

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

VOL 44 DAY 44
September 17, 2019



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Court File No. 94-CQ-50872CM

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE CHIPPEWAS OF SAUGEEN FIRST NATION, and THE
CHIPPEWAS OF NAWASH FIRST NATION

Plaintiffs

- and -

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

Defendants

Court File No. 03-CV-261134CM1

A N D B E T W E E N:

CHIPPEWAS OF NAWASH UNCEDED FIRST NATION and
SAUGEEN FIRST NATION

Plaintiffs

- and -

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

Defendants

--- This is VOLUME 44 / DAY 44 of the
transcript of the trial proceedings in the
above-noted matter, being held at the Superior
Court of Justice, 330 University Avenue,
Courtroom 5-1 Toronto, Ontario, on the 17th day
of September 2019.

B E F O R E:

The Honourable Justice Wendy M. Matheson

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

Renee Pelletier, Esq., for the Plaintiffs,
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.
& Alexandra Collizza, Esq.,

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

10:01:47 2 THE COURT: Just before you get
10:01:48 3 rolling, Mr. Ogden, Mr. Townshend did you have
10:01:51 4 an opportunity to consider the question of
10:01:52 5 whether secondary sources would be marked or you
10:01:55 6 were satisfied with the responses from
10:01:57 7 defendants' counsel?

10:02:00 8 MR. TOWNSHEND: Yes, I did. We had
10:02:01 9 some negotiations over -- last night, and we
10:02:05 10 came to a slightly more precise wording that
10:02:07 11 we're all content with. So if I could have
10:02:10 12 document SC1094? That is what we have all
10:02:15 13 agreed on.

10:02:48 14 THE COURT: That's very helpful,
10:02:50 15 counsel. It is a bit more pulled together.
10:02:53 16 Perhaps what we should do is mark this as a
10:02:56 17 lettered exhibit so that the agreement forms
10:03:00 18 part of the record.

10:03:01 19 MR. TOWNSHEND: Yes.

10:03:02 20 THE COURT: Mr. Registrar.

10:03:03 21 THE REGISTRAR: Lettered Exhibit R-1.

10:03:05 22 EXHIBIT NO. R-1: Dr. Williamson's
10:03:12 23 secondary sources agreement.

10:03:22 24 THE COURT: Thank you, Mr. Townshend.
10:03:29 25 Just give me one minute, Mr. Ogden.

1 You're on your feet obviously because you're
2 going first; does that mean Canada is not
3 cross-examining or cross-examining second?

4 MR. OGDEN: No, Your Honour, I just
5 have a brief matter.

6 THE COURT: Oh, I see. Yes,
7 Ms. Pelletier is not finished yet. When I saw
8 you there I thought perhaps she was; she's not.

9 Anyway, what would you like to say?

10 MR. OGDEN: It's a brief matter.
11 Thank you, Your Honour. On July 23rd you
12 ordered that Dr. Brownlie could provide an
13 opinion as to the ordinary amount of time or
14 range of times First Nations might make to come
15 to a decision about the land surrender such as
16 the one in issue in this proceeding.

17 And then you said:

18 "If Ontario wishes to call reply
19 expert evidence in its defence it may
20 make that request within 45 days of
21 today. If that time presents a
22 problem an extension may be
23 requested."

24 On September the 6th we sent a report,
25 a four-page report by Dr. Reimer, with some

1 supporting documents, to the parties, counsel
2 for the parties, and said on that date that we
3 would ask you for leave on September the 9th.

4 And since the court did not sit on
5 that day we are making our request for leave --
6 well, firstly, for an extension to the 45 days
7 and then for leave to call the reply evidence
8 and that defence, now defence as set out in that
9 reply report.

10 And I have raised this with my
11 friends, who do not object to these requests,
12 firstly, for an extension and, secondly, for
13 leave to file the report.

14 THE COURT: Just let me recap.

15 MR. OGDEN: Yes.

16 THE COURT: So when Dr. Brownlie was
17 testifying he was asked a question, which would
18 give rise to this previously undisclosed
19 evidence, and I made my ruling, and that's what
20 you're referring to?

21 MR. OGDEN: Yes.

22 THE COURT: And you've looked into it
23 and have a brief supplementary report to address
24 that specific issue?

25 MR. OGDEN: Yes.

10:05:36 1 THE COURT: And leave to -- well,
10:05:43 2 which time period do you need an extension of?

10:05:47 3 MR. OGDEN: The 45 days to make the
10:05:49 4 request for leave.

10:05:51 5 THE COURT: And that's because we
10:05:52 6 didn't sit last week.

10:05:54 7 MR. OGDEN: Correct.

10:05:55 8 THE COURT: So there is no problem
10:05:56 9 with that.

10:05:57 10 MR. OGDEN: Thank you.

10:05:58 11 THE COURT: And the request itself?

10:05:59 12 MR. OGDEN: Yes.

10:05:59 13 THE COURT: And leave to?

10:06:03 14 MR. OGDEN: Leave to call reply
10:06:05 15 evidence relating to -- well, sorry, responding
10:06:08 16 evidence is more accurate, but related to that
10:06:13 17 opinion.

10:06:15 18 THE COURT: And there's no objection
10:06:16 19 from the plaintiffs to that?

10:06:19 20 MR. TOWNSHEND: No objection, Your
10:06:20 21 Honour.

10:06:21 22 THE COURT: So does that request for
10:06:22 23 leave, including when the time comes, I assume
10:06:25 24 it does, but just to be clear, that that
10:06:29 25 four-page report would also be put forward as

10:06:32 1 evidence?

10:06:33 2 MR. OGDEN: Correct.

10:06:34 3 THE COURT: All right. Thank you.

10:06:36 4 -- LEAVE GRANTED --

10:06:37 5 I grant leave to deliver that

10:06:43 6 supplementary report now or recently and to have

10:06:47 7 it treated as part of the collection of -- I

10:06:51 8 don't remember how many there are, but the

10:06:54 9 report or reports of that witness when the time

10:06:57 10 comes.

10:06:58 11 MR. OGDEN: Thank you, Your Honour.

10:06:59 12 THE COURT: Thank you. And you said

10:07:02 13 it was Dr. Reimer?

10:07:05 14 MR. OGDEN: Correct.

10:07:06 15 THE COURT: All right.

10:07:40 16 Thank you. Ms. Pelletier, I did

10:07:42 17 expect you were going to be standing this

10:07:44 18 morning and then I thought, well, one never

10:07:46 19 knows. Because I know Mr. Ogden has been very

10:07:49 20 involved with this witness so I assume he is

10:07:52 21 going to be cross-examining at some point.

10:07:55 22 MS. PELLETIER: I apologize if you --

10:08:28 23 THE COURT: There's nothing to

10:08:28 24 apologize for. Just let me finish noting this

10:08:28 25 and then you can get started.

10:08:28 1 MS. PELLETIER: Sure.

10:08:28 2 THE COURT: Please go ahead.

10:08:29 3 MS. PELLETIER: Thank you, Your

10:08:30 4 Honour. I will ask Dr. Williamson to return to

10:08:33 5 the stand.

10:08:35 6 RONALD WILLIAMSON:

10:08:38 7 PREVIOUSLY AFFIRMED.

10:08:48 8 EXAMINATION IN-CHIEF BY MS. PELLETIER

10:08:53 9 (CONTINUED):

10:08:56 10 Q. Good morning, Dr. Williamson.

10:08:58 11 A. Good morning.

10:08:59 12 Q. Now, before we pick up where we

10:09:00 13 left off yesterday I did want to touch on a site

10:09:03 14 that you briefly discussed in your testimony

10:09:05 15 yesterday and ask you a few more questions about

10:09:07 16 it. It's the Nodwell site, and I'll pull up the

10:09:10 17 map that we were looking at yesterday just so we

10:09:13 18 can situate it.

10:09:17 19 Can you perhaps begin by describing --

10:09:18 20 pointing out where it is on this map,

10:09:22 21 Dr. Williamson?

10:09:23 22 A. Yes, I will put on my glasses in

10:09:25 23 order to do that.

10:09:27 24 The Nodwell site is located near Port

10:09:30 25 Elgin. It's on this map as BCHI3 with the name

1 "Nodwell". You will see it beside the Thede
2 site north of the Rocky Ridge.

3 Q. Thank you. And could you tell us
4 about this site and what archeologists have said
5 about it over the years?

6 A. So this site was investigated in
7 the late 1960s into the early '70s. It was
8 investigated by a man by the name of James
9 Wright -- who was a kind of a newly minted
10 Ph.D. -- and discovered what to him looked like
11 an Iroquoian settlement pattern with what looked
12 to him to be Iroquoian ceramics.

13 At that time I think it's a conclusion
14 that many archeologists would have made because
15 so little was known about the area at that time.

16 In fact Wright, in his summary on page
17 306, actually says that what he's concluded is
18 highly speculative and that the archeological
19 record does not improve it; and that he did the
20 best he could with the information at this time.

21 That's important for everybody to
22 understand because he did so without any
23 knowledge at all of the Odawa living in
24 longhouses at Providence Bay, which was not
25 excavated until the '80s.

10:11:10 1 And, similarly, he did it without
10:11:12 2 knowledge of Odawa living in longhouses in a
10:11:17 3 similar village next to the Tionontanté; so, for
10:11:23 4 example, the Plater-Flemming site that also had
10:11:27 5 not been excavated until the 1980s.

10:11:31 6 It's also clear he didn't realize that
10:11:34 7 there was a documentary record that spoke of the
10:11:38 8 Odawa presence, the Kiskakon next to the
10:11:42 9 Tionontanté living in houses like that. Their
10:11:46 10 presence on Sauble -- or their presence at
10:11:50 11 Providence Bay was probably also unknown to him.
10:11:54 12 There is no mention of any of that documentary
10:11:57 13 record by him.

10:12:04 14 So it was not unnatural really for the
10:12:09 15 next -- there wasn't a degree of examination of
10:12:13 16 that area or of that site until the 1990s when a
10:12:19 17 woman by the name of Lisa Rankin took it up as a
10:12:22 18 Ph.D. thesis.

10:12:24 19 And the reason she took it up is that
10:12:31 20 the major hypothesis of Wright was that people
10:12:34 21 had moved hundreds of kilometres from somewhere
10:12:38 22 within the Iroquoian world; this was outside of
10:12:40 23 what is typically expected as the Iroquoian
10:12:44 24 world; and they moved to this lakeshore site to
10:12:52 25 establish a settlement at a time, Wright

1 postulated this, there was very little known.

2 There were like three or four other sites in the
3 Toronto area of that time period.

4 And he did not -- could not know that
5 over the next 40 years dozens of other sites
6 right next to the ones he used were there.

7 And what's important about that is he
8 thought Middleport was in a period of population
9 explosion and they had to get out of that area
10 to find other -- another area to live. This was
11 obviously not the case in that there are clear
12 now drainage sequences of middle Iroquoian
13 through late Iroquoian sites in the north shore
14 area.

15 So this was done at a time when there
16 was like almost no information about the
17 Iroquoian occupations of the north shore area.

18 So Lisa Rankin thought that the more
19 likely scenario was that this was a site that
20 was occupied by local people, people who lived
21 in that area, which she refers to throughout her
22 thesis as "hunter gatherers".

23 And she, I think, was also stimulated
24 by the fact that there is a wide range of
25 radiocarbon dates from Nodwell that Jim Wright

10:14:34 1 ignored. Well, didn't ignore, he dismissed them
10:14:38 2 as not fitting the 14th century date of the
10:14:41 3 site. And he, in doing so, kind of focused only
10:14:50 4 on one period.

10:14:54 5 Dr. Rankin thought that there was
10:14:58 6 reason, on the basis of the settlement pattern
10:15:01 7 at the site, which Wright himself agreed was
10:15:05 8 phased, that the site could have been occupied
10:15:08 9 for hundreds of years over the period of time
10:15:10 10 that the radiocarbon dates suggest.

10:15:18 11 Following that, Bill Fitzgerald, who
10:15:23 12 has worked extensively throughout the SONTL, and
10:15:28 13 Darlene Johnston prepared a paper that is dated
10:15:37 14 2004. I believe I first saw a version of that
10:15:41 15 paper in the Ipperwash hearings and then it was
10:15:47 16 submitted as evidence in another trial with
10:15:49 17 which I was involved and was aware of the
10:15:51 18 report. It has not been published.

10:15:59 19 It is an extensive report exploring,
10:16:01 20 he calls it "Irocentism", or they call it
10:16:07 21 "Irocentism". And so he was -- they were
10:16:13 22 arguing that an Irocentric bias was responsible
10:16:17 23 for what Jim Wright and people subsequently had
10:16:20 24 done.

10:16:20 25 First of all, he goes through a very

1 lengthy description of how the documentary
2 record was unknown to Wright and that other
3 people had mislabelled the position of the
4 Tionontanté for the west and where they were.

5 And so his -- his point was that
6 people had got off on a bad start thinking that
7 this area could have been -- this could have
8 been some kind of precontact Tionontanté site.

9 The work that Fitzgerald and Johnson
10 do is pointing out kind of all of the reasons
11 why Nodwell should have been considered an Odawa
12 settlement, perhaps an initial attempt at living
13 in longhouses, knowing that that was something
14 that descendants did at Plater-Flemming and at
15 Providence Bay.

16 He also stresses throughout the piece
17 the absence of intensive archeological survey,
18 so that any perceived gaps he felt were
19 unjustified because nobody has done the kind of
20 survey that would find the next village or the
21 one before, et cetera.

22 What's interesting in the Rankin piece
23 is that she takes the occupation from shortly
24 after the Middle Woodland occupation at
25 Donaldson through to the 14th century; and

1 Fitzgerald and Johnston then note that at
2 Inverhuron-Lucas there is late 14th, 15th
3 century ceramics. And Bill Fox, in his 1990
4 summary of the archeological evidence of the
5 Odawa, refers to the Inverhuron-Lucas site as
6 Odawa. This is kind of the first time that
7 somebody had changed that narrative.

8 And in the late '90s Dr. Rankin
9 produced this Ph.D. dissertation, which is
10 subsequently published in a reputable series,
11 the BAR series, and it's admittedly slowly
12 making its way through the archeological
13 community as the fact that this site is likely
14 Odawa.

15 Q. Thank you, Dr. Williamson. I
16 would like to bring up document S-1889. It's a
17 document entitled "The Nodwell Site". Is this
18 the Wright report that you referenced?

19 A. Yes, it is.

20 Q. You mentioned page 306. Perhaps
21 we can go to that page, please?

22 A. Yes, the second paragraph was
23 what I was referring to where he describes the
24 appearance and disappearance as highly
25 speculative and certainly not proven by

1 archeological data. However, he says the
2 evidence suggests to him that they appeared
3 suddenly and disappeared in an equally sudden
4 fashion.

5 The point that is very important is
6 that these speculative explanations by Wright,
7 he admits himself, are the only reasonable
8 suggestions he could come up with at that time.

9 MS. PELLETIER: Your Honour, can we
10 mark this as the next exhibit please?

11 THE COURT: Mr. Registrar.

12 THE REGISTRAR: Court's indulgence.
13 Can you repeat the document number again?

14 MS. PELLETIER: It's S-1889.

15 THE REGISTRAR: Sorry, Your Honour. I
16 have a different document here in the database.

17 THE COURT: Yes, it's showing on the
18 screen, S-1889. So if it's a disconnect what
19 we'll do is we'll set aside the exhibit number,
20 Mr. Registrar.

21 THE REGISTRAR: Yes, Exhibit No. 4247.

22 THE COURT: And on a break perhaps
23 counsel can assist you.

24 MS. PELLETIER: Thank you, Your
25 Honour.

10:21:03 1 THE COURT: 4247. What is the date of
10:21:04 2 this report, counsel?
10:21:06 3 THE WITNESS: 1974.
10:21:08 4 THE COURT: Thank you.
10:21:09 5 BY MS. PELLETIER:
10:21:09 6 Q. And Dr. Williamson you also
10:21:09 7 mentioned a Ph.D. thesis by Dr. Rankin.
10:21:14 8 A. Yes, Lisa Rankin.
10:21:15 9 Q. Okay. So I would like to pull up
10:21:17 10 document number S-1412. It's entitled
10:21:26 11 "Interpreting Long-term Trends in the Transition
10:21:30 12 to Farming". Is this the Ph.D. thesis you were
10:21:32 13 referencing?
10:21:33 14 A. It is. It's derived from her
10:21:35 15 Ph.D. thesis.
10:21:37 16 Q. Is there a date? Can you scroll
10:21:38 17 to the date on this document?
10:21:39 18 A. It's 2000.
10:21:41 19 MS. PELLETIER: Your Honour, if this
10:21:41 20 could be the next exhibit, please.
10:21:45 21 THE COURT: Mr. Registrar.
10:21:47 22 THE REGISTRAR: 4248.
10:21:48 23 EXHIBIT NO. 4248: Article entitled
10:21:48 24 "Interpreting Long-term Trends in the
10:21:48 25 Transition to Farming", authored by

1 Lisa Rankin; Document S-1412

2 BY MS. PELLETIER:

3 Q. Your Honour, if I could just go
4 back to the Wright report, I believe that we've
5 realized the error. It's -- maybe we can try
6 S-1899 not 1889. It might have been my error.
7 I apologize.

8 THE COURT: Yes.

9 THE REGISTRAR: Yes, this is the
10 correct document.

11 EXHIBIT NO. 4247: Report entitled
12 "The Nodwell Site" authored by James
13 Wright; Document S-1899.

14 MS. PELLETIER: Thank you, my
15 apologies.

16 BY MS. PELLETIER:

17 Q. And then finally, Dr. Williamson,
18 you mentioned a report by Fitzgerald and
19 Johnston?

20 A. Yes, I did.

21 Q. If I could bring up document
22 S-0600. It is entitled "The Cult of Irocentrism
23 and the Evolution of Ontario Archeological Myth"
24 see submitted to Ontario Archeology of August
25 2004, accepted for publication November 2004.

1 And this is the report that you were
2 referencing, Dr. Williamson?

3 A. It is.

4 MS. PELLETIER: Your Honour, if I
5 could have that as the next exhibit please.

6 THE COURT: Yes.

7 THE REGISTRAR: Exhibit 4249.

8 EXHIBIT NO. 4249: Article entitled
9 "The Cult of Irocentrism and the
10 Evolution of Ontario Archeological
11 Myth", authored by Fitzgerald and
12 Johnston; Document S-0600.

13 BY MS. PELLETIER:

14 Q. Thank you. So now let's return
15 to where we left off yesterday. We were
16 discussing the Iroquoian wars and specifically
17 the post-dispersal period. I'd like you to tell
18 us, Dr. Williamson, what happened to the Odawa
19 after the dispersal?

20 A. The Odawa, with other nations,
21 moved to parts west and north in the Upper Great
22 Lakes as outlined in my report and returned to
23 the Manitoulin Island in -- definitely by the
24 late 1660s, 1670, although there is a
25 reference by Radisson to them possibly being

10:24:13 1 there in the late 1650s. Both of these are
10:24:15 2 referenced in my report.

10:24:16 3 Q. And what happened to SON's
10:24:18 4 territory after the dispersal?

10:24:22 5 A. SON's territory, I think, on the
10:24:26 6 basis of information from the River Mouth Speaks
10:24:31 7 site, was used seasonally, at least by the late
10:24:39 8 1660s; and that to me makes perfect sense in
10:24:45 9 that if they're back within Odawa traditional
10:24:49 10 area they would likely have used this area
10:24:53 11 seasonally, but without establishing permanent
10:24:59 12 settlement.

10:25:07 13 Q. What is the earliest documentary
10:25:08 14 evidence of the return of the Odawa to SON's
10:25:11 15 territory?

10:25:13 16 A. I don't know of any.

10:25:23 17 Q. And do you know why that might
10:25:25 18 be?

10:25:25 19 A. I believe that's because the
10:25:26 20 British weren't there.

10:25:28 21 Q. Thank you. What was the next
10:25:32 22 phase of the Iroquoian war?

10:25:40 23 A. The next phase involved a series
10:25:41 24 of treaties towards the end of the 17th century
10:25:54 25 having resulted from the withdrawal, however you

1 want to say it, of the Haudenosaunee from
2 southern Ontario as a result of both
3 Anishinaabek aggression or push and possibly
4 battles in the homeland.

5 And we find by the end of the century
6 the Haudenosaunee in a weakened state, by their
7 own admission. And a series of treaties are
8 then signed, including one between aboriginal
9 nations, one between the British and then the
10 Great Peace of Montreal in 1701 which brings
11 about a decision to share the resources of
12 southern Ontario.

13 Q. And you mentioned the next phase
14 of the Iroquois wars that the Iroquois left due
15 to aggression or push or battles. Could you say
16 a little bit more about this?

17 A. Yes, it's an oral tradition that
18 has been -- I think I referred to this in my
19 testimony yesterday, there is an oral tradition
20 from a number of Anishinaabek writers about this
21 tradition that there were a series of battles by
22 co-ordinated movements on the part of
23 Anishinaabek to push the Iroquois out of
24 southern Ontario.

25 And obviously what I point out in my

1 report is that by the 1660s, when the British
2 are signing treaties, they are signing it with
3 Anishinaabek people. So that strikes me as an
4 explanation or a partial explanation of why it
5 is that the Haudenosaunee are no longer in
6 southern Ontario at that time.

7 Q. Why are there no written
8 documents about these battles?

9 A. These were battles that were
10 undertaken by Indigenous people where there were
11 no Europeans present to record accounts of them.

12 Q. And, Dr. Williamson, to what
13 extent is oral history accepted as a reliable
14 source of history about this period?

15 A. Well, it's accepted, I think,
16 generally now. It maybe wasn't in the 1970s
17 and before, but now most people accept that --
18 I've outlined in my report those that do -- the
19 results of that oral tradition, being the
20 removal of the Haudenosaunee from southern
21 Ontario.

22 Q. And roughly what date, when did
23 the Iroquois leave southern Ontario?

24 A. The villages that I had spoken
25 about that had been established along the north

10:29:14 1 shore of Lake Ontario appeared to have been
10:29:18 2 abandoned around the late 1680s. That's the
10:29:23 3 time period given by most. And by 1700 there is
10:29:31 4 evidence of Mississauga use either adjacent to
10:29:34 5 or on these sites.

10:29:37 6 Q. Thank you. You mentioned that a
10:29:39 7 treaty marked the end of the war. Could you
10:29:41 8 tell us a little bit more about it, please?

10:29:43 9 A. Yes, the French brokered a treaty
10:29:45 10 over quite a lengthy period of time between a
10:29:49 11 number of allied western nations and the
10:29:53 12 Haudenosaunee to stop the hostility, the
10:30:01 13 periodic hostility that was happening.

10:30:04 14 I think -- I personally believe that
10:30:08 15 the Haudenosaunee had reached a point where they
10:30:11 16 wanted to have a period of peace, as did the
10:30:16 17 western nations. And this was an opportunity on
10:30:19 18 the part of many to come together and reach that
10:30:24 19 peace. And it was phrased in terms of the Dish
10:30:28 20 with, or the Kettle with One Spoon.

