

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

DAY 8 / VOL 8
May 16, 2019



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1 Court File No. 94-CQ-50872CM

2 ONTARIO

3 SUPERIOR COURT OF JUSTICE

4 B E T W E E N:

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

Plaintiffs

7 - and -

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

Defendants

17 Court File No. 03-CV-261134CM1

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

19 CHIPPEWAS OF NAWASH UNCEDED FIRST NATION and
20 SAUGEEN FIRST NATION

Plaintiffs

21 - and -

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

Defendants

24 -----
25 --- This is VOLUME 8/DAY 8 of the trial
proceedings in the above-noted matter, being
held at the James Mason Memorial Culture and
Recreation Centre, 47 French Bay Road,
Southampton, Ontario, on the 16th day of May
2019.

26 -----
27 B E F O R E: The Honourable Justice
Wendy M. Matheson

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

2 H.W. Roger Townshend, Esq., for the Plaintiffs,
3 & Benjamin Brookwell, Esq., The Chippewas of
4 & Cathy Guirguis, Esq., Saugeen First
5 Nation, and the
6 Chippewas of Nawash
7 First Nation.

8
9 Michael Beggs, Esq., for the Defendant,
10 & Michael McCulloch, Esq., Attorney General
11 & Barry Ennis, Esq., of Canada.

12
13 David Feliciant, Esq., for the Defendant,
14 & Jennifer Le Pan, Esq., Her Majesty the
15 & Richard Ogden, Esq., Queen in Right of
16 & Julia McRandall, Esq., Ontario.

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20 REPORTED BY: Helen Martineau, CSR.

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NO. /	DESCRIPTION	PAGE
	NONE MARKED.	

1 --- Upon commencing at 9:32 a.m.

09:33:11 2 THE COURT: Please go ahead, counsel.

09:33:14 3 MS. GUIRGUIS: Good morning, Your

09:33:15 4 Honour. I'm calling Mr. Dale Jones.

09:33:17 5 THE REGISTRAR: Right, good morning,

09:33:31 6 sir. Would you like to make an oath on a holy

09:33:32 7 book or make a solemn affirmation to tell the

09:33:32 8 truth?

09:33:32 9 THE WITNESS: I'm having a hard time

09:33:33 10 hearing you.

09:33:35 11 THE REGISTRAR: Can you move the mic a

09:33:37 12 little bit closer to you?

09:33:38 13 THE COURT: Sir, all the way up to

09:33:40 14 where you're sitting. That's very good. Yes.

09:33:45 15 THE REGISTRAR: You want to affirm on

09:33:46 16 the Eagle Feather?

09:33:47 17 THE WITNESS: I still can't hear you.

09:33:49 18 THE COURT: I think the gentleman

09:33:51 19 wants to affirm on the Eagle Feather. Is that

09:33:52 20 correct, sir?

09:33:54 21 THE WITNESS: Yes.

09:33:57 22 THE COURT: All right. Please, go

09:33:58 23 ahead.

09:33:58 24 THE REGISTRAR: Can you please state

09:33:58 25 and spell your name for the record please, sir?

09:33:59 1 THE WITNESS: D-A-L-E J-O-N-E-S.

09:34:05 2 THE REGISTRAR: And the last name?

09:34:06 3 THE WITNESS: That was both my names,
09:34:08 4 Dale Jones.

09:34:09 5 THE REGISTRAR: Do you affirm that the
09:34:11 6 Eagle Feather symbolizes your direct connection
09:34:14 7 to the Creator for your people, and you hold it
09:34:17 8 in the spirit of honour and truth and the
09:34:20 9 evidence you shall give in this matter shall be
09:34:22 10 the truth, the whole truth and nothing but the
09:34:25 11 truth?

09:34:26 12 THE WITNESS: A-ha, I mean yes. A-ha
09:34:26 13 means yes in Ojibwe.

09:34:41 14 THE COURT: I can hear you, sir, but
09:34:41 15 I'm going to ask you to pull the microphone even
09:34:42 16 closer to you, sir. Thank you. That's going to
09:34:45 17 be better. Thank you, sir.

09:34:47 18 THE WITNESS: Is that better?

09:34:48 19 THE COURT: Thank you, sir, and just
09:34:49 20 keep your voice up.

09:34:50 21 THE WITNESS: Okay.

09:34:51 22 THE COURT: Please go ahead, counsel.

09:34:52 23 MS. GUIRGUIS: Thank you.

09:34:52 24 DALE JONES: Sacred Eagle Feather
09:34:52 25 Affirmation.

09:34:52 1 EXAMINATION IN-CHIEF BY MS. GUIRGIUS:

09:34:53 2 1 Q. Thank you.

09:34:54 3 Good morning, Mr. Jones.

09:34:55 4 A. Good morning.

09:34:55 5 2 Q. Thank you for being here with us

09:34:56 6 today. I want to start with a few questions so

09:34:59 7 that you can introduce yourself to the Court.

09:35:03 8 You're a member of the Chippewas of

09:35:05 9 Nawash unceded First Nation?

09:35:07 10 A. Yes.

09:35:07 11 3 Q. And when were you born?

09:35:09 12 A. 1958, September 21st.

09:35:14 13 4 Q. Where were you born?

09:35:15 14 A. Chatham, Ontario.

09:35:16 15 5 Q. When did your family return to

09:35:18 16 Nawash?

09:35:19 17 A. 1960.

09:35:23 18 6 Q. And what periods of your life

09:35:24 19 have you lived in Nawash?

09:35:27 20 A. Majority of my life, I was in and

09:35:29 21 out. I was -- I left to work sometimes, but I

09:35:32 22 went to school at Cape and went to high school

09:35:34 23 in Owen Sound and grew up. It's always been my

09:35:39 24 home.

09:35:45 25 7 Q. So you left a bit for work.

09:35:48 1 There was a point that you moved to Toronto, is
09:35:49 2 that right?

