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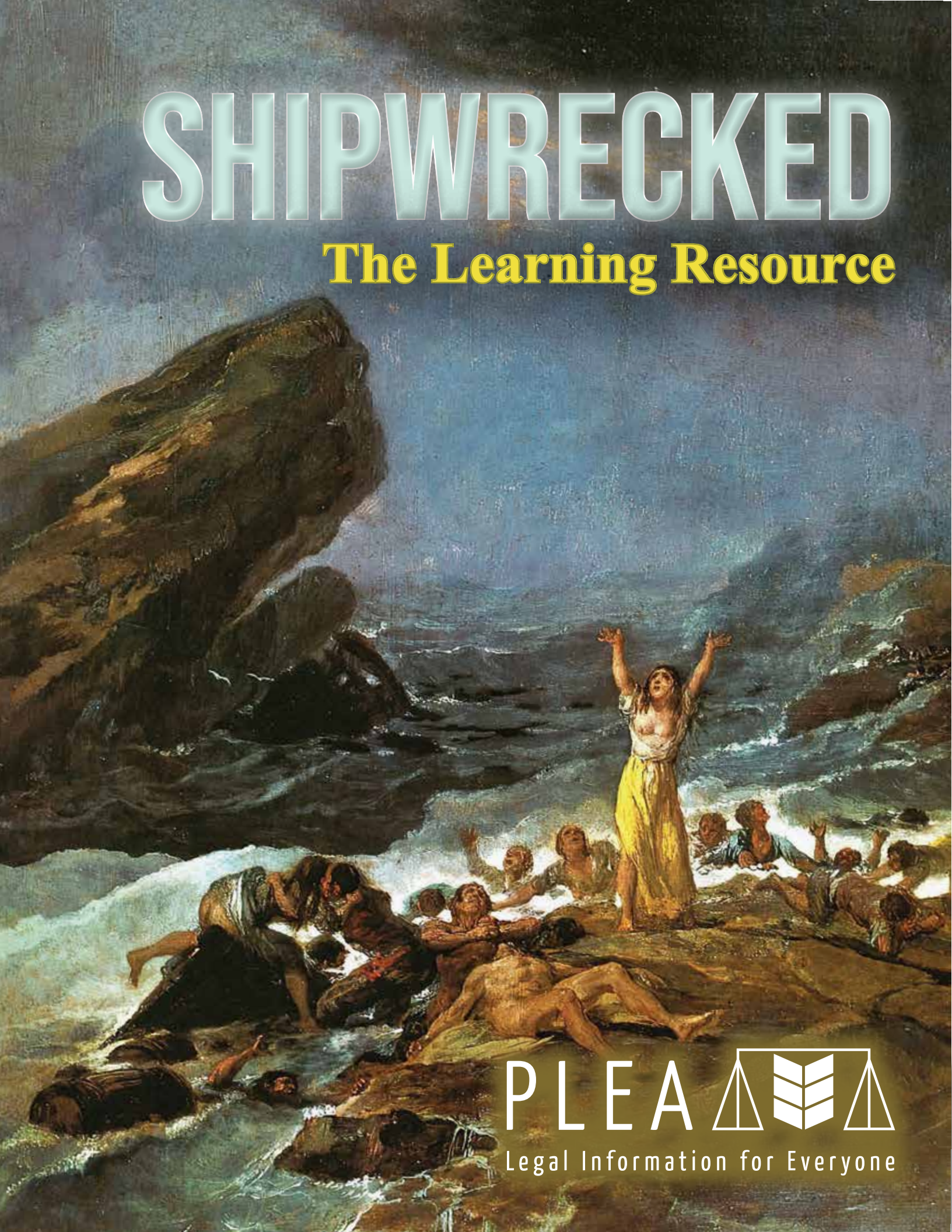
SHIPWRECKED

The Learning Resource



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2022 (Version 1.0)

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PLEA is a non-profit, non-government organisation funded by the Law Foundation of Saskatchewan. PLEA also receives financial support from the Department of Justice Canada and the Saskatchewan Ministry of Justice and Attorney General. PLEA is supported by the Law Society of Saskatchewan, Canadian Bar Association (Saskatchewan Branch), College of Law, Legal Aid Saskatchewan, Saskatoon Public Library and the public libraries and regional colleges throughout the province.

Graphics credit:

THE COVER: *The Shipwreck* by Spanish artist Francisco de Goya, 1794. Artefact/Alamy Stock Photo

ISBN #978-1-988445-35-9 (Book)
ISBN #978-1-988445-34-2 (PDF)

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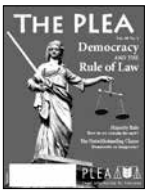
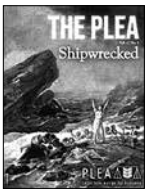
THE PLEA



DEMOCRACY AND THE RULE OF LAW

Democracy and the Rule of Law explains why power is spread across several institutions in Canada's system of government.



SHIPWRECKED

Shipwrecked is an abridged newsletter version of this resource. Ideal for teachers who would like to introduce the ideas in this resource in a quicker time-frame.

THE BATHROOM BARRISTER

The Bathroom Barrister includes a case study on how laws were changed to create London's sewer system, one of the great 19th-century advancements in public sanitation.

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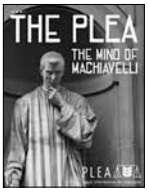

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Direct Democracy introduces the history and use of plebiscites and referendums.

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INTRODUCTION

How would you govern a society? Who would your leaders be? How would you choose them? What kinds of rules would you create? Would you be more concerned about providing freedom or creating order? What would you do about people who refused to follow the rules? How would you protect the most vulnerable?

Such questions strike at the core of the law in our lives. Because these questions are so foundational, they often spark the most passionate debates. History has shown that there are very few "right" or "wrong" answers. However, history also has shown that some answers are better than others.

One way to consider these questions is to examine the approach taken by people stranded by shipwrecks. Recent books such as Nicholas Christakis' *Blueprint* and Rutger Bregman's *Humankind* have devoted chapters to these ideas. As well, there are a host of books that examine particular shipwrecks, including the logbooks and memoirs of shipwreck survivors. Such resources help us understand that the difference between life and death often depended on how the castaways governed themselves.

With this knowledge, PLEA created *Shipwrecked.* Written to set teachers on a path to fulfill most of Foundations of Law 1 (FL1) Indicators in Saskatchewan's Law 30 curriculum, this resource will guide student conceptions about systems of law and the very idea of justice. Six shipwrecks are presented across seven lessons. Each lesson includes instructional procedures, student handouts and activities, appropriate background information, links to learning resources that augment the lesson's law-related concepts, and links to many primary sources of material about the shipwrecks in question.

Teachers looking to fulfill the remaining four FL1 indicators (f, h, k, and l) not directly approached in this resource can check out PLEA's *Law 30 Resource Portal.* This ever-expanding directory provides links to PLEA resources that support Law 30 indicators. Find it at teachers.plea.org

Of course, no single learning resource can provide all the answers. PLEA encourages teachers to use *Shipwrecked* as part of their broader approach to the Foundations of Law Indicators of Law 30. And because all learning resources can be made better, PLEA encourages teachers to share thoughts about *Shipwrecked.* What worked? What could we do better? Drop us a line at plea@plea.org. Your insights will help improve future PLEA learning resources.

LESSON ONE:

THINKING ABOUT LAWS

OBJECTIVE

Students will consider how laws are part of everyday life.

LAW 30 INDICATORS

FL1(e) - Identify examples of ways in which law is a part of everyday life in Canada.

PROCEDURES

1. We collectively create laws and legal systems so that we have a formal understanding of what we expect from ourselves and others in our society. To build this understanding, as a class read "Laws: An Introduction."

   ### KEY QUESTIONS

   - What does it mean to be an individual as part of a larger society?
   - Can a society be free and democratic if we do not consider all people to be equal?
   - Even if we consider all people to be equal, does this mean that we must consider all ideas to be equally valid? How do we distinguish good ideas from bad ideas?

2. Have students consider Discuss questions, either individually or in small groups.
3. To expand on the ideas about the purpose of laws as discussed in the handout, engage the class in an activity to think about the law in our lives. Draw a line on the board. At one end write birth. At the other write death. Ask students to think of various life events or milestones, and write them chronologically along the line. Some examples could include:
   - walk
   - drive
   - graduate
   - work
   - marry
   - move
   - retire
   - death
4. Ask students to now think of unwritten rules or norms that are associated with the life events on the timeline. Place answers underneath the line. Some examples could include:

- birth: congratulate parents
- walk: keep to the right on sidewalks
- drive: don't honk at pedestrians
- graduate: attend ceremony
- work: be respectful to customers
- marry: exchange rings
- move: buy pizza for helpers
- retire: save money
- death: express condolences

5. Have students think of laws related to those life events, and label them underneath the line. Some examples include:
    - birth: register name
    - walk: crosswalk laws
    - drive: licensing
    - graduate: educational standards
    - work: labour laws
    - marry: marriage laws
    - move: contract laws
    - retire: public pensions
    - death: Wills and estates

6. Discuss the norms and laws on the resulting lines. Questions for discussion could include:
    - How do you learn about the norms or unwritten rules? Is it necessary to follow them?
    - How do you learn about the laws? Is it necessary to follow them?
    - Do norms sometimes evolve into laws?
    - Do laws unnecessarily interfere with the right to live one's life as one chooses?
    - When do society's needs override an individual's right to do what they choose?
    - What would life be like without laws?

FURTHER EXPLORATIONS

7. For case studies on the purpose of laws in our society, check out:
    - The Purpose of Laws: Case Studies from Lesson 1.2 in *Our Government, Our Election*
    - The Great Stink of London in *The Bathroom Barrister*

    Find them at teachers.plea.org

8. To build an understanding of how laws are democratic constructs, created by us through the governments we choose, check out *The PLEA: Democracy and the Rule of Law.* Find it at teachers.plea.org

HANDOUT

LAWS: AN INTRODUCTION

We are all individuals. Yet, we are individuals as part of a larger society. The fact that humans live together in societies appears to be something baked into human nature. Everywhere we are found, we have formed into collective groups. This is true for the Inuit, the Māori, the Celts, and the Tjimba, along with everyone else.

It is difficult to offer a simple explanation for exactly why we group together. Like most things in life, simple explanations only offer one small piece of a big puzzle. Many complex issues are at play.

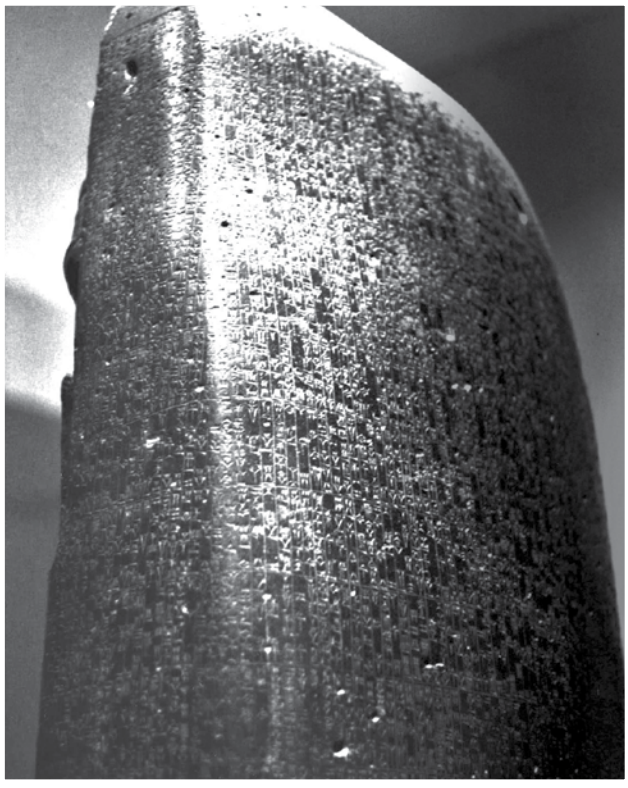
That understood, the fact that grouping together is a universal human trait can be partly understood through the study of genetics—the building blocks of human heredity. Genetically speaking, all humans are 99.9% the same. This is true regardless of our race, national or ethnic origin, colour, religion, sex, gender, sexual orientation, age, or mental or physical ability. Turns out that as a species, all humans are far more alike than they are different. In fact, humans are one of the most genetically-similar animals on Earth.

Because humans are all so very similar, we share many traits. One trait is that we group together, no matter where in the world we live.

When people group together, we form societies. A society consists of people who share traditions, institutions, and interests. When we form societies, we create rules. Some rules are informal. We learn them from our social interactions, from our efforts to fit in with and respect others, and from our observations of things around us. These rules develop organically, over time.

For example, on a bus, it usually is not okay to sing. It disrupts other passengers and if it's loud enough it will distract the driver. There is no written rule that prohibits singing on the bus. We simply have learned a societal expectation: we do not sing on the bus.

Other rules are formal. Society decides that certain guidelines need to be followed to ensure life is functioning and orderly. Formal rules are most often written down and are more strictly enforced. When governments create such rules, they are usually known as laws.



The Babylonian ruler Hammurabi created one of the first written codes of law. Laws were carved into stones and put on display around the kingdom. This way, everyone—or at least everyone who could read—could know the law.

Oral cultures often make use of proverbs and sayings so that their laws can be known. In such traditions, speech—not the written word—is the primary carrier of truth. Western systems of justice share some commonality with oral traditions. For example, in a court trial witnesses usually *speak* their testimony.

For example, if you want to drive a bus, there is a written rule that requires you to have a driver's licence. In fact, driving a bus usually requires a specific type of driver's licence. This is the law.

Like informal rules, formal laws and rules develop over time. Let's think a bit more about the example of driver's licences, and how rules around them evolved.

When the automobile was first introduced, everyone was free to hop in a vehicle and roar around town as they pleased. But as we all know, vehicles can be dangerous. As accidents increased and people began to hurt themselves and others, it became increasingly clear that particular skills were needed to safely operate a vehicle.

One response by governments was to develop licensing laws for drivers. By regulating who could operate a vehicle, society believed that they could keep unskilled drivers off of the road. This would help keep people safe.

In Saskatchewan, by 1932 all drivers were required to hold a licence. At first, licences were very easy to obtain. Most people received one simply by registering their vehicle. Others could buy a licence for fifty cents. Because the government issued licences, this meant that the government could revoke the licences of dangerous drivers.

However, giving out driver's licences without a test did nothing to ensure that drivers had proper skills. Hence, in 1949, the Saskatchewan government required drivers to pass a road test in order to obtain a licence. Written tests were added a year later.

As time passed, more people had cars and were travelling further distances. Interprovincial travel became common, facilitated by such advances as the construction of the Trans-Canada Highway in the 1950s and 1960s. With Canadians becoming increasingly mobile, travelling across provincial boundaries more and more often, provincial governments across Canada began to standardise driver's licensing requirements in the 1970s. This way, no matter where you lived or drove in Canada, the expectations for drivers would be similar.

Towards the turn of the century, evidence was mounting that new drivers were more likely to be in motor vehicle collisions than experienced drivers. So once again, the laws changed. The current system of full driving privileges being granted in stages was put in place in 2006. No longer could a driver simply receive full driving privileges from passing a written and road test.

Driver's licensing rules demonstrate a purpose of laws in society. Laws provide a framework for order, and can ensure a degree of predictability and stability. We have basic expectations about what skills are needed to drive a vehicle. Those expectations are—more or less—the same across the country. As circumstances change and our knowledge grows, we may revisit and update these laws.