10:30:34 21 Q. Was this the first treaty of this
10:30:36 22 kind?

10:30:36 23 A. No, as I mentioned earlier there
10:30:37 24 were three treaties at about that period.

10:30:41 25 There was one with the British and the

10:30:44 1 Haudenosaunee, and there was also one between
10:30:47 2 the Anishinaabek and Wendat and the
10:30:50 3 Haudenosaunee and a purely Indigenous one.

10:30:58 4 Q. Thank you. I would like to look
10:30:58 5 at the post-war period from the late 17th
10:31:01 6 century to 1763. First, I'd like to discuss the
10:31:05 7 identity of the group that resumed use of SON's
10:31:08 8 territory.

10:31:11 9 You mentioned yesterday that the
10:31:13 10 Odawa, in your view, are who returned to SON's
10:31:16 11 territory. Why do you believe it was the Odawa
10:31:19 12 and not another group?

10:31:21 13 A. I believe that because of the use
10:31:26 14 of a site that had been used pre-dispersal was a
10:31:31 15 site of ritual ceremonial activity, which I
10:31:35 16 believe would have been used only by people in
10:31:39 17 the exact same spot, in the exact same manner in
10:31:44 18 the ensuing post-dispersal years. And I believe
10:31:48 19 that means they were Odawa.

10:31:52 20 Q. And what is the likelihood, in
10:31:54 21 your view, that a different group would have
10:31:56 22 resumed use of pre-dispersal ceremonial sites?

10:32:01 23 A. I find that utterly unlikely
10:32:03 24 given the fact that these kinds of places and
10:32:05 25 their use is communicated through family lines.

10:32:10 1 Q. And are there archeological sites
10:32:14 2 that support this?

10:32:16 3 A. I believe that River Mouth Speaks
10:32:19 4 is the site within the SONTL to which we have --
10:32:23 5 for which we have evidence of people both
10:32:26 6 pre-dispersal and post-dispersal. There is some
10:32:32 7 late use, 19th century use in Naotkamegwanning
10:32:35 8 where people have gone back and held ceremony
10:32:40 9 there as well and, of course, it's known in the
10:32:42 10 community.

10:32:45 11 Q. And what else does
10:32:46 12 Naotkamegwanning tell us?

10:32:48 13 A. I think it's a place of healing.
10:32:51 14 I think it's a place where it seemed clear that
10:32:59 15 it was used in Middle Woodland times, given the
10:33:04 16 presence of Middle Woodland artifacts on the
10:33:08 17 site. It was used throughout the Woodland
10:33:12 18 period and certainly into the 1600s.

10:33:15 19 The interesting thing about the site
10:33:17 20 is mapping over 70 burial features, they don't
10:33:20 21 seem to intrude on one another. And one of the
10:33:22 22 things, and I mention this in my report, but one
10:33:25 23 of the things that I think an ongoing tradition
10:33:27 24 on the part of people who use that site would be
10:33:33 25 that one would not obviously place a burial on

1 top of another one.

2 Q. Thank you. And what documentary
3 evidence do we have about SON's territory from
4 the 1690s to 1763?

5 A. I believe there's one map that --
6 there's very little.

7 Q. And why is that?

8 A. Because the British were not
9 there.

10 Q. And you mentioned a map. Can you
11 tell us about this map?

12 A. Yes, this is known as the de Léry
13 map. I believe there is a village identified
14 or -- I shouldn't say a village, a settlement
15 identified kind of near Owen Sound. It's one of
16 the maps in my report.

17 Q. We'll pull that up now. We'll
18 pull up Exhibit 378. Is this the map you were
19 referring to, Dr. Williamson?

20 A. Sorry, let me just -- is this the
21 de Léry map?

22 Q. Not overly legible.

23 A. No, I'm just trying to orient
24 myself here. I have a blow-up myself. It is,
25 yes.

10:35:30 1 THE COURT: What page is it in the
10:35:31 2 report, counsel? I'm just trying to find it.

10:35:34 3 MS. PELLETIER: One moment, Your
10:35:35 4 Honour. It's page 160 -- oh, sorry page 131 of
10:36:03 5 the first report.

10:36:09 6 THE COURT: All right.

10:36:20 7 BY MS. PELLETIER:

10:36:21 8 Q. And are you able to point out the
10:36:22 9 peninsula on this map, Dr. Williamson? I
10:36:24 10 appreciate it's not a great copy.

10:36:26 11 A. Yeah, I'm sorry, I'm still
10:36:28 12 looking. I don't appear to have a copy of this
10:36:30 13 map in this copy of the report.

10:36:34 14 THE COURT: Certainly at that page in
10:36:36 15 my copy there is no map. The maps are all at
10:36:39 16 the end, this map is not one of them. Perhaps
10:36:43 17 it doesn't matter as long as the correct map is
10:36:45 18 on the screen.

10:37:53 19 MS. PELLETIER: I apologize, Your
10:37:54 20 Honour. This map does not appear to be in the
10:37:57 21 appendix of the report.

10:37:58 22 THE COURT: That's no problem just as
10:37:59 23 long as the correct map is on the screen.

10:38:01 24 BY MS. PELLETIER:

10:38:03 25 Q. Dr. Williamson, are you able to

1 work with the map on the screen?

2 A. Yes. If we look at Lake Ontario
3 and Lake Erie and Lake Huron we can see that
4 there is -- the Bruce Peninsula sticks out from
5 the shoreline in the area of the word "Huron";
6 and barely legible on there is the fact that
7 there is a settlement near Owen Sound.

8 Q. And do you recall the date of
9 this map?

10 A. I believe it's 1725.

11 Q. Thank you. I would like to
12 discuss a site you mentioned a few times now
13 which is the River Mouth Speaks site.

14 A. Yes.

15 Q. Could you tell us a little bit
16 about it, please?

17 A. This site is situated near the
18 mouth of the Saugeen River in Southampton on the
19 north side of the river. There is a small bend
20 as you take the road from Highway 21 towards the
21 lake and it bends around.

22 And there was work being done on that
23 road and it had to be preceded by archeological
24 assessment; and that archeological assessment
25 involved trenching an area of the road a couple

1 of metres wide and about a hundred metres long.

2 And this led to the discovery of
3 numerous features, many of which were ceremonial
4 features that had evidence of animal burial
5 ceremonialism.

6 River Mouth Speaks here is situated
7 not far from Donaldson, as you can see, in
8 Southampton. This site yielded evidence of
9 animal burials, of fish deposits, I think about
10 22 of these -- these kinds of deposits,
11 including a dog burial and other animals.

12 This site seems to have been used in
13 the pre-dispersal period and also the
14 post-dispersal period. All the details are
15 outlined in my report.

16 Q. You mentioned at page 19 of your
17 supplementary report that three Jesuits rings
18 were found there, and what do they tell us?

19 A. These are artifacts that date to
20 the French period. Jesuit rings are relatively
21 rare in the pre-dispersal period but relatively
22 common in the post-dispersal period.

23 For example, dozens are found on the
24 Iroquois du Nord site dating to the 1660s
25 through '80s.

1 Q. And what do they tell us about
2 when use of the site resumed?

3 A. I think they tell us that it
4 occurred in the -- probably in the late 17th
5 century or in the second half of the 17th
6 century.

7 Q. Thank you. I'd like to move now
8 to discuss your report on the glass beads that
9 were found at the River Mouth Speaks site.

10 A. Yes.

11 Q. So first I would like to ask you
12 to describe the methodology for dating sites
13 with glass beads in layperson's terms. So could
14 you start by telling us why are glass beads a
15 useful way to date an archeological site?

16 A. So glass beads are made in Europe
17 and -- were made in Europe and were imported for
18 trade with native people as early as the turn of
19 the 17th century, and then increases
20 exponentially in numbers in the following
21 decades.

22 They change with time and by the late
23 or mid- to late-17th century they appear in
24 larger numbers on sites.

25 They can also be examined more

1 carefully through their chemistry to aid in the
2 dating of those, especially useful for sites
3 that have themselves a documentary record that
4 provides a date of occupation of the site.

5 Q. And where are glass beads usually
6 deposited in archeological sites?

7 A. So you will find glass beads in
8 the living area of the site. Sites of this
9 period are typically screened with fine mesh
10 screen in order to find those glass beads.

11 But when we look at where the largest
12 quantity of these beads are found is with
13 cemeteries and in ossuaries. They are valued
14 items that were given to people to take to the
15 next world. And people have speculated that
16 perhaps that's relating to the fact that they
17 would have their regular items that they use on
18 a day-to-day basis and prized items, but they
19 would not have French-traded items in the sky
20 world or the after life. And, hence, they are
21 using -- they are depositing (sic) those in
22 ossuaries as a way of ensuring that their
23 relatives have some of the most prized items.

24 And interestingly it's not just the
25 glass beads, it's the most prized objects made

1 of metal, for example, and other substances.

2 Q. To what extent is glass bead
3 dating a reliable way to date archeological
4 sites?

5 A. Well, they provide a range of
6 dates for the occupation based on their presence
7 of the sites against other assemblages from
8 other sites that are reliably dated.

9 Q. And how precise is this technique
10 in archeological terms?

11 A. Well, they cannot pin it down to
12 the year or a tight range, but it can within a
13 30- to 50-year period, if it's being compared to
14 other assemblages that have, for example, the
15 same kind of chemistry.

16 Even before using the chemistry, for
17 example, assemblages that are dominated by red
18 beads in the pre-dispersal period are known to
19 be a 1640s assemblage. You don't get many of
20 them in the earlier periods. So most people can
21 visually look at an assemblage from the 1640s
22 and see the dominance of these red beads.

23 Q. And what is it that we need to
24 know about a glass bead to date the
25 archeological site where it came from?

10:46:09 1 A. I think one needs -- one needs to
10:46:12 2 use these glass beads in terms of the context
10:46:14 3 within the site, that they come from that site,
10:46:16 4 that it's within the assemblage of that site and
10:46:19 5 that we can compare it to other sites that have
10:46:23 6 tight date ranges.

10:46:24 7 Q. And in terms of comparing it
10:46:24 8 chemically, how do you figure out the chemical
10:46:29 9 composition of the bead?

10:46:30 10 A. So this is using a technique
10:46:31 11 called INAA which, in the Speaks report
10:46:37 12 Dr. Hancock has done for 40 years or so. He is
10:46:41 13 the acknowledged expert in this, but he has
10:46:46 14 handed down, I think, his expertise to his most
10:46:49 15 prized student, Dr. Brandy McDonald, who is the
10:46:53 16 other author on this report.

10:46:53 17 This is a database of over 4,000 beads
10:46:55 18 that he has acquired over the decades. And
10:46:58 19 using that database he can look at an assemblage
10:47:01 20 of beads, their chemical constituents and come
10:47:04 21 up with a fairly decent notion of when that
10:47:08 22 assemblage dates, to which that assemblage
10:47:11 23 dates.

10:47:12 24 Q. Can you say a bit more about
10:47:13 25 that? How do you get from a bead's chemical

10:47:16 1 composition to the date of its archeological
10:47:19 2 site?

10:47:20 3 A. So in the case of many of the
10:47:23 4 comparable sites used in this report, sites that
10:47:26 5 are used to compare the beads from River Mouth
10:47:29 6 Speaks, we have an assemblage of a certain kind
10:47:34 7 of bead from this site, and then we have the
10:47:37 8 same kind of assemblages with the same chemistry
10:47:42 9 found on other sites.

10:47:44 10 So we're looking at assemblage against
10:47:46 11 assemblage and that allows us to say, if that
10:47:50 12 kind of bead with that kind of chemistry occurs
10:47:54 13 on this site, this site, and this site, then it
10:47:57 14 likely occurs on this site at the same periods
10:48:01 15 as these three. And if these three have a clear
10:48:04 16 documentary record of their occupation then this
10:48:06 17 one can be compared to those.

10:48:11 18 Q. Are you looking to determine the
10:48:12 19 date a glass bead was manufactured?

10:48:15 20 A. Not typically. It's important,
10:48:24 21 but we are looking at when the glass bead was
10:48:27 22 deposited at the site.

10:48:28 23 Q. Thank you. I'd like to bring up
10:48:32 24 document SC1069. Dr. Williamson, this is a
10:48:47 25 document that was prepared by you?

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10:49:16 11
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10:49:41 18
10:49:44 19
10:49:47 20
10:49:48 21
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10:49:53 24
10:49:57 25

A. It is.

Q. And can you tell us what this is?

A. This is the results of -- this is a summary of the results that are outlined in the conclusions of the report by bead type, just to make it a very simple comparison for these beads and then with kind of a concluding statement. So we --

Q. Sorry, just before you launch into the results, Your Honour, can we mark this as the next exhibit, please?

THE COURT: Just let me understand what it is, counsel. So I have the report itself which, is Exhibit 4240; I have the errata; and is this kind of a derivative?

MS. PELLETIER: It is a new document that was created just last week, and it's been provided to the parties. And it was an attempt to just summarize because the report is highly technical.

THE COURT: Yes, it is. Is this 1, 2, 3 --

MS. PELLETIER: It is one page.

THE WITNESS: This is a one --

THE COURT: Sir, I'm talking to

10:49:57 1 counsel. I know you're trying to be helpful.

10:49:57 2 So it's a one-page summary of the
10:50:00 3 technical report?

10:50:02 4 MS. PELLETIER: Of the results, that's
10:50:03 5 correct.

10:50:04 6 THE COURT: And I take it there is no
10:50:05 7 objection by defendants' counsel? No.

10:50:10 8 Mr. Registrar.

10:50:11 9 THE REGISTRAR: Exhibit 4250.

10:50:14 10 EXHIBIT NO. 4250: One-page summary of
10:50:15 11 technical report marked as Exhibit,
10:50:15 12 4240.

10:50:18 13 THE COURT: Does anyone happen to have
10:50:18 14 a paper copy?

10:50:20 15 MS. PELLETIER: We can get one for
10:50:20 16 you, Your Honour.

10:50:23 17 THE COURT: Just trying to keep my
10:50:24 18 reports together. All right. So that is
10:50:26 19 Exhibit 4250. Please go ahead.

10:50:30 20 MS. PELLETIER: Thank you, Your
10:50:31 21 Honour.

10:50:31 22 BY MS. PELLETIER:

10:50:32 23 Q. Dr. Williamson, you mentioned
10:50:32 24 that the results are broken down by colour of
10:50:36 25 bead. Could you begin by telling us the results

1 for the white beads?

2 A. So for the white antimony beads
3 there are 69 of them we got tests or we got
4 results on; and 18 of those beads, as it says
5 here, groups chemically with sites that extend
6 from roughly 1670, the Seneca Bead Hill site
7 which is located on the Rouge River -- I talked
8 about it yesterday -- through to the 1750
9 period.

10 There are 47 other antimony white
11 beads that have a slightly weaker correlation
12 with the late 18th century and early 19th
13 century Fort St. Joseph site, Fort Malden site
14 and the 1640 Sillery site in Quebec, which is a
15 multi-component site. And again 1690 to 1710 at
16 Snyder McClure.

17 There was one arsenic-rich bead which
18 is likely late 18th -- or late 18th to mid-19th
19 century; three other large, opaque
20 white-coloured beads from the late 19th even
21 into the early 20th.

22 So the white beads indicate a
23 long-range use of the site from the late 17th
24 century through to the early 19th, possibly even
25 the 20th century. Which is consistent with what

1 Dr. Fitzgerald said in the initial report.

2 Q. Thank you, Dr. Williamson. Now
3 moving onto the turquoise beads, please.

4 A. So the result of the turquoise
5 bead analysis is that they group chemically with
6 a series of sites that date from 1650 to 1675.
7 One of the turquoise beads dates consistently
8 with sites dating before the dispersal, 1620 to
9 1650.

10 Q. And now what were the results for
11 the black beads?

12 A. First of all, because we had
13 source material that we were testing from the
14 Amsterdam glass house where beads were made
15 between 1601 and 1610, these black beads and
16 that source sample group with archeological
17 sites ranging in date from 1605 through 1687.

18 I should add that these kinds of black
19 beads are rare in Ontario prior to 1650. They
20 are only present in two Neutral cemeteries.
21 They are not present elsewhere but are common in
22 Ontario sites in the post period.

23 So, for example, of over 200 beads at
24 Bead Hill, over 40 percent of them are black
25 beads. So this suggests to me it's more likely

1 they were deposited after 1650.

2 Q. Now, moving onto the red copper
3 glass beads?

4 A. There were two copper beads with
5 coloured cores. We believe the white core is
6 associated with sites pre-dating 1655 and the
7 one with the black core is post dating 1655.

8 Q. And finally the amber bead?

9 A. And the amber bead seems to date
10 from the late 18th to the early 20th century.

11 Q. Now, bringing all of these
12 results together, Dr. Williamson, by what date
13 do you conclude that use of the River Mouth
14 Speaks site had resumed?

15 A. I think it had resumed by the
16 last half of the 17th century and about the
17 middle of the period.

18 Actually, it -- probably in and around
19 the same time that the Odawa returned to
20 Manitoulin. I see no reason why this doesn't
21 indicate seasonal use of the site at that time.

22 And obviously the beads indicate a
23 longer period of time as well.

24 Q. Thank you. Section 6 of your
25 report is titled "Stratigraphy". Could you

1 define that term for us, please?

2 A. On archeological sites that have
3 soil depth -- so this wouldn't be the case in
4 the Bruce Peninsula, as we talked about, but
5 where there is an opportunity for soil depth
6 archeologists will record the layers of soil on
7 an archeological site and lenses of soil in
8 order to determine where the artifacts are found
9 on the site in a site with complex stratigraphy.
10 That is a typical procedure.

11 Q. And what conclusions do you draw
12 from those findings?

13 A. So we did look at the
14 stratigraphy. We looked at the report that --
15 we obviously did not have the opportunity to
16 look at the stratigraphy live, but we looked at
17 the report, the River Mouth Speaks report. And
18 we concluded that most of the stratigraphy had
19 been disturbed and disturbed to the sense that
20 it wasn't clear that artifacts may not have
21 moved about the, about and within those layers.

22 So it's not that on this site we were
23 dating a layer in which these artifacts were
24 found; it's an assemblage from the site that we
25 were dating.

1 Q. Then how do these findings affect
2 your conclusions about the dates of the glass
3 beads?

4 A. It really doesn't, because we're
5 comparing an assemblage. So we're looking at,
6 for example, the turquoise beads from this site
7 against the turquoise beads from other sites.

8 Q. Thank you.

9 Next I would like to bring up document
10 SC1070. And this is the report of Ms. Morden
11 not yet entered as an exhibit. It's dated
12 August 31, 2018. I would like to take you to
13 some passages, but first, Your Honour, could
14 this be marked as the next lettered exhibit?

15 THE COURT: Yes.

16 THE REGISTRAR: Lettered Exhibit R-2.

17 EXHIBIT NO. R-2: Report of Dr. Morden
18 dated August 31, 2018; Document
19 SC1070.

20 THE COURT: Thank you, Mr. Registrar.

21 BY MS. PELLETIER:

22 Q. So I will go to page 14.
23 Ms. Morden comments on your observation that a
24 bead was recovered with a buried dog?

25 A. Yes.

10:58:04 1 Q. And if you could read the last
10:58:07 2 paragraph, please, and comment on it.

10:58:11 3 A. Do you wish me to read it out
10:58:13 4 loud?

10:58:14 5 Q. Sure. Please.

10:58:15 6 A. "Only one glass bead, an antimony
10:58:17 7 white class bead was recovered from a
10:58:20 8 feature. This one white bead was viewed
10:58:23 9 by the excavator Fitzgerald and
10:58:28 10 Dr. Williamson as particularly
10:58:29 11 significant as it was found in
10:58:29 12 association with a dog burial. They
10:58:29 13 both interpret this as a votive object
10:58:29 14 in the ritual buried dog.

10:58:32 15 One must remember that a single bead
10:58:33 16 would never have been viewed as a
10:58:35 17 complete object as the standard
10:58:38 18 practice would be to use many beads to
10:58:39 19 decorate clothing and objects like
10:58:39 20 boxes, belts and bags with patterns
10:58:39 21 and dates.

10:58:43 22 Most likely this single bead is an
10:58:45 23 accidental inclusion in the burial
10:58:48 24 broken off of clothing while the dog
10:58:50 25 was buried."

10:58:52 1 Q. And do you have any comments on
10:58:54 2 that passage?

10:58:55 3 A. I do. I have basically three
10:58:57 4 comments. One is that I wouldn't personally
10:59:01 5 presume to get into the Indigenous mind as to
10:59:03 6 what would be deposited in a burial and what
10:59:06 7 wouldn't.

10:59:06 8 And that's based largely on the fact
10:59:09 9 that at the Providence base site, in fact, as
10:59:21 10 was mentioned in my report, there was an
10:59:23 11 antimony white bead in a complex, ceremonial
10:59:24 12 complex left with a dog in that situation.

10:59:27 13 And Brizinski in the article about the
10:59:32 14 dogs at Frank Bay site mentions the dog had an
10:59:37 15 inclusion, one of the dogs had an inclusion of
10:59:39 16 an exquisitely formed quartzite crystal.

10:59:45 17 The eminent archeologist George Hamel,
10:59:49 18 who specializes in kind of the etiology
10:59:52 19 of the archeological record, as reflected in the
10:59:56 20 archeological record, has pointed out that beads
10:59:58 21 were a reflection or a continuation of that
11:00:03 22 shininess, the colour represented in, for
11:00:06 23 example, quartz crystal and feels that these
11:00:10 24 beads being deposited with animals like that,
11:00:12 25 that's kind of the -- it's in keeping with that.

1 And that was explored in the paper by
2 Oberholtzer which I also refer to. It is a
3 paper analyzing the dog burial in the record.
4 And so this is, I think, evidence that this kind
5 of activity occurred.

6 And, finally, the Odawa were known for
7 nose rings that had single beads, and I can't
8 imagine that there wouldn't have been beads on
9 earrings that were single. So I -- I'm not -- I
10 don't disagree, by the way, that beads are found
11 on clothing and can be found on other objects,
12 but in this case there's precedent.

13 Q. Thank you.

14 Now if I can turn to page 15 of the
15 report, and Ms. Morden makes the point that
16 glass beads may have been deposited long after
17 they were manufactured.

18 And there is a paragraph that begins,
19 "Another characteristic [...]", and if you can
20 read that paragraph for us, Dr. Williamson, and
21 comment on it?

22 A. "So another characteristic which
23 small artifacts like beads possess an
24 inherent value makes the possibility
25 that they are curated and passed down to

11:01:34 1 be used and then reused much higher.
11:01:37 2 This would then increase the length of
11:01:38 3 time that could pass between the
11:01:40 4 original manufacturer and ultimate
11:01:43 5 deposition in an archeological record.
11:01:45 6 There are some 16th and 17th and 18th
11:01:47 7 century glass beads which have never
11:01:49 8 been deposited in an archeological
11:01:51 9 context, but remain as part of
11:01:53 10 artifacts which are extant in
11:01:56 11 collections, museums and as personal
11:01:59 12 property."