09:35:50 3 A. I went to Toronto in '77 to work.
09:35:55 4 I didn't finish high school and I went to
09:35:57 5 Toronto for a year and a half. And then I went
09:35:59 6 back to high school and graduated from high
09:36:01 7 school. And then I went to Douglas Point and I
09:36:04 8 became an iron worker.

09:36:05 9 And I worked at Douglas Point I think
09:36:10 10 three or four years, maybe a little bit longer,
09:36:12 11 and just set me on a road to travelling. Iron
09:36:15 12 workers don't tend to stay in one place very
09:36:18 13 long, right?

09:36:19 14 8 Q. And when did you come back to
09:36:20 15 live full time in Nawash?

09:36:24 16 A. Full time I came back -- numerous
09:36:27 17 times over the years, I came back -- depending
09:36:29 18 on how well I worked -- if I was a laid-off iron
09:36:32 19 worker, I would come back and fish and do stuff
09:36:34 20 back at home because it was my home, right? So
09:36:37 21 no matter where I was I'd come home and work,
09:36:41 22 fish, do other things.

09:36:44 23 And then I tried the trades in the
09:36:50 24 late '80s, became a carpenter, I mean mid-'80s.
09:36:53 25 And I went to Toronto and joined the Carpenter's

09:36:56 1 Union. Got married, and me and my wife got
09:37:00 2 married in '93 and we came home in that year.
09:37:04 3 Came home to Cape in '93 and I've been there
09:37:07 4 ever since.

09:37:08 5 9 Q. Thank you. So I want to turn to
09:37:09 6 the interview that you did with Dr. Jarvis
09:37:13 7 Brownlie on June 4th, 2016. Professor Brownlie
09:37:16 8 asked you what you know about the barriers that
09:37:18 9 Saugeen and Nawash face in bringing claims that
09:37:20 10 are now in court. Do you recall that interview?

09:37:23 11 A. Yes, I recall. I recall the
09:37:25 12 interview. I talked to him. I remember talking
09:37:27 13 to him. It was a good, friendly conversation at
09:37:30 14 my house.

09:37:32 15 And I think that the borders were --
09:37:36 16 because my father was the Chief he used to say
09:37:40 17 we -- he goes, this is what the -- this is what
09:37:43 18 the white man says we own, but this is what he
09:37:47 19 believed, right? And he didn't believe that,
09:37:49 20 right. He believed that we could still hunt and
09:37:53 21 fish wherever, you know, that was what his
09:37:57 22 belief was in.

09:38:00 23 My father was -- I don't know how to
09:38:01 24 say that. He was kind of a hard-headed guy.
09:38:06 25 And he -- you know, he told me this is where we

09:38:11 1 live now but this is not where our territory is.
09:38:19 2 Our territory is all this, right, all this, the
09:38:22 3 peninsula and that thing.

09:38:23 4 Because we used to hunt up at the --
09:38:26 5 up at Willow Creek, you know, and we'd hunt in
09:38:31 6 between there. And he believed that was our
09:38:32 7 territory always.

09:38:33 8 10 Q. Okay. So I'm going to get into
09:38:37 9 the specific questions because I'd like to hear
09:38:39 10 more about that, and that is what you spoke to
09:38:42 11 Dr. Brownlie about.

09:38:42 12 But right now I want to show you the
09:38:44 13 transcript of the interview with Dr. Brownlie,
09:38:47 14 which is Exhibit number 3921; it's on the screen
09:38:51 15 in front of you. Have you seen this transcript
09:38:56 16 before?

09:38:56 17 A. Yes.

09:38:57 18 11 Q. And have you reviewed it
09:38:58 19 recently?

09:38:58 20 A. I looked at it yesterday.

09:39:01 21 12 Q. Is it a true reflection of what
09:39:02 22 you said in your interview?

09:39:04 23 A. Yes.

09:39:06 24 13 Q. So I want to take you to a
09:39:08 25 passage in the transcript which is at the bottom

09:39:10 1 of page 17, and this actually has to do with
09:39:14 2 what you were just speaking about, about the
09:39:16 3 territory.

09:39:29 4 So right at the bottom there's a
09:39:30 5 passage that starts, that actually says exactly
09:39:34 6 what you were just saying:

09:39:36 7 "As they started to put
09:39:37 8 borderlines up we always went north
09:39:39 9 and hunted at Willow Creek."

09:39:42 10 At the end of that passage you said:

09:39:44 11 "But he always did everything
09:39:46 12 outside the territory intentionally,
09:39:47 13 right."

09:39:49 14 A. Yeah.

09:39:49 15 14 Q. I think it goes on to the next
09:39:49 16 page. When you say that your father did things
09:39:52 17 outside the territory where do you mean?

09:39:55 18 A. Well, it's kind of funny is that
09:39:59 19 we always -- in the '60s when we started to
09:40:03 20 hunt my dad had a panel van and we used to -- it
09:40:07 21 would be full of hunters and people and we'd go
09:40:10 22 north. And if we seen a deer in that time from
09:40:13 23 Cape to Willow Creek we'd shoot the deer because
09:40:17 24 in -- even at the time it was like -- I guess
09:40:21 25 they considered it poaching. We just thought it

09:40:24 1 was food, right?

09:40:24 2 15 Q. Right.

09:40:31 3 A. And so my whole life I hunted
09:40:32 4 with my father and them. That was just what we
09:40:35 5 did, right. If we seen a deer, no matter where
09:40:38 6 it was, we would shoot it.

09:40:39 7 16 Q. So you're describing hunting
09:40:41 8 outside of the reserve?

09:40:43 9 A. Yeah.

09:40:43 10 17 Q. Off Cape Croker, up north to
09:40:46 11 Willow Creek, which is still within the
09:40:48 12 territory that's displayed on this map to your
09:40:51 13 left, Exhibit P?