These standards help make driving a safer activity.

Laws are a reflection of society's will. And as we change and evolve as a society, so too will our laws change.

DISCUSS

1. What reasons do societies have for creating rules and laws?
2. Is it possible for everyone to agree on every rule and law?
3. If it is not possible for everyone to agree, what does this tell us about the importance of dialogue and compromise?
4. Is compromise always possible? Do we sometimes have to accept that we cannot always get our way?

LESSON TWO:

FOUNDATIONAL TONES

OBJECTIVE

Students will consider the importance of tone and leadership in creating societies and systems of justice.

LAW 30 INDICATORS

FL1(j) - Debate criteria for just laws and systems of justice and apply to scenarios and case studies.

FL1(i) - Compare the purposes and functions of law and the justice system in Canadian society today with traditional Indigenous approaches to law and justice (e.g., restorative vs. punitive justice).

TEACHER'S BACKGROUND INFORMATION:

WESTERN AND INDIGENOUS WORLDVIEWS

A focus of this lesson is the foundational tone of societies, and how that tone can lead to success or failure. To help understand this focus, two rather extreme examples of shipwrecks are used. The *Méduse* ended in tragedy largely because of its leaders' pure selfishness. On the flip side, the *Julia Ann* ended happily thanks in part to the selflessness of its leaders. The foundational tone of these temporary societies set them on very divergent paths.

The ideas surrounding foundational tone will be a factor in understanding the six shipwrecks featured in this resource. It will also help students when they set out to create their own shipwrecked society in the final lesson of this resource.

To ground this thinking in issues closer to home, this lesson begins with a classroom discussion of some of the foundational tones of Western societies and Indigenous societies.

In November 1999, the Aboriginal Justice Implementation Commission of the Government of Manitoba released its *Report of the Aboriginal Justice Inquiry of Manitoba*. The report is now dated, something which is reflected in the terms it uses. That understood, Volume I, Chapter Two of the report does a good job setting out some historical differences between Indigenous and Western worldviews, and how these views set the stage for their justice systems.

As the Commission points out, there are many different Indigenous peoples living in the land that today constitutes Canada: some 630 First Nation communities representing about 50 nations. Because there are so many unique Indigenous nations, it would be incorrect to say that there is a single "Indigenous" worldview and subsequent way of justice, just as it would be incorrect to say that there is a single "Western" worldview and subsequent way of justice. While some nations may be similar to others, essentially every sovereign nation develops its own worldviews and ways of justice.

Nonetheless, as the Commission notes, "At a fundamental cultural level, the difference between Aboriginal and Western traditions is a difference in the perception of one's relationship with the universe and the Creator." They go on to say...

For instance, in the Judeo-Christian tradition:

> *[Mankind was told to] fill the earth and subdue it, rule over the fish in the sea, the birds of heaven, and every living thing that moves upon the earth.*
>
> *In contrast, Ojibway thought believes that man does not hold "dominion" over the earth and all its creatures. In fact, man is the least important entity in creation.*
>
> *Creation came about from the union of the Maker and the Physical World. Out of this union came the natural children, the Plants, nurtured from the Physical World, Earth, their Mother. To follow were Animalkind, the two-legged, the four-legged, the winged, those who swim and those who crawl, all dependent on the Plant World and Mother Earth for succour. Finally, last in the order came Humankind, the most dependent and least necessary of all the orders.*
>
> *The differences between these two worldviews account, in large part, for the differences in the philosophy, purposes and practices of legal and justice systems. Each worldview is the basis for the customs, manners and behaviour that are considered culturally appropriate. One's individual or cultural understanding of humanity's place in creation, and the appropriate behaviour that understanding dictates, pervade and shape all aspects of life.*

PROCEDURE

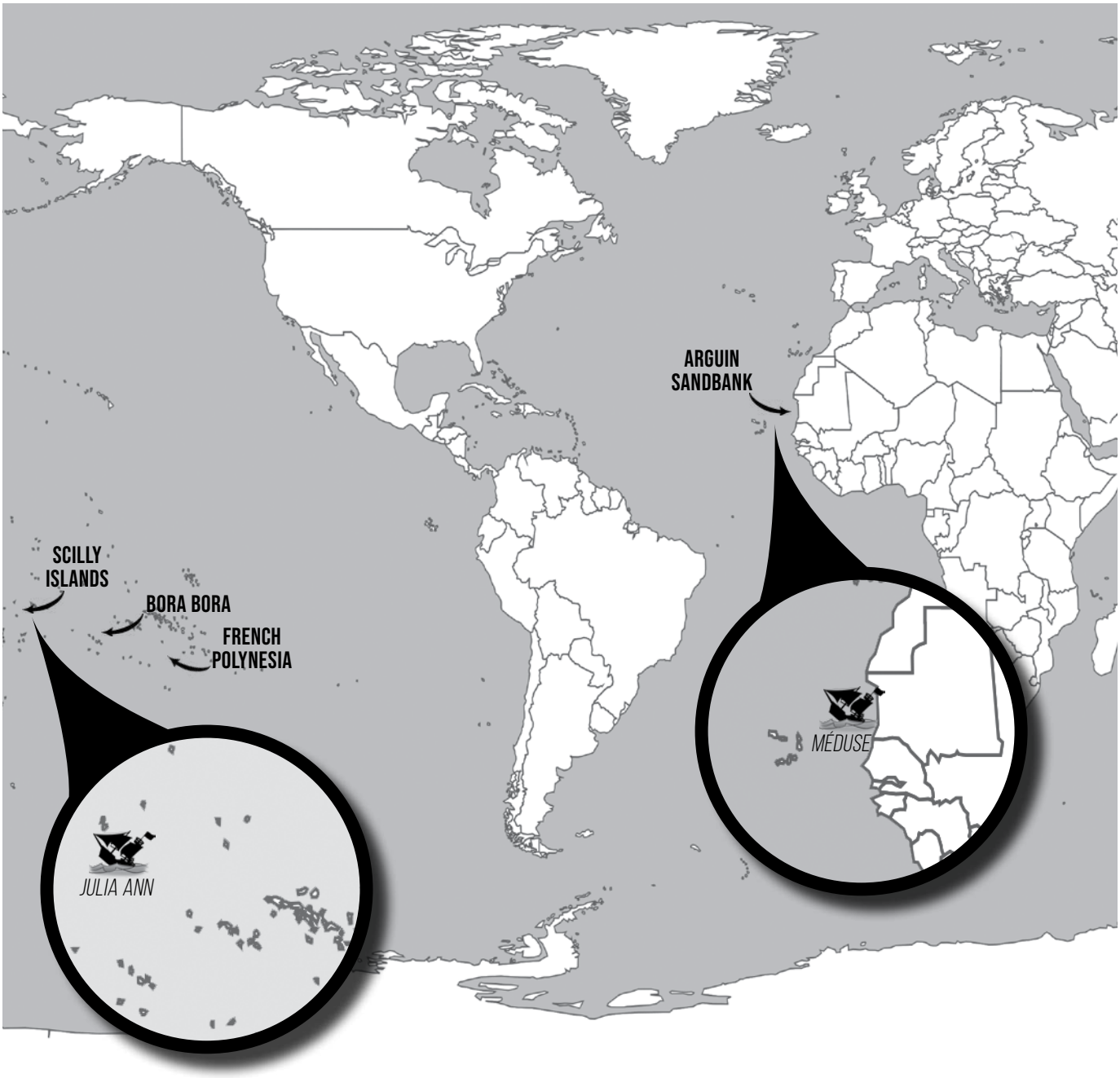
1. Using Teacher's Background Information, lead class discussion about the foundational basics of Indigenous worldviews and Western worldviews. Questions for discussion could include:
    - Are these views fundamentally incompatible?
    - What could each worldview learn from each another?
    - What is a better guiding view for society - dominion or interdependence?
2. To bridge discussion to how tone and worldview can frame the life of castaways, as a class read "Tone and Leadership."

    ### KEY QUESTIONS

    - What kind of basic needs would castaways have?
    - Can people live harmoniously if their basic needs are not being met?
    - What ways does the *Méduse* reflect a worldview based on dominion?
    - What ways does the *Julia Ann* reflect a worldview based on interdependence?
3. Have students consider Discuss questions, either individually or in small groups.

FURTHER EXPLORATION

4. For a more detailed account of the wreck of the *Julia Ann*, check out John Devitry-Smith's paper "The Wreck of the Julia Ann" in the Brigham Young University journal *BYU Studies*. Find it at https://files.lib.byu.edu/mormonmigration/articles/WreckOfTheJuliaAnn.pdf
5. When Captain Pond returned to safety, he wrote about his experience in *Narrative of the Wreck of the Barque Julia Ann*. Find it at https://babel.hathitrust.org/cgi/pt?id=njp.32101058100924
6. For details on the sole woman on the Méduse raft, check out Elizabeth C. Goldsmith's article "Falling Off the Raft of the Medusa" on the Vanderbilt University *Wonders and Marvels* history blog. Find it at www.wondersandmarvels.com/2016/09/falling-off-the-raft-of-the-medusa.html


ARGUIN
SANDBANK
SCILLY
ISLANDS
BORA BORA
FRENCH
POLYNESIA
MÉDUSE
JULIA ANN

HANDOUT

TONE AND LEADERSHIP: THE *JULIA ANN* AND THE *MÉDUSE*

The United Nations estimates that at least three million ships have wrecked over the course of history. In fortunate cases, people survive. They may be left floating on debris or in lifeboats until they are rescued. Others may make it to land. Even if people make it to land, there is no guarantee of survival. Many challenges will remain.

Shipwreck survivors—also called castaways—often need to create a temporary society until they are rescued. Some of these temporary societies have functioned quite well. Others have failed abysmally. The societies that succeeded often began with a tone of cooperation, fairness, and decency. This tone usually emanated from leadership, but was shared by the majority of the castaways.

In a way, we can think of the castaway's leadership as setting their society's foundational tone.

To understand how leadership and tone have worked in practice, let's look at two shipwrecks. These wrecks had very different leaders who set very different tones. The wrecks, ultimately, had very different outcomes.

SUCCESS AND THE *JULIA ANN*

First, let's consider the 1855 wreck of the *Julia Ann*. The *Julia Ann* set sail from Australia on September 7th, en route to the United States. Over half of the ship's passengers were Mormons, who had arranged to take residence in Utah.

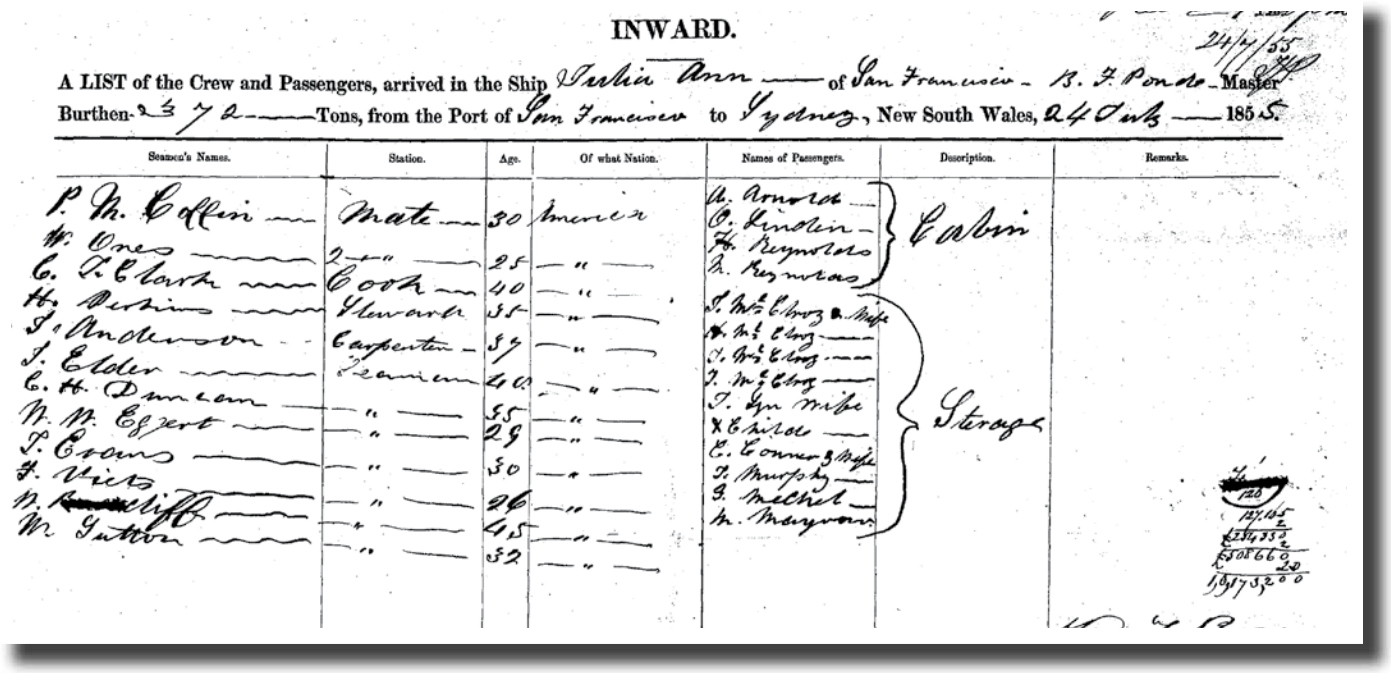
The ship's captain, Benjamin F. Pond, was no stranger to the sea. In fact, he captained a similar journey a few years earlier, transporting a boatload of Mormons to the United States. When more Australian Mormons were looking to emigrate to the United States, they sought out Pond due to the experience of the first voyage. Mormons had remarked about the kindness of Pond and his crew.

About a month into the voyage, on October 4th, a faulty map led the *Julia Ann* to hit a coral reef on the Scilly Islands, near Tahiti. From the moment disaster struck, Captain Pond set a tone that would guide the castaways towards survival and their eventual rescue.

With the boat capsized against the reef, Captain Pond and the crew tied a rope to an emerging rock. The makeshift guideline was used to help evacuate passengers before the ship broke apart.

During the rescue, the second mate took it upon himself to salvage a bag of the captain's gold. Captain Pond ordered the mate to abandon the gold and carry a girl ashore instead. This order strongly signalled the tone that Pond was setting.

Another incident during the initial rescue was more questionable, but noteworthy in how it reinforced the tone Pond was setting. In Pond's eyes, the vulnerable should be the first priority, especially over self-interest. The crew discovered that a passenger abandoned his family inside the boat and made it to the rock on his own. Upon learning of what the man had done, the crew threw him back in the ocean. He managed to swim back, helped along by a wave. At this point he was allowed to stay.



INWARD.

A LIST of the Crew and Passengers, arrived in the Ship Julia Ann of San Francisco B. F. Pond Master
Burthen 372 Tons, from the Port of San Francisco to Sydney, New South Wales, 24 Days 1855.

Seamen's Names.	Station.	Age.	Of what Nation.	Names of Passengers.	Description.	Remarks.
P. M. Collins	Mate	30	American	A. Arnold	Cabin	
W. Jones	2nd "	25	"	C. Lindsley		
C. L. Clark	Cook	40	"	H. Reynolds		
H. Perkins	Steward	35	"	R. Reynolds		
J. Anderson	Carpenter	37	"	J. Mc Clung & Wife	Steerage	
J. Elder	Seamen	40	"	W. Mc Clung		
C. H. Duncan	"	35	"	J. Mc Clung		
N. P. Egbert	"	29	"	J. Mc Clung		
J. Evans	"	30	"	J. Lyn Wife		
J. Vicks	"	26	"	X Christ		
N. Radcliff	"	45	"	C. Connor & Wife		
W. Patton	"	32	"	J. Murphy		
				G. Mechet		
				M. Maryman		

The last incoming passenger and crew manifest of the *Julia Ann*, upon its arrival in Sydney on July 24th, 1855.