11:02:00 13 So these -- I think she's referring to
11:02:02 14 ethnographic items that may still have beads
11:02:05 15 attached to them.

11:02:12 16 With respect to inherent value and use
11:02:14 17 and reuse, as I mentioned earlier, it's very
11:02:17 18 interesting to see that the most valuable
11:02:19 19 objects end up in cemeteries because they're
11:02:22 20 passing these objects on.

11:02:24 21 In fact, my colleagues in the
11:02:25 22 St. Lawrence Valley at a conference recently
11:02:32 23 were talking with a number of us about the fact
11:02:35 24 that they're not finding the amount of trade
11:02:37 25 goods that we have found in Ontario. And we

11:02:42 1 pointed out to them that they are not excavating
11:02:45 2 the cemeteries, which is where that material is
11:02:47 3 the typically found.

11:02:53 4 Finally, in comparing assemblages
11:02:56 5 against assemblages, it may very well be that
11:02:58 6 other beads were curated for a while longer.
11:03:03 7 But if I have a series of beads here and they
11:03:06 8 come out of this archeological site and they
11:03:09 9 date to a certain period, as they do in these
11:03:11 10 other dated sites, it really is immaterial
11:03:15 11 whether some beads were curated.

11:03:20 12 Q. And to what extent does the
11:03:22 13 archeological record in southern Ontario show
11:03:24 14 glass beads being deposited a long time after
11:03:27 15 they were manufactured?

11:03:29 16 A. I'm not familiar with that being
11:03:34 17 a problem in dating these sites. The trends
11:03:41 18 that we've talked about here and the assemblages
11:03:45 19 that are represented in this report are compared
11:03:49 20 against dated assemblages. And so whether a
11:03:53 21 bead of that type may have survived later in
11:03:56 22 some other site may be the case, but we're
11:03:59 23 comparing assemblages on an equal footing.

11:04:02 24 Q. So, in other words, if a glass
11:04:03 25 bead were deposited a long time after it was

11:04:06 1 manufactured, how would that affect your
11:04:08 2 results?

11:04:09 3 A. It wouldn't.

11:04:10 4 Q. Thank you.

11:04:15 5 Just briefly want to go back to the
11:04:17 6 Jesuit rings we were talking about at the River
11:04:20 7 Mouth Speaks site. I forgot to ask you, when do
11:04:23 8 Jesuit rings stop showing up on archeological
11:04:25 9 sites?

11:04:28 10 A. So Jesuit rings are a French
11:04:31 11 period artifact. They are not made after the
11:04:33 12 British population -- or they are not made and
11:04:36 13 introduced into this area so you don't see them
11:04:40 14 on sites after that, I mean generally. They are
11:04:45 15 occurring during the French period.

11:04:47 16 Q. Could you give us a rough date of
11:04:48 17 when they stopped showing up?

11:04:50 18 A. In the 1760s.

11:04:52 19 Q. Thank you.

11:04:59 20 Your Honour, those are my questions.
11:05:00 21 Thank you. Thank you, Dr. Williamson.

11:05:02 22 THE COURT: Thank you. I think we can
11:05:08 23 take an early morning break so that next counsel
11:05:11 24 can get organized. But who is next, counsel?

11:05:16 25 MR. McCULLOCH: I am, Your Honour.

11:05:17 1 THE COURT: It is you, sir, and then
11:05:17 2 it's Mr. Ogden?

11:05:19 3 MR. OGDEN: Yes, Your Honour.

11:05:21 4 THE COURT: We're ahead of schedule,
11:05:27 5 which is great. And with that in mind I just
11:05:28 6 wanted to let counsel know that I have a
11:05:31 7 conflict next Wednesday afternoon. I don't
11:05:33 8 think that is going to be a problem but I just
11:05:35 9 wanted to give you a heads-up about that. We'll
11:05:38 10 take an early morning break.

11:05:41 11 Now, before we do that, sir, you
11:05:42 12 mentioned you testified before so you may know
11:05:44 13 this already, but starting now when you're in
11:05:47 14 cross-examination you aren't able to talk or do
11:05:51 15 anything about your evidence outside of your
11:05:53 16 testimony in court.

11:05:54 17 And I always like to remind expert
11:05:57 18 witnesses that that includes looking into things
11:06:00 19 that you might be curious about, or on-line
11:06:02 20 research, or checking things and so forth. You
11:06:05 21 just have to think of other things to occupy
11:06:07 22 your time when you're outside the courtroom and
11:06:09 23 also obviously not discussing your testimony
11:06:12 24 with anyone at all, all right?

11:06:15 25 THE WITNESS: Yes, Your Honour.

11:06:17 1 THE COURT: So we'll take the morning
11:06:18 2 break now until 11:30.
11:06:20 3 -- RECESSED AT 11:06 A.M. --
11:06:20 4 -- RESUMED AT 11:31 A.M. --
11:32:14 5 THE COURT: Yes, Ms. Pelletier.
11:32:18 6 MS. PELLETIER: Just quickly before I
11:32:19 7 pass it off to Canada, I have printed copies of
11:32:21 8 the summary report.
11:32:25 9 THE COURT: Thank you, just hand it to
11:32:27 10 Mr. Registrar.
11:32:28 11 MS. PELLETIER: That's all. Thank
11:32:29 12 you.
11:32:30 13 THE COURT: All right. Mr. McCulloch.
11:32:44 14 CROSS-EXAMINATION BY MR. McCULLOCH:
11:32:50 15 Q. Dr. Williamson, I'm Michael
11:32:50 16 McCulloch, that's M-C-C-U-L-L-O-C-H. I'm going
11:32:51 17 to ask you a few questions on behalf of the
11:32:54 18 Attorney General of Canada. I usually try to
11:32:57 19 organize things and do a roadmap of nice
11:32:59 20 discreet areas but, as I have been learning, in
11:33:02 21 Ontario archeology things tend not to stay in
11:33:08 22 tidy boxes, so that while I'm going to give you
11:33:12 23 a roadmap there may be a number of detours, if
11:33:15 24 that's all right?
11:33:17 25 A. Whatever, sir.

11:33:18 1 Q. First thing, I want to talk to
11:33:20 2 you about terminology and methodology. This, of
11:33:26 3 course, is not any implied attack on your
11:33:30 4 credentials. They are, well, very, very
11:33:37 5 outstanding.

11:33:38 6 We have had so many different types of
11:33:40 7 experts, historians, linguists, geologists;
11:33:43 8 we're going to have a geomythologist, for
11:33:47 9 example, that I'd like to get a clear
11:33:50 10 understanding and hope that that will help the
11:33:52 11 Court get a clear understanding of the
11:33:54 12 perspective that you are bringing to the issues
11:33:58 13 before the court.

11:34:00 14 And terminology and methodology, I've
11:34:02 15 discovered, are pretty hard to disentangle so
11:34:06 16 I'll be dealing with those two together.

11:34:11 17 You nodded.

11:34:12 18 A. Sorry, yes.

11:34:15 19 Q. The second general topic is to
11:34:19 20 ask you questions about south central Ontario in
11:34:24 21 the 16th, 17th and 18th centuries to try to
11:34:28 22 bring together, so that I can understand it and
11:34:30 23 perhaps help the Court understand it, the way in
11:34:34 24 which the documentary and the archeological
11:34:37 25 material mesh.

1 Now, I understand, for entirely
2 appropriate reasons, why you separated them out
3 but I'm going to see if by questions I can bring
4 the two together into a single narrative.

5 A. Yes.

6 Q. And finally, there are going to
7 be specific points in your report and your
8 examination in-chief, a kind of cleaning-up
9 exercise to take care of any loose points.

10 I may, in fact, ask a couple of
11 questions about specific sites but my friend has
12 done such an exceptional job in elucidating your
13 opinion that I may not have to spend very much
14 time on that.

15 I think we've established that you are
16 an archeologist?

17 A. Yes, we have.

18 Q. And you are an archeologist,
19 specifically an anthropological archeologist?

20 A. Yes.

21 Q. And one of things I want to be
22 exploring is the difference between that and you
23 mentioned a classical archeologist.

24 And I'll ask you, if I can posit this
25 very rough distinction, that the archeology

1 part, or at least what most of us think as
2 archeology, has to do pretty much with the
3 collection of the data; and the anthropological,
4 the theoretical side, tells you what questions
5 to ask of the data and what answers you can
6 extract from the data? Is that a rough
7 approximation or certainly --

8 A. The fact that I'm an
9 anthropological archeologist, anthropological
10 archeologists will use their anthropological
11 training to also design the field work that they
12 are undertaking so it's somewhat intermeshed.

13 Q. So it's intermeshed. But there
14 is a theoretical component --

15 A. Yes, there is.

16 Q. -- to anthropological archeology.

17 A. Yes.

18 Q. And again in this question of
19 getting the language right, in one of your
20 articles -- I won't take you to it unless you
21 tell me I'm misquoting here -- you refer to
22 "entrepreneurial archeologists"?

23 A. Okay.

24 Q. And in some of the government
25 stuff I've seen "consultant archeologist" and

11:37:10 1 "contract archeologists". Are these all the
11:37:14 2 same thing, or different aspects of the same
11:37:17 3 thing, or different things all together?

11:37:23 4 A. Contract archeologists and
11:37:23 5 consultant archeologists are used generally
11:37:28 6 interchangeably by people. Culture resource
11:37:33 7 management is another way of talking about the
11:37:37 8 people who work for clients in that kind of
11:37:41 9 industry, that kind of archeology. So, yes,
11:37:45 10 those terms are somewhat interchangeable.

11:37:49 11 Q. And on a somewhat different
11:37:51 12 level, the purpose of archeology,
11:37:56 13 anthropological archeology, but archeology
11:38:01 14 generally, is to use the material record to
11:38:05 15 explain humanity's past, is that correct?

11:38:08 16 A. That's a general, yes,
11:38:11 17 definition. Absolutely.

11:38:17 18 Q. But the archeology does come in
11:38:21 19 those two stages -- or three stages, I now
11:38:24 20 understand; designing the excavation or the
11:38:25 21 retrieval of data, retrieving the data and
11:38:29 22 interpreting the data?

11:38:31 23 A. Yes.

11:38:35 24 Q. And as I think you've made clear,
11:38:37 25 those three stages can be done by different

1 people?

2 A. Um, they're typically done by the
3 same people. The designing might be done in
4 consultation, for example, with the aboriginal
5 community in question.

6 The actual excavation is done by the
7 archeologist. Again, it may have -- there may
8 be aboriginal monitors, as I indicated.

9 And the actual interpretation of it is
10 usually a team because various pieces of the
11 archeological record may be looked at by
12 different people.

13 Q. I'm interested in this concept of
14 designing the project.

15 A. Uhm-hmm.

16 Q. What does that involve?

17 A. Well, it's framing the research
18 questions that one may have.

19 There's a difference between -- I want
20 to be clear, there is a difference between
21 research archeology and culture resource
22 management.

23 In the case of culture resource
24 management that design may be only considering
25 how to approach the site, and if you want to

11:39:47 1 deviate from any standards or guidelines about
11:39:49 2 it discussing that first with the reviewing
11:39:51 3 agency.

11:39:53 4 In the case of research you may have
11:39:55 5 research questions in mind that you wanted to
11:39:58 6 investigate. So, for example, if there is a
11:40:02 7 large archeological site but you're most
11:40:05 8 interested in soliciting dateable material for
11:40:10 9 radiocarbon dating from that site, you may only
11:40:14 10 exercise -- you may only undertake archeological
11:40:17 11 excavations within the midden area, the refuse
11:40:21 12 heaps of the village, in order to get discarded
11:40:23 13 corn. That may be the sole purpose of the
11:40:25 14 exercise.

11:40:26 15 If, on the other hand, it's to
11:40:28 16 understand the settlement pattern and you don't
11:40:30 17 want to destroy the whole site, you may use
11:40:32 18 another technique to try and do that. You may
11:40:35 19 use resistivity or remote sensing techniques to
11:40:41 20 sort that out first.

11:40:42 21 So research design is a way that you
11:40:44 22 meet the research questions you have.

11:40:46 23 Q. You've mentioned a number of
11:40:47 24 times concerns that excavations are destructive.

11:40:55 25 A. Indigenous societies are --

11:40:57 1 Indigenous groups certainly find it destructive.
11:41:00 2 I've argued, I argued at Ipperwash that we have
11:41:09 3 an undesired degree of complete excavation of a
11:41:13 4 site. And I think it's important to understand
11:41:16 5 that when you excavate a site you're destroying
11:41:19 6 it if it's completely excavated, which most
11:41:23 7 sites these days in Ontario are completely
11:41:26 8 excavated.

11:41:27 9 Q. And, of course, you can't
11:41:29 10 excavate the same site twice?

11:41:31 11 A. You cannot.

11:41:31 12 Q. The other type of work, the
11:41:34 13 heritage management, I've heard the term, I
11:41:36 14 believe from you, "salvage archeology"?

11:41:41 15 A. Yes.

11:41:41 16 Q. And I have also heard the term
11:41:43 17 "rescue archeology"?

11:41:46 18 A. Yes.

11:41:47 19 Q. Could you explain those terms a
11:41:48 20 little bit further, how practically they differ
11:41:51 21 from research archeology?

11:41:53 22 A. So as I just finished explaining,
11:41:58 23 in research archeology you may have a precise
11:42:01 24 question that you're trying to address in the
11:42:05 25 archeological work you undertake.

1 In either rescue archeology or salvage
2 archeology a decision has been made to remove
3 all or a portion of an archeological site, and
4 it's a matter of recording it, of excavating it
5 well and producing an accurate record of that.

6 Q. And this is usually done in
7 advance of development?

8 A. Yes.

9 Q. And indeed a lot of the
10 archeology that's been done on the Bruce
11 Peninsula has been in advance of development?

12 A. Some of it has but some of it has
13 also been research. Vessels, for example, have
14 been found in caves by people accidentally or
15 incidentally. But, yes, both kinds of
16 archeology have occurred.

17 Q. Oh, and I've moved passed the
18 question. That pot in the cave that would be
19 considered a site?

20 A. Yes. Even individual -- even
21 individual artifacts that are diagnostic are
22 considered sites.

23 Q. I'm now going to move on, still a
24 bit more technical material and I'll get to the
25 theory in a few minutes.

11:43:31 1 Particularly about dating, we've
11:43:33 2 already discussed carbon dating, and I'd like to
11:43:42 3 talk -- ask you about dendrochronology.

11:43:47 4 A. Yes.

11:43:47 5 Q. Is it of much use in south
11:43:50 6 central Ontario?

11:43:51 7 A. Well, it's actually part of the
11:43:52 8 radiocarbon dating that is undertaken. There is
11:43:56 9 a calibration curve which is produced through
11:43:59 10 consultation with the dendrochronological
11:44:02 11 record. So every date that you get is compared
11:44:05 12 against that.

11:44:13 13 Q. And I'm about to portray the fact
11:44:14 14 that I don't know very much about cars. I'd
11:44:17 15 like to ask you about your description of
11:44:19 16 seriation.

11:44:20 17 A. Yes.

11:44:20 18 Q. And I understand that you used a
11:44:22 19 metaphor from Renfrew and Bond?

11:44:26 20 A. I wasn't aware if I did.

11:44:27 21 Q. Okay. They -- we'll be
11:44:29 22 introducing that a little bit later. They talk
11:44:31 23 about the parking-lot analysis.

11:44:35 24 A. They do? Okay.

11:44:36 25 Q. So if I understand, we can go to

11:44:38 1 pages 125 and 126 of yesterday's transcript if
11:44:42 2 you want, but we'll see if I can convey my
11:44:47 3 confusion clearly enough --

11:44:48 4 A. Sure.

11:44:48 5 Q. -- that we don't need to pull
11:44:50 6 that document up.

11:44:51 7 A. Yes.

11:44:52 8 Q. You have a parking lot filled
11:44:53 9 with Model Ts, right? That's -- and then you
11:44:59 10 set another parking lot full of Mustangs. Was
11:45:04 11 that the --

11:45:04 12 A. Or Thunderbirds, whatever, of
11:45:07 13 that period.

11:45:08 14 Q. And then a parking lot of -- full
11:45:11 15 of I think you said SUVs, modern SUVs?

11:45:15 16 A. SUVs, yeah.

11:45:16 17 Q. If you don't know anything about
11:45:18 18 cars, how would you know what order they should
11:45:21 19 be ranked in?

11:45:22 20 A. Well, that's the interesting
11:45:24 21 thing about seriation is that when you have
11:45:28 22 assemblages from sites that you are seriating
11:45:32 23 against one another, there is typically one or
11:45:36 24 more of those sites that has an independent
11:45:39 25 absolute date; so that you know that over here

11:45:42 1 this assemblage dates to 1600. It has these --
11:45:46 2 let's use the example of ceramics. It has these
11:45:50 3 kinds of ceramics with these kinds of
11:45:53 4 attributes.

11:45:55 5 And then in the middle you have a site
11:45:56 6 that may date earlier and then a third site that
11:45:58 7 may date earlier than that. The question is,
11:46:00 8 how do those attributes or those pot styles
11:46:05 9 change through time?

11:46:06 10 So here I'm not talking about kind of
11:46:09 11 ethnicity or identity. I'm talking about the
11:46:12 12 dating of sites, because some attributes are
11:46:15 13 reflective of time.

11:46:18 14 So, for example, I recently undertook
11:46:22 15 an analysis using, I mentioned, the project
11:46:30 16 dating Iroquois where there are hundreds of new
11:46:34 17 dates for Iroquoian sites that have been
11:46:35 18 undertaken in the last few years.

11:46:38 19 I mention this because we now have
11:46:40 20 much better understanding of the radiocarbon
11:46:42 21 dates on sites and I can take the assemblages,
11:46:45 22 and I did take the assemblages from those sites.

11:46:50 23 I picked eight or nine chronological
11:46:55 24 attributes, attributes that people use to sort
11:46:58 25 out time; they think they are chronologically

1 sensitive. And we -- and that's attributes that
2 have been discovered over the last 40 years.

3 And we took those and we tested them
4 against all the new radiocarbon dates to
5 determine if they are, indeed, sensitive.

6 I will give you one example. In the
7 case of ceramics, the presence of horizontals on
8 the collar is typically thought of as an
9 early -- as a 14th century or even earlier
10 attribute on assemblages and then it disappears
11 by 1500.

12 Q. But just to make sure I'm
13 following you, that initial 1400, that has to be
14 established by some carbon dating or something
15 so you have an anchor?

16 A. So now they are. They were far
17 less well anchored in the past but now we have
18 far more sites with solid absolute dates.

19 And so I was able to show, across a
20 series of drainages and a series of communities,
21 therefore crossing the sociopolitical lullings
22 of the communities evolving in those drainages;
23 looking at attributes on their pots and seeing
24 if they follow a regular line of decline or
25 increase.

11:48:33 1 And that is the confirmation of the
11:48:41 2 chronological attributes that you use in
11:48:43 3 seriation.

11:48:43 4 And I found that the majority of ones
11:48:46 5 that we have used in the past actually work
11:48:50 6 against independent dates.

11:48:51 7 Q. Is that the material presented in
11:48:53 8 your article on nation building?

11:48:57 9 A. It is not. This is not yet
11:49:01 10 published research but presented at the Society
11:49:07 11 for American Archeology meetings this past
11:49:09 12 spring.

11:49:12 13 Q. Always nice to get stuff before
11:49:14 14 the press.

11:49:15 15 A. You are getting it before the
11:49:16 16 press.

11:49:17 17 Q. And I have a couple of questions
11:49:18 18 to ask about something -- again, you've already
11:49:20 19 mentioned it but I want to get clearer in my
11:49:24 20 mind, and that's stratigraphy.

11:49:32 21 And I'm a little confused because I
11:49:34 22 have heard two different terms and, again, I'm
11:49:36 23 not sure whether or not they mean the same
11:49:38 24 thing. "Sealed" and "undisturbed", are those
11:49:44 25 the same thing?

11:50:03 1 A. No.

11:50:04 2 Q. Could you explain that? I didn't
11:50:04 3 think they were, but I didn't know the
11:50:04 4 difference.

11:50:04 5 A. In southern Ontario on most sites
11:50:04 6 that are excavated there is very little
11:50:07 7 stratigraphy other than the topsoil or plow zone
11:50:11 8 which is immediately underlain by what is called
11:50:11 9 "subsoil". And under that a kind of natural
11:50:14 10 soil horizon that we call "sea horizon".

11:50:18 11 So if you have -- if you were to go
11:50:21 12 out in your backyard tomorrow or today, or
11:50:23 13 whatever, and excavate a hole you see a dark
11:50:26 14 layer and then see a light brown layer below it.
11:50:29 15 That is the topsoil and the subsoil.

11:50:34 16 Now on deeply buried sites, let's say
11:50:37 17 you have a river bottom, the flood plain of a
11:50:42 18 river; you can have stratigraphic layers where
11:50:47 19 there are buried topsoils, we call them
11:50:50 20 "paleosols", and so that is where you can get
11:50:53 21 complex stratigraphy.

11:50:55 22 But most sites that are found on table
11:50:57 23 land the stratigraphy is not complex. Because
11:51:01 24 River Mouth Speaks was located near the
11:51:06 25 shoreline, had been disturbed by modern cultural

11:51:11 1 activity, there was complex stratigraphy. And
11:51:17 2 the excavators tried to sort out what the
11:51:20 3 various periods represented by those layers
11:51:23 4 were.

11:51:30 5 Q. So even though things have been
11:51:32 6 disturbed you can restore the complex
11:51:35 7 stratigraphy?

11:51:36 8 A. Well, that was my point in my
11:51:37 9 answer in-chief, is that when it has been
11:51:39 10 disturbed and artifacts have been mixed between
11:51:43 11 layers, that's generally not possible.

11:51:45 12 Q. So that when you talk about an
11:51:46 13 assemblage in an area that's been disturbed to
11:51:49 14 that extent you're essentially talking about one
11:51:53 15 collection of artifacts?

11:51:55 16 A. Right. If it's a -- if it's an
11:51:57 17 assemblage of artifacts that are known from
11:52:00 18 other sites to occur during -- during a set
11:52:04 19 period, the discovery of those artifacts on your
11:52:07 20 site you can also argue that they -- that they
11:52:11 21 date to the same period.

11:52:13 22 Q. But an assemblage is not a
11:52:16 23 consciously-constructed artifact like a choke or
11:52:22 24 anything, it's what you've got at a certain
11:52:25 25 level in the excavation?

11:52:27 1 A. I'm sorry, I don't understand. A
11:52:29 2 "choke" did you say?

11:52:31 3 Q. Sorry, a bead choker. You see,
11:52:35 4 assemblage to someone who doesn't know this
11:52:37 5 stuff can suggest something that's deliberately
11:52:41 6 assembled. And what you're saying is the
11:52:45 7 assembly --

11:52:47 8 A. No, it's the assembly -- sorry to
11:52:47 9 interrupt.