09:40:53 14 A. Always, but not only there,
09:40:54 15 everywhere.

09:40:56 16 18 Q. Right.

09:40:56 17 A. We fished and hunted. And if we
09:40:58 18 seen a deer at Hope Bay or any of those places
09:41:01 19 we used to also shoot it, right.

09:41:05 20 19 Q. Which is all within the
09:41:06 21 territory?

09:41:07 22 A. Yes.

09:41:07 23 20 Q. So just to be clear, I wanted to
09:41:09 24 make sure that I understood correctly that in
09:41:12 25 your transcript when you said "outside the

09:41:13 1 territory" you meant outside the reserve or the
09:41:16 2 boundaries drawn by the Ministry?

09:41:19 3 A. Yeah. Well, that was -- at the
09:41:21 4 time that was the boundaries that my dad
09:41:27 5 actually said the white people made, right? So
09:41:32 6 he didn't think it was his boundary and you
09:41:36 7 pretty much couldn't tell him anything
09:41:38 8 different, or I couldn't anyways.

09:41:40 9 So whenever we hunted or fished I
09:41:44 10 just -- I never really had a say. I was just
09:41:49 11 told to do this; we did it, right. So I just
09:41:52 12 always thought that's the way it was going to be
09:41:54 13 and never questioned it, or maybe I was kind of
09:42:00 14 scared to question it probably.

09:42:02 15 But we hunted. My whole life, when my
09:42:05 16 dad was alive, our boundaries of hunting were
09:42:10 17 never set by the boundaries of the reserve; they
09:42:13 18 were just the boundaries of, if we could get it
09:42:18 19 without too much noise or too much trouble,
09:42:21 20 right.

09:42:22 21 21 Q. Thank you.

09:42:23 22 So I want to discuss a bit more of the
09:42:26 23 interview that you had with Professor Brownlie,
09:42:28 24 including about some of the history of the
09:42:31 25 Saugeen Ojibwe in the territory and asserting or

09:42:34 1 exercising of rights through the territory.

09:42:36 2 And I think you've already alluded to
09:42:38 3 how you learned about this, but please tell us a
09:42:41 4 bit about how you came to know about these
09:42:43 5 topics.

09:42:44 6 A. Well, me and my dad used to -- I
09:42:48 7 have two brothers, Howard and Sam. Me and my
09:42:50 8 brother Sam went to high school and we used to
09:42:53 9 fish. My dad was a structural steel iron worker
09:42:56 10 and when he was laid off we commercial fished.
09:42:58 11 So we'd go on the boat and my dad would --
09:43:00 12 sometimes would take three to four to six hours
09:43:05 13 to fish.

09:43:06 14 And my dad would just talk and tell me
09:43:10 15 stuff, but it was -- like, I always tell this
09:43:15 16 story in a funny way because, you know, I think
09:43:18 17 a lot of people want to hear this story.

09:43:20 18 We were taught in a special way where
09:43:23 19 we sat around and enjoyed and laughed and
09:43:25 20 talked. My dad told me these stories on the
09:43:28 21 boat where I thought, oh God, dad's talking
09:43:30 22 again. You know what I mean?

09:43:35 23 So for six hours we had nothing to do
09:43:38 24 but dad would talk, I would listen and I would
09:43:41 25 lift the nets, right? And that's what we did

09:43:43 1 the whole time. And depending on the day, what
09:43:45 2 the topic was.

09:43:47 3 And then it wasn't until probably 25,
09:43:51 4 30 years later that I realized that he had been
09:43:54 5 telling me history and teachings but I thought
09:43:59 6 it was just a rambling of an old man, right.

09:44:05 7 And that's what -- we all did the same
09:44:07 8 thing. And I grew up in a time where -- I grew
09:44:11 9 up with a story-telling, I guess, community
09:44:19 10 where I had an uncle who I always thought was
09:44:21 11 the best story teller in the world. His name
09:44:23 12 was Josh Jones.

09:44:24 13 And so we learned that thing, is that
09:44:28 14 dad would talk and so you'd listen. And that
09:44:35 15 was kind of the thing is that he would talk and
09:44:38 16 say this about that, or talk about the fishing
09:44:40 17 and the boundaries and different things.

09:44:47 18 I guess I would take it in but it was
09:44:49 19 like, um, I don't know how would you say. I
09:44:54 20 wasn't told it was teaching or I wasn't told it
09:44:57 21 was anything. I just thought it was the talking
09:44:59 22 of my dad trying to kill the time for the next
09:45:01 23 two or three hours of work, right?

09:45:05 24 22 Q. Uhm-hmm.

09:45:05 25 A. And that's how I thought about

09:45:07 1 it. I didn't really think about it as anything
09:45:13 2 of merit until much later in life.

09:45:15 3 23 Q. And what was your dad's name?

09:45:18 4 A. Vernon Charles Malcolm Jones.

09:45:20 5 24 Q. And what was his role in the
09:45:22 6 community?

09:45:23 7 A. My dad was a Chief for I think
09:45:25 8 '65, '66 and '67; and he was on council but I'm
09:45:30 9 not sure about what dates he was on council.

09:45:33 10 And he was -- his dad was the chief
09:45:37 11 and his dad was the chief, and that kind of
09:45:39 12 thing. Like, my brother Howard spoke yesterday,
09:45:43 13 you know, so there's a long lineage to that,
09:45:48 14 right?

09:45:53 15 25 Q. Did you have any other teachers?

09:45:55 16 A. My Aunt Gladys, Kid and
09:46:00 17 Beermartin were both Midewiwin women. And when
09:46:04 18 I was searching for, I guess, my form of God I
09:46:10 19 went to see my aunt and I asked her, I said, "I
09:46:14 20 want to know what it is to be an Indian", right?
09:46:18 21 And I'm not sure about how much they'd like me
09:46:23 22 to say about that.