Photo Credit: State Records Authority of New South Wales: Shipping Master's Office

In the end, five lives were lost. The remaining 51 passengers and crew escaped relatively unharmed. They first took refuge on the rock, before relocating to nearby islands. A survivor later recounted that once the survivors were all settled, Captain Pond said "a common brotherhood should be maintained."

On the island, the castaways worked cooperatively as a "common brotherhood." They salvaged what they could from the wreckage, found food and water, built shelters, and developed recipes with their limited ingredients to keep their diet interesting. Labour was shared in ways that best-fit each individual's skills and all provisions were shared equally. Meanwhile, children were given play time on the beach.

The castaways also worked to rehabilitate a lifeboat. On December 3rd, favourable winds allowed Pond and some crew to set out on the restored lifeboat to the nearest populated island. Four days later they were in Bora Bora, 350 kilometres from the wreck site. They arranged a rescue mission with the help of the British consulate, and soon the castaways were reunited with civilisation.

The two-month experience left the castaways with admiration—not animosity—toward Captain Pond. Even though they had lost all their worldly possessions on a ship under his direction, they had a lasting gratitude towards Pond for his leadership and guidance when disaster struck.

FAILURE AND THE *MÉDUSE*

Now let's consider the 1816 wreck of the *Méduse*. On June 17th, the Méduse, along with several other ships, set sail from France. French officials were going to Senegal, to take control of the African nation from the British. The *Méduse* was captained by Viscount Hugues Duroy de Chaumareys, and the roughly 400 aboard the ship were mostly French officials and members of the army.

Chaumareys was not given the captain's post due to his merits as a commander of sea vessels—he hadn't captained a boat in 20 years. Rather, he was given the post due to his aristocratic connections. Spending most of his time lounging below deck, he turned over navigation to an equally unskilled man. They ignored advice from experienced crew members, and left the rest of the fleet behind to take an unsafe route. This route, they thought, would shave days off the trip.

Perhaps not surprisingly, the *Méduse* crew didn't save time. Rather, they ran aground on a sandbank 50 kilometres off the coast of Mauritania, in the Bay of Arguin. The area is known as the Bank of Arguin.

The captain and his associates first planned to ferry the ship's passengers to land using the ship's lifeboats. However, the French-appointed governor of Senegal feared that the *Méduse* would break up before a ferrying operation could be completed. He concocted a scheme to use parts from the ship to build a large raft, 140 metres square. The raft would hold about half of the ship's passengers. They would tie it to the lifeboats, and everyone would be delivered safely to land.

The raft, however, was rickety and nobody wanted to board it. The leadership had to force about 150 crew and soldiers, including one woman, onto the rickety raft at gunpoint. About 250 others boarded the lifeboats. Captain Chaumareys was carried onto one in his favourite armchair. Many lifeboat seats were taken up with bags of luxury goods. Seventeen crew members remained on the marooned ship.

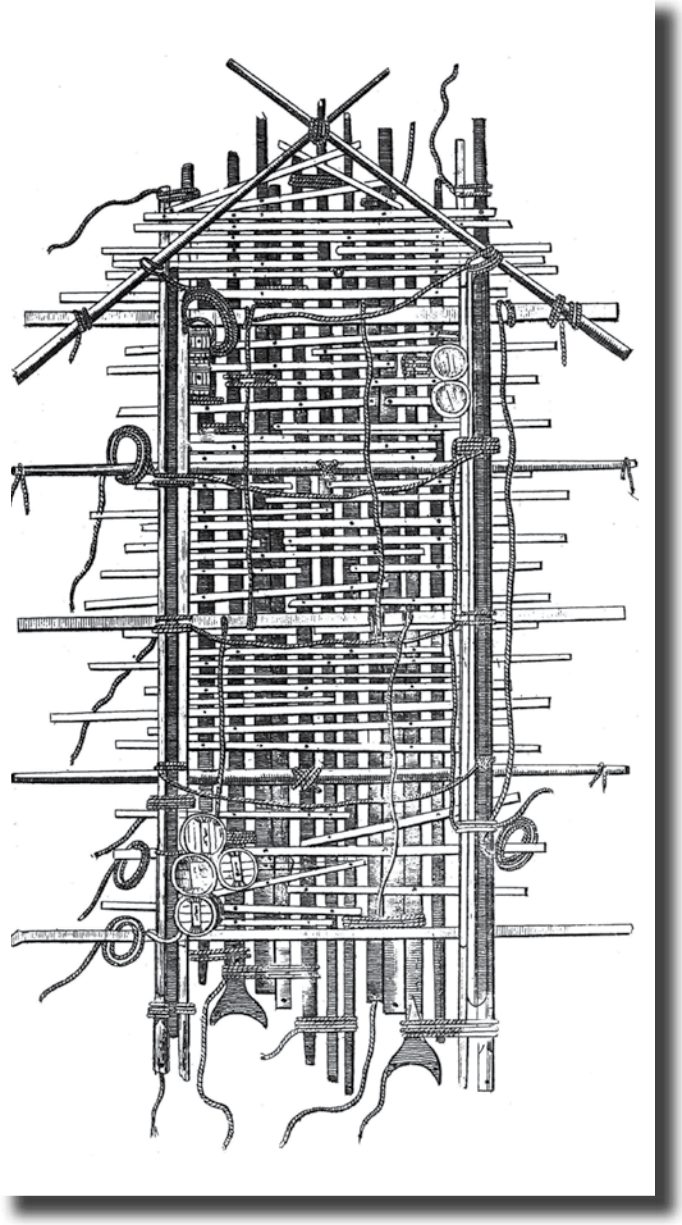
After making it a few kilometres towards shore, the upper brass in the lifeboats decided that pulling the raft was slowing them down and jeopardizing their chances of survival. They ordered the raft be cut loose, despite desperate pleas from the people on the raft.

The lifeboats safely continued to shore. Once on the mainland, the survivors carried on to Senegal over land.

Meanwhile, the raft was a scene of pure chaos. Fights broke out as passengers clamoured for the safety of the raft's centre, the weakest were thrown overboard to preserve the limited rations, and when deep hunger set in some passengers resorted to cannibalism. The people on the raft were exposed to the elements and the worst imaginable human behaviour. After drifting for 13 days, one of the boats from the French fleet—a boat that had followed the proper route to

Over the course of 1818-1819, French painter Théodore Géricault created ***The Raft of the Medusa,*** a horrifying depiction of the raft at sea. To create the painting, he built a model of the raft and interviewed survivors. The painting was seen by some to be a commentary on French aristocracy.

Photo Credit: Public Domain via Wikimedia Commons



Plan of the Raft of Medusa, created by survivor Alexandre Corréard.

Photo Credit: Public Domain via Wikimedia Commons

Senegal—spotted the raft. When the ship made it over to the raft, they found only 15 men left alive.

Adding to the horror, almost two months after the *Méduse* ran aground, Chaumareys sent a salvage operation to the wreck site. He believed that valuables would be found at the sand bank where the boat had been left to break apart. However, the salvagers found something even more astonishing than a few chests of treasure. The *Méduse,* miraculously, did not break apart. Inside it were three men, having lived 54 days on the beached wreck.

When news of this horrible event spread across France, outrage ensued. Chaumareys ended up in court, and received a three-year jail sentence. He got off lucky: the maximum sentence possible for his crimes was a life sentence.

WHY TONE AND LEADERSHIP MATTER

We should always be careful about pointing to a single cause for most any disaster, especially in situations where many interconnected factors are at play. That understood, the very divergent outcomes of the *Méduse* and the *Julia Ann* suggest that similar situations can go in very different directions. The tone and leadership that was established at the outset in each of these disasters played a pivotal role. It is quite possible that most everyone could have survived the wreck of the *Méduse* and the wreck of the *Julia Ann*. Yet it was only the *Julia Ann* that ended happily.

Why would this be? One reason is that Captain Pond exhibited caring and cooperation. Meanwhile, Captain Chaumareys exhibited arrogance and selfishness. In fact, Pond has become something of a legend in Mormon community lore. Meanwhile, Chaumerays has become associated with incompetence and cruelty, having inspired one of France's most famous paintings.

The idea that leadership and tone are important is not just relevant to the outcomes of shipwrecks. This idea is important to the outcomes of societies. The Captain Chaumareys approach—blind self-interest that leaves countless people adrift and fighting to survive—stands in sharp contrast to the Captain Pond approach—kindness and "brotherhood" that values people over money, and pays attention to the vulnerable.

Which kind of society would you rather be a part of?

DISCUSS

1. Consider Captain Pond's leadership. What does it tell us about prioritising the needs of the vulnerable? What does it tell us about the "value" of money?
2. Consider the failings of Captain Chaumareys. What does it tell us about the risks of blind self-interest?
3. What other lessons do the *Julia Ann* and the *Méduse* hold for how we should approach society as a whole?

Shipwrecks often bring to mind disasters at sea. But even Saskatchewan has seen shipwrecks. In 1908, the ***City of Medicine Hat*** struck Saskatoon's Traffic Bridge and capsized. One archaeologist has pointed to evidence that the steamship may have been purposely sunk: the boat was a money-losing operation, and before the captain attempted to take the boat under the bridge all the passengers disembarked and most of the valuables were removed.

Photo Credit: ID# LH1834 courtesy of Saskatoon Public Library

LESSON THREE:

THE DEAD END OF DICTATORSHIP

OBJECTIVE

Students will understand how constitutions can be a tool to help societies choose leaders and spread power around.

LAW 30 INDICATORS

FL1(c) - Predict the consequences of a society without laws.

FL1(d) - Explain why the rule of law is a fundamental principle in democratic societies and relate it to examples in Canadian society.

FL1(g) - Investigate elements that influence Canada's legal system such as:

- the *Constitution Act* (Constitution) (1982) including *The Charter of Rights and Freedoms*

TEACHER'S BACKGROUND INFORMATION:

THE *BRITISH NORTH AMERICA ACT* AND FOUNDING THE CANADIAN STATE

A focus of this lesson is the lack of democratic rights held by the survivors of the *Batavia* wreck. The *Batavia* wreck turned into bloody mutiny, in part, because of a lack of formal process. The senior leadership sailed off in search of water, leaving the castaways at the behest of a maniac who manipulated the few rules in place for his own ends.

To look at the broader societal lessons that come from this shipwreck with a Canadian context in mind, we can think about democratic rights in Canada and our decentralised government. These features of Canadian democracy are products of the evolutionary nature of Canada's formation. The United Kingdom did not "sail off" and leave Canada as a fully-independent nation, nor was there a revolution that demanded the creation of an entirely new set of rules for governing the fledgling nation. Instead, when the Canadian state was founded, it was built upon a series of existing rules and norms, structured in a way so that new rules and norms could be created locally, in an evolutionary manner.

Canada's constitution was formed when the government of the United Kingdom proclaimed the *British North America Act* (BNA). The BNA was later renamed *The Constitution Act*. The BNA united present-day Ontario, Quebec, Nova Scotia, and New Brunswick into one legislative union, setting the path for Canada to be a self-governing nation. To those ends, the BNA created many foundational rules for how Canada would be governed, with

an understanding that our form of government—the Westminster Parliamentary model—was Canada's inheritance from the United Kingdom.

Today, *The Constitution Act*, in conjunction with *The Charter of Rights and Freedoms*, are the centerpieces of Canada's constitution. It is better to characterise these documents "centerpieces" of Canada's constitution because Canada has other statutes of a constitutional nature, such as the *Supreme Court Act* alongside various Imperial statutes that still have effect.

One thing the BNA spelled out was the legislatures of our federal government, and the legislatures of the four provincial governments.

Canada as a whole would have "One Parliament... consisting of the Queen, an Upper House styled the Senate, and the House of Commons." Parliament would follow the United Kingdom's Westminster style of governance, a convention of legislating that dates back to and has been developing since the 13th century. Broadly, this set-up meant that the House of Commons would introduce legislation, the Senate would review legislation, and the Queen or her representative in Canada would sign-off on legislation. A law cannot be put into effect without fulfilling these three steps.

As a point of detail, legislation can also be introduced by the Senate though in practice it rarely is. The Queen or King does not introduce or create legislation, and their right to refuse to sign legislation largely is an obsolete constitutional formality. The last time a British monarch refused to sign a law in the United Kingdom was in 1707. Canada's Governor General has never refused to sign off on parliamentary legislation.

This set-up of the Crown, the Senate, and the House of Commons as independent elements of authority meant that power in Canada's federal government would not reside in one single person or institution.

Further spreading out power, the BNA also set out what kinds of laws the federal government could make, and what kinds of laws provincial governments could make. In other words, it set out the jurisdiction of the federal and provincial governments. Add to that, the BNA prescribed courts and a process to choose judges. Courts can resolve disputes about laws, and be a tool to keep parliament in check.

Of course, a parliament or legislature is just a shell. As discussed in the previous lesson, the types of people we place in institutions matter. It also matters how these people are chosen.

To those ends, the BNA prescribed that the Senate would be appointed by the Queen or her representative. Senators could keep their position for life. Senators must meet various requirements: be at least 30 years of age, hold property amounting to $4,000—about $75,000 today—and be residents in the province where they are appointed. In practice, senators are selected by the Prime Minister, then appointed by the Governor-General upon the Prime Minster's advice.

Members of the House of Commons were to be elected from districts across the country. Because there was no law governing elections for the newly unified country as a whole, the BNA said that there would be a "continuance of existing election laws until Parliament of Canada otherwise provides." This meant that Canada's first House of Commons—people who formally propose our laws—would be chosen by Canadians, using each province's existing elections laws.

At the time, each province had unique election laws that had developed in ebbs and flows over hundreds of years. Generally, at the time of Confederation, adult males in every province had the right to vote. However, not all adult males had this right.

For example, to vote you may need to earn a minimum income. Or you may need to own property. If you worked for the government, chances are you could not vote. And if you were not a British subject, you could not vote. The exact rules depended upon which province you lived in.

This collection of rules and exceptions left most working people, most women, and almost all Indigenous people without the right to vote for the House of Commons of the newly-created country.

In short, the provinces' election laws at the time of Canada's founding were inconsistent, unfair, and openly discriminatory. This should give us all reason for deep reflection. Universal adult voting rights were not part of Canada's foundational documents. Voting rights advanced only through determined advocacy of fair-minded citizens and lawmakers.

On the other hand, at least there was a somewhat democratic process in place, with the idea that it would be built upon. The House of Commons was to be chosen by votes. Importantly, members elected to the House

INDIGENOUS SELF-GOVERNMENT

The centrality of the people who first lived on the land we now call Canada was never taken into account with the creation of the *British North America Act.* Rather, Indigenous people were marginalised. The consequences of this historical shame are still playing out today. The BNA merely spelled out that the federal government had jurisdictional responsibility for "Indians, and lands reserved for the Indians." Notwithstanding the fact that Canada has a legal obligation to fulfill promises made in the Treaties, as they were agreements between sovereign nations, this section of the BNA led the federal government to pursue a top-down model of governance of Indigenous people. This top-down governance is largely characterised by the creation of the *Indian Act* in 1876.

Under the *Indian Act*, First Nations can create many of their own laws—or even negotiate self-governing agreements with the Government of Canada—but these laws are often arbitrarily overseen by the federal government. But this is changing.