11:52:47 10 Q. The assembly is a result of the
11:52:49 11 history of the site rather than some conscious
11:52:54 12 design?

11:52:54 13 A. Correct. A site may be occupied
11:52:56 14 for a limited amount of time or a continuous
11:52:59 15 amount. And in situations, for example, your
11:53:05 16 typical Iroquoian village is occupied, depending
11:53:10 17 on the century you're in, let's say between 15
11:53:13 18 and 30 years. And, therefore, the assemblage of
11:53:19 19 that site is already an assemblage that dates
11:53:22 20 throughout that period, okay.

11:53:24 21 But it is possible, as Dr. Wright did
11:53:27 22 in the Nodwell report, to try and sort out, is
11:53:32 23 there an earlier portion of the site? And Lisa
11:53:35 24 Rankin, Dr. Rankin I think succeeded in doing
11:53:38 25 that by looking at artifacts from that site that

1 date to the earliest phase and how they differ
2 from later artifacts.

3 Q. In short, there's a strong dose
4 of art as well as a lot of science?

5 A. No, I don't believe that's art.
6 I believe that's looking at the artifacts from
7 various places on a site and figuring out what
8 the seriation is of the phases on the site.

9 You can also remember -- I shouldn't
10 say "remember", you can also sort out the
11 settlement pattern phasing on an archeological
12 site using the principle of superimposition.

13 If you have two overlapping longhouses
14 it is possible to have the most recent houses
15 longhouse wall posts appear in the features of
16 the earliest house, so you know that that house
17 is later than the first house.

18 Q. I just have one last category of
19 dating. I don't think it plays a significant
20 part in this matter but it is mentioned in your
21 report, and you have done some work in this area
22 outside of the context of your report.

23 Does genetic dating have any
24 significance here?

25 A. I don't think I've used genetics

1 and dating at the same time.

2 There's certainly ongoing genetic
3 research to try and link that with the
4 linguistic reality of overlapping homelands of
5 Algonquian and Iroquoian and using that genetic
6 research to see how populations relate to one
7 another.

8 That is ongoing research in the United
9 Kingdom right now using material that the Wendat
10 and I have provided; and I'm going to a
11 conference next month to see how that's worked
12 out.

13 Q. And, again, it's only
14 incidentally relevant, how accurate is genetic
15 dating?

16 A. Well, I'm not talking about
17 dating here. I'm talking about using the DNA to
18 sort out if various populations have a genetic
19 profile different than other populations. So,
20 for example, do the Mohawk have a different
21 genetic profile than the Anishinaabek?

22 Q. So when you're referring to
23 Dr. Fitzgerald's comment about genetic
24 similarities you're not talking about
25 mitochondrial DNA data?

11:56:28 1 A. I forgot he used that phrase.

11:56:33 2 Q. Well, you confused me.

11:56:35 3 A. It is a confusing phrase. I
11:56:36 4 would agree with you. He should rather have
11:56:38 5 said the continuity between populations.

11:56:40 6 Q. Thank you for clearing that up.
11:56:43 7 Again, I may have to return to some of these
11:56:46 8 technical things because the boxes leak.

11:56:53 9 But I would like to move on to the
11:56:55 10 anthropological theory or theories, because
11:56:58 11 you've already indicated that anthropological
11:57:08 12 archeology has changed a lot, shall we say,
11:57:11 13 since the second World War?

11:57:13 14 A. Sure. Research questions have
11:57:14 15 changed, theoretical positions, the theories
11:57:17 16 that people use to look at data. I've mentioned
11:57:23 17 Bruce Trigger a number of times. There is a
11:57:24 18 book he wrote called "The History of
11:57:28 19 Archeological Thought", it's how that use of
11:57:31 20 theory has changed through time.

11:57:33 21 He was a proponent of not getting
11:57:35 22 stuck in a particular theoretical position,
11:57:38 23 being aware of various theories and applying it
11:57:41 24 to your data at the right time.

11:57:43 25 If this set of theory works best with

11:57:45 1 this set of data that's what you use. You don't
11:57:48 2 always stick with one theoretical position.

11:57:51 3 Q. If I can take a metaphor that we
11:57:55 4 use in law a fair bit, he had a tool box of
11:57:59 5 theories and he tried to select the right theory
11:58:04 6 for the right set of data.

11:58:06 7 A. That's correct, and there might
11:58:07 8 be more than one.

11:58:08 9 Q. And he might try more than one
11:58:10 10 until he got something he was satisfied with?

11:58:12 11 A. Well, no. I think the fact is
11:58:14 12 that you have a set of theories that may apply
11:58:24 13 to the archeological data, and if you have
11:58:27 14 examples where that theoretical perspective is
11:58:28 15 used then you can perhaps apply it in that case.

11:58:39 16 Q. This appears in the literature
11:58:40 17 and, in fact, it's been mentioned by a previous
11:58:44 18 expert witness, he was a Marxist, wasn't he?

11:58:49 19 A. Do you mean Bruce Trigger?

11:58:51 20 Q. Yes.

11:58:51 21 A. Well, he was a follower of Gordon
11:58:55 22 Childe who was definitely a Marxist
11:59:01 23 archeologist, and Trigger had tendencies towards
11:59:04 24 that; but he was able to climb out of that
11:59:08 25 simple "ism", Marxism, and look at other

11:59:15 1 theoretical applications.

11:59:17 2 Q. Again, because I don't know a lot
11:59:19 3 of this stuff, this Gordon Childe, what was his
11:59:23 4 basic theoretical model that Trigger managed
11:59:27 5 to --

11:59:27 6 A. Well, it was -- it was Marxism in
11:59:34 7 the sense of egalitarian principles as you apply
11:59:36 8 it to societies. And Trigger, for example, in a
11:59:49 9 paper that I did with Jennifer Birch on
11:59:51 10 organizational complexity on Iroquoian sites, we
11:59:52 11 were reacting to the kind of egalitarian
11:59:54 12 modeling that had underlain Trigger's
11:59:57 13 description of Iroquoian societies.

11:59:59 14 And we wanted to explore the ways in
12:00:02 15 which decision-making in some sites could be
12:00:11 16 more hierarchical than maybe had been suggested.

12:00:13 17 Q. And in short, life is a lot more
12:00:19 18 complicated than the traditional image of the
12:00:22 19 simple hunter-gatherer?

12:00:25 20 A. Well, in fact, I would extend
12:00:26 21 that to say that the past is far more complex
12:00:29 22 than we think. It is as complex as the present.

12:00:32 23 Not only is the past a foreign
12:00:34 24 country, as David Lowenthal famously said, but
12:00:38 25 it is also as complex as the present. So that a

1 singular notion of how a site forms may be
2 inadequate for the complexity of that site.

3 Q. And I'm now moving into words
4 that I really don't understand. What's
5 "processual" archeology? Am I even pronouncing
6 that right?

7 A. Yes. There were proponents of
8 processual archeologists in that archeology, one
9 named Lewis Binford, who felt that it was
10 possible through the scientific process to
11 determine how societies evolved and how they
12 changed through time.

13 And then there was a post-processual
14 archeology --

15 Q. That was my next question.

16 A. -- which is -- its main proponent
17 was guy named Ian Hodder who wanted us to
18 explore more thoroughly the ideological basis on
19 what we find on a day-to-day basis.

20 So I mentioned earlier George Hamel
21 who was interested in how people across the
22 Great Lakes dealt with these introduced objects
23 and how they would have viewed them.

24 His view of iron, for example, seeing
25 it for the first time, was captured in a film I

12:02:08 1 did about the Mantle site called "Curse of the
12:02:12 2 Axe". And we filmed -- George Hamel actually
12:02:13 3 said they would have viewed that piece as coming
12:02:17 4 from the end of the earth. They wouldn't have
12:02:19 5 seen it. They wouldn't know what it was but
12:02:21 6 they would become very familiar with it quickly
12:02:23 7 and put it to their own use.

12:02:27 8 But the key question here is, how can
12:02:28 9 we explore the Indigenous view of those
12:02:31 10 artifacts? And he does that through thinking
12:02:33 11 about world view, through thinking about,
12:02:35 12 actually, the documentary record of oral
12:02:36 13 traditions, oral histories and stories handed
12:02:39 14 down.

12:02:40 15 Q. And amongst all these different
12:02:42 16 theories and theories that I perhaps haven't
12:02:46 17 come across yet, where would you place yourself?

12:02:49 18 A. So I feel that I am very similar
12:02:51 19 to Trigger, which is not surprising having been
12:02:55 20 a student of his, where I look at an
12:03:03 21 archeological site as -- you have reviewed my
12:03:06 22 writings.

12:03:07 23 I tend to view the -- I apply theory
12:03:13 24 as it relates to what is happening as
12:03:18 25 communities get more complex.

1 So I've spent the last ten years
2 looking in some detail with a -- first a Ph.D.
3 student, Jennifer Birch, at the whole process of
4 coalescence and how small segmented villages --
5 and I have to explain this, but small villages
6 that are only an acre in size with two clusters
7 of longhouses -- maybe there's only four or five
8 longhouses -- how they then joined together to
9 become a larger village; and what are the social
10 and political processes going on within those
11 villages that then leads them to what we call
12 "post-coalescence"?

13 So I have spent the last little while
14 thinking about the processes that go on around
15 that kind of sociopolitical change that also
16 have implications for the economic systems of
17 those societies and the material culture record.

18 Q. I followed you up to
19 post-coalescence. Can you tell me what that
20 means?

21 A. I can. If you have a site where
22 you can see within that site the five villages
23 that have come together to live, in other words,
24 there's a four-house cluster here, a four-house
25 cluster here, and another one, and maybe there's

12:04:40 1 a palisade around it. So they are living within
12:04:43 2 the same community but maintaining enough
12:04:45 3 distance, social distance to be maintaining, in
12:04:48 4 a way, their former existence.

12:04:51 5 At the next site it's all one
12:04:53 6 settlement pattern with those distances erased.
12:04:56 7 That's post-coalescence; the first is
12:05:00 8 coalescence.

12:05:10 9 Q. Okay. Now, again, with that in
12:05:11 10 the background I would like to take you to page
12:05:13 11 15 of your report.

12:05:15 12 A. The first report?

12:05:16 13 Q. Yes, the 2013 report. I'm going
12:05:34 14 to take you to some quotations and then ask you
12:05:37 15 to explain how they relate to each other because
12:05:41 16 I'm not quite sure.

12:05:44 17 In this extract on page 15 -- could
12:05:46 18 you make it a little bit larger -- there's just
12:05:56 19 that excerpt which I believe has already been
12:05:59 20 read from Clifford.

12:06:03 21 A. From Cleland?

12:06:04 22 Q. From Cleland, I'm sorry.

12:06:06 23 A. Yes.

12:06:06 24 Q. And you say:

12:06:08 25 "This excerpt demonstrates how it

12:06:11 1 makes little sense to describe
12:06:13 2 Aboriginal peoples of the contact
12:06:15 3 period in terms of nineteenth-century
12:06:18 4 political configurations such as [the]
12:06:21 5 Ojibwa or the Potawatomi."
12:06:26 6 Could I now take you to a map from
12:06:29 7 "Farmers, Fishers, Hunters and Traders"? That
12:06:34 8 is SC1042, page 162 of the document, page 9 of
12:06:46 9 the PDF. Do you recognize this book?
12:06:49 10 A. Yes, I do.
12:06:56 11 Q. And perhaps just a little bit
12:07:00 12 larger? This is 1600 to 1651, right?
12:07:08 13 A. Uhm-hmm.
12:07:08 14 Q. That is to say the contact era,
12:07:10 15 which is usually dated to 1615, if you're in
12:07:15 16 agreement with that?
12:07:16 17 A. Yes, thereabouts.
12:07:19 18 Q. This map seems to have Ojibwe and
12:07:22 19 Odawa, and I'm not sure I see how this is
12:07:28 20 compatible with the proposition that you can't
12:07:32 21 link 19th-century political configurations like
12:07:36 22 Ojibwa with the contact era.
12:07:40 23 A. I respond with two things. First
12:07:42 24 of all, we explored in-chief the fact that terms
12:07:45 25 are used in a way that hides independent,

12:07:53 1 autonomous groups who may have been there for a
12:07:56 2 long time, like the spread of the term "northern
12:07:58 3 Ojibwe", or indeed the kind of mid-17th century
12:08:02 4 use of Ottawa. We know that that was applied by
12:08:06 5 the French to any number of people who were
12:08:09 6 involved in trading.

12:08:13 7 So what we know coming out of all of
12:08:16 8 this for the public, and even at times for the
12:08:19 9 people themselves, is that they referred to it
12:08:22 10 as Ojibwe.

12:08:23 11 It's very important to understand that
12:08:25 12 that Farmer's paper was produced for a public
12:08:28 13 audience. That is not a scholarly article.
12:08:31 14 That's an article prepared for people to
12:08:33 15 understand who these people are.

12:08:35 16 So "Ojibwe" seems like a term that
12:08:38 17 they do know. We're trying to explain in the
12:08:42 18 article that there were people living on
12:08:44 19 Georgian Bay who referred to themselves as
12:08:47 20 "Odawa", but if we started naming all of the
12:08:50 21 various groups it would be -- and, I mean, in
12:08:52 22 fact in that article we do try to provide a
12:08:55 23 little more information than the public usually
12:08:57 24 wants.

12:08:58 25 Q. That helps very much that the map

12:09:01 1 here -- would you accept the general proposition
12:09:04 2 that maps aren't the best way of the describing
12:09:08 3 ethnography?

12:09:10 4 A. I think that they can present
12:09:12 5 difficulties in talking about ethnography. If I
12:09:21 6 were to apply the Cleland kind of citation in my
12:09:23 7 report to producing a map for the public that
12:09:29 8 would get very messy.

12:09:32 9 Q. There is one other thing, and
12:09:35 10 again I'm just asking to make sure this is all
12:09:38 11 clear. Going back to your first report, the
12:09:41 12 2013 report, if we could go to page 27 and 28?

12:09:53 13 I have just been reminded I have not
12:09:56 14 made the document an exhibit yet. I will try
12:09:59 15 and make them exhibits as soon as I put them on
12:10:02 16 the screen rather than waiting until I finish.

12:10:05 17 So that was document SC1042. If we
12:10:11 18 could make that an exhibit, Your Honour?

12:10:15 19 THE COURT: Mr. Registrar.

12:10:18 20 THE REGISTRAR: Exhibit number 4251.

12:10:21 21 EXHIBIT NO. 4251: Excerpt from a
12:10:21 22 paper entitled "Farmers, Fishers,
12:10:21 23 Hunters and Traders", authored by
12:10:21 24 Ronald F. Williamson and Martin S.
12:10:21 25 Cooper; Document SC1042.

12:10:23 1 THE COURT: Is that the entire book or
12:10:25 2 just an excerpt, counsel?
12:10:28 3 MR. MCCULLOCH: This is simply an
12:10:30 4 excerpt, the chapter written by Dr. Williamson.
12:11:03 5 THE COURT: Please go ahead. Did you
12:11:05 6 say 27 to 28?
12:11:06 7 MR. McCULLOCH: Yes, please.
12:11:25 8 BY MR. MCCULLOCH:
12:11:25 9 Q. Here we are. It's the last
12:11:26 10 paragraph on page -- it's referring to Professor
12:11:29 11 Bohaker of the University of Toronto I believe?
12:11:34 12 A. Uhm-hmm.
12:11:35 13 Q. "[She] cautions against focusing
12:11:38 14 on Anishinaabeg nindoodemag in
12:11:40 15 describing and identifying groups
12:11:47 16 while disregarding names such as
12:11:47 17 'Ottawa' or 'Chippewa' or 'Ojibwa,'
12:11:51 18 the latter of which might be seen as
12:11:57 19 the 'generalization of colonial
12:11:59 20 administrators.'
12:12:00 21 "She argues that 'European
12:12:05 22 observers were witnessing crucial
12:12:07 23 distinctions, even if they struggled
12:12:09 24 to explain what they were seeing.
12:12:11 25 (...) As inconsistent as Europeans

12:12:14 1 were in their naming practices, they
12:12:16 2 were at least seeing distinctions
12:12:19 3 which had validity for Aboriginal
12:12:22 4 peoples themselves.' This is the case
12:12:27 5 with the Odawa, who were consistently
12:12:30 6 described by European observers by way
12:12:32 7 of their appearance and adornment."
12:12:41 8 So the terminology, such as Odawa,
12:12:43 9 even if it is, as Cleland put it, a bit of a
12:12:46 10 stretch, does have some kind of underlying
12:12:49 11 utility?

12:12:51 12 A. Well, I believe the term "Odawa"
12:12:54 13 does have utility because I think it relates to
12:12:56 14 the Cheveaux relevéz who Champlain met on
12:13:02 15 numerous occasions.

12:13:04 16 Q. So in a sense, if it's agreeable,
12:13:07 17 I'll simply refer to Odawa. Is that how you
12:13:11 18 pronounce it?

12:13:12 19 A. For the Cheveaux relevéz?

12:13:14 20 Q. Yes.

12:13:15 21 A. Yes.

12:13:15 22 Q. And we can understand that that
12:13:19 23 includes Ojibwe and all the modern, as I think.

12:13:23 24 Q. Cleland said configurations?

12:13:25 25 A. No, I think there is a difference

12:13:27 1 between what, A), what Cleland was saying and
12:13:31 2 what I'm saying here.

12:13:34 3 Remember that what I'm doing in this
12:13:35 4 report is reporting what anyone has had to say
12:13:38 5 about the use of terms that refer to identity.

12:13:43 6 I've already given testimony in-chief,
12:13:45 7 but the way I view it is that people identify
12:13:48 8 first as a general -- in a general Anishinaabek
12:13:52 9 way and then by their clan and their -- then the
12:13:56 10 place where they live.

12:13:58 11 So in the case of the Kiskakon, who
12:14:04 12 Champlain met, called them Cheveaux relevéz, I
12:14:07 13 think of them as Odawa but I have no doubt they
12:14:11 14 would refer to themselves as Kiskakon.

12:14:14 15 Q. Okay. I think I've got that
12:14:16 16 clear and that will bring me on to my next set
12:14:19 17 of questions.

12:14:23 18 And we're moving back into the realm
12:14:27 19 of definitions. We've had some definitions of
12:14:31 20 terms like "Iroquoian" and "Algonquian" already,
12:14:38 21 and I don't I think I have to take you to the
12:14:40 22 transcript but you refer to them as language
12:14:43 23 groups?

12:14:44 24 A. Yes.

12:14:47 25 Q. Could I now take you to your

1 entry in the "Oxford Handbook of North American
2 Archeology" which is S1869? And the entry is
3 called "What Will Be Has Always Been".

4 A. Yes.

5 Q. And if we could go to page 7 of
6 the PDF?

7 THE COURT: This is, counsel, where
8 you remember to ask that your document be marked
9 now.

10 MR. McCULLOCH: Thank you very much,
11 Your Honour. I will hope that you won't need to
12 remind me again but I can't promise.

13 If we could mark this S1869 as an
14 exhibit?

15 THE REGISTRAR: Exhibit 4252.

16 EXHIBIT NO. 4252: Entry entitled
17 "What Will Be Has Always Been" in the
18 "Oxford Handbook of North American
19 Archeology"; Document S1869.

20 BY MR. MCCULLOCH:

21 Q. And if we could go to page 7 of
22 the PDF, which is page 277 of the document? And
23 if you go just to the very top of the document?

24 You mentioned in your examination
25 in-chief that the central problem that people

12:16:11 1 have looking at Iroquoian as a language group is
12:16:14 2 you have this island of Iroquoian-speaking
12:16:19 3 peoples in the middle of a sea of
12:16:23 4 Algonquian-speaking people. Have I got that
12:16:26 5 more or less correct?

12:16:27 6 A. I don't know that it's a problem.
12:16:29 7 It's an observation of reality at the time.

12:16:32 8 Q. Well, it's something that people
12:16:34 9 have tried to explain?

12:16:39 10 A. I don't know that there is a lot
12:16:40 11 of literature on people trying to explain that.
12:16:44 12 It is something that I am very interested in
12:16:45 13 and, therefore, I am very interested in studies
12:16:47 14 that link linguistics with genetics.

12:16:51 15 Q. Well, I think what we've got here
12:16:53 16 is, I hope if I understand correctly, is what
12:16:56 17 you think as the most likely theory?

12:17:01 18 A. I did at that time. Can you
12:17:03 19 remind me of the date of this publication?

12:17:05 20 Q. I believe it's something like
12:17:08 21 2004 or --

12:17:13 22 A. Sorry.

12:17:14 23 Q. If we go back to the front cover
12:17:17 24 we can check.

12:17:18 25 A. I think it's more like '13 or

12:17:21 1 something like that.

12:17:31 2 Q. Anyway, I noticed this was on
12:17:32 3 your website which is --

12:17:33 4 A. On the company website?

12:17:35 5 Q. Yes.

12:17:36 6 A. So my view of this has changed
12:17:38 7 somewhat, because of a paper that was published
12:17:42 8 in 2017 by Michael Schilacci, et al., in which
12:17:50 9 he was able to clearly illustrate the
12:17:54 10 overlapping nature of the Iroquoian -- the
12:17:57 11 proto-Iroquoian homeland with the
12:18:00 12 proto-Algonquian homeland.

12:18:03 13 I'll back up for a second. In terms
12:18:05 14 of linguistic studies people use cognates,
12:18:09 15 meaning terms for plants and trees to try and
12:18:12 16 sort out -- and animals -- to try and sort out
12:18:15 17 the origin of those people based on the terms
12:18:19 18 they use for day-to-day life.

12:18:22 19 Some of the first studies done in the
12:18:24 20 1960s were by a man named Frank Siebert who
12:18:29 21 looked at Algonquin languages and sorted out, he
12:18:33 22 believed that it was focused in the Great Lakes
12:18:36 23 region.

12:18:37 24 That was followed up shortly
12:18:40 25 thereafter, or ten years later, by a student of

12:18:46 1 Marion Methune from New York who looked at the
12:18:50 2 same kind of -- who undertook the same kind of
12:18:54 3 exercise and discovered that part of that area
12:18:56 4 that Siebert had identified as the
12:19:02 5 proto-Algonquian area -- so we're talking about
12:19:08 6 4,000 years ago roughly -- that too was the
12:19:10 7 homeland of the Iroquoians, proto-Iroquoians.

12:19:14 8 So 20 years passed and Michael
12:19:20 9 Schillacci and his colleagues, who do both
12:19:24 10 genetics and some of them do genetics and
12:19:29 11 linguistics -- Schillacci looked at the
12:19:33 12 overlapping area of this and felt that the
12:19:35 13 homeland, where the center of the Iroquoians
12:19:37 14 were was central New York and parts of
12:19:41 15 Pennsylvania.

12:19:43 16 So the question becomes, when did
12:19:51 17 proto-Iroquoian language extend beyond that area
12:20:04 18 and into the south, to the Cherokee or to other
12:20:05 19 Iroquoian, St. Lawrence Valley, Susquehannock
12:20:05 20 and the Ontario Iroquoian groups, the Neutral
12:20:08 21 and the Wendat?