09:46:24 23 But they said, well, first of all,
09:46:28 24 you're not an Indian. Indians are from India.
09:46:32 25 You're Anishinaabeani, and that means a member

09:46:37 1 of the tribe and a man, right? And she said
09:46:41 2 that this is a thing. If you want to come, I'll
09:46:43 3 show you the way.

09:46:45 4 And she said, I'm surprised. I have
09:46:48 5 five sisters and we usually -- women teach
09:46:50 6 women. And so over the years I would bump into
09:46:54 7 her in different places in -- like one time I
09:46:57 8 bumped into her in Winnipeg, and other places.
09:46:59 9 And it seemed like every time I was a little
09:47:04 10 bit -- I don't know what you say, lost, I guess,
09:47:08 11 or looking. I'd bump into her and she'd give me
09:47:12 12 like this is this and that's that. And she
09:47:15 13 said, I'll teach you.

09:47:16 14 So when her husband died I came back
09:47:19 15 from Dallas and I went to her and she said,
09:47:23 16 uncle Joe is gone and would you come by? So I
09:47:28 17 used to go by and visit her. And then she said,
09:47:31 18 I thought that one of your sisters would have
09:47:33 19 come and get the teachings. And she goes,
09:47:38 20 that's what I was hoping. And she said, but I
09:47:42 21 realize it's you. So I said, okay. And she
09:47:47 22 said, if you want to come with me I'll teach you
09:47:58 23 this way of life.

09:47:59 24 And so I went with her for about maybe
09:48:01 25 five years. Her and my other aunt were both

09:48:04 1 Midewiwin women and they taught me that way of
09:48:08 2 life.

09:48:08 3 And I went to the lodge I think for 12
09:48:11 4 years with them, numerous places, right. Red
09:48:14 5 River was the first place I went. I never
09:48:18 6 became a Midewiwin but I got the teachings.

09:48:26 7 And it was funny because it was the
09:48:28 8 same thing as like the fishing boat. They
09:48:29 9 didn't teach me. They were kind of hard core
09:48:31 10 women and they would say, okay, come. And I
09:48:35 11 was -- I guess I was asked but it was more like
09:48:38 12 I was told to come. Okay, we're going now.
09:48:40 13 We're going here. And that's how I was taught
09:48:43 14 that culture until my aunt passed away, right?

09:48:54 15 26 Q. I'm going to shift gears and ask
09:48:57 16 you about the time you served on the Nawash Band
09:48:59 17 Council. How long did you serve for?

09:49:01 18 A. I served for three terms. I
09:49:03 19 think '97 to 2003. I was -- I served -- I was a
09:49:09 20 land claim liaison, numerous things, police,
09:49:14 21 native child welfare. I think there's about six
09:49:21 22 or seven different committees I think I was on;
09:49:23 23 one was economic development and different
09:49:27 24 things; I did many of those things; I was on the
09:49:30 25 fishing too, fishing negotiation.

09:49:34 1 And that's what I did, you know, for
09:49:37 2 six years. It was -- council can tend to get
09:49:43 3 into many things, different aspects of many
09:49:45 4 things and that's what I did. And I don't
09:49:48 5 know -- you know, I was lucky enough to read all
09:49:51 6 the Treaties.

09:49:51 7 And I started to realize over the
09:49:53 8 time, I was told stuff when I was young that had
09:49:57 9 to do with that, but I didn't know that at the
09:50:01 10 time, right? I didn't know any of that stuff.
09:50:04 11 I just thought like, again, I thought it was the
09:50:07 12 ramblings of my father trying to kill time, you
09:50:09 13 know what I mean? And I didn't realize until I
09:50:12 14 start to go into council and cultural things and
09:50:18 15 different things that I was told stuff as a
09:50:22 16 young boy. And the obligation of being
09:50:29 17 taught -- my father was taught that way of life
09:50:31 18 first.

09:50:32 19 Then we became a Christian and he told
09:50:35 20 me that the old way is gone. Because that's
09:50:40 21 what he -- he never said "traditional life" ever
09:50:43 22 in my lifetime, he called it the "old way". He
09:50:47 23 said, the old way is gone so I'm going to this,
09:50:50 24 the Christianity, because he believed in God.

09:50:58 25 27 Q. So I just want to circle back.

09:50:59 1 You were mentioning the portfolios you held as a
09:51:01 2 councilor, as an elected councilor. You had a
09:51:05 3 lot of them but you mentioned land claims'

09:51:07 4 liaison. What did that mean? What did you do?

09:51:10 5 A. Well, at the time I think that
09:51:13 6 because land claims were starting up and we
09:51:16 7 had -- Darlene Johnston was the researcher for
09:51:20 8 land claims. And there was legal issues coming
09:51:24 9 up and so I represented the Band in -- as my
09:51:31 10 portfolio. So anything to do with land claims I
09:51:34 11 was one of the guys that was -- constantly went
09:51:37 12 to all the meetings to do with land claims.

09:51:40 13 And if there was anything to do with
09:51:42 14 court I think that I was one of those guys. I
09:51:48 15 think I went to court a couple of times. I
09:51:50 16 think me and Roger went to court in Toronto. I
09:51:54 17 can't remember when that was. Probably in
09:51:55 18 the -- in that time, that six years I was
09:52:01 19 council, right?

09:52:03 20 And there was numerous other things
09:52:05 21 that we went on, numerous land claim meetings,
09:52:08 22 land claim discussions, and what we were going
09:52:11 23 to do, and how we were going to do it, and what
09:52:13 24 we were going to do about it. So it entailed
09:52:15 25 many things and there was many different

09:52:17 1 meetings all over the time. And so I'm not sure
09:52:21 2 of -- I can't even tell you how many meetings
09:52:26 3 there was --

09:52:27 4 THE COURT: Sir, I'm just going to
09:52:29 5 interrupt you for a second because I know you're
09:52:31 6 trying hard.