Today, much positive news is now taking shape. Recent developments have seen various First Nations expand their jurisdictional authority. Recognition of the Indigenous right to self-government has further spread out power in Canada. For example, in 2016 the Akwesasne band council—whose territory is in modern-day Ontario and Quebec—introduced its own legal system, covering such areas as tobacco regulations, public sanitation, elections and wildlife conservation. Their laws reflect traditional Indigenous worldviews, while incorporating ideas of western justice systems. Meanwhile, the Whitecap Dakota First Nation has recently made a self-governing agreement with the Government of Canada, creating particular areas of jurisdiction to be outlined and administered by the nation.

Also closer to home, in 2020 the Cowessess First Nation created its own child welfare legislation. *An Act respecting First Nations, Inuit and Métis children* recognised the right for Indigenous people to control their own child welfare legislation, created in response to calls to action on child welfare made in the *Final Report of the Truth and Reconciliation Commission*. It is understood that Indigenous peoples should control their own child welfare systems, and is another important step towards further Indigenous sovereignty and self-government.

of Commons could not stay in power forever. The BNA put into law that no House of Commons could sit for longer than five years.

Once its members were elected, they could get to work creating laws to govern the new nation. This work included creating new, more fair election laws. The rights we have today, especially the constitutional rights under the *Charter of Rights and Freedoms*, are the children of this pathway.

Canada's foundational documents did not create a perfect democracy. Nor did these documents grant a universal right to vote. Rather, they reflected the United Kingdom's largely evolutionary process of democracy and government. Many of the basic rules and forms of governance were a continuation of a system of rule that had been in the works for centuries. This system allowed for the continued evolution of our governance, all while keeping checks and balances to ensure that the country would not fall into the hands of a dictator.

PROCEDURE

1. Using Teacher's Background Information, lead class discussion on how power in Canada is not centralised but rather spread out through different institutions and jurisdictions. Why would keeping absolute power out of central hands be a good thing? Are there drawbacks to decentralised systems of rule?
2. As a class, read "The Dead End of Dictatorship: The *Batavia*".

   ### KEY QUESTIONS

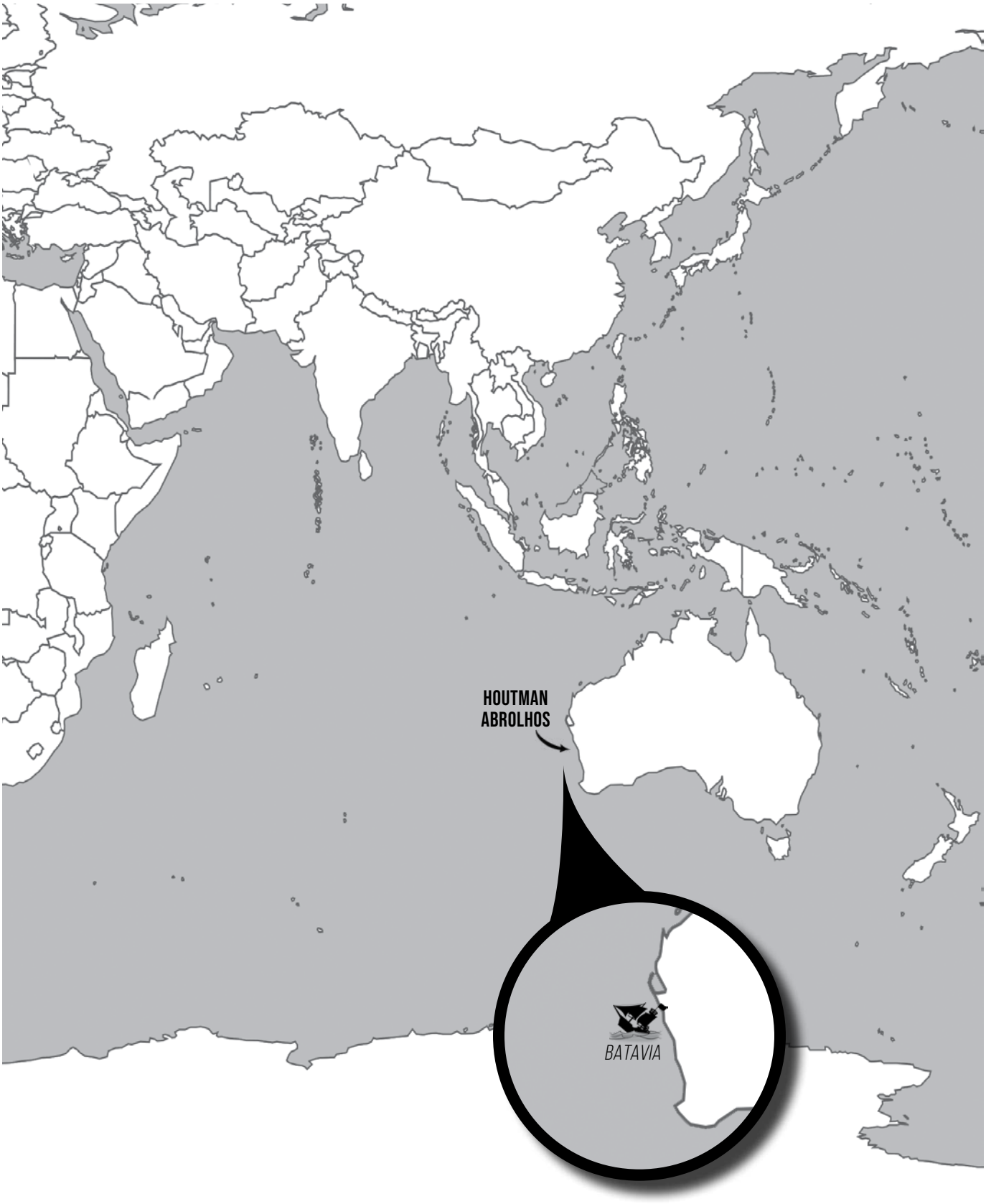
   - There was a great deal of wealth disparity between people on board the *Batavia*. Why would such extreme inequality make it easier to recruit people to overthrow the ship's leadership?
   - Does Cornelisz' libertine doctrine tell us anything about choosing decent humans for leadership roles?

3. Have students consider Discuss questions, either individually or in small groups.
4. As a breakaway activity to further build on the ideas in this lesson, teachers may form students into groups to analyse the following issues discussed in *The PLEA* newsletter, and report their central ideas to the class.
   - *The Mind of Machiavelli* provides deeper understandings of historical roots of spreading power throughout several institutions.
   - *Democracy and the Rule of Law* provides deeper understandings of how power is spread around in Canada's system of government.

   Find these newsletters at teachers.plea.org. Free class sets in print are available. Head to teachers.plea.org and click on Order.

FURTHER EXPLORATION

5. For deeper understandings of the evolution of the right to vote in Canada, check out Elections Canada's *A History of the Vote in Canada*. Find it at www.elections.ca/content.aspx?section=res&dir=his/chap1&document=index&lang=e
6. For an in-depth account of the wreck of the *Batavia*, check out *Batavia*'s *Graveyard* by Mike Dash. Find it at your public library.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HANDOUT

THE DEAD END OF DICTATORSHIP: THE *BATAVIA*

Societies need foundational rules. This is true for survivors of shipwrecks and true for entire nations. Many foundational rules of a country are spelled out in its constitution. In some but not all countries, the constitution is a written document or collection of documents that form its highest laws.

Most constitutions spell out a process for choosing governments and leaders. They also spell out the basic rules for governing, such as how long a government can be in place and how to choose new governments. These rules cannot be changed easily.

As well, a liberal democracy—the type of democracy we have in Canada—will have a constitution that spreads power around. No single person or institution will have all the power. For example, Canada's federal laws have to pass votes in both the Senate and the House of Commons. The laws must then be signed by the Governor General to take effect. And the courts have the power to interpret and review laws. Each institution acts as a check-and-balance on the other institutions. Ideally, such processes mean that our system of rule embraces thoughtfulness and compromise.

To understand why it is better to have formal processes to select and replace leaders, why it is better to spread power around, and why it is never a good idea to let too much power reside in one person, let's consider the 1629 wreck of the *Batavia*. In this wreck, one man emerged with all the power. He used it to create a rein of terror.

POWER STRUGGLE AND CHAOS: THE *BATAVIA*

The *Batavia* was owned by the Dutch East India Company (VOC). Filled with gold, silver, and building supplies, it set sail from Holland on October 29th, 1628. The ship was part of a VOC fleet en route to the Dutch colony of Batavia, now called Jakarta. On board were 341 people: about 200 VOC sailors and officers, 100 or so soldiers, and a handful of private individuals moving to the colony.

The VOC official in command of the ship, the Upper Merchant, was Francisco Pelsaert. Pelsaert had been working his way up the VOC hierarchy for several years. The second in command, the Lower Merchant, was Jeronimus Cornelisz. He was well-educated but new to the sea. Cornelisz applied for work with VOC when his apothecary shop failed. VOC hired him because an apothecary's knowledge of spices would be useful to the company. The ship was skippered by Ariaen Jacobsz, a seasoned sailor.

During a stop in Table Bay, South Africa, Jacobsz made a drunken fool of himself. This enraged Pelseart. It was not the first time that the two had locked horns, and Pelsaert finally had enough of the skipper. He threatened to write him up when they reached the colony. Such a disciplinary action probably meant the end of Jacobsz's sailing career.

Meanwhile, Cornelisz—penniless and with no loyalty to the company—started to think about stealing the ship's wealth. Cornelisz had no problem getting Jacobsz on board with the idea of a mutiny. After all, if Pelseart remained in charge, the skipper's sailing career would likely be over once they arrived in Batavia.

The two devised a plan to kill Pelseart, throw unwilling passengers and crew overboard, take ownership of the gold and silver on board the ship, and sail off to a new, wealthy life. Because most of the crew were poor, it was not difficult for Cornelisz and Jacobsz to recruit key men into their mutiny plan.

To put the plan into action, the skipper steered the ship slightly off course. This way it would no longer be with the VOC fleet. Such a move would not arouse suspicion, because it was common for fleets to separate for days or weeks on end.

Unfortunately, Jacobsz steered the ship a little too off-course. On the night of June 4th, 1629, while the mutineers waited for the right moment to carry out their plans, the *Batavia* hit a coral reef on the Houtman Abrolhos, a chain of small islands about 80 kilometres west of the Australian coast.

The first hours were pandemonium. There was no strong leadership from Pelsaert and there was no sense of mutual responsibility amongst the passengers and crew. Survivors and supplies were haphazardly ferried to a nearby island. Pelsaert insisted a treasure chest be brought up to the ship's deck to be saved as well. The presence of treasure contributed to the chaos, as men tried to break the chest open to rob it. Meanwhile, the nearby island where people were being landed turned disorderly. The castaways were drinking and eating the rations as fast as they could.

Ultimately, 40 people died in these chaotic first hours.

With daybreak, Jacobsz realized he had steered his ship into the Houtman Abrolhos. When a search of the island chain for fresh water came up dry, Pelseart and Jacobsz assembled a crew of about 40 senior crew members and set off for Australia to continue the search. After several unsuccessful days working their way up the rocky Australian coast, they determined that their best course of action would be to continue to the colony. Returning to islands with no fresh water and dwindling supplies meant certain death for everyone. It made more sense to get to Batavia and send out a VOC rescue ship.

Back on the Houtman Abrolhos, the castaways had a flimsy leadership structure. The VOC had rules in place for setting up governing councils in the event of a shipwreck, but the senior officers were on the longboat. That all changed the morning that Under Merchant Cornelisz washed ashore.

That Cornelisz washed ashore was nothing short of a miracle. When the *Batavia* wrecked, almost everyone was ferried to nearby islands. However, a handful of men stayed on the damaged ship. There they drank, ate, and lived a life of general anarchy. When the ship finally broke apart and fell into the sea, most of the stragglers drowned. Jeronimus Cornelisz, however, clung to a piece of wreckage for days, eventually making land.

Cornelisz was elected as head of a council, in accordance with VOC rules. As the second-in-charge of the *Batavia*, he was the natural choice to lead the leaderless castaways. Cornelisz created a headquarters in a Grand Tent. The tent was a storehouse for the wreck's salvaged riches and arms. It also functioned as his home, containing the only bed on the island.

As ruler, Cornelisz preached a libertine doctrine. He claimed that god was good and would not create devils. Therefore, the men should not worry about moral consequences of doing evil because all actions—good or bad—were god's will.

This lacking morality bled into Cornelisz' updated mutiny plans. Assuming that a rescue ship would be coming, he hatched a scheme to take over the ship, load it with the salvaged wealth from the *Batavia*, then go pirating across the seas. He and the mutineers would either retire rich or perhaps even create a new kingdom.

For the new mutiny plan to work, Cornelisz estimated that he needed to cull the island's population to about 45 loyalists. Reducing the island's population would also ensure that the rations lasted longer.

When a man was caught stealing wine, Cornelisz seized on the moment to start the cull. He ruled that the man, along with a friend to whom he had given some of the wine, should be executed. The council

pushed back, saying the punishment was too harsh. VOC rules stated that death sentences could only be handed out by a vote of the council, and the council refused to vote in favour of executing the thief's friend. They believed he was an unwitting accomplice.

In response, Cornelisz used his status as most senior person to dismiss the entire council, also in accordance with VOC rules. He then surrounded himself with a new leadership council, exclusively of loyal mutineers.

To cement his rule, Cornelisz made the mutineers, including the members of the new council, sign a secret oath. This "Oath of Trust" was a secret agreement to be followed by the mutineers. The signatories swore their loyalty and allegiance to Cornelisz, giving him power to rule as he saw fit.

With the signing of the secret oath, Cornelisz now had full control. He next set about separating the survivors into groups. Each group was sent to live on a nearby island, with a promise that they would be brought supplies as needed. He justified this move by saying that being spread out would increase their chances of survival. However, it was all part of his plan to cull the island's population. He believed the surrounding islands had no natural resources, so by not sending supplies, the exiles would starve to death.

Meanwhile, the mutineers began killing the main island's remaining castaways. Murder became a rite of passage to prove loyalty to Cornelisz. For many castaways, the choice was to prove loyalty to the mutineers by committing a murder, or be killed themselves. At the same time, most of the women on the island became sex slaves.

People on the nearby islands soon grew suspicious when supplies never came. However, their situation was not as desperate as Cornelisz had hoped. The initial checks of the surrounding islands were done poorly. Many surrounding islands had food and water sources, and even the occasional item from the wreck would wash up on shore.

When Cornelisz realized that the exiles weren't dying off, he sent teams to the outlying islands to murder them. His missions were not entirely successful, leaving handfuls of survivors. The survivors, along with castaways who abandoned the main island, all found their way to a larger island. Some got there by building makeshift rafts. Others simply paddled across the waters while hanging onto pieces of wood. And one surgeon made it to the larger island by stealing a longboat from Cornelisz' men.

On this larger island, a rival group of almost 50 men formed under the leadership of a soldier named Wiebbe Hayes. The rival group found plenty of

Remnants of a stone fort created by Wiebbe Hayes and his island defenders.

Photo Credit: Public Domain via Wikimedia Commons

fresh water in a natural well along with animals to eat. Because they expected Cornelisz' mutineers to invade, they created a defence plan. They built fortifications, and armed themselves with sticks, stones, and washed up items from the *Batavia*.

