last we see
04:17:34 8 of the Wendat and Tionontaté?

04:17:36 9 A. Because of the Iroquois Wars.

04:17:38 10 Q. What are the dates of the
04:17:39 11 Iroquois Wars?

04:17:42 12 A. As I was mentioning earlier this
04:17:44 13 morning, I believe that hostilities, the
04:17:49 14 traditional enmity between the Wendat and the
04:17:55 15 Haudenosaunee dates back to the mid-16th
04:17:58 16 century. It intensifies during the first half
04:18:01 17 of the 17th century. There may have been a
04:18:05 18 brief interlude of peace at the end of the 16th
04:18:09 19 century.

04:18:11 20 And then it's another half century of
04:18:15 21 wars between -- and battles between the
04:18:20 22 Haudenosaunee and the Seneca and other nations
04:18:24 23 that culminates around the turn of the 18th
04:18:28 24 century.

04:18:28 25 Q. And why do we refer to "wars" in

04:18:30 1 the plural?

04:18:32 2 A. Because there are moments when
04:18:35 3 the French managed to secure peace between
04:18:38 4 nations. There's moments when the nations
04:18:41 5 themselves managed to secure peace throughout
04:18:43 6 this period. And then it picks up again due to
04:18:48 7 some sleight.

04:18:50 8 And so we have a period of hostility
04:18:52 9 also as the Haudenosaunee are expanding to get
04:18:55 10 more furs.

04:19:00 11 Q. You described the causes of the
04:19:01 12 wars at pages 101 and 102 of your first report.
04:19:06 13 But would you briefly summarize them for us,
04:19:08 14 please?

04:19:09 15 A. Yes, there's a number of causes
04:19:10 16 that have been advanced for this. We see an
04:19:13 17 economic one, which is the reasons for the -- or
04:19:19 18 the push for the Iroquois who no longer have
04:19:24 19 sufficient quantities of beaver in their own
04:19:27 20 area, and they push into Southern Ontario to --
04:19:30 21 wanting to displace the local nations and
04:19:33 22 acquire access to not only the local area but
04:19:37 23 further on in the Upper Great Lakes to better
04:19:39 24 fur hunting territory or at least to acquire
04:19:42 25 them from people who may be living in that area.

04:19:44 1 And during this period it's not, I
04:19:47 2 think, it's not -- what I'm about to say is that
04:19:55 3 they often attack fur brigades to get the furs
04:19:58 4 off of those brigades.

04:20:06 5 So there's also people who have
04:20:07 6 written about the need to replace population.
04:20:10 7 In the 1630s through '50s the populations
04:20:15 8 suffered fairly dramatic population decreases
04:20:19 9 due to disease. In the case of the Wendat it is
04:20:22 10 thought that the population went from 25 --
04:20:23 11 well, the combined population of the
04:20:26 12 Tionontaté-Wendat went from a combined
04:20:30 13 population of maybe 25, 30,000 people down to
04:20:33 14 12,000 people. So we're talking about a
04:20:34 15 requirement or a need to replace people, and
04:20:36 16 adoption was one way to do this.

04:20:39 17 Sometimes people refer to these as
04:20:42 18 "mourning wars", meaning that if people were
04:20:44 19 willing to go and live with the conquering
04:20:45 20 nation, they would be adopted into their nation,
04:20:52 21 living with them.

04:20:54 22 These are kind of the main reasons.
04:20:55 23 Of course it's all exacerbated by the
04:21:05 24 French-English conflict.

04:21:07 25 Q. I'd like to move on to the

04:21:08 1 dispersal period of the Iroquois Wars. Could
04:21:12 2 you briefly describe this period for us?

04:21:16 3 A. So it begins with Haudenosaunee
04:21:17 4 attacks throughout the 1630s and '40s. It
04:21:22 5 heightens towards the end of the 1640s with
04:21:26 6 the destruction of major villages by
04:21:29 7 Haudenosaunee attackers.

04:21:31 8 The Christian converts among the
04:21:34 9 Wendat retired to Sainte Marie One, and
04:21:37 10 eventually in 1649 a decision is made by them
04:21:45 11 and the Jesuits to retire to Gahoendoe to create
04:21:50 12 a new mission there, a new fort, which they --
04:21:53 13 is known as Sainte Marie Two.

04:21:55 14 Gahoendoe is Christian Island off the
04:21:59 15 coast of the Midland area. As evident on this
04:22:06 16 map, you can see it as part of the Wendake area.

04:22:11 17 And others went -- other Huron went
04:22:14 18 and lived with the Tionontaté, and by 1650 there
04:22:17 19 was such incessant, constant attack that they
04:22:24 20 and the people who lived on Christian Island
04:22:27 21 sought refuge elsewhere. The Tionontaté and
04:22:32 22 Huron that had been there went to points west
04:22:35 23 and north.

04:22:37 24 The people at Gahoendoe went through
04:22:42 25 their usual route up to Quebec City area with

04:22:46 1 the Jesuits.

04:22:53 2 Some, many were adopted into the
04:22:55 3 Haudenosaunee Nation and could be found there
04:22:57 4 within the next few decades. So there was a
04:22:59 5 dispersal of people out of that area, and you
04:23:01 6 don't find Wendat sites after that time in that
04:23:04 7 area.

04:23:07 8 Q. What happened to the Odawa?

04:23:08 9 A. I believe the Odawa were
04:23:10 10 dispersed as well along with the other
04:23:13 11 Algonquian Nations, Iroquoian Nations. By 1651
04:23:19 12 there were no Iroquoian people, including the
04:23:21 13 Neutral, living in Southern Ontario.

04:23:25 14 Q. Where did the Odawa go?