09:52:32 7 Your lawyer will ask you another
09:52:35 8 question so you don't have to worry about trying
09:52:37 9 to guess how many meetings. If she thinks it's
09:52:39 10 important she'll ask you.

09:52:41 11 THE WITNESS: Okay.

09:52:42 12 THE COURT: Thank you. Please go
09:52:43 13 ahead, counsel.

09:52:45 14 MS. GUIRGUIS: Thank you.

09:52:46 15 BY MS. GUIRGUIS:

09:52:47 16 28 Q. That's great. I'm actually going
09:52:48 17 to jump back now to something that you have
09:52:51 18 mentioned already too, is that you talked about
09:52:54 19 your father taking the position to hunt and fish
09:52:58 20 throughout the territory and that you'd do that
09:53:03 21 with him and in a group of people. So you did
09:53:06 22 mention that and you talked about going outside
09:53:09 23 the boundaries that were set by the Ministry.

09:53:12 24 How did the government respond when
09:53:16 25 you, your father and others would hunt and fish

09:53:19 1 outside the area that the government had
09:53:21 2 allotted?

09:53:22 3 A. I was with my father twice when
09:53:26 4 we were actually caught outside established --
09:53:33 5 you know, I don't know. I just learned that
09:53:35 6 term in the last 30 years, a postage stamp of
09:53:40 7 where our territory was.

09:53:41 8 But we were caught -- one time we were
09:53:43 9 caught fishing between Hay Island and Griffith's
09:53:46 10 Island by the MNR. And we just finished lifting
09:53:50 11 the nets and we got in there and MNR pulled up
09:53:56 12 beside us and told my -- and I was fishing with
09:53:59 13 my father and a guy named Emerson Akiwenzie --
09:54:01 14 no, Emerson Nadjiwon, I'm sorry.

09:54:06 15 And we pulled up and Emerson says, sit
09:54:09 16 down. And I said, why? He goes, the MNR are
09:54:11 17 here and they told my dad that they were going
09:54:13 18 to charge us for fishing outside our territory,
09:54:15 19 and that they're going to come on the boat and
09:54:18 20 take my -- take the fish in my dad's nets. And
09:54:22 21 so Emerson said, he said, you know if that guy
09:54:29 22 steps one foot on your dad's boat he's gonna
09:54:33 23 fight him. And I went, yeah. My dad wouldn't
09:54:37 24 let anybody take anything of his stuff.

09:54:45 25 So the guy said, I'm going to take

09:54:47 1 your stuff. I'm going to call your chief. And

09:54:49 2 my dad said, who's the chief? And he said

09:54:51 3 Vernon Jones. And he said, okay, and he shook

09:54:55 4 his hand. He said, my name is Vernon Jones.

09:54:57 5 What do you want to talk about? And they let us

09:55:00 6 go.

09:55:00 7 And then one time we were caught on --

09:55:02 8 up by Willow Creek on the other side of the

09:55:05 9 established hunting grounds and we had a deer.

09:55:07 10 And it was -- and there was an MNR guy parked on

09:55:12 11 the road. And we came up right behind him and

09:55:15 12 walked to the car. And my dad said, what are

09:55:19 13 you doing here? And the guy goes, I'm looking

09:55:21 14 for people who are hunting illegally. And at

09:55:25 15 the time that's what we were doing. You know,

09:55:29 16 that was -- we established -- my dad said, well

09:55:31 17 the only ones that hunt up here is us now.

09:55:34 18 And he said, he goes, you know I could

09:55:37 19 call you in and talk to your -- call your chief

09:55:39 20 and tell you're off the territory and the thing.

09:55:42 21 And my dad said, my name is Vernon Jones. I'm

09:55:47 22 the Chief so if you want to call the chief you

09:55:50 23 can talk to me right now.

09:55:53 24 Again they let us go, right, and we

09:55:57 25 had a deer at the time. And I don't think the

09:56:00 1 game wardens -- they knew my dad by sight and by
09:56:03 2 name and weren't -- they weren't the most
09:56:07 3 friendly to each other. My dad wasn't a big fan
09:56:11 4 of them and they weren't a big fan of him.

09:56:16 5 29 Q. So you talked about that they
09:56:17 6 would -- they were catching you or you were
09:56:21 7 trying to avoid them. So --

09:56:22 8 A. We always tried to avoid them.
09:56:24 9 And we always seemed to see them at -- when we
09:56:26 10 hunted up at Willow Creek. They were always
09:56:29 11 there cruising up and down the highway looking
09:56:32 12 for us, going down Lake Emmett Road. And we
09:56:36 13 always seen them. And we knew enough to try to
09:56:38 14 try to avoid them. And if we couldn't -- it
09:56:41 15 wasn't really that difficult because there was
09:56:43 16 usually one or two guys.

09:56:45 17 And so we -- and we always did the
09:56:47 18 same thing. We tried to hunt and -- with the
09:56:53 19 least amount of noise or waste. And everything
09:56:57 20 we killed we'd take home. And we always tried
09:57:01 21 to avoid the MNR the whole time I was with my
09:57:08 22 father.

09:57:08 23 30 Q. Was your father ever charged?

09:57:10 24 A. My father was charged at
09:57:13 25 Griffith's Island one time for trespassing and

09:57:21 1 he got a one dollar fine, I remember that. And
09:57:25 2 I don't remember him ever being charged any time
09:57:29 3 else. But they caught -- him and a guy named
09:57:34 4 Harvey Esquee [ph] were caught on Griffith's
09:57:38 5 Island and they charged them with trespassing.
09:57:41 6 I'm not sure what years those were but I know he
09:57:43 7 got a one dollar fine.

09:57:46 8 31 Q. And he paid the fine?

09:57:48 9 A. He said he wouldn't, but at the
09:57:52 10 time his lawyer paid the one dollar because he
09:57:58 11 said he wouldn't.