As expected, Cornelisz ordered invasions of the larger island. His goal was to either kill the men or bring them onside. The first two invasions proved unsuccessful: many men on the larger island were soldiers, well-trained and well-prepared for the fights. In a third mission to the island, the rivals managed to kidnap Cornelisz.

After several days of considering what to do, on September 17th the mutineers launched a fourth attack to rescue Cornelisz.

In an almost storybook-like coincidence, during the heat of the fourth battle, a VOC rescue ship appeared on the horizon. Upper Merchant Pelsaert had returned. The warring sides both dropped everything and raced in boats to reach the rescuers. Cornelisz' mutineers hoped to overthrow the rescue ship, Hayes' rivals hoped to warn the rescuers of danger.

Hayes' men reached the rescuers first.

When Pelseart learned of the horrors that had unfolded, he locked up the mutineers. Then, in accordance with Dutch law and VOC policy, he held trials on the islands for the accused. With plenty of witnesses and a mutiny agreement discovered in Cornelisz' tent—signed by 37 men—it was not difficult to ascertain guilt.

Several mutineers were executed on the island, including Cornelisz. Others were taken back to Batavia for their fates to be decided by the colony governor. In an interesting historical footnote, two convicted mutineers were banished to the Australian

Replica of the Batavia, the flagship of the VOC fleet.

Photo Credit: Public Domain via Wikimedia Commons

mainland. They became Australia's first two European settlers, never heard from again.

In the end, about 120 people were killed by the mutineers. Add in the 40 deaths from the ship running aground, the 20 or so people who died of illness either on the islands or during the voyage, and the death sentences handed out in the trials, there were only about 120 survivors of the *Batavia*. Today, it is often referred to as history's bloodiest mutiny.

WHY PROCESS AND POWER-SHARING MATTERS

When Pelseart and the skipper left on the longboat—carrying with them almost all the senior VOC officers—the castaways were left without a strong team of leaders who held some power and sway.

The power vacuum created by the VOC leadership created an opportunity for Cornelisz. As the only senior VOC official left, he manipulated the few rules to his advantage, stacked the council with loyal mutineers, and took absolute control.

Cornelisz, in other words, was a dictator. Ruthless and unchecked, he controlled the castaway's resources and the castaway's destiny. There was no means to vote Cornelisz out of power when he needed to be stopped. The only possible way to stop him was violence and war.

The wreck of the *Batavia* can help us understand the importance of having a process to choose and replace leaders. It can also help us understand the risks of letting too much power reside in the hands of too few people.

DISCUSS

1. The mutineers' Oath of Trust placed all their loyalty in Cornelisz. The overriding concern of this small clique was their own self-interest.
    a) Can a society succeed if people with power are only loyal to themselves?
    a) What can happen if a society ignores the well-being of its members as a whole?
2. In a fit of anger, Cornelisz tore up the original Oath of Trust so he could purge people he believed to be disloyal.
    a) What does this tell us about the dangers of putting absolute power in the hands of one person?
    b) What would happen if we simply let our leaders tear up our laws and rules—such as our constitution—at their pleasure?
3. Could the tragedy of the *Batavia* been averted if Pelseart had set up a strong leadership structure for the castaways before setting off in search of water? Why do we need to ensure decent people are in leadership positions?
4. In the end, the VOC held Upper Merchant Pelseart and skipper Jacobsz partly responsible for the disaster that unfolded after the *Batavia* wrecked. Do you agree with the VOC? Why or why not?

LESSON FOUR:

SHARING RESOURCES

OBJECTIVE

Students will understand how sharing can help build successful societies.

LAW 30 INDICATORS

FL1(b) - Debate whether the primary function of law is to create order or provide freedoms for members of its society.

FL1(j) - Debate criteria for just laws and systems of justice and apply to scenarios and case studies.

TEACHER'S BACKGROUND INFORMATION:

PUBLIC GOODS AND SERVICES

A focus of this lesson is sharing resources. The *Doddington* castaways survived, in part, because they shared basic resources. They also shared work duties according to their abilities. However, their solidarity ultimately broke down over wealth inequality. Fights broke out over sharing some treasure that was salvaged from the wreck.

To look at the broader societal lessons that come from this shipwreck, think about how income is redistributed in our society. Canada has a progressive taxation system: the wealthier a person is, the more tax they pay. The reasons for progressive taxation are not some Robin Hood ideal that the rich should be robbed to give wealth to the poor. Rather, we redistribute wealth in Canada to make society as a whole more healthy and more equal. This making of a more healthy and more equal society is largely accomplished through the provision of public goods and services.

Public goods and services are shared resources. The roads we drive on, the schools we attend, and the hospitals we visit are public goods and services. Other examples of how we share resources through public goods and services include pharmacare, public housing, and parks and playgrounds.

For the most part, public goods and services are created and regulated by law.

To understand why we share resources through public goods and services, let's consider roads. Almost every road in Saskatchewan is a public good, planned, built, and maintained by government.

If roads were not a public good, how would they be constructed? Perhaps you could build the road directly in front of your home, then hope your neighbours would continue the road. But even if

that could be done, who would plan where the road should ultimately go? How would the road be maintained? Who would build connecting roads across areas where nobody lived? And what guarantees would you have that you could freely use somebody else's privately-owned road?

By having the government build and maintain roads as a public good, there are many positive results:

- Costs are reduced
  - the theory of "economies of scale" suggests it is cheaper to build roads by central planning than to build them piece-by-piece
- Citizens have greater mobility
  - roads facilitate travel by foot, bike, or vehicle
- Businesses generate wealth
  - access to and from business is created for customers, employees, and suppliers
- Society has more freedom
  - freeing individuals from the task of creating and maintaining their own road networks gives people more time to pursue personal interests
- All citizens have an equal say
  - if suggestions about or problems with the road arise, each person can have their say as an equal owner of the road and a moral equivalent as a citizen
- Society is more fair and equal
  - because everyone has access to the road, the middle class and the poor have access to the same services as the rich, helping to equalise society

The above example of roads, although simplified, reflects the logic behind most public goods and services.

Economist and Nobel Prize winner Amartya Sen has pointed out how such sharing benefits everyone, rich and poor. In *Development as Freedom*, Sen pointed out that most countries with higher public spending on core services have happier, healthier citizens. Citizens are free to pursue their own individual choices, because they are not spending time trying to work out the basic necessities of life.

Of course, there are limits to what should be public goods and services. While Canadians have collectively determined that society is better-off if things like healthcare, parks, schools, old-age pensions, and other such programs are public goods and services, we also realise that not everything needs to be provided by the government. Society will not be better off, for example, if the government takes control of the moustache wax industry. Goods and services that are not necessary for societal well-being are probably best-left to the private sector.

That understood, when a society invests in key public goods and services, the well-being of each individual is built up. This, in turn, builds up the well-being of society as a whole. This is a reason why we share resources in Canadian society. It makes us more cohesive, more healthy, and more equal.

PROCEDURE

1. Using Teacher's Background Information, lead class discussion on why societies share certain resources. Have students consider the ways that society benefits as a whole and individual freedom is enhanced when certain necessities of life are equally shared.

2. As a class, read "Sharing Resources: The *Doddington*".

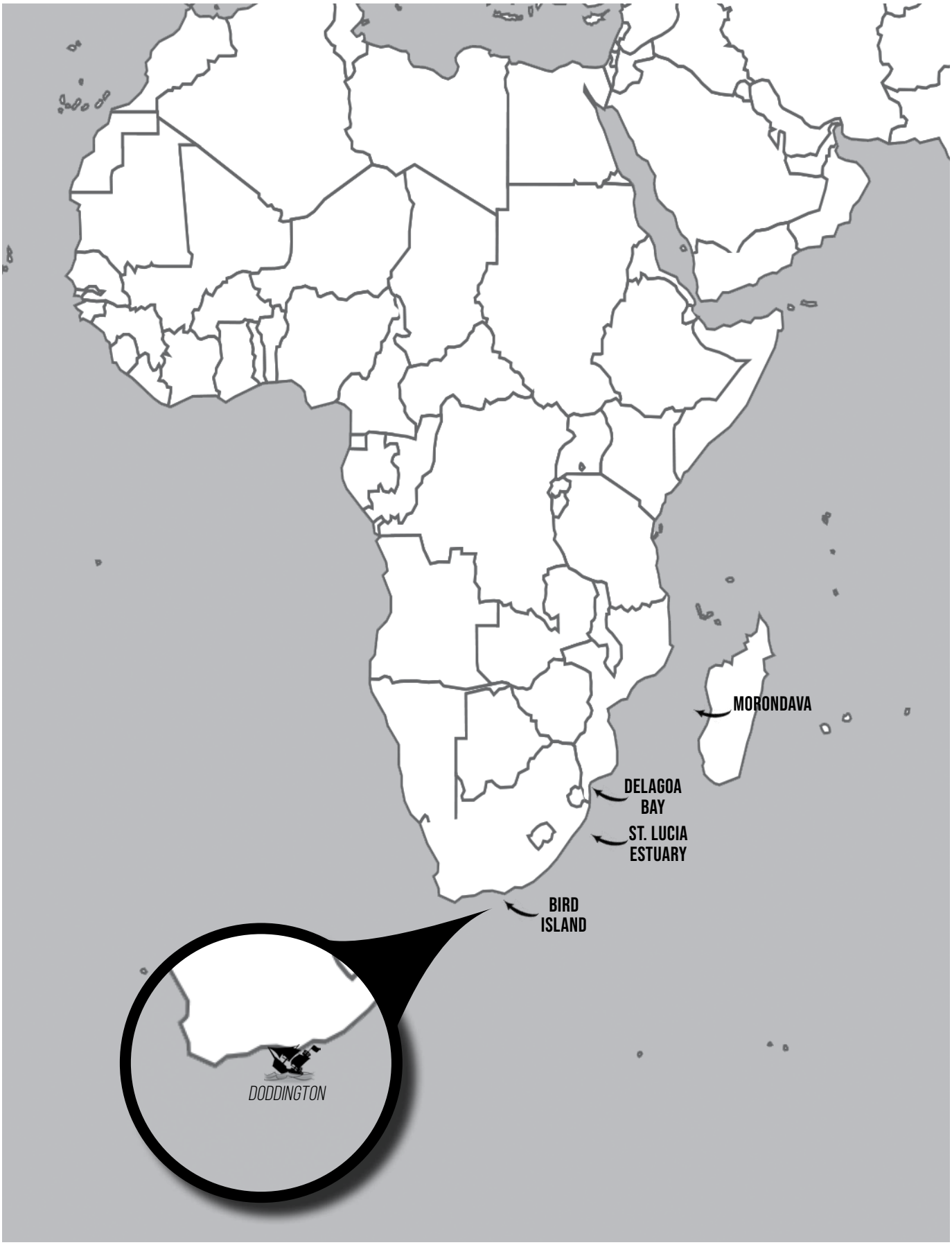
KEY QUESTIONS

- Consider how the men as a whole rejected taking an oath regarding the missing treasure. Can a law or ruling have authority if the majority reject it?
- Consider that the officers used an armed boat to take back the remaining treasure. How does physical force impact the nature of authority? Why is it that only the state has the right to use force in a liberal democracy? Does the state always use this force judiciously?

3. Have students consider Discuss questions, either individually or in small groups.
4. Like most castaways, the *Doddington* survivors shared a common cause or purpose. Discuss how this common cause was formed, and how Clive's treasure fractured the cause. Guiding questions could include:
    - What was the common purpose of all the castaways when they found themselves stranded on Bird Island?
    - How will a common purpose help bond a society?
    - How did the treasure impact this common purpose?
    - If the castaways knew they had no hope of returning to society, would that have changed the role of the treasure?

FURTHER EXPLORATIONS

5. For deeper consideration of progressive taxation and societal cohesion, check out Lesson 1.4: Paying for Government Services in *Our Government, Our Election*. Find it at teachers.plea.org
6. For deeper consideration of health care as a public good, check out Absolute Freedom and Universal Health Care in *Albert Camus' The Plague: The Learning Resource*. Find it at teachers.plea.org
7. Third Mate William Webb's account of the wreck of the *Doddington*, *An Authentic Narrative of the Loss of the Doddington* Indiaman, is on Google Books. Find it at https://play.google.com/books/reader?id=BpteAAAAcAAJ&pg=GBS.PP2&hl=en_GB
8. The story of the discovery of Clive of India's treasure in the 1970s can be found in *Clive's Lost Treasure* by Geoffrey and David Allen. Find it at your public library.


MORONDAVA
DELAGOA BAY
ST. LUCIA ESTUARY
BIRD ISLAND
DODDINGTON

HANDOUT

SHARING RESOURCES:
THE *DODDINGTON*

Societies are a collection of interconnected individuals. Because we are interconnected, a society can only be healthy if most every individual in that community is healthy. One way to create a healthy society is to share resources.

Sharing as a societal ideal is usually the norm, not the exception. Most every society has some foundational roots that promote and celebrate sharing. For example, Indigenous ceremonies such as the Potlach or the Sundance are meant to share resources and ensure group survival. The Abrahamic traditions of Christianity, Islam, and Judaism all include activities of sharing. Hinduism, Buddhism, and Sikh faiths also include sharing as part of their practices. Many political traditions also incorporate sharing, perhaps best reflected in the ideals of Marxism but also seen in more local traditions such as Red Toryism. Such traditions of sharing—political, religious, or spiritual—reflect the idea that we have a mutual responsibility to one-another.

Unfortunately, people do not always live up to the ideals of sharing and mutual responsibility. If enough individuals in a society fail to live up to these ideals, that society can become unhealthy.

To understand the role of sharing and mutual trust in societies, let's consider the 1755 wreck of the *Doddington*. The castaways shared resources and developed a sense of camaraderie and purpose, which directly contributed to their survival. But in a twist of fate, their inability to share in a salvaged treasure tore the castaways apart.