12:20:11 22 And when you look at the overlapping
12:20:12 23 homelands you're left with a couple of options
12:20:18 24 as to when and how that happened.

12:20:25 25 One of the reasons why I'm interested

1 is if there are genetic differences in the
2 entire genome that would help sort out if the
3 southern Ontario Iroquoians were, in fact,
4 Iroquoian or were they Algonquian with an
5 Iroquoian-cultural pattern mapped on top of
6 them? In other words, they absorbed an
7 Iroquoian-cultural pattern.

8 All of this started to be explored
9 with MT-DNA, mitochondrial DNA, and it was
10 determined that wasn't going to be useful
11 because there was too much similarity and that
12 there had been enough mixing over generations
13 that there was no clarity.

14 So now people are undertaking Genomic
15 sequencing, which is what is happening in
16 Europe, to which I referred to.

17 Q. I don't think we explained
18 mitochondrial DNA. I think I mentioned it. Now
19 that it's become part of this very important
20 picture, just for the record if you could
21 explain it?

22 A. So it is only part of the Genomic
23 sequence of an individual. It is the female
24 side and it is incomplete. When one goes --
25 first let me say I'm not a geneticist. I've

1 looked at this data. But the far better way to
2 do this now is to do full genome sequences, to
3 look at the relationships between populations.

4 Q. So if I understand you correctly,
5 what is starting to emerge as a possible
6 explanation is not a migration of
7 Iroquoian-speaking people but a codevelopment?

8 A. No. At some point one has to
9 decide whether there were proto-Iroquoians
10 living on the north shore of Lake Ontario prior
11 to the introduction of corn and a way of life
12 based on corn.

13 And so that's a subtle difference than
14 if there were no proto-Iroquoians living on the
15 north shore and it was mapped on to another
16 population that adopted an Iroquoian way of
17 life. Those are questions that we have yet to
18 sort out.

19 But what's become clear is just how
20 complex it is and the various ways in which it
21 could play out. We're seeing whether the
22 genomic sequences of individuals of both
23 Algonquian- and Iroquoian-speaking families can
24 help.

25 Q. So you can have -- just, again,

1 just to see if I can get this clear, you could
2 have a nonIroquoian-speaking person living in a
3 physical, material matrix usually associated
4 with Iroquoian-speaking people?

5 A. No, it's not that simple. What
6 I'm talking about here is large-scale. All of
7 the people that lived on the north shore of Lake
8 Ontario, were they proto-Algonquian or were they
9 proto-Iroquoian? Not one person living among
10 the community.

11 Q. So in short we should all stay
12 tuned for the next theoretical breakthrough?

13 A. That is the correct conclusion to
14 what we have been talking about.

15 Q. This is far from a settled area.

16 A. A settled area in terms of what
17 was happening 4,000 years ago and the
18 development of these groups. It doesn't affect
19 the fact that in the central north shore area of
20 Lake Ontario we have communities we refer to as
21 ancestral Wendat because we can track them into
22 Wendake.

23 Q. I did warn you of the occasional
24 digression because this is something I didn't
25 know where to put it, but it does tie in to the

1 whole question of cultural identity that we've
2 been talking about.

3 I would like to go back to page 15 of
4 your 2013 report. And just below the part that
5 we've already discussed, you have a long extract
6 from professor Darlene Johnston's LLM thesis, I
7 believe. The title of the thesis is "Litigating
8 identity: The challenge of aboriginality"?

9 A. Uhm-hmm.

10 Q. And you speak of it as quite
11 moving?

12 A. Well, I think Professor Johnston
13 was speaking of her own experience with her
14 grandmother's moccasins and it meant something
15 to her. And when you read that, yes.

16 Q. I'm reluctant to read it out
17 myself because I don't think I could do it the
18 appropriate credit.

19 THE COURT: Well, does it need to be
20 read out at all, counsel?

21 MR. McCULLOCH: I was about to
22 suggest --

23 THE COURT: I'm looking at the
24 extremely lengthy answer.

25 MR. McCULLOCH: I was going to suggest

12:26:31 1 that it be put in for what it's worth.

12:26:33 2 THE COURT: What are you putting in?
12:26:34 3 Isn't this document put in in its entirety
12:26:38 4 already?

12:26:40 5 MR. McCULLOCH: We are, in fact, going
12:26:40 6 to be going to LL.M. thesis now.

12:26:42 7 THE COURT: I see.

12:26:43 8 MR. McCULLOCH: So I will assume that
12:26:44 9 this extract has been read? And at --

12:26:49 10 THE COURT: I'm just a bit confused.
12:26:51 11 The witness is familiar with it because he put
12:26:53 12 it in his own report. It's in evidence. So I'm
12:26:56 13 not sure what the missing piece is, but if you
12:26:58 14 want to go to the original document by all
12:27:00 15 means.

12:27:02 16 BY MR. MCCULLOCH:

12:27:02 17 Q. Well, if I can summarize, this
12:27:04 18 extract talks about how she discovered her
12:27:08 19 mother's clan and this sets her off -- and you
12:27:14 20 can correct me, Dr. Williamson, if I misstate
12:27:18 21 the thesis -- on an attempt to trace her clan
12:27:23 22 back.

12:27:23 23 And what I'd like to now go to is the
12:27:26 24 thesis itself, S0904. And I believe the page
12:27:43 25 number and PDF number are the same. It's pages

12:27:45 1 78 and 80.

12:28:00 2 And if we go to the paragraph that
12:28:02 3 starts, "I now understand ...". This is her
12:28:06 4 conclusion after the result -- as the result of
12:28:08 5 her search for identity.

12:28:13 6 "I now understand the Great Lakes
12:28:15 7 region is more than geography. It is
12:28:17 8 a spiritual landscape formed by and
12:28:22 9 embedded with the regenerative
12:28:25 10 potential of the First Ones who gave
12:28:26 11 it form."

12:28:28 12 And if you scroll on down a little
12:28:29 13 bit:

12:28:38 14 "It grieves me to acknowledge
12:28:39 15 that my only access to this story
12:28:42 16 [...]."
12:28:49 17 This would be the flood story.

12:28:51 18 "... was through third-hand
12:28:52 19 published translations. My
12:28:52 20 grandmother could tell me that she was
12:28:52 21 Otter Clan going back generations in
12:28:55 22 father's line, but her story did not
12:28:58 23 reach back to the beginning. Did she
12:29:00 24 know this Creation Story and decide
12:29:03 25 not to transmit it? Or had that

12:29:05 1 decision been made by her ancestors
12:29:11 2 generations before?"

12:29:15 3 Perhaps Perrot, Nicholas Perrot,
12:29:17 4 would you care to identify him?

12:29:20 5 A. Yes, he is a recorder of
12:29:22 6 accounts -- he wrote an account of that time
12:29:25 7 period.

12:29:26 8 Q. He was, in fact, in the 17th
12:29:28 9 century himself?

12:29:29 10 A. Yes.

12:29:34 11 Q. "... had oral and dissuaded
12:29:35 12 transmission of our origin stories."

12:29:38 13 In short, and this is the
12:29:40 14 methodological point, filling in the gaps in the
12:29:43 15 story, ultimately Darlene Johnston's recourse
12:29:47 16 was to the historical documents. Is that
12:29:55 17 correct?

12:29:57 18 A. She is saying here that she had
12:29:59 19 to rely on the historic documents for part of
12:30:02 20 her understanding of her story. That, of
12:30:06 21 course, would not apply to everyone but it's
12:30:14 22 applying to her.

12:30:15 23 Q. Yes. We have talked about the
12:30:16 24 role of documents and the documentary record
12:30:18 25 inside anthropological archeology. I thought

12:30:22 1 this would be a useful illustration of how that
12:30:25 2 works in a nonhistorical context.

12:30:27 3 A. Well, it was useful for Professor
12:30:29 4 Johnston in her search.

12:30:32 5 Q. Professor Johnston is a law
12:30:34 6 professor, not a historian?

12:30:36 7 A. Correct.

12:30:57 8 Q. That brings me again to something
12:30:57 9 that you wrote.

12:30:57 10 Oh, sorry. I've just been reminded
12:30:57 11 that I need to make the LL.M. thesis an exhibit.
12:31:00 12 It's S0904.

12:31:48 13 THE REGISTRAR: Exhibit number 4253.

12:31:49 14 EXHIBIT NO. 4253: Thesis entitled
12:31:49 15 "Litigating Identity the Challenge of
12:31:49 16 Aboriginality", authored by Darlene
12:31:49 17 Johnston, 2003: Document S0904.

12:31:55 18 THE COURT: I don't expect counsel to
12:31:55 19 get it right every time, but as I've said before
12:31:55 20 it is much more easier if you do at the
12:31:55 21 beginning and not at the end.

12:31:55 22 MR. McCULLOCH: Okay.

12:32:04 23 BY MR. MCCULLOCH:

12:32:06 24 Q. This is -- oh "Nation Building
12:32:12 25 and Social Signaling in Southern Ontario". It's

1 SC1045. And Dr. Williamson, do you recognize
2 this article?

3 A. I do.

4 Q. And if we could make it an
5 exhibit? "Nation Building and Social Signaling
6 in Southern Ontario".

7 THE COURT: Mr. Registrar.

8 MR. McCULLOCH: "Nation Building and
9 Social Signaling in Southern Ontario".

10 THE REGISTRAR: Exhibit number 4254.

11 EXHIBIT NO. 4254: "Nation Building
12 and Social Signaling in Southern
13 Ontario"; Document SC1045.

14 BY MR. MCCULLOCH:

15 Q. And if we could go to page 6,
16 which is page 11 of the PDF? Try page 6 then.
17 Here we are.

18 Just to build up some background,
19 again I can take you to particular articles, but
20 I'm more interested in getting your discussion
21 of your own work.

22 You've talked about the role of
23 ethnicity and the way in which archeology has to
24 address ethnicity.

25 A. Yes.

12:34:12 1 Q. And you are aware, and again I
12:34:16 2 can take you to the illustrations, that many
12:34:22 3 archeologists including some who have published
12:34:24 4 in books that you have edited, are decidedly
12:34:27 5 uncomfortable with the idea of archeology as
12:34:34 6 transmitting ethnicity?

12:34:38 7 A. Right, so this is typically in
12:34:46 8 the -- in the course of understanding sites that
12:34:53 9 predate the period in which the ethnicity of a
12:34:58 10 nation is known, of a site is known.

12:35:01 11 If the site is within a cluster of
12:35:03 12 historic Seneca sites, then we can call that
12:35:07 13 site Seneca. If it predates that period, do we
12:35:15 14 know how the Seneca became the Seneca or the
12:35:18 15 Huron became the Huron? And pots are often
12:35:25 16 used. And myself, I have argued that pots are
12:35:28 17 not people. And that we need to be careful
12:35:31 18 about assigning ethnicity to pots.

12:35:37 19 This particular article is built on
12:35:38 20 the backbone of another article that John Hart,
12:35:44 21 who is the lead researcher here and the driver,
12:35:47 22 did with Bill Engelbrecht, another New York
12:35:53 23 State archeologist.

12:36:00 24 And he wanted to explore how for the
12:36:02 25 last, previous 40 years to 2011 people had used

1 ceramics from some -- one or two people who had
2 done typologies -- typically you will read in
3 here the MacNeish study -- where he argued that
4 each of those groups had different types that
5 could be assigned to those -- to that nation.

6 What John Hart wanted to do, what
7 Dr. Hart wanted to do was to explore that notion
8 that types of pots could be assigned to
9 particular nations back in the time.

10 And what he did was use, what's
11 explained here, social signaling theory, which
12 only looks at the collar on the assumption that
13 a signal is being sent to others by the
14 decoration that is on the collar.

15 So you will recall earlier I spoke
16 about how some attributes on the collar may be
17 temporal. They may be chronological attributes
18 and not sending some kind of signal of identity.

19 So this is a very complex area.

20 And in that initial article, he
21 discovered and concluded that there was no clear
22 differentiation among the pots from the various
23 Haudenosaunee Nations or the sites leading up to
24 them.

25 So he argued that there was a general

1 kind of theory or a general identity being
2 communicated that had little to do with those
3 ethnographic or -- not just ethnographic, but
4 their terms that people had for themselves.

5 So this article was the first attempt
6 at exploring that to include far more Ontario
7 sites than he did first. So it's -- it's not --
8 it's -- it's a little bit different from
9 ethnicity in the sense that he's trying to
10 figure out how different communities created
11 their pots, assuming they created them, and how
12 did they fit into that overall notion of
13 signaling identity.

14 Q. Could I ask for a clarification
15 on two bits of vocabulary?

16 A. Sure.

17 Q. You made a reference to the
18 historic period. Is that the period for which
19 we have documentary records?

20 A. Sure, if I said -- if I said
21 historic period, I was probably referring to the
22 period for which there are documentary records.

23 Q. And you've used now several times
24 the term "nation". Prior to contact or even in
25 the pre-1650 period, what do archeologists mean

1 when they use the term "nation"?

2 A. That is a question that is -- one
3 of the reasons why it's called "nation building"
4 or there's an exploration of that, is that -- if
5 I can give you an example, the Mantle site of
6 which I spoke of in-chief, and we've talked
7 about that site.

8 It dates to the 16th century. We
9 refer to it as ancestral Wendat because it's in
10 an area where people left the north shore of
11 Lake Ontario and joined the Wendat to create the
12 Wendat Confederacy, which is when you can really
13 use the term "Wendat" since that's the Wendat
14 Confederacy.

15 So you will recall when I was talking
16 about the villages of the 14th and 15th century
17 that have far fewer longhouses, they are often
18 segmented, meaning they are clustered. May
19 relate to clan, don't know for sure.

20 And then the next period when those
21 come together in one place, and then they all
22 agglomerate together in this post-coalescence
23 model.

24 So one of the things we're interested
25 in is, we refer to those initial communities as

12:40:40 1 small segmented villages. We refer to that next
12:40:44 2 one as larger villages of collections of --
12:40:49 3 larger communities of collections of those
12:40:51 4 villages. And then we think of the next one as
12:40:59 5 who -- are they a nation?

12:41:09 6 So, for example, it's a very relevant
12:41:12 7 question for thinking about the evolution of the
12:41:13 8 Wendat. The Wendat have two nations that they
12:41:16 9 tell us confederated -- the Wendat tell us, in
12:41:20 10 the article -- in the documentary record,
12:41:24 11 confederated around AD 1450.

12:41:28 12 They also tell us that two others
12:41:30 13 joined around the end of the 16th century and
12:41:32 14 another one at 1610. So if the Mantle site
12:41:37 15 dates to 1580 to 1600, is it already a nation
12:41:44 16 that then joins into the Wendat to become the
12:41:51 17 Deer Nation? And was there another community
12:41:54 18 that may have joined them to do that?

12:41:56 19 So we are constantly exploring. I did
12:42:04 20 an article, which you're aware of, a summary of
12:42:05 21 the archeology of the Huron Wendat, which was
12:42:08 22 exploring at that time what our understanding
12:42:10 23 was of who was involved in the formation of
12:42:15 24 those nations that became part of the Wendat
12:42:19 25 Confederacy.

1 So the Cleland question applied to
2 Mantle, how would the person identify
3 themselves? Would they identify themselves as
4 an Iroquoian speaker? Would they identify
5 themselves as belonging to a particular clan?
6 Or would they identify themselves as an
7 Mantleonian group, for better use of the term.

8 Q. We're still struggling with the
9 definition of the term "nation". And perhaps if
10 we move a little bit further down the page, I
11 can ask if I'm starting to get a sense of what
12 you mean.

13 A. Sure.

14 Q. The very last paragraph, the one
15 that starts:

16 "Here we investigate the
17 production of social relationships and
18 forms of signaling used to express
19 those relationships. While these
20 relationships correspond in many ways
21 to concepts of ethnicity and identity,
22 they can make it difficult to infer in
23 archeological contexts. These issues
24 can be overcome by reframing ethnicity
25 in terms of signaling networks as they

1 relate to the process of
2 politogenesis -- the formation of
3 complex political organizations or
4 systems."

5 I actually looked up "politogenesis"
6 and it is not in the Oxford yet but it is out
7 there. So it's -- and I understand that. And
8 here we are talking in the context of the Huron
9 Wendat, and we'll be exploring that perhaps as
10 little bit later.

11 The useful question, when you're
12 dealing with complex and diverse communities, is
13 the point at which they develop enough
14 connections and signals that they can be a
15 political entity, a decision-making entity?

16 A. Yes.

17 Q. So that -- I agree this all very
18 exploratory, but the idea that the polity is
19 perhaps a more useful concept than simple, old
20 fashioned, 19th-century ethnicity?

21 A. Well, in fact, I would agree to
22 that to some extent. One of the papers I wrote
23 a long time ago was called "Peer Politics and
24 Interaction". In a sense, to undo the damage
25 that broad-based cultural references like

12:45:22 1 "Saugeen" has done or was doing to our attempts
12:45:26 2 to understand how the very many politically
12:45:29 3 autonomous communities operating in drainage
12:45:32 4 systems later became confederated. They had to
12:45:35 5 first evolve through several levels of village
12:45:37 6 and perhaps nations to become part of a
12:45:52 7 confederacy. And part of our job is to see how
12:45:52 8 that would happen.

12:45:54 9 One of the observations made through
12:45:56 10 this identity paper, and ones that followed up,
12:45:58 11 was that there was signaling going on between
12:46:01 12 close groups and far distant groups; and that
12:46:04 13 people may have been moving on the landscape.

12:46:09 14 And I think in the first day I
12:46:11 15 mentioned a paper about strontium, which is
12:46:16 16 using strontium isotopes to track people across
12:46:24 17 the landscape to see whether or not some of the
12:46:24 18 notions that were explored here.

12:46:26 19 There is a little caution I have
12:46:28 20 toward these studies which I haven't
12:46:30 21 participated in the next studies that have been
12:46:32 22 undertaken by my former -- or by my colleague
12:46:36 23 Jen Birch, and John remains a colleague as well.

12:46:41 24 But there are a number of things that
12:46:43 25 make me -- I decided I wanted to function more

1 on separating attributes out on pots. I'm also
2 very aware that sometimes there are small
3 attributes that express ethnicity more than
4 what's on the collar of a pot.

5 So this is all very complex in terms
6 of what appears on pots versus what we might
7 call a polity at a particular level of political
8 complexity.

9 Q. Now, I think we may come back to
10 that question at the very end.

11 A. Uhm-hmm.

12 Q. But rather than launch on to my
13 next big topic, I have some small things I can
14 use to take us to 1:00 o'clock.

15 A. Uhm-hmm.

16 Q. If you don't mind kind of a grab
17 bag of particular issues.

18 A. I'm at your disposal.

19 Q. You talked about the -- let me
20 look for the reference here -- oh, yes, the
21 Tionontanté negotiating their way into
22 essentially the territory they occupied at the
23 beginning of the historical period. Again,
24 where does the negotiation come from? I'm
25 just -- why do you think that there was a

12:48:05 1 negotiation?

12:48:07 2 A. Because there does not appear to
12:48:09 3 be predecessor sites for the Tionontanté in
12:48:16 4 their historic locale. There does appear to be
12:48:24 5 predecessor communities to the south in the
12:48:26 6 Credit Valley, possibly the Humber Valley, and
12:48:29 7 possibly southern Simcoe County. People are
12:48:33 8 still trying to sort out that question.

12:48:35 9 The main researcher of the Tionontanté
12:48:38 10 was Charles Garrad. He died recently. He spent
12:48:42 11 the better part of 50 years looking at
12:48:45 12 Tionontanté sites in the Collingwood/Craigleith
12:48:58 13 area.

12:48:58 14 He did not conduct extensive
12:49:01 15 excavations, but he tested these sites and used
12:49:03 16 ceramics to try to determine their
12:49:03 17 relationships. He used trade goods to date the
12:49:09 18 sites.

12:49:10 19 He used ceramics sometimes to help
12:49:12 20 date the sites through seriation, as I was
12:49:15 21 explaining earlier.

12:49:17 22 And his conclusion was that he could
12:49:20 23 see no predecessor sites within that area,
12:49:26 24 having spent a little bit of time researching
12:49:29 25 that area. Following up on leads from

12:49:35 1 avocational archeologists and trying to track
12:49:41 2 down as many of these sites as possible,
12:49:41 3 including using the literature of the last
12:49:46 4 century of people who were out exploring trying
12:49:48 5 to find and exploring archeological sites.

12:49:50 6 So Garrad produced a volume which he
12:49:56 7 had finalized that conclusion that they had come
12:50:03 8 into that area in the late 16th century. It's a
12:50:05 9 conclusion he had talked about for a long time
12:50:08 10 and was present in some of his publications.

12:50:20 11 It is not dissimilar to the fact that,
12:50:22 12 as I argued in the papers about Wellington
12:50:26 13 Holly, that people from the north shore had to
12:50:29 14 negotiate their way into southern Simcoe County
12:50:32 15 because they were entering territory that was
12:50:36 16 likely seasonally used by Algonquian groups.

12:50:41 17 Q. Just a question, you said "the
12:50:42 18 fact that." This is your opinion. We haven't
12:50:46 19 got a --

12:50:47 20 A. Which?

12:50:48 21 Q. The fact that they negotiated
12:50:49 22 their way in?

12:50:50 23 A. Oh, you mean the -- for the
12:50:52 24 Wendat?

12:50:52 25 Q. Yes, we're into the --

12:50:57 1 A. Yeah, there are simply no sites
12:50:59 2 in that area. It was an area used seasonally by
12:51:02 3 Algonquian; and that perspective has now been
12:51:05 4 republished a number of times.

12:51:07 5 So let me rephrase. The extreme
12:51:13 6 likelihood that they had to negotiate into
12:51:19 7 using, for using and moving large numbers of
12:51:23 8 people into Simcoe County.

12:51:25 9 Q. We're very alerted to the word
12:51:27 10 "fact" unless it's really factual.

12:51:31 11 A. Sure.

12:51:37 12 Q. You talked about Elizabeth Tooker
12:51:39 13 being on your desk?

12:51:41 14 A. Yes.

12:51:42 15 Q. We took a look at it and what it
12:51:43 16 is is -- and you can correct me if I'm
12:51:49 17 mischaracterizing it -- it is a topical
12:51:51 18 description of what the primary sources say
12:51:53 19 broken into things like village life, et cetera,
12:51:56 20 et cetera?

12:51:56 21 A. Yes, it's an ethnography of the
12:51:59 22 Wendat.

12:52:00 23 Q. Based on the documentary record?

12:52:03 24 A. That's correct.

12:52:03 25 Q. And you say -- and a very large

1 part of that record comes from the Jesuit
2 relations?

3 A. Yes.

4 Q. Now, you said that when you used
5 a primary historical document, you inquired into
6 the agenda behind it and the background?

7 A. Uhm-hmm.

8 Q. And my question is about how
9 deeply that inquiry goes. For example, are you
10 familiar with 17th century Jansenist disputes
11 within the French Catholic church?