09:57:59 12 32 Q. Your father had a lawyer. Was it
09:58:02 13 common for other people that you knew that got
09:58:04 14 charged with hunting or fishing to be able to
09:58:06 15 have lawyers?

09:58:07 16 A. No. My father was a structural
09:58:10 17 steel iron worker and he -- it was kind of rare
09:58:13 18 but he had money. Like, because we fished and
09:58:16 19 he worked iron and even back then it was, you
09:58:21 20 know, it was a money thing. He was -- one thing
09:58:24 21 he was good at was making money and he had a
09:58:27 22 lawyer. And that was very rare for -- I think
09:58:33 23 most people to have a lawyer, to even afford a
09:58:36 24 lawyer. But my dad had money and when my dad
09:58:40 25 thought he was right he would fight. That's

09:58:46 1
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what he did.

33 Q. Let's talk about your grandfather for a moment. What was his name?

A. John Cheedjak [ph] Jones but they called him Jack.

34 Q. Can you tell us about your grandfather's role in the community?

A. My grandfather was the Chief. And was the Chief and -- in the leadership I don't know how many years. He died as the Chief in 1960, I was told. I was only two years old so I don't remember much of him, but I found a history.

My Aunt Gladys, when she passed away I got her things and I found a picture of him in 1951 with the Indian Brotherhood. That organization was called the "Indian Brotherhood" and he was one of the founding members of that organization. And there was a picture of him on the Parliament building in 1951, and that later became the AFN.

35 Q. So that's the National Indian Brotherhood that became AFN later, Assembly of First Nations?

A. Yes. I have the picture at home

10:00:03 1 some place.

10:00:04 2 36 Q. And what was his -- you mentioned
10:00:06 3 before -- actually I don't know if you mentioned
10:00:08 4 this before, but what was his role as a
10:00:10 5 traditional leader?

10:00:12 6 A. Well, I was told by my Aunt
10:00:15 7 Gladys they had the last traditional meeting at
10:00:18 8 his house, where I live now, just in front of
10:00:20 9 his house in 1938 or '39 just before the war
10:00:27 10 started. Because at that time it was illegal to
10:00:32 11 believe in what we believed, right?

10:00:36 12 So they had -- I was told that Aunt
10:00:38 13 Gladys, my aunt, was at that last traditional
10:00:43 14 meeting. And because she was deaf they thought
10:00:52 15 that she was gifted and that she could speak --
10:00:53 16 that the Creator would speak to her, and that
10:00:55 17 was the only time she was -- that that meeting
10:00:59 18 went on, that I know of. And she was the one
10:01:02 19 who told me about that last traditional meeting
10:01:06 20 of the Clans. He was the head of his Clan.

10:01:13 21 37 Q. And when you say the "traditional
10:01:14 22 meeting" this is the same thing that you're
10:01:16 23 describing as the old ways, the traditional ways
10:01:19 24 and it was illegal at that time so it had to be
10:01:23 25 done in secret?

10:01:24 1 A. Everything had to be done in
10:01:25 2 secret. There was two churches on the reserve
10:01:27 3 and they didn't really -- you know, that was
10:01:33 4 the -- what was the -- my dad used to use the
10:01:36 5 term. My dad said, well, the white man made it
10:01:39 6 illegal for us to believe in what we believe.
10:01:42 7 So, like everything else, we hunt and fish in
10:01:46 8 silence and the same with our beliefs.

10:01:51 9 38 Q. And who did you have to hide it
10:01:54 10 from? Was it the Indian Agent?

10:01:56 11 A. My -- one of the stories that I
10:01:58 12 always think is one of the funniest things is my
10:02:01 13 grandfather and his family would do ceremonies
10:02:05 14 on Saturday night; and they would take the kids
10:02:07 15 to walk by the Indian Agent's house in the
10:02:10 16 morning. And they used to call him the "Sunday
10:02:12 17 morning Christian" because the whole reserve
10:02:14 18 knew that he did ceremonies, but he had to walk
10:02:18 19 his kids by the Indian Agent's house to show
10:02:23 20 them going to church because the Indian Agent
10:02:24 21 controlled your destiny at the reserve, right?

10:02:32 22 39 Q. So you mentioned that your
10:02:33 23 grandfather was part of the effort to create the
10:02:36 24 National Indian Brotherhood, which became the
10:02:39 25 Assembly of First Nations. How did this

10:02:41 1 experience and the experiences he had help with
10:02:43 2 the Saugeen Ojibwe in asserting their rights to
10:02:46 3 the territory?

10:02:47 4 A. Well, I think even in my dad's
10:02:49 5 time he always talked about human rights --
10:02:50 6 well, rights. And he told me when I was young,
10:02:58 7 I want you to be able to read and write so that
10:03:01 8 you can fight this on the white man's terms and
10:03:07 9 learn their way so that they can't do this to
10:03:11 10 you in your generation.

10:03:12 11 So I think that was one of the things
10:03:18 12 that he talked about, his father, a lot to me
10:03:21 13 about it because my grandfather, Jack, fought in
10:03:24 14 the First World War and he got the vote. The
10:03:29 15 vote came I think -- I'm not sure about this,
10:03:32 16 but I was told that we got the vote and to drink
10:03:35 17 in '58 and there wasn't an election until '59.

10:03:40 18 So my dad always told me, even when I
10:03:42 19 was 12 or 13, I want you to be able to vote.
10:03:46 20 Your grandfather fought for that vote so I want
10:03:49 21 you to vote and be able to vote; because he only
10:03:52 22 got to vote one time in his lifetime. I don't
10:03:54 23 know who he voted for but I was told that he
10:03:57 24 voted once, and he got to drink in his lifetime.
10:04:02 25 He died two years after it happened.

10:04:04 1 So I think that -- and dad used to
10:04:05 2 always say that he said, I fought for this to
10:04:08 3 happen, and so I want you to be part of that.