CAMARADERIE AND CONFLICT:
THE *DODDINGTON*

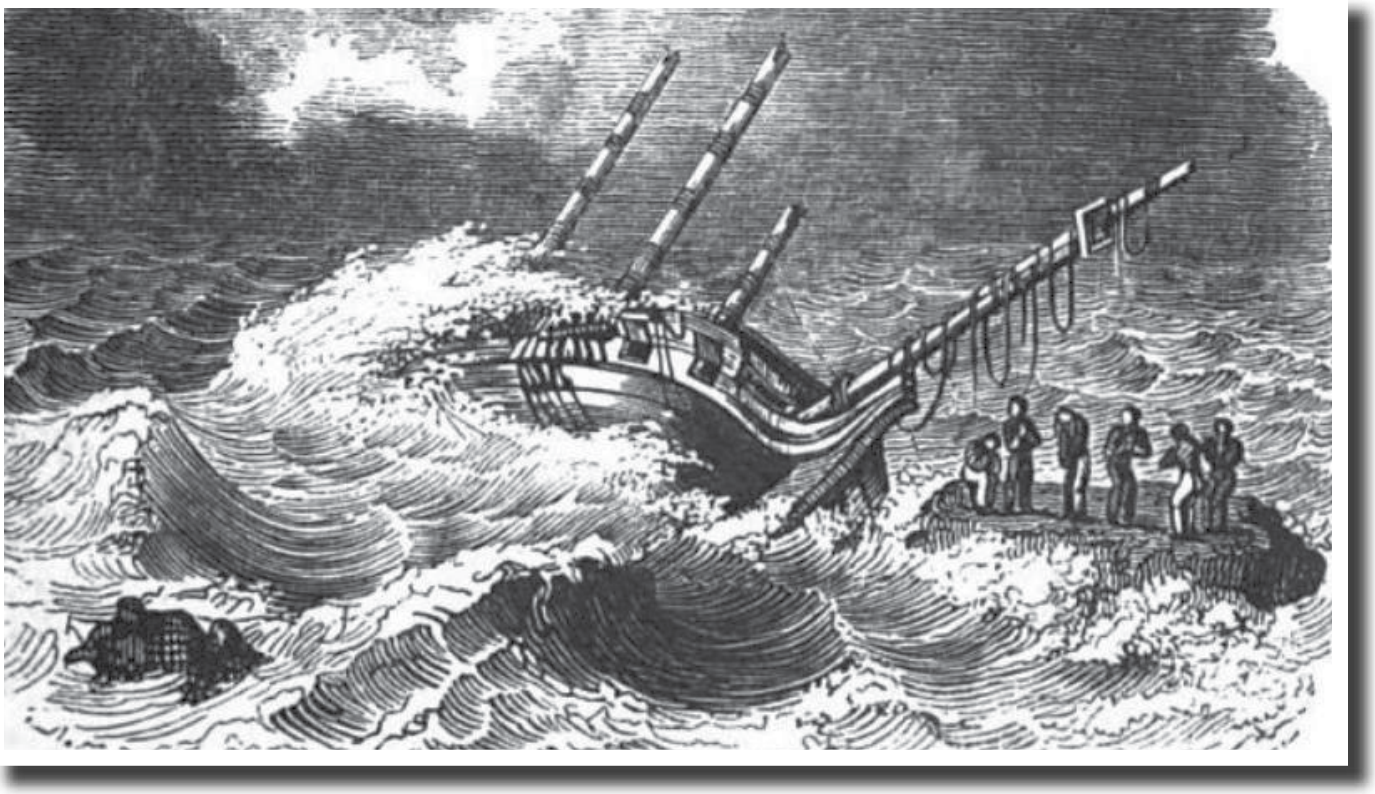
The *Doddington* was a ship of the British East India Company (EIC), a trading company operating in the Indian Ocean. On April 22nd, 1755 an EIC fleet that included the *Doddington* set sail from Dover. En route to Fort Saint George (modern-day Chennai), the fleet was carrying Bengal's first British Governor, Clive of India. His troops and his fortune were spread amongst the fleet. Aboard the *Doddington* were 270 people and a small fortune in gold coins.

Because the *Doddington* sailed faster than its companion ships, it separated from the fleet. Trouble struck the isolated ship as it rounded South Africa. Maps of the day underestimated the length of the southern edge of the continent, and so the *Doddington* turned north too soon, sailing dangerously close to the shoreline.

In early hours of July 17th, alone and trapped in a gale, the boat hit a reef on the east end of Algoa Bay. It only took 20 minutes for the *Doddington* to entirely break apart.

The rapid destruction of the *Doddington* left the overwhelming majority of people on board without a chance. Only 23 men survived, landing on the shores of Bird Island by clinging to floating wreckage. Of the 23 survivors, four were officers of the ship: the first, second, third, and fifth mates.

Much of what we know about the *Doddington* castaways is from the diaries of the first and the third mate. Their official diaries largely corroborate each other. However, the first mate also kept a secret



Wreck of the Doddington, depicted in ***A History and Shipwrecks, and Disasters at Sea***.

Photo Credit: A History and Shipwrecks, and Disasters at Sea

third diary. This diary paints a somewhat more lurid story of intrigue and jealousy.

As the sun rose, the *Doddington* survivors nursed their wounds and surveyed their new home. The small 47-acre island had no fresh water, but it did host plenty of seals and birds. To the north, the mainland could be seen.

Fortunately, items from the *Doddington* were constantly washing up on Bird Island. Soon, the men had candles, gunpowder, brandy, fresh water, beer, salt pork, flour, sail cloth and canvas, tools, rope, and timber. Seven live hogs from the ship even made it to shore. Bird Island was no paradise, but they had enough supplies to live. Importantly, the men considered the resources that washed ashore to be common property, shared amongst all.

Unfortunately, not everything to wash up on Bird Island was particularly welcomed. In the early days, several bodies washed ashore. One was the wife of a survivor. Knowing the husband would be devastated to see her battered body, the castaways showed an early act of kindness and mutual responsibility. A handful of men kept the widower distracted, while others set to work digging a grave. They said prayers, took the wedding ring from the deceased woman, and buried her. A few days later, they told the husband of the news, gave him the ring, and brought him to the grave so that he could pay respects. He was most grateful.

The diaries tell many other stories of mutual responsibility and a harmonious existence. Work duties appeared to be shared by all, and the men had concern for each-other's well-being. For example, when a few men fishing on a small boat were suddenly whisked out to sea, men on shore quickly put a rescue mission into operation. The ship's carpenter, one of the 23 survivors, whipped together a simple raft that would not get swamped like a boat could. Several men risked their lives in the choppy water to haul back the stranded fishermen.

While the men believed that all resources should be equally shared, they also understood that some skills were worthy of recognition. When their brandy dwindled, the castaways saved the last two gallons for the carpenter. Even though he was moody and

temperamental, the castaways believed he deserved extra recognition for his work. The carpenter was leading the construction of a sloop, a single-masted boat that would take them back to civilisation.

Of course, like all societies, Bird Island was not a utopia of love, solidarity, and good fortune.

An early-day exploratory trip to the mainland brought tragedy. Three men set out on a jolly boat saved from the wreckage. Their objective was to investigate the plumes of smoke that frequently rose from the mainland. When the small craft closed in on the shoreline, it overturned in the surf. One man drowned. The other two salvaged the boat and made it to the beach.

Unfortunately, the mainland proved inhospitable. The men spent a night hiding under the boat while what they thought were tigers prowled about. When they emerged from the boat-turned-shelter, the local Khoekhoe people made it clear that the castaways were not welcome. The two men returned to Bird Island, convinced that building a sloop was their only way to safety.

The most corrosive thing to happen on Bird Island, however, was due to Clive of India's fortune. The ship's officers were responsible for the protection of Clive's fortune, even in the case of a shipwreck. When a chest of his treasure washed ashore, the officers made it clear that unlike the food and supplies, the treasure would not be shared equally. They would return it to Clive when they escaped the island.

The officers' refusal to share the treasure sparked jealousy and conflict: ten or so castaways believed that whatever lay in the chest should be theirs. And so they robbed it. The theft was discovered when a man remarked that the chest felt unusually light. The officers turned it over to discover that the bottom had been chiselled opened. About a third of the treasure was gone.

The first, second, and third mates proposed that everyone—themselves included—take a religious oath to vouch for their innocence. In this era of deep spiritual conviction, taking an oath was deadly serious. The consequences were believed to reach into the afterlife. The carpenter refused to take the oath, and the majority of the men followed suit. Powerless against the majority, the officers acquiesced to their will.

Despite the shadow of stolen treasure hanging over the island, the first mate's official diary describes the men's existence as "very healthy." Indeed, they were able to focus on their primary goals: managing their camp, and building the sloop to escape Bird Island.

Seven months after the sinking of the *Doddington*, the sloop was completed. 10 metres long and 3 metres wide, the boat was made from washed up timbers, sail cloth, and other supplies from the *Doddington*. When they pushed it into the water on February 16th, 1756 it proved seaworthy. Its seams, caulked with pitch and seal blubber, held.

They christened their sloop *Happy Deliverance*, loaded it with supplies and treasure, and set off on February 18th.

Coat of Arms of the British East India Company. The company took control of much of India in 1757, replacing French rule. The Indian Rebellion of 1857—the first great rebellion against the British in the area—led to India coming under the control of the British government.

Photo Credit: Public Domain via Wikimedia Commons

The journey up the African coast toward Mozambique was eventful, to say the least. The men made land a few times, acquiring food by trading items with the Indigenous population. Yet all was not happy aboard the *Happy Deliverance*.

The journey revealed limits to human solidarity, especially for 22 men squeezed onto a boat less than thirty metres square. The treasure led to constant fights. According to the first mate's official diary, it "made their condition worse than when they were on the island." Soon, the decision was made to stop the fighting by divvying up the treasure amongst themselves.

On May 18th, the sloop arrived at St Lucia, one of the largest river estuaries in Africa. The risk of crossing the estuary during rough weather led nine of the men to abandon ship. They rowed to land on the small lifeboat in tow.

In his secret diary, the first mate speculated that the men likely abandoned the group not out of fear of crossing. Rather, the men feared being prosecuted for stealing the treasure. Once they had reached St Lucia, they were close to European outposts. The breakaway men likely thought at this point, with their treasure, they could make it on their own.

The 13 men remaining on the sloop successfully crossed the estuary and arrived at Delagoa Bay, at the southeast corner of modern-day Mozambique. Anchored in the bay was the British trading vessel the *Rose.* The *Rose* was en route to Madagascar, stopping at Delagoa Bay so its captain could negotiate for cattle with the locals.

What unfolded at the bay suggests just how deeply fractured the relationship between the officers and the castaways had become.

While the 13 *Doddington* castaways waited for the *Rose* to lift anchor, so they could sail with them to Madagascar, out of nowhere a small boat appeared on the river that drained into Delagoa Bay. In it were three of the men who had abandoned ship at St Lucia. The six others were said to be on their way. The imminent return of the deserters prompted the officers to secure the treasure once and for all.

The officers coaxed a few men off the *Happy Deliverance*, then returned to the sloop in the *Rose's* small armed boat. They forcibly took back as much treasure as they could.

The raid left the men on the *Happy Deliverance* spooked and fearful. Led by the carpenter, they pulled anchor and fled in middle of the night.

Some days later, as the *Rose* sailed towards Madagascar, its crew caught site of a sail. It was the *Happy Deliverance*. The *Rose* caught up to the fleeing sloop, and the men negotiated an entente. The carpenter bought the sloop, presumably with his stolen gold coins, and the two boats sailed together to Madagascar. There, the men went their separate ways.

The officers of the *Doddington* were ultimately able to deliver to Clive what little remained of his treasure. But saving the treasure had a high cost. It sparked continuous fights, ultimately shattering the solidarity of the *Doddington* survivors.

WHY SHARING RESOURCES MATTERS

Overall, the survivors of the *Doddington* fared reasonably well. Much of this was due to fortunate circumstances. Not only did vital resources wash ashore, but the castaways included men with the skills to build a boat to bring them to safety. They shared resources and food equally, found a common purpose in building a sloop to escape Bird Island, and even showed acts of kindness. When it came to sheer survival, the castaways performed well. They shared what needed to be shared.

Nonetheless, the presence of Clive's treasure proved all-corrupting. It led to periodic bouts of jealousy and feuds, a robbery on Bird Island, a breakdown of the men's relationship on the *Happy Deliverance*, and an armed conflict at Delagoa Bay.

Had the treasure never washed ashore, the wreck of the *Doddington* may have proven to be a near-perfect illustration of what can be achieved through cooperation and human decency. The breakdown of the *Doddington*'s castaway society serves as a reminder of how large, disproportionate wealth can corrupt even the most bonded people with an otherwise common purpose.

CLIVE OF INDIA'S GOLD

Fights over Clive's lost fortune continued into the 21st century. When a dive crew discovered the *Doddington* wreck in 1977, Clive's gold was nowhere to be found. Someone beat them to it.

In the 1990s, the gold turned up at a Florida coin dealer. The coin dealer said that the gold was salvaged from a wrecked pirate ship, found at a secret location just outside of South African waters.

The dealer's claim that the gold was found in international waters is legally important. Generally, a country's territory extends 12 nautical miles (22 kilometres) from its coast. Areas further out are international waters. When a shipwreck is found within a country's waters, it becomes the property of that state. When a shipwrecks is found in international waters, it becomes the property of the finder. Exceptions will arise if somebody makes a claim to be the rightful owner of the wreck.

By claiming the gold was found in international waters, the coin dealer was saying that South Africa had no rights to Clive's fortune. The dealer and the government went to court to determine who owned the treasure. The dealer ultimately agreed to turn over a third of the coins to South Africa.

DISCUSS

1. Look at ways that *Doddington* castaways acted with decency.
    a) How does this compare to other shipwrecks such as the *Batavia*?
    b) How would acting with decency towards each other contribute to a society's success?
2. Think about the carpenter receiving extra brandy.
    a) Are there situations where some people deserve more wealth and resources than others?
    b) If so, should there be limits to inequality? Where do we draw the line?
3. Think about the treasure and how it brought their solidarity to ruin. Recall that the officers were bound by the terms of their employment to protect it.
    a) How would you have dealt with the treasure if you were one of the castaways?
    b) How would you have dealt with the treasure if you were one of the officers?
4. Is wealth a good thing for a society? Is it a corrupting force? Or does it depend on how a society makes use of its wealth?

LESSON FIVE:

FREEDOM TO, FREEDOM FROM

OBJECTIVE

Students will be introduced to ideas about how society constructs freedom through laws.

LAW 30 INDICATORS

FL1(b) - Debate whether the primary function of law is to create order or provide freedoms for members of its society.

FL1(d) - Explain why the rule of law is a fundamental principle in democratic societies and relate it to examples in Canadian society.

PROCEDURE

1. Ask students what the word “freedom” means to them. Is absolute freedom possible? What constraints do we have on our freedoms?
2. As a class, read “Freedom To, Freedom From: The *Grafton*”.