04:23:27 15 A. I believe, as I indicated
04:23:28 16 earlier, they head west and north with the
04:23:35 17 Tionontaté and with others and over the next
04:23:38 18 decades can be found in various places as
04:23:42 19 outlined clearly in my report.

04:23:44 20 They do seem to appear back at
04:23:46 21 Manitoulin Island by the late 1960s, if not --
04:23:50 22 the late 1660s, even possibly the late 1650s
04:24:01 23 if we believe Radisson.

04:24:08 24 Q. I'd like to turn to the period
04:24:09 25 from the dispersal to the end of the Iroquois

04:24:12 1 Wars. What presence did the Iroquois maintain
04:24:15 2 in SON's territory after the dispersal?

04:24:18 3 A. It's not absolutely clear what
04:24:19 4 presence they had. They certainly were present
04:24:23 5 up until the 1650s to be sure that there was
04:24:26 6 nobody returning from the Wendat into that area.

04:24:30 7 The Nipissing had been dispersed. I
04:24:35 8 don't know of any particularly clear evidence
04:24:37 9 that the Haudenosaunee were in the SON
04:24:42 10 territory.

04:24:45 11 Q. And what presence did the
04:24:46 12 Iroquois maintain in Southern Ontario after the
04:24:55 13 dispersal?

04:24:56 14 A. So I think we have to talk about
04:24:56 15 the fact that they were certainly travelling
04:24:58 16 through Southern Ontario in order to get to the
04:25:00 17 Upper Great Lakes. However, in the 1660s,
04:25:02 18 late 1660s, after the early 1660s truce,
04:25:10 19 there was the establishment of Haudenosaunee
04:25:15 20 villages, seven of them along the North Shore of
04:25:19 21 Lake Ontario. They are known as the Iroquois du
04:25:23 22 Nord.

04:25:27 23 These are sites that may also have had
04:25:29 24 a French mission presence on them, and were
04:25:34 25 definitely visited by French explorers and

04:25:40 1 officials.

04:25:41 2 The one near the mouth of the Rouge
04:25:44 3 River is perhaps the best-known one
04:25:48 4 archeologically. It's called Teiaiagon, and
04:25:54 5 it's located where Bobby Point is today. It
04:25:57 6 is -- in recent decades had at least two Seneca
04:26:01 7 burials with clear Seneca cones and brass pots
04:26:05 8 that are typical of what Seneca had at that
04:26:10 9 time, the technology they had at that time.

04:26:18 10 There is also Ganatsekwyagaon, which
04:26:21 11 is known better as Bead Hill which is on or near
04:26:24 12 the mouth of the Rouge River. It was
04:26:27 13 investigated a number of times. There were
04:26:30 14 burials found on the site in the '40s and in
04:26:33 15 the '60s, and then it was subject to a fairly
04:26:35 16 intensive look in the 1980s, I guess it is, or
04:26:42 17 '90s.

04:26:43 18 And so there's been archeological work
04:26:46 19 on that site. There's a glass bead collection
04:26:49 20 from that site, which appears in our report.
04:26:51 21 And there's lots of other evidence of Seneca
04:27:02 22 presence there.

04:27:03 23 There's research ongoing right now
04:27:03 24 about Kente in Prince Edward Country, which is
04:27:03 25 one of those sites, and locating the main site

04:27:05 1 near Wellers Bay on Bald Head Island and Smokes
04:27:11 2 Point near -- on Wellers Bay.

04:27:15 3 There are purportedly a couple of
04:27:17 4 villages in that area, and researchers are
04:27:20 5 trying to locate objects in the Royal Ontario
04:27:24 6 Museum collections that relate to that. So
04:27:26 7 there's a bit of archeological work happening on
04:27:29 8 that site.

04:27:29 9 The other three sites that are further
04:27:31 10 east on the Trent system, it's still pretty
04:27:33 11 speculative as to exactly where those are
04:27:35 12 located. People are, again, looking for those.

04:27:39 13 And the one that's to the west in the
04:27:48 14 Burlington area has not yet been identified for
04:27:51 15 sure either, although there are a couple of
04:27:53 16 candidates. There is a conference that I've
04:27:56 17 organized in the next month or two to -- where
04:28:00 18 scholars are getting together to talk about the
04:28:00 19 Iroquois du Nord.

04:28:00 20 Q. And Dr. Williamson, you just
04:28:00 21 mentioned a Teiaiagon site near Bobby Point.

04:28:07 22 A. Yes.

04:28:07 23 Q. And I believe you said that it
04:28:08 24 was on the Rouge River?

04:28:09 25 A. Sorry, the Humber River. I'm

04:28:16 1 sorry.

04:28:18 2 Q. Thank you. And what happened to
04:28:19 3 the Odawa after --

04:28:22 4 THE COURT: Just looking at the time,
04:28:22 5 if you have a little loose end you want to tie
04:28:25 6 up, please go ahead, but otherwise --

04:28:28 7 MS. PELLETIER: This is probably more
04:28:29 8 than a loose end.

04:28:31 9 THE COURT: Yes. Otherwise, I think
04:28:32 10 we'll adjourn until tomorrow morning at 10:00
04:28:35 11 o'clock.

12 -- Whereupon the proceedings were
13 adjourned at 4:28 p.m.

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REPORTER'S CERTIFICATE

I, HELEN MARTINEAU, CSR, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein
set forth at which time the witness was put
under oath by me;

That the testimony of the witness and
all objections made at the time of the
examination were recorded stenographically by me
[Note: Not all quotes have been verified
against source document, but transcribed as
read into the record];

That the foregoing is a true and
accurate transcript of my shorthand notes so
taken. Dated this 29th day of September 2019.



PER: HELEN MARTINEAU

CERTIFIED SHORTHAND REPORTER

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