10:04:14 4 40 Q. Thank you. And you mentioned
10:04:16 5 earlier that you dad, Vernon Jones, he was an
10:04:19 6 iron worker. He worked in the U.S. before
10:04:22 7 coming back here and serving as Chief. How did
10:04:25 8 that experience, the experience that he brought,
10:04:28 9 help the Saugeen Ojibwe in asserting their
10:04:30 10 rights?

10:04:31 11 A. Well, I think that one of the
10:04:32 12 things that being an iron worker is -- when you
10:04:36 13 work iron, when you get back to the ground,
10:04:38 14 you're not really scared of anything. Because
10:04:45 15 when I was an iron worker I was scared every
10:04:48 16 day, but you get used to doing that, right?

10:04:52 17 And my dad had that in his head that
10:04:54 18 when he got to the ground he was safe. And he
10:04:57 19 seen many things in the states. Like, he always
10:04:59 20 talked about when he came back home the
10:05:02 21 Americans were -- they believed in their
10:05:07 22 country. Their country was the whole best
10:05:09 23 thing, and they can be any religion in the world
10:05:12 24 but they were Americans.

10:05:14 25 So when he came back to the reserve

10:05:16 1 his idea was to have the same thing. He said,
10:05:19 2 we can be like Americans. We can be Anishinaabe
10:05:23 3 people and be any religion we can. We don't
10:05:27 4 have to hate each other or fight. And that was
10:05:30 5 his belief.

10:05:32 6 And he also learned, because he was an
10:05:34 7 iron worker in the '60s in Detroit, and he
10:05:39 8 seen the protest of the people and he thought
10:05:41 9 that was the way to go, right?

10:05:45 10 He told me he had seen Detroit
10:05:47 11 burning. And when they were burning it he was a
10:05:49 12 structural steel iron worker who didn't have a
10:05:51 13 car so he walked to work. And he -- he walked
10:05:56 14 through -- he called it the white line, a white
10:06:01 15 people's line and said, I gotta go to work.
10:06:04 16 There's my building right there. And they let
10:06:06 17 him go through because he wasn't black. And
10:06:08 18 then he walked through the black line and he
10:06:11 19 said, can I go through? I work right there.
10:06:13 20 And they said, well, you're not white. And he
10:06:17 21 goes, you hate the white man as much as we do.
10:06:21 22 And he goes, I don't hate anybody, but -- so
10:06:24 23 they let him go through to work.

10:06:26 24 And he went to work every day. I
10:06:27 25 don't know how long that happened. Maybe it

10:06:30 1 only happened one day. He used to tell me that
10:06:32 2 story on the boat and I thought it was just
10:06:35 3 killing time, right?

10:06:37 4 But I think that affected how he
10:06:39 5 believed that we could do back -- when he came
10:06:42 6 back to Canada, is that this is how to go about
10:06:45 7 things so to -- you know, we don't have to
10:06:48 8 agree. We can protest, right?

10:06:52 9 41 Q. Thank you.

10:06:52 10 I would like to just finish up with a
10:06:54 11 short question about the Indian Agent. What do
10:06:57 12 you remember about the role that the Indian
10:06:59 13 Agent played in your community when you were
10:07:02 14 growing up?

10:07:03 15 A. Well, I was -- I thought about
10:07:06 16 that for a long time. The Indian Agent was
10:07:09 17 never thought of as -- in my time, as a good
10:07:13 18 person or a kind-hearted soul, or somebody who
10:07:16 19 was trying to take care of us. It was always
10:07:19 20 like he had the thumb on us.

10:07:20 21 And I guess my dad was there in the
10:07:24 22 time when the Indian Agent got -- was taken off
10:07:29 23 the reserve; my dad was there and was part of
10:07:32 24 getting rid of him or whatever.

10:07:34 25 And I don't remember much about him

10:07:36 1 but I know my dad didn't think very highly of
10:07:39 2 that -- of that idea of the Indian Agent, or
10:07:42 3 that somebody should have the -- govern over us
10:07:49 4 in our own territory, and those kind of things.

10:07:52 5 Like, you know, when I went to school
10:07:55 6 it was taught that this -- we were governed by,
10:07:59 7 you know -- we had to sing the Canadian anthem
10:08:06 8 and to the Queen and all those things. And that
10:08:08 9 really wasn't what my father believed, right.

10:08:13 10 42 Q. My last question is, do you know
10:08:15 11 anything about when and how the Indian Agent
10:08:17 12 left the community?

10:08:20 13 A. Well, it was a funny thing.
10:08:24 14 Wilmer Nadjiwon wrote a book and said that he --
10:08:29 15 he contributed to getting rid of the Indian
10:08:32 16 Agent. And then I thought about that, so I
10:08:36 17 asked my mother, who was alive at the time. And
10:08:39 18 she goes, well, your dad was there when they got
10:08:43 19 rid of the Indian Agent and he was all for that.
10:08:44 20 And so I went and asked Wilmer and he goes, oh
10:08:48 21 yeah, council and me did that. And he goes, we
10:08:51 22 got rid of the Indian Agent.

10:08:52 23 Because in the book Wilmer says it was
10:08:55 24 him, "I", "me", but my dad and them were all
10:08:59 25 there as councilors fighting that because they

10:09:03 1 didn't like the idea of the Indian Agent, right?

10:09:06 2 43 Q. So that was in the 1960s?

10:09:08 3 A. Yes. I'm not sure when.

10:09:13 4 44 Q. Okay. I believe those are all my
10:09:16 5 questions. Thank you very much.

10:09:20 6 THE COURT: Thank you, counsel. Is
10:09:21 7 counsel from Canada going to ask this gentleman
10:09:25 8 some questions?

10:09:28 9 MR. ENNIS: One moment.

10:10:01 10 CROSS-EXAMINATION BY MR. ENNIS:

10:10:04 11 45 Q. Good morning, Your Honour.
10:10:06 12 Good morning, Mr. Jones.