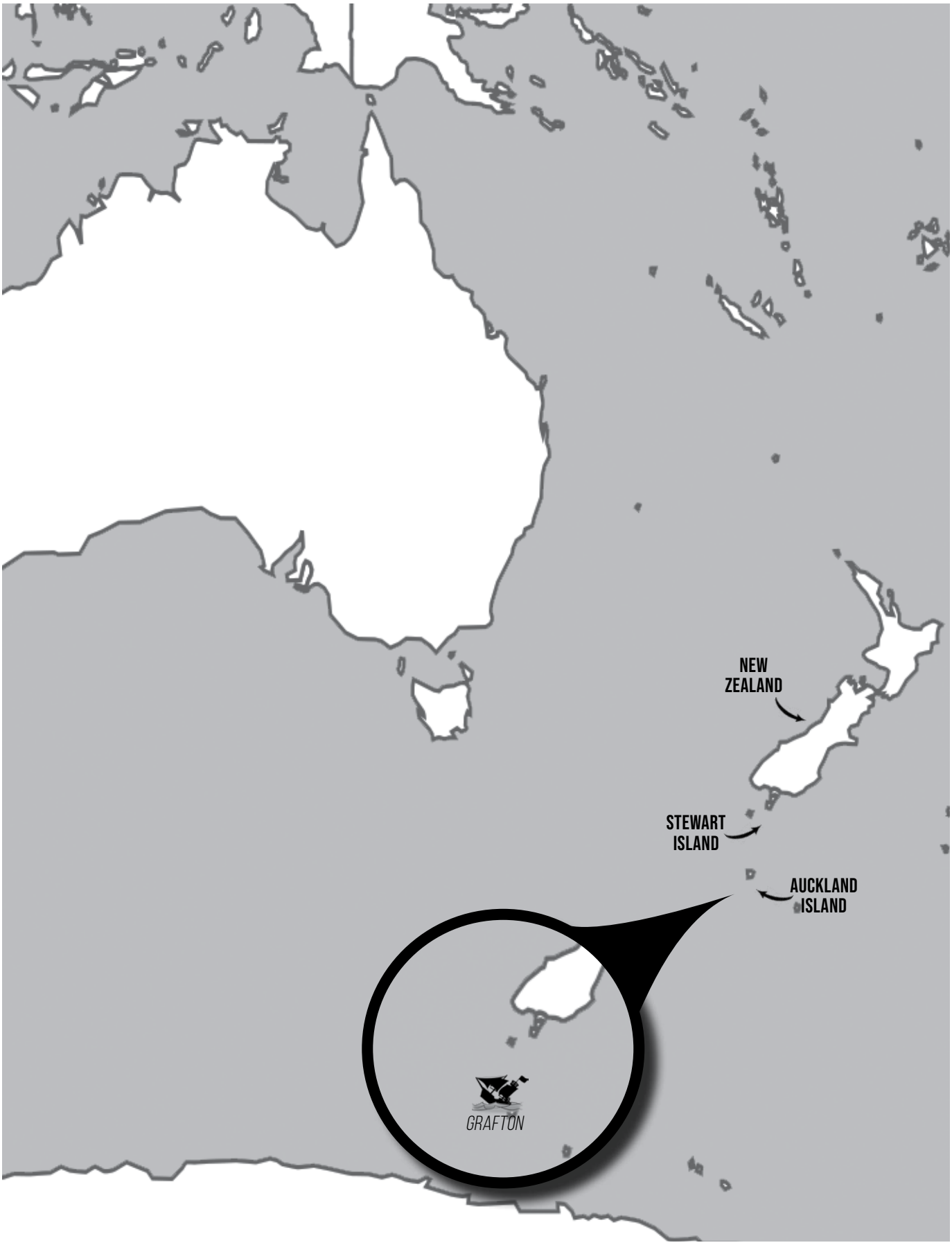
KEY QUESTIONS

- According to Captain Musgrave’s log book, the men were to leave the seals in peace and only kill what they needed. Scaring them off would lead to starvation. How would this restriction of their “freedom to” contribute to their “freedom from”?
- How is the constitution agreed to by the men different from the oaths of loyalty used in the *Batavia* shipwreck?
- Consider how the men’s freedom was restricted by banning cards. What similar limits to our freedom do we create as a society today? What "freedoms from" do these restrictions create?
- The constitution created broad powers for the “chief of the family” to remedy conflicts and wrongs. No attempt was made to outline the appropriate response and punishment for every possible wrong. Similarly, Canada’s police, prosecutors, and judges have some discretion when dealing with wrongs. For example, in some circumstances police may choose to not issue a ticket or charge a person with a crime. Prosecutors may choose not to pursue charges. And if a person is found guilty of a crime, judges have a range of sentences from which to choose. What purpose does such discretion serve?

3. Have students consider Discuss questions, either individually or in small groups.
4. Lead summary discussion of the leadership structure of the *Grafton* castaways. Topics could include:
    - Who had ultimate power on the island? The "chief of the family" or the castaways as a whole?
    - Is a mild form of hierarchy—with checks in place—necessary for a society to function?

FURTHER EXPLORATION

5. For considerations about the scope and limits of freedom in Canada today, check out Lesson Five: Freedom and Law in *Democracy and the Rule of Law*. Find it at teachers.plea.org
6. To consider the difficulties in determining what a law actually means, check out the activity *No Vehicles in the Park*. Find it at teachers.plea.org
7. For more insight into the discretion that police have when dealing with youth crime, check out Lesson 1.4: Extrajudicial Measures and Lesson 1.5: Extrajudicial Sanctions in *Teaching Youth Justice*. Find it at teachers.plea.org
8. For more insight into the ideas of limits to freedom, check out Absolute Freedom and Universal Health Care in *Camus' The Plague: The Learning Resource*. Find it at teachers.plea.org
9. For more insight into the ideas surrounding public sanitation laws, check out The Great Stink of London in *The PLEA: The Bathroom Barrister.* Find it at teachers.plea.org
10. First Mate Raynal's account of the shipwreck, *Wrecked on a Reef*, is on Internet Archive. Find it at https://archive.org/details/wreckedonareef00rayngoog
11. Captain Musgrave's logbook of the wreck, *Castaway on the Auckland Isles*, is on Internet Archive. Find it at https://archive.org/details/castawayonauckl02shilgoog


NEW
ZEALAND
STEWART
ISLAND
AUCKLAND
ISLAND
GRAFTON

HANDOUT

FREEDOM TO, FREEDOM FROM:

THE *GRAFTON*

The idea of freedom seems simple. To be free is to be able to do what you want. However, we don't live alone in a state of nature. We live together in societies. Because we all need to co-exist in society, we cannot be completely free to do whatever we want.

If each of us was free to do whatever we want, life would be messy and dangerous. In fact, unlimited freedom would make life not very free at all.

To illustrate why there cannot be unlimited freedom, consider this extreme example. What would happen if every person was free to kill others as they pleased? In this situation, nobody would be free. Your freedom to live could be taken away at any moment, because somebody else is free to kill you.

Because absolute freedom is an impossibility, societies create rules and laws to shape our freedom. Underlying this logic is a belief that we should be free to do what we want, so long as our freedom does not unduly harm others.

As an everyday example of this—something less dramatic than murder—let's think about the laws and regulations that govern public sanitation.

You are not free to throw your garbage into the street. Littering is banned by most governments. This means that your freedom to litter is restricted by laws.

However, by restricting freedom to litter, we are creating freedom from disease. After all, history has shown that streets filled with litter gave rise to pollution-borne illness.

In fact, our desire to keep the environment clean has led to a complex system of laws and regulations governing waste disposal. In Saskatchewan, most urban municipalities have a public system of waste disposal. We toss our trash in a dumpster, and every week or two a truck takes it away for us, either to be recycled or to be placed in a landfill.

Because these laws and regulations free us from the task of waste disposal, a whole new world of freedoms is opened up. When the municipal government takes control of waste disposal, we have more freedom to read books, to meet friends, or to work at jobs. Without laws governing public sanitation, our time would otherwise be spent finding ways to deal with our trash.

Now, what happens if we are unhappy with waste disposal? Laws grant us many freedoms to resolve the problem. Freedom of expression gives us the right to voice our complaints. Freedom of association lets us form community associations to examine and demand better waste disposal. Democratic freedoms give us the right to vote for a new government to do a better job of collecting garbage. For that matter, democratic freedoms give us the right to run for government ourselves, if we think we can create a better system of waste disposal.

When we think about freedom this way, we can understand that our freedom is a complex mix of "freedom to" and "freedom from." Laws grant us many "freedoms to," the idea that we can intentionally pursue what we please. Laws

also ensure we have many “freedoms from,” the idea that we should be protected from obstacles that limit our lives.

To better-understand "freedom to" and "freedom from", let’s consider how the castaways of the *Grafton* dealt with the concept of freedom.

BALANCING FREEDOMS: THE *GRAFTON*

The *Grafton* set sail from Sydney, Australia on November 12th, 1863. Aboard the schooner was a crew of five men, each a different nationality. The captain was American, Thomas Musgrave. The first mate was French, former sea captain François Édouard Raynal. One crew member was English, George Harris. The other was Norwegian, Alick Mclaren. The cook, Henry Folgee, was Portuguese. For the era, it was a very diverse group of people.

The crew was hired by a group of investors to search New Zealand’s sub-antarctic islands for mining opportunities. The search came up dry, so the crew headed to Auckland Island, a rocky outpost about 450 kilometres south of New Zealand. There they would hunt seals before returning to Australia.

On New Year’s Day, 1864, a fierce storm struck Auckland Island. The *Grafton*, anchored in Carnley Harbour, endured two days of battering before its anchor finally broke loose. The boat smashed into rocks near the shore, and tipped onto its side. All five men made it to the nearby rocky beach.

The ship was damaged beyond repair, but did not break up. The castaways stripped the *Grafton* of all valuables and ferried them to their camp using the ship’s small lifeboat. They had guns, navigational equipment, food, tools, sailcloth, and about two months’ worth of provisions, all while the island had plenty of fresh water, along with birds, seals, and roots to eat. The men had enough resources to survive, and agreed that everything would be shared equally.

The men’s general whereabouts were known, so they believed that a search party would arrive in a few months. To ensure survival while waiting, their first major task was to build a cabin. In a few weeks, they built a remarkable little home. Just under 400 square feet, it even had two small windows and a stone fireplace.

With shelter created, the men set their sights on fairly organising their day-to-day duties. Importantly, a one-week rotating duty as cook was created. The cook would stay back and maintain the cabin and prepare food, while others explored the island, hunted seals and other game, and set markers in to alert passing ships of their presence. If one man fell sick, the others would care for him and pick up his duties.

After dark, there wasn’t much to do. This prompted the men to create a night school. As Raynal wrote in his memoir:

> *An idea occurred to me, which I immediately broached: namely, to establish amongst ourselves an evening school, for mutual instruction. Harry and Alick could neither read nor write; we would teach them; they, in return, could teach us their native tongues, of which we were ignorant. George, who had received the elements of education, could pursue the study of mathematics under our direction. I, on my part, would give lessons in French. My proposal was received with so much enthusiasm that it was resolved to put it into immediate execution, and from that evening we were alternately the masters and pupils of one another. These new relations still further united us; by alternately raising and lowering us one above the other, they really kept us on a level, and created a perfect equality amongst us.*

The school proved to be a valuable use of time, building camaraderie and helping pass time.

The men even took in two parrots as pets, and befriended a playful domestic cat. The cat likely was a holdout from an abandoned settlement on the other side of Auckland Island.

Overall, the men were getting on well. They shared duties, cared for each other, and helped each other

The Grafton castaways, as illustrated by Alfred de Neuville.
Photo Credit: Public Domain via Internet Archive

learn. As Raynal wrote, they "lived together since our shipwreck in peace and harmony—I may even say in true and honest brotherhood". Yet, there was the odd disagreement. This worried Raynal.

Raynal believed that human nature wasn't perfect. Small disagreements, if left unchecked, could fester and lead to the breakdown of the castaway's unity. As Raynal wrote in his memoirs:

> *It was evident that we had no strength except in union, that discord and division must be our ruin. Yet man is so feeble that reason, and self-respect, and even the considerations of self-interest, do not always suffice to keep him in the path of duty.*

In other words, Raynal believed that even the most-tightly bonded people will sometimes act poorly, make mistakes, or act in ways that could harm their collective society.

Raynal came to believe that for the castaways, absolute freedom was not possible. They needed to set up a formal system of rule on the island. As he said,

> *An external regimen is necessary, a strict and formal discipline, to protect [man] against his own weakness.*

And so the men created an "external regimen" to shape their freedom: they wrote a formal constitution.

The constitution was not very long. However, it contained the basic rules of power and responsibility, and provided the castaways with democratic rights.

The constitution's first five clauses were largely centred on the responsibilities of the "chief of the family":

1. *To maintain with gentleness, but also with firmness, order and harmony among us.*
2. *By his prudent advice to put aside every subject of discussion which might lead to controversy.*
3. *In case any serious dispute arose in his absence, the parties to it were immediately to bring it before him; then, assisted by the counsel of those who had held aloof, he was to adjudicate upon the matter, stating who was in the right, and reprimanding him who was in error. If the latter, disregarding the sentence pronounced, persisted in his wrong, he would be excluded from the community, and condemned to live alone in another part of the island, for a longer or shorter period, according to the gravity of his fault.*
4. *The chief of the family would direct the hunting expeditions, as well as all other labours; he would set to each man his appointed task, without being himself excused from giving a good example by the strict discharge of his own duty.*
5. *In urgent circumstances, he would not be allowed to give a decision without the assent of all, or, at least, of a majority of his comrades.*

The constitution's sixth clause ensured that the leader did not have absolute power. He could be voted out at any time:

6. *The community reserves to itself the right of deposing the chief of the family, and electing another, if at any time he shall abuse his authority, or employ it for personal and manifestly selfish purposes.*

The men unanimously voted Captain Musgrave as their first leader.

Once a week, the men pledged loyalty to their constitution. Indicating how well the men worked together, the harshly punitive aspects of the constitution never were exercised. For example, the banishment clause for "persisting in wrongs" was never used, and the men never removed Captain Musgrave from his leadership position.

Of course, some conflict still remained. Perhaps the biggest risk to the men's solidarity came about from game sets that they built: a chess set, a dominoes set, and a deck of cards. Captain Musgrave, they discovered was a very poor loser when it came to card games. If the Captain lost, his temper would spark up, leading to sore feelings amongst the castaways. For the sake of solidarity, the cards were destroyed.

After a full year had passed, the men grew worried. It was clear that a rescue was not coming and the seals—their primary source of food—were moving on to new grounds. They either had to leave the island or starve.

The castaways created a plan to modify their lifeboat and sail to New Zealand. It took almost half a year, but they managed to build up the boat's sides, add a keel, and deck over much of the top. The boat was completed almost 19 months after being wrecked.

The modified boat could only fit three men. The most-experienced sailors—Musgrave, Raynal, and Mclaren—were chosen to make the dangerous 450-kilometre trip northwards.

The three set sail on July 19th, 1865. Five sea-soaked days later, they arrived at Stewart Island, on the south end of New Zealand. The men set to work organising a rescue mission, and a month later, on August 24th, Raynal was back on Auckland Island to pluck Harris and Folgee from its rocky beach.

WHY SOCIETY SHAPES FREEDOM

Many factors help explain why the *Grafton* castaways survived: the ship overturned close to shore and did not sink, there were natural resources on Auckland Island, and the castaways had a sense of camaraderie and acted with mutual responsibility. These factors understood, we should not lose sight of a fourth factor: the men understood that there could not be absolute freedom on Auckland Island.

The *Grafton* castaways ruled themselves through a mixture of "freedom to" and "freedom from". Instead of absolute freedom, they wrote a constitution that outlined their rights and responsibilities. And in their day-to-day behaviour, they judiciously restricted their own freedoms, from prohibiting the teasing of seals to banning cards to organising a night school to constructively pass what would otherwise have been idle hours.

The wreck of the *Grafton* reminds us that successful societies will find ways to navigate the scope of their freedoms. Just as importantly, it also shows us that rules alone will not lead to success: rules can only work if the members of a society act with cooperation, camaraderie, and mutual trust.

DISCUSS

1. Each *Grafton* castaway came from a unique background. Yet, they bound themselves together under a constitution. The constitution was something of a civil religion: a set of values they respected. They even pledged allegiance to their constitution once a week, alongside their weekly prayers. As Raynal said:

   "It was no mere empty ceremony. Each of us felt there was a certain solemnity in this voluntary engagement of our conscience."

a) Can a diverse society succeed if its members do not share some basic beliefs?

b) Do we share a civil religion as Canadians? If so, what is it?

2. Captain Musgrave's logbook included this observation about health and exercise:

> *"The men continue quite healthy, which is well, for I have not even a dose of salts to give them or take myself, whatever happens. The only medicine we have is plenty of exercise, which is not only conducive to health, but dispels gloom, and makes people really cheerful."*

a) Why is it that healthy people create a healthy society?

b) What ways can the state help create healthy people?

3. According to both Musgrave and Raynal, everyone enjoyed the night school. Musgrave's logbook added his thoughts on how the school worked as a form of social control:

> *"I have adopted a measure for keeping them in order and subjection, which I find to work admirably, and it also acts beneficially in my own mind."*

The Captain's thoughts on the school raise several questions.

a) Do we provide public education for the benefit of the individual? Or do we provide public education for the benefit of society?

b) Is there some truth to both of those positions above?

4. Schooling for young people is mandatory in Saskatchewan.

a) What kinds of "freedoms from" are created by mandatory schooling?

b) Should young people have the freedom to decline a formal education?