12 A. I'm not that familiar with that.
13 What I am familiar with is the degree to which I
14 have to look at the Jesuits to record practices
15 that I see in the archeological record, and what
16 they may say about the religious practices of
17 the people with whom they were living, and how a
18 particular agenda may affect that.

19 I spoke recently with Father Knox,
20 Michael Knox of the Martyr Shrine, about the
21 history of the Jesuit presence in Wendake, as he
22 has just completed a brilliant Ph.D.
23 dissertation about that at Oxford. And he
24 relates their presence there to the larger
25 Jesuit movement in the world. And so, you know,

1 I'm aware of that history.

2 But to the extent that it affects my
3 day to day use of the Jesuits, I need to be more
4 aware in the way that Bruce Trigger explains it
5 in "The Children of Aataentsic".

6 Q. Sorry to interrupt. That would
7 be one of the differences between the way an
8 anthropologist would read an historical document
9 and a historian may read a historical document?

10 A. I think historians are very aware
11 of the agendas of the people that are writing.
12 And it's part of -- I would imagine, not being a
13 professional historian, it's part of their --

14 Q. What I'm saying is that they go
15 very deeply into the issues of 17th century
16 French Catholicism?

17 A. Sure.

18 Q. We talked -- or rather you and my
19 friend talked about a word that I'm not sure I
20 understand, and that's the word "gist". Again,
21 I don't think I need to take you to the
22 transcript.

23 I am not going argue about what
24 degree -- ask you to opine about what degree of
25 detail constitutes gist and detail; rather I

1 want to ask you, well, do you interrogate the
2 agendas of the people who either tell the
3 stories now or people like George Copway and
4 Peter Jones who wrote them down in the 19th
5 century?

6 A. I certainly think you have to be
7 aware of their perspectives when they are
8 telling these oral traditions.

9 Q. And is it possible -- and, again,
10 I'm not talking specifically about the Iroquois
11 war issues but I'm just talking in a kind of
12 general way, that often stories can be told and
13 handed down whose purpose is amusement?

14 A. Whose purposes are?

15 Q. Amusement.

16 A. I can see where that might be the
17 case.

18 Q. So that it's -- or, for example,
19 both Peter Jones and George Copway were
20 themselves missionaries?

21 A. Yes.

22 Q. So that they, like the Jesuits,
23 would have an agenda?

24 A. Um, I wouldn't deny that they
25 would have motivations for writing the histories

12:56:17 1 that they did.

12:56:18 2 Q. So this is the sort of thing in
12:56:21 3 that in weighing a particular narrative, just as
12:56:23 4 you would with the European document, have to
12:56:25 5 take into mind?

12:56:26 6 A. I think that everyone looking at
12:56:28 7 the documentary record has to take those kinds
12:56:30 8 of perspectives into mind.

12:56:32 9 Q. Okay. And I have got time for
12:56:38 10 one last odds and ends. I am not saying that
12:56:41 11 this is the last of them period, but the last
12:56:44 12 one I think I can squeeze in before lunch.

12:56:53 13 The Great Peace of Montreal, 1701,
12:56:57 14 now, you talked about that being an agreement to
12:57:04 15 share southern Ontario?

12:57:05 16 A. Uhm-hmm.

12:57:06 17 Q. Is that the Indigenous
12:57:10 18 perspective on what was agreed or is that the
12:57:13 19 French perspective on what was agreed?

12:57:16 20 A. Insofar as the use of the term
12:57:21 21 "Kettle with One Spoon" is used, I think people
12:57:25 22 understood, both Indigenous and non-Indigenous,
12:57:27 23 that what was being done here was to create
12:57:30 24 peace, to create an environment in which anyone
12:57:34 25 could hunt and fish in that area and do so

12:57:42 1 without fear of hostility.

12:57:44 2 Q. And your understanding of the
12:57:45 3 French perspective is based on your in-depth
12:57:48 4 examination of the French documentary record?

12:57:50 5 A. It's based on my reading of
12:57:51 6 documents about the Great Peace and their
12:57:57 7 wanting for their own reasons to ensure that
12:58:00 8 there was a peaceful period at that time.

12:58:03 9 Q. But, again, it's an
12:58:05 10 anthropological reading of the historical
12:58:07 11 record?

12:58:08 12 A. Well, it's me reading the
12:58:09 13 historical record.

12:58:15 14 Q. Because we may be hearing from
12:58:17 15 other experts about that, so I just wanted to
12:58:19 16 get the context there.

12:58:20 17 And the very last before lunch I hope,
12:58:26 18 the Nanfan Treaty, the Treaty of Albany, the
12:58:34 19 Treaty between the Haudenosaunee, then just Five
12:58:36 20 Nations, and James Nanfan who was the Lieutenant
12:58:41 21 Governor of New York.

12:58:45 22 A. Uhm-hmm.

12:58:47 23 Q. Again, I ask the same question,
12:58:52 24 is your understanding of the intention of that
12:58:54 25 treaty from the British perspective based on an

1 in-depth reading of the British record?

2 A. I have read documents about the
3 Nanfan Treaty. I'm not sure it's a treaty in
4 the sense that the Haudenosaunee seem to be
5 ceding land that they didn't necessary control
6 or own at that time, hence the Montreal Treaty
7 and treaties that were occurring beforehand.

8 I think that their analyses, like I
9 include within the line of Alexander von Gernet,
10 who argues that fact, that they simply didn't
11 have control of the land at that time to give
12 away to the British and feels that, if
13 challenged, probably wouldn't survive.

14 That treaty is also used today by
15 nations in political negotiations. So it's an
16 interesting one and I'm aware of it. Yes.

17 MR. McCULLOCH: And, Your Honour I
18 can't see if it's actually 1:00 o'clock but is
19 it close enough to have lunch?

20 THE COURT: Adjourned to 2:15 and,
21 sir, I remind you about the restrictions on what
22 you can do in the meantime.

23 THE WITNESS: Yes, Your Honour.

24 -- RECESSED AT 1:07 P.M. --

25 -- RESUMED AT 2:17 P.M. --

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BY MR. MCCULLOCH:

Q. Dr. Williamson, I hope you had a pleasant lunch.

A. I did, thank you.

Q. Excellent. I'm now going to talk about south central Ontario in the 17th and 18th century. I think we've covered the 16th century in our discussions earlier and in your examination in-chief. So I'm going to be focusing on particularly the 17th century.

A. Uhm-hmm.

Q. On the whole, I think you would agree that for the Indigenous peoples of south central Ontario the 17th century was a rough period. I'd like to take you, for example, to your report, page 25, your 2013 report, page 25.

And the -- if you go down to the -- go down to the paragraph starting "during":

"During that precarious period, [that is the 17th century], it is believed that the Anishinaabeg groups were reduced in numbers due to warfare, famine, and European diseases, which at times led to the amalgamation of surviving individuals,

02:18:56 1 families, or larger groups into 'the
02:19:00 2 more inclusive social units that we
02:19:02 3 now know as the Ottawa, Ojibwa, and
02:19:06 4 Pottawatomi tribes, that is, groups
02:19:08 5 united by new social institutions and
02:19:10 6 some measure of political integrity."
02:19:14 7 You -- that is, of course, your
02:19:15 8 opinion, even though you quote other people for
02:19:18 9 it?

02:19:18 10 A. Yes, I'm quoting Cleland and
02:19:21 11 Rogers as that is their opinion of what was
02:19:23 12 happening during this period.

02:19:26 13 Q. And to bring you to your opinion,
02:19:29 14 I'd like to go to your article in "Before
02:19:44 15 Ontario: The Woodland Period." It's SC1048.
02:20:15 16 It's entitled, if I may make it an
02:20:18 17 exhibit, "The Woodland Period," chapter 3 of
02:20:25 18 "Before Ontario". I believe you recognize that?

02:20:30 19 A. I do.

02:20:32 20 Q. The author is Dr. Williamson.

02:20:34 21 THE COURT: Mr. Registrar?

02:20:36 22 THE REGISTRAR: Exhibit number 4255.

02:20:37 23 EXHIBIT NO. 4255: Article entitled

02:20:40 24 "Before Ontario: The Woodland

02:20:40 25 Period", authored by Ronald

Williamson; document SC1048.

BY MR. MCCULLOCH:

Q. And if you could take me to page 15 of the PDF, which I believe is page 60 of the text? And the paragraph:

"The end of the 1500s and the first half of the 1600s saw major population movements. The effects of European-introduced diseases, warfare, and trade through the mid- to the late-17th century contributed to further population reductions along with continued migrations, fissions, and amalgamations of formerly independent groups."

Now, immediately after that there is a reference to Warrick, that's Gary Warrick whose chapter is in the same volume?

A. Yes.

Q. I'm not going to take you to that, but what I am going to be asking you now is, based on your own work and what you're familiar with the general literature, about the impact of population decline in the 17th and early 18th century.

02:22:14 1 I'd like to take you now again to
02:22:17 2 Georgian Bay, Exhibit number 4251. And take you
02:22:40 3 to pages 12 and 13 of the PDF, and that's pages
02:22:47 4 165, 166 of the text.

02:22:51 5 "According to the 17th century
02:23:14 6 accounts, the Wendat Tionontanté" --
02:23:20 7 am I getting that close?

02:23:23 8 A. Tionontanté.

02:23:23 9 Q. "[...] Tionontanté, population
02:23:26 10 totaled 30,000 to 35,000 before the
02:23:31 11 initial epidemics of 1634. The
02:23:35 12 1630s and the 1640s were
02:23:37 13 disastrous time for the Wendats. In
02:23:41 14 1634 measles spread throughout the
02:23:45 15 Attignawantan" -- I'll practice.

02:23:51 16 A. Just say bear.

02:23:52 17 Q. Bear, okay.

02:23:53 18 " [...]villages during the winter
02:23:54 19 followed by influenza in early
02:24:00 20 September 1636, persisting until the
02:24:03 21 spring of 1637. Between 1634 and
02:24:07 22 1637, Wendat and Tionontanté
02:24:11 23 populations experience a 20 percent
02:24:38 24 decline [...]"

02:24:39 25 That is in 3 years, and epidemics

02:24:45 1 reduced them by 1640 to about 10 and 12,000Those
02:24:48 2 are the best figures we have?

02:24:50 3 A. Yes. I actually gave this
02:24:52 4 evidence in-chief.

02:24:54 5 Q. What I would like to ask now is
02:24:55 6 in light of the intermingling of Iroquoian and
02:25:01 7 Algonquian peoples and their common involvement
02:25:05 8 in trade, and on the basis of what you know with
02:25:07 9 the literature, would you expect that the same
02:25:11 10 percentage of impact would be experienced
02:25:14 11 amongst the Odawa?

02:25:19 12 A. I think there is less direct
02:25:22 13 contact with Europeans during this period. This
02:25:35 14 late -- this is the early 17th century period
02:25:38 15 leading up to dispersal. And I think,
02:25:39 16 nevertheless, there would have been population
02:25:47 17 loss.

02:25:47 18 It's certainly the case with other
02:25:49 19 Iroquoian populations we know. That is why I
02:25:54 20 think one of the motivators for -- in part for
02:26:02 21 the Iroquois wars was the adoption of people who
02:26:08 22 were captured, refugees.

02:26:10 23 Q. And the epidemics, generally
02:26:12 24 speaking in the Upper Great Lakes area, didn't
02:26:15 25 stop in 1640?

02:26:17 1 A. No. We have less evidence. This
02:26:21 2 is great evidence because it comes from censuses
02:26:25 3 taken by the French.

02:26:28 4 Q. So this population decline is
02:26:30 5 something that continues on throughout this
02:26:32 6 period?

02:26:33 7 A. Some people argue that, yes. Not
02:26:35 8 probably to the same extent.

02:26:38 9 Q. Would you care to estimate a
02:26:41 10 percentage, say between 1600 and 1763?

02:26:44 11 A. No, I wouldn't. I wouldn't. No.

02:26:46 12 Q. Okay. Now, this brings me to
02:26:53 13 something I would do in a rather odd order. You
02:26:55 14 have six distinct references to E.S. Rogers'
02:27:00 15 article?

02:27:00 16 A. Uhm-hmm.

02:27:01 17 Q. We've already touched upon one.
02:27:03 18 But rather than sort of go to each one of the
02:27:06 19 references, I thought I would go through the
02:27:10 20 article itself just to be sure that we
02:27:14 21 understand how it relates to what you're -- what
02:27:18 22 you are saying.

02:27:19 23 A. Uhm-hmm.

02:27:20 24 Q. If we could go to Exhibit 3998?
02:27:34 25 Just for purposes of identification, you'd agree

02:27:37 1 that this is an entry in a volume of the
02:27:38 2 "Handbook of the North American Indians"?
02:27:48 3 A. Correct, published in 1978.
02:27:49 4 Q. And edited by?
02:27:53 5 A. I believe Sturtevant.
02:27:54 6 Q. Yes. If we could just move the
02:27:56 7 page up a little bit? It's talking about the
02:28:11 8 Ojibwe on the east coast of Georgian Bay?
02:28:15 9 A. Uhm-hmm.
02:28:16 10 Q. And in fact --
02:28:17 11 THE COURT: Sorry, sir, I know this is
02:28:21 12 a long process but "uhm-hmm" doesn't work very
02:28:23 13 well, and I also had another witness doing this,
02:28:25 14 it just makes it hard for people to hear. So if
02:28:28 15 you could try to vocalize your answers. Thank
02:28:31 16 you.
02:28:33 17 THE WITNESS: Okay.
02:28:35 18 THE COURT: Please go ahead,
02:28:36 19 Mr. McCulloch.
02:28:41 20 BY MR. MCCULLOCH:
02:28:42 21 Q. And if you go back up a little
02:28:43 22 bit more. Yes, here we are. And their
02:28:48 23 homeland, according to Rogers:
02:28:51 24 "... is southern Ontario and
02:28:53 25 Michigan from a homeland that is

02:28:55 1 difficult to find with any precision
02:28:57 2 on the basis of cultural or linguistic
02:29:00 3 data.

02:29:01 4 "It is reasonably certain that
02:29:03 5 their homeland was somewhere within an
02:29:06 6 area extending from the east shore of
02:29:08 7 Georgian Bay, west along the north
02:29:12 8 shore of Lake Huron, and a short
02:29:15 9 distance along the northeast shore of
02:29:18 10 Lake Superior and onto the upper
02:29:21 11 peninsula of Michigan."

02:29:24 12 Do you accept that that is reasonably
02:29:28 13 certain?

02:29:31 14 A. I'm sorry. Can you shrink this
02:29:34 15 so that I can see from where you were reading?
02:29:36 16 I can't see from where you were reading.

02:29:39 17 Q. If you could take the cursor to
02:29:41 18 where "It is reasonably certain". Did you want
02:29:45 19 it shrunk or blown up?

02:29:50 20 A. Oh, I see where you were, okay.
02:29:53 21 If you could go to the passage before, the
02:30:10 22 paragraph before? Oh, very good.

02:30:13 23 (Witness reading the document.)

02:30:13 24 Yes, and the question is?

02:30:13 25 Q. Would you say that it's

02:30:13 1 reasonably certain?

02:30:52 2 A. It's a reasonable estimation in
02:30:54 3 Rogers' terms of what he's talking about.

02:30:57 4 Q. And then just a little bit
02:30:58 5 further down where he is talking about the
02:31:00 6 groups of these Algonquian-speaking people, he
02:31:03 7 says:

02:31:05 8 "Each group numbered no more than
02:31:07 9 several hundred people, totaling
02:31:09 10 probably not more than 3,000 to
02:31:12 11 4,000"?

02:31:15 12 A. I wouldn't comment on that. I
02:31:17 13 think each group probably was no more than
02:31:20 14 several hundred, probably 250.

02:31:23 15 Q. Okay.

02:31:24 16 A. I'm not sure how many that
02:31:25 17 totals.

02:31:32 18 Q. And if he could stay on the same
02:31:35 19 page but to the right-hand column, "Contact
02:31:39 20 1615-1650"?

02:31:44 21 Now, you have testified in-chief that
02:31:48 22 the first Algonquian-speaking people that
02:31:56 23 Champlain encountered were the Cheveaux relevéz,
02:31:58 24 who you have identified as Odawa?

02:32:04 25 A. The Odawa, yes.

02:32:05 1 Q. And he encountered them for the
02:32:07 2 first time when they were -- was it raspberries
02:32:09 3 or strawberries they were picking?

02:32:12 4 A. Blueberries.

02:32:13 5 Q. Yes, when they were blueberry
02:32:14 6 picking.

02:32:15 7 That was at the French River, right?

02:32:18 8 A. Yes, the mouth of the French
02:32:19 9 River.

02:32:20 10 Q. And French River is on the
02:32:21 11 northeastern shore of Georgian Bay?

02:32:24 12 A. Yes.

02:32:24 13 Q. Although Champlain later
02:32:26 14 discovered that their full-time residence was at
02:32:29 15 the south end of Georgian Bay?

02:32:32 16 A. He found them there, yes, in a
02:32:34 17 village next to the Tionontanté.

02:32:37 18 Q. Yes. If we could proceed a
02:32:37 19 little bit further down.

02:33:02 20 So having identified that these
02:33:04 21 Algonquian-speaking people are on the, if you
02:33:06 22 want, the eastern shore of Georgian Bay, when
02:33:09 23 Rogers comments that, "No mass exodus appears to
02:33:20 24 have taken place," that is under the dispersal,
02:33:24 25 1650-1760, he's referring to a dispersal from

02:33:29 1 the eastern shore of Georgian Bay?

02:33:39 2 A. Are we talking about the Cheveaux
02:33:40 3 relevéz who were not living in that area but had
02:33:42 4 only gone to the French River probably to greet
02:33:45 5 Champlain?

02:33:46 6 Q. We're talking about the group
02:33:48 7 that Rogers is discussing generally.

02:33:51 8 A. Right, he is using the term
02:33:52 9 Ojibwe or Ojibwa to include the Cheveaux
02:33:54 10 relevéz. And I have said, in my report, that I
02:33:58 11 believe that the Cheveaux relevéz, along with
02:33:59 12 other Algonquian or Anishinaabe Nations like the
02:34:06 13 Nipissing and the Algonquin of Ottawa Valley,
02:34:11 14 were dispersed out of Southern Ontario.

02:34:13 15 Q. So you disagree with him on this
02:34:14 16 point?

02:34:15 17 A. Oh, with those nations.

02:34:15 18 Q. That's all -- I'm not asking you
02:34:15 19 to adopt this, but I'm trying to find out where
02:34:19 20 you agree and where you disagree.

02:34:20 21 A. I think my report is pretty
02:34:22 22 clear. I have said in a couple places that I do
02:34:24 23 think the Odawa left the SONTL, and I believe
02:34:27 24 the Nipissing left their territory as did the
02:34:30 25 Algonquin.

02:34:57 1 Q. If we could move over to the next
02:34:58 2 page and blow the map up. This is an overview
02:35:06 3 of the whole period we're talking to. But are
02:35:09 4 you on the whole comfortable with the locations
02:35:14 5 indicated?

02:35:15 6 A. I just have to say that, you
02:35:16 7 know, dots represented by a 200-year range is a
02:35:19 8 bit difficult to understand on a map. I think
02:35:21 9 you made that point earlier.

02:35:23 10 Q. That was actually where I was
02:35:24 11 going next. Maps are tricky.

02:35:30 12 If we could move down a little bit? I
02:35:38 13 think over into the next column. If you could
02:36:50 14 again enlarge this map. And, again, we have an
02:37:00 15 indication of where we are by the middle of the
02:37:03 16 19th century?

02:37:05 17 A. Yes.

02:37:05 18 Q. Subject -- you have no objections
02:37:07 19 to this --

02:37:08 20 A. Well, I haven't examined it in
02:37:10 21 detail against all of the observed, but I
02:37:13 22 suppose this is close to where people were.

02:37:15 23 Q. Okay. And I ask this because I'm
02:37:23 24 not quite sure, but I know that you do
02:37:26 25 archeology in the colonial period and that

02:37:29 1 you've done some obviously great deal of
02:37:33 2 impressive work in Toronto and at the Peace
02:37:35 3 Bridge. Have you done any in the vicinity of
02:37:38 4 Detroit?

02:37:44 5 A. Yes. Well, in the extreme
02:37:46 6 southwest part of the province closer to Lake
02:37:48 7 St. Clair.

02:37:49 8 Q. Are you familiar with the
02:37:50 9 colonial history of Detroit?

02:37:52 10 A. A little bit, yes.

02:37:56 11 Q. The French invited the
02:37:57 12 Algonquian-speaking people from Georgian Bay?

02:38:00 13 A. I actually cover that in my
02:38:02 14 report.

02:38:05 15 Q. Yes. And I just wanted to cover
02:38:06 16 all of those points off because --

02:38:09 17 A. Uhm-hmm.

02:38:09 18 Q. -- they have been touched upon
02:38:11 19 elsewhere.

02:38:12 20 A. Yes.

02:38:13 21 Q. This brings me to -- now that we
02:38:16 22 have that perspective on the Georgian Bay, shall
02:38:20 23 we call them Ojibwe even though we know that
02:38:23 24 that is -- or would you prefer we kept on
02:38:25 25 calling them Ottawa?

02:38:28 1 A. Well, I think Ojibwa is a much
02:38:30 2 broader term that includes many people, as did
02:38:34 3 the term "Ottawa", as I testified earlier, was a
02:38:36 4 term that was used to encompass many people.

02:38:39 5 If we want to talk about the Odawa,
02:38:40 6 I've also traced them through the historic
02:38:44 7 record.

02:38:45 8 Q. I think since we're -- we've been
02:38:47 9 using Rogers as a point of departure, I'll keep
02:38:51 10 on referring to the Ojibwa with all of us being,
02:38:54 11 of course, aware that that --

02:38:56 12 A. Of those qualifications.

02:38:58 13 Q. -- that that nomenclature is
02:39:01 14 complicated.

02:39:02 15 A. Uhm-hmm.

02:39:03 16 Q. If we could now go to
02:39:05 17 Ms. Morden's report, which has been made a
02:39:09 18 lettered exhibit, R-2. And if we could go to
02:39:51 19 the first map. This is, in fact,
02:39:53 20 Dr. Williamson, your map but because there was
02:39:57 21 uncertainty about exactly where it was, I
02:39:59 22 thought we'd go here. It's the 2013 map.

02:40:42 23 I'm sorry, I was certain that
02:40:44 24 Dr. Williamson's map was in there. Perhaps we
02:40:59 25 better go to the -- see if we can find out which

02:41:04 1 version of your report it was attached to. If
02:41:06 2 my friends can help me?

02:41:20 3 If we could go to Dr. Williamson's
02:41:23 4 2013 report and go to page 116? We're looking
02:42:06 5 for the chert map; 160. And if we could blow
02:42:48 6 that up so as to focus on the Manitoulin Island
02:42:51 7 area?

02:42:54 8 THE COURT: Now where are we in the
02:42:55 9 record, sir? Is this an exhibit?