LESSON SIX:

SOLIDARITY, FRIENDSHIP AND HUMAN DECENCY

OBJECTIVE

Students will consider why cooperation and human decency is necessary for any system of rule.

LAW 30 INDICATORS

FL1(a) - Identify the influence of societal worldviews on the organization of historical and contemporary legal systems.

FL1(j) - Debate criteria for just laws and systems of justice and apply to scenarios and case studies.

FL1(i) - Compare the purposes and functions of law and the justice system in Canadian society today with traditional Indigenous approaches to law and justice (e.g., restorative vs. punitive justice).

PROCEDURE

1. Discuss with class what it means to be decent. How would common decency create justice?
2. As a class, read "Solidarity, Friendship, and the Real Lord of the Flies".

   ### KEY QUESTIONS

   - How would organised activities and exercise contribute to the well-being of the boys? How would it contribute to the well-being of a society?
   - Why would isolated timeouts have worked for the boys when they argued? Could similar measures help our society?
   - Consider how the boys helped their injured friend, and looked after his work while he healed. What does this tell us about the importance of universal heath care and providing workers with sick leave?

3. Have students consider Discuss questions either individually or in small groups.
4. Lead summary discussion of the boys' experience. Topics could include:
   - How did the experience of the Tongan boys resemble *Lord of the Flies*? How did it differ?
   - What specific commonalities and differences can you find between the Tongan boys' experience and the experience of the *Grafton* castaways?

FURTHER EXPLORATION

5. In Albert Camus' book *The Plague*, the lead character says "the only means of fighting a plague is – common decency." For another look at how common decency can shape systems of rule, check out *Albert Camus' The Plague: The Learning Resource*. Find it at teachers.plea.org
6. Australia's public broadcaster ABC has a short feature from 2020 on the experience of the Tongan castaways. Find it at www.youtube.com/watch?v=iynwbDFJuik
7. Rutger Bregman discusses the experience of the boys in more detail in his book *Humankind*. Find it at your public library.
8. One of the earliest stories of the Tongan boys' appeared in *Pacific Islands Monthly*, October 1966. The article is available on the National Library of Australia's archive *Trove*. Find it at https://nla.gov.au/nla.obj-370541289/view?sectionId=nla.obj-374703999&partId=nla.obj-370594270#page/n102/mode/1up
9. A 1966 documentary by Australia's Channel 7, *The Castaways*, recounts the Tongan boys' experience. Find it at www.youtube.com/watch?v=DYebOCCoTYM


TONGATAPU
FIJI
'ATA

HANDOUT

SOLIDARITY, FRIENDSHIP, AND THE REAL *LORD OF THE FLIES*

Perhaps the most famous castaway story is William Golding's 1954 novel *Lord of the Flies*. A group of boys attempt to rule themselves when stranded on an island. The resulting self-destruction of their society made *Lord of the Flies* one of the most-read books of the 20th century.

In real life, there has been one recorded instance similar to *Lord of the Flies*. In the 1960s, six school-age boys from Tonga found themselves stranded on a deserted island. The story of their 15-month ordeal was largely forgotten until historian Rutger Bregman revived it in his 2020 book *Humankind*. He called the boys' experience "The Real *Lord of the Flies*." To be sure, there are many differences between Golding's book and what unfolded on Tonga's southernmost island. Nevertheless, their experience is the only known example of a group of young people shipwrecked on an island.

Their fate was much different than what unfolded in *Lord of the Flies*.

SOLIDARITY AND FRIENDSHIP

The real *Lord of the Flies* began on Tongatapu, Tonga's main island, in June 1965. Six students living at a strict boarding school grew bored, so they made plans to sail off to a new life. The six were Sione Fataua, "Stephen" Tevita Fatai Latu, "David" Tevita Fifita Siola'a, Kolo Fekitoa, "Mano" Sione Filipe Totau, and Luke Veikoso. They ranged in age from 15 to 17 and were originally from the Tongan island of Ha'afeva.

The boys packed up some bananas and coconuts, along with a small gas burner, and stole a 24-foot whaling boat from an ornery local fisherman. Sailing off on a calm warm night, their adventure began perfectly. They dropped anchor about eight kilometres from shore, fished for a while, and dozed off.

The peaceful slumber of their first night was broken by a violent storm. Soon, the boat was ripped from its anchor, its sail was torn, and its rudder was broken. The boys were now at the whims of the sea, helplessly drifting across the southwestern Pacific Ocean. The boys first ate their coconuts and bananas, along with the few fish they had caught. It was not long until all they had to consume was meagre amounts of rainwater that they managed to collect in coconut shells.

Unbelievably, after eight days adrift, an island appeared on the horizon. It was 'Ata, the tiny southernmost island of Tonga. About 160 kilometres south Tongatapu, 'Ata is a mere 450 acres, with steep cliffs and thin rocky beaches. In the mid-1860s, the King of Tonga ordered it to be abandoned after about half of the island's 400 or so residents were kidnapped by Peruvian slave traders.

Using planks from their disintegrating boat as floats, the boys swam to 'Ata's shore. The swim took them a day and a half. Utterly exhausted, survival in the first days was anything but easy. They lived on a thin rocky beach, digging a small cave for shelter, drinking the blood of birds and eating coconut shoots to stay alive. After some days on the beach, they managed to find a route to the top of the island.

On the top of the island, things were much better. 'Ata harboured the remnants of the abandoned settlement. The boys soon built a hut and started a fire by rubbing sticks together, which they kept burning continuously. Not long after, they became self-sufficient farmers. They corralled 200 chickens that had been on the island since the earlier inhabitants left. Meanwhile, they planted bean crops and restored the settlement's banana plantation. The boys continued to catch wild birds, and created angling equipment with remnants of their destroyed boat that washed up on shore. Their diet of eggs, wild birds and fish, beans, and bananas was supplemented by the island's native papaya and coconut trees. The boys even managed to tap water from trees, remembering their parental teachings about how this could be done.

Beyond providing with basic necessities, the boys did a remarkable job of organising activities to keep themselves busy and finding ways to govern their castaway life.

Physically, they created a makeshift weight gym, ran races, and even created a badminton court. Their exercise routines helped keep them in excellent physical health.

When it came to governing their lives, the boys sought to make life sustainable both environmentally and interpersonally. They placed limits on hunting wild birds, and preserved their chicken flock primarily for egg production. They created strict duty lists that were rotated through in pairs. This included kitchen, garden, and guard work. The lookout duty was particularly important and particularly disappointing: only four ships passed by the island and none spotted the signal fires they lit.

Solidarity was helped along through song and prayer. They would bond through prayers in the morning, with the eldest as their spiritual leader. At night, they would compose and sing songs. They even built a guitar from driftwood, coconut half-shells, and six wires salvaged from the wreck.

Disagreements were resolved with time outs. If there was an argument, boys would be sent to opposite sides of the island for several hours. This would give them time to cool off and put their priorities back in order. When they would reassemble, apologies were exchanged. As Mano Totau told the Australian Broadcasting Corporation many years later, "Our culture tried to teach us to [respect] each other and try to be [loving] to each other no matter how hard the life is."

The boys' respect and love for each other was well-demonstrated when one took a tumble down a cliff. Languishing at the bottom with a broken leg, the others scrambled to his rescue. They set his leg using sticks and hot coconut fronds, following traditional practice. The leg healed perfectly.

Even humour was present on the island, helping with their resilience. Several good jokes were later recounted that made light of various hardships. For example, when their boat left them stranded, they joked that "we must tell Tanelia [the boat's owner] his boat is just like himself—no good," and as the

Peter Warner in the centre, with (left to right) Stephen, Kolo, Luke, David, John and Mano. March 1, 1968.

Photo Credit: Golding/Fairfax Media via Getty Images

boy with the broken leg healed, they teased that "We'll do your work while you lie there like King Taufa'ahua himself!"

As the days turned to months, the boys began to believe that they would be trapped on 'Atu forever. Adding to their worries, the dry Tongan summer left water incredibly scarce. Sad and missing their home and families, the boys built a raft. The raft even included a cabin to protect them from the elements. With their raft ready for sea, they loaded it with supplies and set sail southwards, believing that they were close to Samoa. In what is looked back upon as incredibly good fortune, the raft broke up barely a kilometre from shore. The boys swam back to 'Ata, unaware they had actually set out into empty waters.

After 15 months on 'Ata, fortune shone upon the boys. In September 1966 an Australian fishing boat neared the island. Its captain, Peter Warner, noticed burned grass along the island's sides. Knowing that wildfires were rare occurrences in these parts, he sailed in for a closer look.

As Warner peered at the island through his binoculars, the boys spotted his ship. One dove into the ocean and swam out to Warner's boat. The others followed. At first Warner suspected he stumbled upon criminals: Polynesian societies often banished the worst of their wrongdoers to isolated islands.

When the boys told Warner their shipwreck story, he put the ladder down so they could board his boat. He radioed into Tonga, gave the dispatcher their names, and asked the dispatcher to call the school where they said they had lived. Twenty minutes later the dispatcher radioed back. Through tears, he told Warner that the boys had been given up for dead. Their funerals had already been held.

Warner and the boys became good friends. He hired them to work with his fishing operations across the south Pacific, helping the boys achieve their adventure they had earlier set out upon. Following several years of working with Warner, the boys eventually spread out across the world to settle down. Warner and one castaway, Mano, maintained a close relationship until Warner's death in a boating accident in 2021.

BEHAVING DECENTLY

The castaway boys on 'Ata were very successful in creating a makeshift island society. They delegated work to ensure basic needs were met. They had systems in place to deal with conflict and wrongdoing. They created communal acts to build solidarity, such as prayer and song. They recognised the importance of exercise and physical activity. They understood the need to respect and preserve the wildlife of the island. And perhaps most importantly, they cared for and respected one-another.

In many ways the life and systems set up by the castaways of 'Ata were remarkably similar to the life and systems of the *Grafton* castaways on Auckland Island. Despite coming from very different backgrounds and living a century apart, and despite one group having a primarily written way of rule and the other having a primarily oral way of rule, in both cases the castaways recognised perhaps the most important aspect to the success of any organised society: being responsible to and decent to one-another.

Václav Havel, the former President of the Czech Republic, may have best summarised how any system of rule must be accompanied by this sense of human decency. In his book *Summer Meditations*, a reflection of life and governance, he wrote:

> *I am convinced that we will never build a democratic state based on the rule of law if we do not at the same time build a state that is—regardless of how unscientific this may sound to the ears of a political scientist—humane, moral, intellectual and spiritual, and cultural. The best laws and best-conceived democratic mechanisms will not in themselves guarantee legality or freedom or human rights—anything, in short, for which they were intended—if they are not underpinned by certain human and social values.... The dormant goodwill in people needs to be stirred. People need to hear that it makes sense to behave decently or to help others, to place common interests above their own, to respect the elementary rules of human co-existence.*

The Tongan boys showed how this could be done.

DISCUSS

1. When the boys returned to Tonga, they were arrested. The boat's owner had insisted that charges of theft be pressed against the boys. Is this justice?
2. Warner sold the rights to the story of the boys' shipwreck and rescue to an Australian broadcaster. He used the money to repay the boat owner, which got the boys off the hook for the theft. Was this the decent thing to do?
3. In a 2020 interview with the UK newspaper *The Guardian*, castaway Mano Totau addressed accusations circling around that Peter Warner had inappropriately profited off the boys' shipwreck. Unhappy with much of the rhetoric being put forth about his lifelong friend, Totau said, in part,

   > *I know a lot of people say to me things about "Mr. Warner makes a lot of money from our story." Who cares? .... If no Mr. Warner, we never survive, if no Mr. Warner we won't be here to tell our story. If Mr. Warner makes some money from it, good luck for him, that's my opinion. I would tell everybody please shut up.*

   Totau added that he someday may write a book telling his story of life on 'Atu, with the hopes of using any profits to help his children.

   a) Do people sometimes tend to stoke outrage over things they are not directly connected to or do not fully understand? Why do you think this happens?
   b) Does stoking outrage help build human decency?
   c) Can outrage deliver justice?

4. In what ways is the Tongan boys' society "humane, moral, intellectual and spiritual, and cultural"? How would this have helped along their system of rule?

LESSON SEVEN:

CREATE YOUR OWN SOCIETY

OBJECTIVE

Students will consolidate the ideas learned across this resource to create their own shipwrecked society.

LAW 30 INDICATORS

FL1(c) - Predict the consequences of a society without laws.

FL1(j) - Debate criteria for just laws and systems of justice and apply to scenarios and case studies.

PROCEDURE

1. Fiction has created many famous castaway societies. William Golding's dystopian novel *Lord of the Flies* and the lighthearted classic television series *Gilligan's Island* are just two examples. BBC in the United Kingdom and ABC in the United States have also created "reality" TV programs about castaways. As with most fiction and "reality" shows, such tales reveal some truths about human nature, and such tales perpetuate some falsehoods about human nature. Think of these or other portrayals of castaway societies, and compare them to what we have learned about shipwrecked societies.
    - Can any one work of fiction or "reality" series be considered an accurate microcosm for how society operates? Why or why not?
    - Can any individual shipwreck be considered an accurate microcosm for how society operates? Why or why not?
    - Why is it valuable to gain as many perspectives as possible on how successful societies can operate?

2. Review the successful and unsuccessful societies across this resource. What factors helped make some societies work? What factors contributed to the failure of other societies? At what point are laws required to guide a society? To help guide discussion, discussion ideas from each wreck could include:
    - *Méduse* and *Julia Ann*. How can a foundational tone set a society on a path towards success or failure?
    - *Batavia.* Are societies at risk of falling to dictators? Why must power be spread amongst all people?
    - *Doddington.* How should societies share their wealth?

- *Grafton*. Is absolute freedom possible?
- *Grafton*/Real *Lord of the Flies*. Are written constitutions foolproof? What role does human decency play in society?
- Other questions that span most wrecks could include questions asking why do successful societies care for people's health; how do education and cultural activities contribute to human development; what can a society do about conflicts and wrongdoers; what role does hierarchy play in a society; why is safe shelter a key need for every society; and/or how does cooperation contribute to societal success?

3. Research has shown that hope is a key element for the survival of shipwrecked people. How can a society foster hope in its members?
4. Break students into groups and distribute "Island Simulation: Create your own Society".

HANDOUT

ISLAND SIMULATION:
CREATE YOUR OWN SOCIETY

Think about all you have learned from successful and unsuccessful shipwrecked societies. How would you go forward in the following situation?

> You and your friends have been stranded on an island. The island is six kilometres long and two kilometres wide, located in a large ocean. This island is not on any map. No plane or ship passes it at regular intervals.
>
> A warm water current flows past the island. The highest elevation is a three hundred metre hill at the north end. There is a fresh water spring on the island, plenty of fruit trees, and a population of wild birds. Two-thirds of the island is covered with plants.
>
> The boat that brought you to the island is wrecked and sunk in deep water five kilometres away. So far, nothing has washed ashore from the wreck. You only have what is in your pockets and in your backpack right now.
>
> Nobody knows where you were going or where you are. Through a miracle, no one was hurt. You are as well as you are right now.
>
> What are you going to do?

STARTING QUESTIONS

- Do we know that there is no one else here?
- Why do we need to know if anyone else is on the island?
- What things do we have?
- What do we need and in what order?
- Do we know if we need protection? From what or whom?
- What decisions must be made?
- How will these decisions be made?
- Who will our leaders be? What powers will they have?
- How will we deal with people who do not follow rules?
- How will we share resources?
- How will we build solidarity?
- How will we preserve the health of the castaways?
- How will we preserve the health of the island?