02:43:02 10 MR. McCULLOCH: This is
02:43:03 11 Dr. Williamson's 2013 report, Exhibit 4239.

02:43:29 12 BY MR. MCCULLOCH:

02:43:30 13 Q. Now in both of your reports, in
02:43:31 14 fact, you talk a lot about Manitoulin Island and
02:43:35 15 important sites on Manitoulin Island?

02:43:38 16 A. Yes, I do.

02:43:38 17 Q. And one, in fact, we will be
02:43:41 18 talking about a little bit further on, you talk
02:43:43 19 specifically about the Shequiandah site --

02:43:47 20 A. Yes.

02:43:47 21 Q. -- as one of the most important
02:43:49 22 in terms of showing presence, at the very least,
02:43:55 23 over an extended period of time?

02:43:57 24 A. Well, and very early in the
02:44:00 25 archeological record as it is what we call a

02:44:02 1 Paleo-Indian site.

02:44:06 2 Q. Now Shequiandah is, if I remember
02:44:09 3 correctly, on the side of Manitoulin Island
02:44:20 4 facing upward towards the mainland?

02:44:23 5 A. Well, it faces out into Georgian
02:44:24 6 Bay in a southeasterly direction, yes.

02:44:36 7 Q. And I was struck by something.
02:44:38 8 This is why I'm now going to this map. You
02:44:40 9 mentioned the Lorraine quartzite found on
02:44:43 10 Manitoulin?

02:44:44 11 A. Yes.

02:44:44 12 Q. If I read the map correctly,
02:44:46 13 there is a Lorraine quartzite also on the
02:44:50 14 mainland?

02:44:52 15 A. Yes.

02:44:52 16 Q. Would it be easier to get to the
02:44:56 17 mainland from Shequiandah or to the Bruce
02:45:00 18 Peninsula?

02:45:07 19 A. Is this in regard -- sorry, is
02:45:09 20 this in regard to the Lorraine quartzite?

02:45:14 21 Q. No, just in terms of --

02:45:16 22 A. So from the Shequiandah site, is
02:45:17 23 it easier to get to the Lorraine quartzite on
02:45:21 24 the north shore? Which they wouldn't do because
02:45:24 25 they are sitting on a quartzite outcrop.

02:45:27 1 Q. Again, we're just identifying
02:45:29 2 things that they have in common and lines of
02:45:31 3 communication.

02:45:31 4 A. So I think they would find it
02:45:33 5 comparable to go to either place.

02:45:36 6 Q. You're familiar, of course, with
02:45:38 7 the dangerous weather on the tip of the Bruce
02:45:41 8 Peninsula?

02:45:42 9 A. Yes.

02:45:45 10 Q. So that it would be just as safe
02:45:46 11 to canoe across to the mainland as to canoe to
02:45:52 12 the tip of the Bruce Peninsula?

02:45:54 13 A. I think we're talking about
02:45:56 14 people with a tremendous amount of experience
02:46:02 15 canoeing these waters and would choose times
02:46:05 16 that they would suspect that that could be done
02:46:07 17 easily.

02:46:08 18 Q. So you don't think there would be
02:46:10 19 any significant problems?

02:46:12 20 A. I think it's part of the
02:46:13 21 traditional territory of the Odawa, and I think
02:46:17 22 the two areas, the Bruce and the -- and
02:46:21 23 Manitoulin are linked, yes.

02:46:23 24 Q. And --

02:46:23 25 A. It's a canoe trip to go there.

02:46:29 1 Q. Do you think that the people in
02:46:31 2 Manitoulin, the Indigenous people of Manitoulin
02:46:34 3 are also linked to the people on the mainland?

02:46:37 4 A. Depends on what time we're
02:46:39 5 talking about. I think the people who are at
02:46:42 6 Providence Bay were one of the nations of the
02:46:44 7 Odawa, the -- probably the Sauble, as many
02:46:48 8 people have suggested, because of the sandy
02:46:49 9 beach that that principal village was located
02:46:53 10 on.

02:46:53 11 I think they're linked to the people
02:46:57 12 who are on the mainland here and also in
02:47:01 13 Michigan.

02:47:05 14 Q. The point I'm trying to get at
02:47:07 15 simply is that Manitoulin is, in a sense, the
02:47:10 16 middle, if you want, using Rogers' terminology,
02:47:14 17 the kind of Odawa homeland?

02:47:19 18 A. I think it's part of the Odawa
02:47:22 19 homeland.

02:47:22 20 Q. But it's the one with the
02:47:24 21 longest, continuous occupation?

02:47:26 22 A. No, actually the Shequiandah site
02:47:29 23 dates to kind of the late Paleo-Indian period.
02:47:34 24 The sites that have been found in the area of
02:47:39 25 the Algonquin shoreline overlooking Georgian Bay

02:47:43 1 to the west of the Tionontanté, that area
02:47:45 2 actually -- those sites are slightly older.
02:47:47 3 They are about 13,000 years old.

02:47:51 4 So obviously they are both
02:47:54 5 Paleo-Indian. There are Paleo-Indian
02:47:57 6 populations in both places. And, of course,
02:47:59 7 they would have known each other because we find
02:48:01 8 the people -- we find the use of Fossil Hill
02:48:04 9 Chert and Lorraine quartzite mixed among those
02:48:08 10 people.

02:48:08 11 Q. So the southeastern end of
02:48:10 12 Georgian Bay and the -- towards the north end of
02:48:15 13 Georgian Bay?

02:48:17 14 A. Well, the southeastern section of
02:48:22 15 Manitoulin in the area around Craigleith to the
02:48:27 16 east of the Bruce peninsula.

02:48:28 17 Q. Okay. Now, let me just go on to
02:48:31 18 the next bit. If we can now have the Ministry
02:48:50 19 of Tourism, Culture and Sports map from the
02:48:53 20 Morden report? That is R-2.

02:49:13 21 Now I suspect you know this map just
02:49:15 22 by looking at it, but you'd agree that what it
02:49:18 23 is the Ministry's database compilation, compiled
02:49:23 24 by the Ministry, of the archeological sites in
02:49:26 25 the database?

02:49:27 1 A. For that area, yes. But by
02:49:29 2 density not showing site location.

02:49:31 3 Q. Yes, by density. It's not
02:49:36 4 showing site locations. That would be a bit of
02:49:40 5 a nightmare I can tell you.

02:49:43 6 Site locations are not something, I
02:49:44 7 gather, that the Ministry wants widely
02:49:47 8 disseminated?

02:49:47 9 A. Correct.

02:49:48 10 Q. So this was as precise as we
02:49:50 11 could get it for public discussion.

02:50:01 12 And I would ask you to comment on two
02:50:02 13 features of this map. It seems to suggest that
02:50:06 14 the sites basically follow the same pattern as
02:50:12 15 your map, that is to say they are concentrated
02:50:15 16 on the one hand the eastern shore and on the
02:50:20 17 western shore?

02:50:23 18 A. And around the Bruce.

02:50:24 19 Q. So that even though this shows
02:50:27 20 all of the sites in the database, it's
02:50:31 21 essentially the same pattern as your map?

02:50:34 22 A. It's a similar pattern.

02:50:36 23 Q. Similar pattern.

02:50:37 24 And you'd agree that the similarity is
02:50:41 25 because the central driver of a lot of the

02:50:45 1 excavation -- you've correct me, it's not most
02:50:48 2 of the excavation -- has been driven by
02:50:52 3 development?

02:50:55 4 A. Um, I think there's two things
02:50:57 5 involved here. One is the water orientation of
02:51:02 6 the Odawa so that archeological sites have been
02:51:07 7 found along water.

02:51:08 8 As an archeologist, when we go into an
02:51:11 9 area that is not known well we will focus on the
02:51:14 10 areas where there is water for both potable
02:51:18 11 water and transportation and, of course,
02:51:18 12 fishing.

02:51:19 13 So I think this is a reflection of,
02:51:21 14 first, that there are a lot of sites on the
02:51:23 15 coastal regions of Georgian Bay and Lake Huron.
02:51:29 16 I think, secondly, it is -- a couple of these
02:51:34 17 areas are reflective of surveys being conducted
02:51:40 18 in advance of development.

02:51:43 19 That's why kind of any discussion
02:51:45 20 about the archeological record of the SONTL, as
02:51:58 21 Dr. Fitzgerald points out so eloquently in the
02:52:00 22 Irocentrism paper, it's just -- it just doesn't
02:52:04 23 have the same density as in other areas where
02:52:04 24 there has been a lot of survey. Yet, even so,
02:52:06 25 you know, that record is complete -- complete in

02:52:16 1 the sense of a continuum.

02:52:18 2 Q. There is representation --

02:52:20 3 A. Of all the periods.

02:52:21 4 Q. In each of the phases?

02:52:22 5 A. Yes.

02:52:22 6 Q. We'll be getting to that. I

02:52:23 7 actually wanted to go next to the Irocentrism

02:52:29 8 article, and specifically it's been made an

02:52:31 9 exhibit already, 4249, and if we could to -- I

02:52:46 10 believe it's page 2, which is page 3 of the PDF.

02:53:03 11 If you could go up to the top of it.

02:53:09 12 Maybe it's page 2. I'll just look at my notes.

02:53:20 13 THE COURT: Well, we're on page 2. Do

02:53:22 14 you mean maybe it's page 1?

02:53:26 15 BY MR. MCCULLOCH:

02:53:27 16 Q. Perhaps I can simply -- I think

02:53:27 17 you may have seen it already. Fitzgerald and

02:53:30 18 Johnston make an estimate of the percentage of

02:53:32 19 the Bruce Peninsula which is subject to a

02:53:35 20 survey?

02:53:36 21 A. Okay.

02:53:37 22 Q. An archeological survey.

02:53:40 23 A. Could you show me that?

02:53:41 24 Q. And it's -- there it is. One

02:53:58 25 half of one percent. Sorry, I was looking for

02:54:00 1 numbers. If you can put the cursor near the
02:54:03 2 "one half of one percent"?

02:54:14 3 A. Yes.

02:54:19 4 Q. I'm not sure whether Fitzgerald
02:54:22 5 and Johnston were trying to be precise or
02:54:24 6 whether that was more or less a rhetorical
02:54:27 7 flourish, but would you say that that's about
02:54:29 8 right?

02:54:31 9 A. Approximately one percent? I
02:54:33 10 haven't calculated that. I don't know for sure,
02:54:35 11 but I would think that if they estimated that at
02:54:37 12 this time, 2004, there would be more now because
02:54:41 13 more work has been conducted.

02:54:47 14 Q. But it's still true to say --

02:54:49 15 A. A very small amount of the Bruce
02:54:51 16 Peninsula has been surveyed extensively and
02:54:56 17 systematically.

02:54:57 18 Q. And you said that the data set is
02:54:58 19 not as full as it is, as you were saying, for
02:54:59 20 areas like the greater Toronto area?

02:55:01 21 A. That is true.

02:55:02 22 Q. So that does make theories
02:55:07 23 subject to revision as we've been discussing, as
02:55:11 24 more data becomes available?

02:55:13 25 A. To an extent. There's enough

02:55:16 1 there -- in places in the world this is the kind
02:55:19 2 of sample one would use to begin to flesh out
02:55:22 3 the cultural history of the area.

02:55:25 4 When you look at the number of sites
02:55:26 5 that are being presented here compared to, for
02:55:29 6 example, the number of sites that were at hand
02:55:31 7 when Wright did his work and created the
02:55:33 8 Iroquois tradition based on a couple dozen
02:55:38 9 sites, you can see that this is a substantial
02:55:42 10 sample that you can still write about the
02:55:43 11 cultural history of the area.

02:55:45 12 Q. Subject always to revision?

02:55:51 13 A. I suppose, yes.

02:55:52 14 Q. It is scholarship, right? It is
02:55:55 15 never final?

02:55:56 16 A. Yes.

02:55:56 17 Q. I am going to ask you about the
02:55:59 18 "Cult of Irocentrism" paper. Rather than take
02:56:10 19 you through it I want to see if I understand it
02:56:10 20 properly.

02:56:16 21 A. This paper you mean? Yes.

02:56:18 22 Q. Cult?

02:56:18 23 A. So one of the reasons that this
02:56:19 24 paper hasn't been published but accepted for
02:56:22 25 publication it that requests were made, I

02:56:24 1 believe, for some of that kind of language to be
02:56:28 2 removed. Obviously it is not a cult; it's a
02:56:30 3 bias on the part of researchers.

02:56:32 4 Q. I was just wondering if there was
02:56:34 5 some kind of inside archeological joke.

02:56:37 6 A. Dr. Fitzgerald has a wicked sense
02:56:40 7 of humour.

02:56:47 8 Q. Okay. And I believe the paper
02:56:49 9 makes it fairly clear that it intends for its
02:56:51 10 implications to go beyond the Nodwell site?

02:56:54 11 A. Yes, it does. He believes that
02:57:01 12 people did not -- it's focused on the Nodwell
02:57:04 13 site, as you can tell in the beginning and
02:57:06 14 throughout the middle of the paper, but he does
02:57:10 15 bring in other sites, like Inverhuron-Lucas
02:57:13 16 which, where he knows there's, for example, 14th
02:57:16 17 and 15th century presence which, as he mentions
02:57:24 18 in this paper, has been identified by Fox as
02:57:26 19 Odawa.

02:57:28 20 Q. So in short what we're looking at
02:57:31 21 in a very lively and I have to admit quite
02:57:32 22 enjoyable from an advocacy point of view at
02:57:41 23 least, article is using the Nodwell site as an
02:57:45 24 example, an exploration of the problems of
02:57:47 25 ethnic identification?

02:57:54 1 A. So at a very broad level it is
02:57:56 2 true that it is a paper about ethnic
02:57:58 3 identification. But he's very focused here on
02:58:01 4 using both the archeological and documentary
02:58:05 5 record to point out the high unlikeliness of a
02:58:12 6 migration from Iroquoia hundreds of kilometres
02:58:19 7 to this spot in -- and he eventually concludes
02:58:31 8 had sites like Plater-Flemming, Providence Bay
02:58:34 9 been available to Jim Wright and had Jim Wright
02:58:38 10 been knowledgeable about the documentary record
02:58:40 11 and its implications, he very well might have
02:58:43 12 reached a different conclusion, as he himself,
02:58:46 13 as Dr. Wright concluded in that passage I
02:58:48 14 pointed out on page 306, I think he might have.

02:58:52 15 Q. Yes. And, in fact, your going to
02:58:54 16 that passage saved me from having to read the
02:58:57 17 whole thing myself, because I think that's the
02:58:59 18 point. We're in a situation where there is a
02:59:02 19 revision about things about ethnicity, ethnic
02:59:06 20 identity?

02:59:06 21 A. True.

02:59:07 22 Q. That's the point I wanted to make
02:59:10 23 on the basis of the -- that article.

02:59:21 24 Just trying to think what next to put
02:59:30 25 in. One last major chunk.

02:59:32 1 I have some general questions about
02:59:35 2 categories of sites, and, as you suggested, the
02:59:40 3 sites that are the most interesting are the ones
02:59:43 4 where there is occupation in more than one of
02:59:45 5 those archeological time periods you've
02:59:51 6 identified.

02:59:56 7 A. Yes.

02:59:57 8 Q. So I wanted to ask you some
02:59:58 9 questions. Let's take the Inverhuron fishing
03:00:04 10 camp. This is page 43, though I suspect you
03:00:07 11 know it well enough that you don't --

03:00:09 12 A. You can read it.

03:00:09 13 Q. Sorry?

03:00:10 14 A. Please do bring it up.

03:00:16 15 Q. Okay. Do you want the map or do
03:00:17 16 you want the text?

03:00:18 17 A. The text would be fine.

03:00:20 18 Q. Sure, that's page 43. Oh sorry,
03:00:28 19 page 38. Sorry.

03:00:49 20 Now, there are two things that I --
03:00:53 21 one relatively incidental; one more specific to
03:00:57 22 Inverhuron.

03:01:00 23 A. So excuse me for interrupting
03:01:02 24 you. We're talking about Inverhuron and not
03:01:05 25 Inverhuron-Lucas?

03:01:06 1 Q. I'm talking about the
03:01:10 2 multi-component fishing camp with major archaic.
03:01:14 3 A. Okay.
03:01:15 4 Q. Yeah. When you say
03:01:20 5 multi-component, it means it's in the archaic
03:01:25 6 and I believe also the Middle Woodland?
03:01:27 7 A. And the Early Woodland.
03:01:29 8 Q. Oh, not the Late Woodland?
03:01:32 9 A. And the Late Woodland. Early to
03:01:36 10 middle and late.
03:01:37 11 Q. Okay. So it's one of these sites
03:01:39 12 that you think is important in terms of
03:01:42 13 understanding occupations?
03:01:46 14 A. Just a qualifier because I've
03:01:50 15 been corrected enough times by Anishinaabek
03:01:53 16 colleagues that every site is important and that
03:01:57 17 every site that we find is a representative of
03:02:02 18 their occupation.
03:02:03 19 So I do find sites that are
03:02:07 20 multi-component to be important archeological
03:02:11 21 sites that speak to a continuum of use over time
03:02:16 22 for some reason.
03:02:19 23 Q. I'd like to actually borrow that
03:02:21 24 phrase, "continuum of use over some time." The
03:02:24 25 word "occupation" has legal ramifications that

03:02:33 1 we want to make sure we're talking

03:02:35 2 archeologically and not legally, when we were

03:02:38 3 talking about use over time.

03:02:40 4 A. I'm happy to use the term "use".

03:02:43 5 Q. And, again, these are

03:02:45 6 questions -- what is a fishing camp? What is

03:02:53 7 the archeological evidence that indicates that

03:02:54 8 you've got a fishing camp for these thousands of

03:02:57 9 years?

03:02:58 10 A. So the thousands of years is the

03:03:05 11 artifact assemblages that accompany the fish

03:03:10 12 deposits that are represented on those sites.

03:03:14 13 And those fish deposits under the hands of a

03:03:20 14 good faunal analyst can identify -- a good

03:03:26 15 animal bone specialist who specializes in fish,

03:03:32 16 can identify the season of occupation based on

03:03:34 17 the kind of fish.

03:03:37 18 In other words, is it a fall spawning

03:03:38 19 fish? Is it a spring spawning fish? What is

03:03:42 20 happening on these sites?

03:03:43 21 So those fishing camps are reflective

03:03:46 22 of places that people return to in the landscape

03:03:49 23 for particular activities. And they live there

03:03:52 24 very lightly on the land, but what we see are

03:03:56 25 substantial deposits of fish and artifacts that

1 reflect that long use.

2 Q. In terms of the continuum of use,
3 again from the archeological material, can you
4 tell how frequently they returned to that site?
5 Was it --

6 A. No, you can't.

7 Q. You can't say it was used every
8 other year or --

9 A. I can't tell you if it was used
10 every year or every five years. It's difficult
11 to know on the basis of that kind of record how
12 often it was used.

13 Q. So in short, when it comes to the
14 continuum of use, it's uncertain as to how
15 frequently it was used?

16 A. So if people are present in the
17 area and it as a favoured fishing spot, one
18 would presume they are returning frequently.

19 Q. Those were -- that was an "if",
20 right?

21 A. Sorry?

22 Q. Sorry.

23 A. So what I'm saying is, okay,
24 people are present in the area. They are
25 returning to those sites because they represent

03:05:05 1 good fishing locales.

03:05:08 2 Q. But from the archeology, you
03:05:10 3 can't tell how frequently?

03:05:12 4 A. That's right.

03:05:12 5 Q. That's the point I wanted to
03:05:13 6 make.

03:05:23 7 I believe we have discussed and other
03:05:24 8 people will be discussing River Mouth Speaks
03:05:25 9 which is another multiphase site.

03:05:29 10 A. Yes.

03:05:29 11 Q. And so I will leave that aside
03:05:30 12 since I've got ...

03:05:37 13 And I am now going to ask you the same
03:05:39 14 thing with Hunter's Point. I think we have had
03:05:41 15 a fairly extensive discussion of that. What I
03:05:44 16 would like to ask you now are more about the
03:05:47 17 multiphase Manitoulin sites.

03:05:51 18 A. Okay.

03:05:52 19 Q. Because there seems to be -- is
03:05:54 20 it seven multiphase Manitoulin sites? That's my
03:05:59 21 count.

03:06:00 22 A. Okay. I'll believe you.

03:06:04 23 Q. Whereas I -- and I am always
03:06:06 24 subject to correction from my friends, that's
03:06:08 25 more than on the -- in Grey and more than in

03:06:14 1
03:06:15 2
03:06:15 3
03:06:20 4
03:06:23 5
03:06:27 6
03:06:27 7
03:06:29 8
03:06:32 9
03:06:36 10
03:06:40 11
03:06:48 12
03:06:49 13
03:06:51 14
03:06:54 15
03:06:57 16
03:07:02 17
03:07:12 18
03:07:16 19
03:07:20 20
03:07:20 21
03:07:20 22
03:07:26 23
03:07:28 24
03:07:31 25

Bruce.

A. Uhm-hmm.

Q. So you've talked about Shequiandah as being special in terms of its access to a special chert?

A. Uhm-hmm.

Q. Can you tell us, again to help those of us who have never been on an archeological site, what it is physically that you see that enables you to identify these phases and the continuum of use?

A. So, for example, at the Shequiandah site -- I just want to step back to your comment about there is more sites on Manitoulin than some other area.

I think, as is reflected in my report, there was a very intensive assessment of Manitoulin Island that was being carried out by Thor Conway for quite a while. And he was examining likely locales throughout Manitoulin. He wasn't doing a systematic survey of the island, but he was a very experienced northern archeologist. And he was looking there for years as the regional archeologist in that area for the Ministry of Culture, whatever the

iteration of that ministry was at that time.

So to return to your main question, what are the signatures of the presence of other periods on sites?

Q. I entirely understand and thank you for explaining, that the anomaly here may be a result of the happenstances of --

A. Archeology survey.

Q. -- design and individuals. In short, the record reflects not an entirely comprehensive, rational attempt to understand everything?

A. I have no idea what you mean by that.

Q. That there's an awful lot of accident and serendipity in archeology?

A. So I've testified about systemic survey in culture resource management which is not about serendipity. It's about systemic survey according to a series of standards and guidelines, which is intended to identify every site and then, if it can't be protected, excavate the entire site.

Research archeology, on the other hand, which now constitutes less than 5 percent

03:08:50 1 of a hundred percent of archeology that is done,
03:08:54 2 in other words culture resource management is
03:08:57 3 roughly 95 percent of the archeology done in the
03:09:00 4 province today.

03:09:01 5 Q. Thank you. Like most people, I
03:09:02 6 still have a very particular image of archeology
03:09:04 7 in my head.

03:09:06 8 A. And you're quite right.
03:09:07 9 Everybody has that image that it's carried out
03:09:10 10 by academics in ivory towers and in universities
03:09:14 11 but that's not the case.

03:09:15 12 So we're always aware of the
03:09:23 13 archeological records of areas, whether it's
03:09:25 14 been informed by systematic professional
03:09:26 15 archeology or research archeology, which is
03:09:30 16 still professional but not intended to do the
03:09:30 17 kinds of things that culture resource management
03:09:34 18 archeology does.

03:09:36 19 So on a site like Shequiandah, to
03:09:38 20 return to your question --

03:09:40 21 Q. Which I still -- I'm interested
03:09:41 22 in the answer.

03:09:43 23 THE COURT: Well, I'm going to
03:09:44 24 interrupt because I mean I do remember a
03:09:47 25 question, but I -- you two are on another plane.

03:09:51 1 I think for me you need to repeat your question
03:09:57 2 so I know which question you're returning to.

03:10:00 3 BY MR. MCCULLOCH:

03:10:00 4 Q. What material would you see at
03:10:03 5 Shequiandah site that indicates the multiphase
03:10:06 6 continuum of use from the early period right
03:10:13 7 down? I just -- tell me what the objects that
03:10:15 8 you'd see are?

03:10:17 9 A. So I haven't said that there is a
03:10:22 10 continuum of full occupation at the Shequiandah
03:10:24 11 site.

03:10:25 12 The Shequiandah site does have --

03:10:27 13 THE COURT: I'm just going to
03:10:30 14 interrupt because I need to understand the
03:10:32 15 answer. I'm interested to hear the answer. Just
03:10:34 16 give me a moment.

03:10:50 17 Counsel, you can correct me if I'm
03:10:52 18 wrong. Sir, I understood the question, it was
03:10:53 19 directed at someone like me, who is not an
03:10:56 20 archeologist and not a specific site, but a
03:11:02 21 general question about what you would see or,
03:11:04 22 now rephrased, what materials would you collect
03:11:07 23 that would help you identify the phase of a
03:11:11 24 continuum of use on a site as a general
03:11:13 25 proposition.

03:11:14 1 And I am quite interested to hear the
03:11:16 2 answer, so I have interrupted the lawyer to get
03:11:18 3 us on to that correction.

03:11:22 4 It was a very general question, sir.

03:11:24 5 THE WITNESS: At a very general
03:11:25 6 level --

03:11:26 7 THE COURT: Yes.

03:11:26 8 THE WITNESS: -- when one has an
03:11:28 9 archeological site which is detected on the
03:11:31 10 basis of material like ceramics or stone tools
03:11:35 11 made out of flint, like on my map 1 in my
03:11:38 12 report, those ceramics or those stone tools can
03:11:44 13 be shaped in ways or designed in ways that are
03:11:48 14 reflective of time periods.

03:11:50 15 So I talked this morning a bit about
03:11:53 16 how attributes on pots change through time.
03:11:56 17 Similarly, projectile points change their shape
03:12:01 18 through time. And so when you're on an
03:12:03 19 archeological site, it can be a single component
03:12:09 20 in that all the artifacts fit one time period.

03:12:11 21 But if it's a site that's been
03:12:13 22 occupied multiple times in the same locale,
03:12:16 23 there may be a projectile point that dates to
03:12:20 24 10,000 years ago, one that dates to 5,000 years
03:12:24 25 ago, and one that dates to a thousand years ago.

03:12:26 1 And those we call multi-component sites because
03:12:29 2 people over time are returning to those sites.

03:12:32 3 THE COURT: Thank you. Counsel, may
03:12:35 4 have following questions, but I did want to get
03:12:37 5 that answered. Go ahead.

03:12:40 6 BY MR. MCCULLOCH:

03:12:40 7 Q. That was the question I was
03:12:41 8 asking, but I was asking specifically about
03:12:43 9 Shequiandah. I don't think it's perhaps
03:12:45 10 necessary now that we've got this general --
03:12:53 11 except if you want to explain what makes the
03:12:56 12 Shequiandah site special in the archeological
03:13:00 13 sense?

03:13:07 14 A. The Shequiandah site is a quarry
03:13:09 15 site of Lorraine quartzite. When you visit that
03:13:13 16 site you can see it from miles away. It is a
03:13:17 17 white knob. It is most beautiful in the fall
03:13:21 18 and the fall colours, but it is a white knob.
03:13:24 19 And when you arrive on the site, it's all broken
03:13:29 20 shattered and pieces of Lorraine quartzite, many
03:13:33 21 of them shaped so you know people have been
03:13:35 22 there.

03:13:37 23 It is one of the richest sites I have
03:13:39 24 ever been on.

03:13:44 25 It is thought -- what we were told by

03:13:46 1 the Ojibwe of Sucker Creek and we were told by
03:13:50 2 the Shequiandah First Nation that this is also a
03:13:55 3 very special place for Anishinaabe people
03:13:59 4 because of the importance of that in the past,
03:14:01 5 which is why they wanted to have a final
03:14:03 6 assessment of the site.

03:14:07 7 And ideologically it was a very
03:14:11 8 important place because of the colour of the
03:14:13 9 quartzite. It is a very white, creamy quartzite
03:14:19 10 and that is a colour that is important in
03:14:21 11 Indigenous life.

03:14:22 12 And so it's a special place because of
03:14:30 13 its structure, the fact that it's a rich site.
03:14:37 14 If we were to go there today, within an hour we
03:14:39 15 could pick up pieces that had been shaped ten
03:14:42 16 thousand years ago, and you would recognize
03:14:45 17 these artifacts as pieces of quartzite that have
03:14:48 18 been shaped. We could do that easily. That's
03:14:50 19 the kind of place that is. Most archeological
03:14:54 20 sites you cannot do that. I might add the Peace
03:14:56 21 Bridge is another one.

03:14:58 22 Q. Just again one little point, what
03:15:03 23 do you use quartzite for? You talked about the
03:15:07 24 colour being symbolically important and so on
03:15:12 25 and so forth. Does it have a utilitarian use?

03:15:15 1 A. Yes, you are making spearheads
03:15:18 2 out of the quartzite for hunting.

03:15:19 3 Q. And is that quartzite traded
03:15:22 4 outside of the area subject of the claim?

03:15:27 5 A. It has been found outside of the
03:15:29 6 area of the claim.

03:15:31 7 Q. Where?

03:15:34 8 A. A little bit in Simcoe County,
03:15:37 9 these are very small amounts. I've seen at
03:15:41 10 least one point in the Kitchener-Waterloo area.
03:15:46 11 It's rare, but it does get that far.

03:15:50 12 Sometimes it's difficult to determine
03:15:52 13 if there are other naturally-occurring quartzite
03:15:55 14 locations or quartzite outcrops, whether it's
03:15:59 15 the same one or not. But it is possible to
03:16:02 16 determine that.

03:16:09 17 Q. And I have I guess a fairly
03:16:11 18 practical point. You talked about small Odawa
03:16:14 19 camps at one point earlier today as indicating,
03:16:18 20 and I think you used the word "occupation"
03:16:21 21 rather than "use"?

03:16:26 22 A. So these would be camps that are
03:16:29 23 in the SONTL. So I'm identifying them as Odawa,
03:16:34 24 and there are many of them. For example, on the
03:16:37 25 Bruce, that date to the early 17th century, that

03:16:40 1 are described that way.

03:16:41 2 So these are small locations. They
03:16:44 3 are -- they're not substantial occupations. The
03:16:49 4 word "occupation" in the archeological sense,
03:16:52 5 people were there.

03:16:55 6 Q. Again just to give us a graphic
03:16:56 7 image, when you say "small" what does "small"
03:17:01 8 mean?

03:17:02 9 A. We could be speaking as small as
03:17:05 10 a five-metre square, five- to ten-metre square.
03:17:08 11 Somewhere where one could put up a temporary
03:17:14 12 structure and carry out some activities briefly
03:17:16 13 and then carry on.

03:17:18 14 Q. Light a fire?

03:17:21 15 A. You could.

03:17:21 16 Q. I'm just wondering about what the
03:17:23 17 evidence would be. It might be a fire pit?

03:17:26 18 A. It might be.

03:17:29 19 Q. Okay. And so how many people
03:17:31 20 would likely be in a hunting party that was used
03:17:35 21 in a hunting camp like that?

03:17:37 22 A. Well, I think those are probably
03:17:38 23 interior camps. We find them a lot in the
03:17:41 24 interior, which are the winter break-ups into
03:17:44 25 small nuclear families. So remember the pattern

03:17:47 1 I was speaking about; you have these spring and
03:17:50 2 fall periodic gatherings of people when the band
03:17:56 3 or large portions of the band get together.

03:17:59 4 And then the rest of the year they're
03:18:00 5 breaking into smaller units, probably nuclear
03:18:04 6 family units or small extended units. And they
03:18:06 7 are on the -- they're trying to find forage in
03:18:12 8 the winter time.

03:18:14 9 Q. And the bands you were saying
03:18:17 10 were probably about 250 when all assembled?

03:18:20 11 A. Well, the estimates are 50 to a
03:18:23 12 hundred people in the Middle Woodland period,
03:18:26 13 but you can get -- I think, Lisa Rankin, for
03:18:29 14 example, thought that Nodwell was occupied over
03:18:34 15 centuries by 250 people.

03:18:36 16 Q. I think that may be where I got
03:18:36 17 that number from.

03:18:36 18 A. That's probably where.

03:18:36 19 Q. And these are, of course,
03:18:38 20 autonomous, right?

03:18:41 21 A. They are autonomous certainly in
03:18:42 22 the Middle Woodland period, and they're
03:18:47 23 autonomous into even the period of the
03:18:51 24 early-late Woodland and 14th century.

03:18:57 25 I've written extensively about how

03:19:01 1 these are linked only in the social networks
03:19:05 2 that they're within. Until we can begin to see
03:19:12 3 the signatures in the historic period, we call
03:19:14 4 them these names.

03:19:17 5 The practice on the part of
03:19:22 6 archeologists is to refer to these things as
03:19:26 7 Odawa from about let's say the 13th century on,
03:19:30 8 14th century on, as they do -- for example, I do
03:19:33 9 for Wendat sites.

03:19:34 10 And there are very practical reasons
03:19:36 11 for doing that. So I will refer to a village on
03:19:40 12 the north shore of Lake Ontario, let's say in
03:19:43 13 the Municipality of Vaughn as an ancestral
03:19:47 14 Wendat site. You might say, well, Wendat,
03:19:49 15 shouldn't that be reserved for the historic
03:19:52 16 period when there was a Wendat Confederacy?

03:19:55 17 And the answer is, that would be the
03:19:57 18 proper use of the term. However, if I call
03:20:01 19 these sites northern Iroquoian, there may be
03:20:05 20 Haudenosaunee people who believe that I'm
03:20:07 21 talking about their sites and I'm not. I'm
03:20:09 22 talking about sites that relate directly to the
03:20:12 23 Wendat. And so we use the term ancestral Wendat
03:20:19 24 or ancestral Neutral or even ancestral Seneca,
03:20:22 25 for example.

03:20:23 1 So the site that Bill Fox in 1990
03:20:25 2 referred to at Inverhuron-Lucas as Odawa more
03:20:32 3 properly should have been ancestral Odawa.

03:20:35 4 Q. But the question -- and obviously
03:20:36 5 I didn't frame it correctly. At the point where
03:20:40 6 we're talking, shall we say the Early to Late
03:20:43 7 Woodland, we don't have archeological evidence
03:20:47 8 of the kind of politicogenesis we were talking
03:20:51 9 about earlier?

03:20:59 10 A. We have evidence, I believe, of
03:21:00 11 people evolving in situ without populations
03:21:03 12 moving in and out, long distances. We see
03:21:13 13 people using the same kinds of chert sources,
03:21:16 14 carrying out the same kinds of activities which
03:21:19 15 are the kind of things that leads us to believe
03:21:21 16 there's a continuity in the people that are
03:21:23 17 there.

03:21:23 18 Q. A continuity in the culture?

03:21:26 19 A. Or a continuity in the people
03:21:27 20 that are occupying the area but they're moving
03:21:30 21 through time.

03:21:35 22 Q. So we don't know about
03:21:37 23 politicogenesis?

03:21:39 24 A. Well, they're in the process of
03:21:43 25 population expansion, of population -- so, for

03:21:48 1 example, in the Middle Woodland period we have a
03:21:50 2 site at Donaldson that has more people than you
03:21:55 3 would have at an Early Woodland camp 500 years
03:21:59 4 earlier or certainly archaic camps before that,
03:22:03 5 even though those are all present.

03:22:05 6 So there is political development and
03:22:08 7 then out of that comes, as Rankin argues, she
03:22:11 8 believes Nodwell comes out of Donaldson.

03:22:15 9 Q. Nodwell?

03:22:24 10 A. Comes -- develops out of -- out
03:22:24 11 of Donaldson. And there is more political
03:22:26 12 sophistication about a site like Nodwell than
03:22:30 13 necessarily the band at Donaldson.

03:22:32 14 Having said that, there is also very
03:22:34 15 complex social political interaction with
03:22:38 16 long-distance groups during the Middle Woodland
03:22:38 17 period at Donaldson. It's one of the few sites
03:22:40 18 in Ontario that is showing very clear
03:22:42 19 interaction with the Hopewell sphere in the Ohio
03:22:46 20 Valley.

03:22:47 21 So all of that has to be taken into
03:22:49 22 consideration when we're talking about
03:22:52 23 politicogenesis or social and political
03:22:56 24 complexity evolving through time.

03:22:59 25 Q. I have -- and I think I have time

03:23:06 1 for one last question. And it is a question
03:23:07 2 that I'm asking very seriously, although it's
03:23:10 3 based on a remark that you made perhaps not
03:23:14 4 entirely seriously.

03:23:17 5 Because I think it goes to the way in
03:23:19 6 which the anthropological archeologist works.
03:23:27 7 You talked about making that film about the
03:23:29 8 iron?

03:23:29 9 A. Yes.

03:23:30 10 Q. And the whole business of -- and,
03:23:34 11 again, getting into the Indigenous mind, that
03:23:38 12 was a phase you used earlier.

03:23:41 13 A. I was very serious about that.

03:23:43 14 Q. Yeah. And how do you do that?
03:23:48 15 Or is that part of the job description or --

03:23:52 16 A. No, it's not part of the job
03:23:56 17 description. If I wanted to ask about something
03:23:58 18 like that, I would ask the Indigenous group and
03:24:02 19 I would collaborate with them about a question
03:24:04 20 like that. I would not try to get into that
03:24:07 21 mind.

03:24:11 22 Q. And I could think of things to
03:24:15 23 fill up the remaining four minutes but I think,
03:24:18 24 Your Honour, those are my questions.

03:24:22 25 THE COURT: Thank you, sir.

03:24:27 1 Mr. Ogden, do you want to get
03:24:29 2 organized over the afternoon break?

03:24:34 3 MR. OGDEN: I'm ready to proceed.
03:24:35 4 Your Honour, I have a different suggestion. Not
03:24:37 5 as ready as I would like to be given the speed
03:24:40 6 with which we're proceeding, nevertheless I
03:24:43 7 would like to use the remainder of this
03:24:46 8 afternoon efficiently and I have a proposal.

03:24:51 9 I have a part of one of Dr. Reimer's
03:24:53 10 reports tabled that I would like to give to the
03:24:56 11 witness and ask him to read and comment on and
03:25:03 12 amend as he sees appropriate. And then perhaps
03:25:07 13 have that marked as an exhibit separately. And
03:25:15 14 that might be done this afternoon perhaps?

03:25:20 15 THE COURT: Has that been circulated
03:25:21 16 to counsel?

03:25:23 17 MR. OGDEN: It's actually -- it's part
03:25:23 18 of Dr. Reimer's report. It is an extract,
03:25:27 19 blown-up, one page, from one of her reports
03:25:29 20 which will be an exhibit.

03:25:30 21 THE COURT: Can you hand a copy to
03:25:31 22 Mr. Registrar so I can look at it, please?

03:25:34 23 MR. OGDEN: Yes. As you'll see from
03:25:45 24 the document at the bottom, it's page 44 of
03:25:47 25 volume 1 of her reports.

03:25:53 1 THE COURT: So you're going to ask
03:25:54 2 this gentleman to look this over and indicate if
03:25:56 3 he agrees, disagrees, or whatever with respect
03:25:59 4 to the statements made?

03:26:01 5 MR. OGDEN: Yes. And ask him --

03:26:01 6 THE COURT: And make any -- and
03:26:02 7 indicate any changes he would make?

03:26:05 8 MR. OGDEN: And perhaps to make some
03:26:06 9 changes in hard copy in pen, if he feels
03:26:09 10 comfortable doing so.

03:26:10 11 THE COURT: What is it you're
03:26:17 12 suggesting this gentleman can consult when he
03:26:18 13 does that, in view of the fact that he is in
03:26:20 14 cross-examination? In other words, you're free
03:26:22 15 to ask him to do this as a witness in
03:26:25 16 cross-examination without consulting anything.
03:26:27 17 I'm not suggesting otherwise. That is your
03:26:30 18 prerogative as a cross-examiner.

03:26:32 19 But I think he would need to know very
03:26:35 20 specifically what he should or shouldn't do
03:26:40 21 if -- and subject to that being clarified, I
03:26:43 22 don't have a problem with the suggestion that he
03:26:47 23 be given it to take away and come back at say
03:26:49 24 9:30 tomorrow morning with whatever he's
03:26:52 25 produced and -- or that all counsel can look at

03:27:00 1 it. I take it that's the gist of what you have
03:27:00 2 in mind.

03:27:00 3 That's okay as long as this witness
03:27:02 4 knows exactly what he's being asked to do.

03:27:07 5 MR. OGDEN: Well, his reports
03:27:09 6 obviously.

03:27:10 7 THE COURT: Yes.

03:27:11 8 MR. OGDEN: His reports. There is --
03:27:15 9 I would not object to him reviewing Dr. Reimer's
03:27:21 10 report because he says that this table was based
03:27:24 11 on her descriptions and then references cited in
03:27:30 12 the preceding pages.

03:27:37 13 THE COURT: All right.

03:27:37 14 MR. OGDEN: And then he also says it
03:27:38 15 was based on some pages from Bruce Trigger's
03:27:41 16 book, "The Children of Aataentsic", and we could
03:27:48 17 print those. They're not yet marked as an
03:27:52 18 exhibit, but it may be helpful -- it would be
03:27:57 19 helpful for Dr. Williamson to review those as
03:28:00 20 well.

03:28:04 21 THE COURT: All right. Sir, as I said
03:28:10 22 a moment ago, cross-examining counsel is free to
03:28:14 23 ask you questions, including questions that you
03:28:16 24 as an expert must respond to with whatever
03:28:19 25 knowledge you have in your head, but in this

03:28:22 1 instance counsel is prepared to give you more
03:28:27 2 resources than just what you have in your head.

03:28:30 3 So I'm going to give permission for
03:28:33 4 this unusual step, which will be advantageous in
03:28:37 5 the alternative to going through it in the
03:28:41 6 witness box block by block.

03:28:43 7 And this chart, which you will be
03:28:44 8 given a copy of, is an expansion of an expert
03:28:48 9 report, which I expect you have probably seen
03:28:50 10 before.

03:28:50 11 THE WITNESS: I have.

03:28:50 12 THE COURT: The things you can consult
03:28:52 13 in looking this over and indicating any changes
03:28:54 14 you would make are, in addition to the chart,
03:29:01 15 the report of Dr. Reimer, which if you don't
03:29:03 16 have it I'm sure counsel can supply you with a
03:29:06 17 copy of, and your own three reports.

03:29:08 18 THE WITNESS: Yes.

03:29:09 19 THE COURT: All right? Yes, sir?

03:29:13 20 MR. OGDEN: And the pages from -- the
03:29:15 21 selected pages that Dr. Reimer refers to from
03:29:19 22 Trigger's. Thank you.

03:29:23 23 THE COURT: All right.

03:29:24 24 MR. OGDEN: And I have one more
03:29:26 25 request that I might remind the witness, with

03:29:28 1 respect Your Honour, of his obligation to be
03:29:30 2 fair and objective and nonpartisan in answering.

03:29:34 3 THE COURT: Well, I think he knows
03:29:35 4 that's his obligation. You can cross-examine
03:29:40 5 him if you wish about his discharge of that
03:29:43 6 obligation. That's your right.

03:29:45 7 I will repeat this for the record,
03:29:50 8 Dr. Williamson, because I don't want it to be
03:29:51 9 unclear. So you will be given this one-page
03:29:53 10 document, and you'll have however much time you
03:29:56 11 want to spend between now and I'm going to say
03:29:58 12 9:30 tomorrow morning to look it over, make any
03:30:02 13 changes by hand that you would make in order to
03:30:05 14 accept it for what it says, having the right, if
03:30:08 15 you wish, to consult -- there are three, not two
03:30:12 16 sources: One is your three reports, the second
03:30:14 17 one is the Reimer report and the third is an
03:30:18 18 excerpt from the Trigger book, which counsel
03:30:19 19 will provide you, I take it, before you leave.

03:30:23 20 MR. OGDEN: Yes.

03:30:27 21 THE COURT: Yes. And obviously, like
03:30:33 22 would be the case if you were sitting in the
03:30:36 23 witness box, you will say what you wish to say
03:30:38 24 and you've been asked to annotate the document.
03:30:40 25 Are you comfortable with those instructions,

1 sir? Do you understand them?

2 THE WITNESS: My only concern is if
3 I'm looking at that, I don't recall it, but if I
4 look at it and feel that what I need to annotate
5 exceeds the box or --

6 THE COURT: Yes, well, make yourself
7 free to use asterisks and write your notes, if
8 they are longer, on additional sheets of paper,
9 sir.

10 THE WITNESS: Thank you.

11 THE COURT: And I would ask that you
12 get here by 9:30. Is 9:30 early enough?

13 MR. OGDEN: Yes.

14 THE COURT: Because it's important
15 that not just you, sir, but all counsel have a
16 chance to look it over and perhaps even get a
17 copy of the document.

18 So I'm going to let you all organize
19 that amongst yourselves. If you want to make a
20 different arrangement with the witness at a
21 different time to meet across the street at
22 Staples or whatever, I'm going to leave that all
23 with you.

24
25 And, sir, that will give you more time

03:31:42 1 than you would have in the ordinary course, I
03:31:46 2 suspect, to go through that process.

03:31:47 3 MR. OGDEN: Thank you, Your Honour.

03:31:48 4 THE COURT: And we'll start again at
03:31:50 5 10:00 o'clock.

03:31:52 6 I'm pausing because I really mean it
03:31:54 7 when I say, make sure you have enough time
03:31:57 8 tomorrow morning to look it over before 10:00.
03:31:59 9 So you work it out with the witness as to what
03:32:02 10 time and where you want him to come with his
03:32:05 11 notes, and I'll leave it to you to figure out
03:32:12 12 how long that is, if 30 minutes is not enough.
03:32:14 13 All right?

03:32:14 14 MR. OGDEN: Yes, Your Honour.

03:32:37 15 THE COURT: We'll adjourn until 10:00
03:32:37 16 o'clock tomorrow morning.

03:32:40 17 --- Whereupon the proceedings were
03:32:40 18 adjourned at 3:32 p.m.

03:56:14 19
03:56:14 20
21
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25

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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