10:10:07 13 A. Morning.

10:10:08 14 46 Q. My name is Barry Ennis. I'm one
10:10:10 15 of the legal counsel for Canadian. And I want
10:10:13 16 to thank you for your testimony this morning and
10:10:17 17 also for the interview that you gave with
10:10:20 18 Professor Brownlie, which I read very carefully
10:10:25 19 and found instructive and very engaging.

10:10:30 20 At this time, however, I don't have
10:10:33 21 any questions for you but my friend from
10:10:37 22 Ontario, I believe, may have some questions for
10:10:40 23 you. Thank you, again.

10:10:42 24 A. Okay.

10:10:43 25 THE COURT: Thank you, Mr. Ennis.

10:10:45 1 Which counsel from Ontario?

10:10:54 2 MS. LE PAN: Ms. Le Pan, Your Honour.

10:11:01 3 THE COURT: Just come forward.

10:11:03 4 CROSS-EXAMINATION BY MS. LE PAN:

10:11:13 5 47 Q. Good morning, Your Honour.

10:11:15 6 Good morning, Mr. Jones.

10:11:16 7 A. Morning.

10:11:17 8 48 Q. My name is Jennifer Le Pan. I'm

10:11:19 9 counsel for Ontario in this matter and I have a

10:11:21 10 few questions for you today. I want to first

10:11:23 11 start by thanking you for the information that

10:11:25 12 you have shared with us today.

10:11:27 13 We've also had some problems with

10:11:29 14 sound in this room.

10:11:31 15 THE COURT: Yes, we have, counsel.

10:11:34 16 MS. LE PAN: Is this clearer?

10:11:35 17 THE COURT: Yes, as you just moved

10:11:37 18 yourself closer to the microphone it became very

10:11:41 19 audible, so if you could stay to the right.

10:11:46 20 BY MS. LE PAN:

10:11:46 21 49 Q. So if at any point you can't hear

10:11:48 22 me or you don't understand the question just let

10:11:50 23 me know and I'll speak up or repeat my question,

10:11:53 24 okay?

10:11:53 25 A. Yes.

10:11:54 1 50 Q. I want to start by asking you
10:11:55 2 some questions about the land claims. You
10:11:58 3 mentioned today that you worked on the land
10:12:00 4 claims.

10:12:01 5 A. Yes.

10:12:02 6 51 Q. And by "land claims", just to
10:12:04 7 clarify, you mean the Treaty and the title
10:12:07 8 claims that are the subject of this trial, is
10:12:09 9 that correct?

10:12:11 10 A. Um, well, I think that at first
10:12:14 11 it was introducing ourselves even to what the
10:12:19 12 land claim issues that are going on. Because
10:12:21 13 it's a learned process that this is how we had
10:12:26 14 to fight it. So we had to learn how to fight
10:12:29 15 it, ask the questions and learn that process.
10:12:32 16 Because I didn't know what the process was and
10:12:35 17 how do to it.

10:12:37 18 I just always was told that we were
10:12:46 19 lied to and the Treaties were never upheld by
10:12:49 20 these people. So I -- my dad told me that his
10:12:55 21 whole life and his father and his father and his
10:12:58 22 father fought that.

10:13:00 23 52 Q. Okay.

10:13:01 24 A. And so that's how, when I was --
10:13:04 25 when I said I got into land claims I always

10:13:07 1 thought about the thing my dad said about learn
10:13:09 2 how to read and write so that this doesn't
10:13:15 3 happen to you in your time.

10:13:16 4 So when I got into council that
10:13:20 5 portfolio came up and I thought, you know, my
10:13:25 6 family has been there from the beginning of
10:13:28 7 first contact with the Europeans and maybe this
10:13:33 8 is the reason I'm here.

10:13:36 9 53 Q. And just to clarify, when you
10:13:37 10 said "the Treaties" you mean Treaty 72 and
10:13:41 11 Treaty 45 and a half, is that correct?

10:13:43 12 A. I mean all the Treaties.

10:13:45 13 54 Q. And you mentioned today that your
10:13:47 14 work on the land claims was through the council?

10:13:50 15 A. Right.

10:13:51 16 55 Q. Did you ever work on the land
10:13:52 17 claims outside or when you weren't on council?

10:14:00 18 A. Not that I remember, no. I read
10:14:03 19 some things about the land claims and like,
10:14:09 20 again, my father used to talk about the
10:14:11 21 injustices and these things.

10:14:15 22 Like, at the time I didn't really
10:14:18 23 understand because it was just another day of
10:14:21 24 fishing, right? But then when I became on land
10:14:27 25 claims, when I began seeing those issues I

1 realized what he was talking about, these
2 promises that were made that weren't upheld; and
3 that -- how easy it was for the government to
4 lie to us. That's what he used to say.

5 56 Q. Okay. And when you worked on the
6 land claims I think you mentioned you worked
7 with Darlene Johnston, is that correct?

8 A. Darlene Johnston was the
9 researcher at the time. My -- she did the
10 research when I got on there. She was the
11 researcher the whole time I was on council I
12 think.

13 57 Q. And did you have the opportunity
14 to read any of Darlene's research?

15 A. I read, I would say, a lot of
16 things that she had told me about, different
17 things over the time. And she had shown me the
18 signature of my grandfather and I always thought
19 that was a really kind of cool thing.

20 And we'd talk little bit about all the
21 land claim issues. But Ralph Akiwenzie was the
22 Chief and we would -- I read the Treaties
23 because I thought it was important to read all
24 the Treaties and see what they said because I
25 really didn't know, right.

10:15:49 1 It was all -- it was talking from my
10:15:52 2 father about they lied to us and this. And I
10:15:55 3 had no idea what that all meant. So I made it
10:15:59 4 my thing to read the Treaties and know what was
10:16:02 5 said and promised and what wasn't done.

10:16:08 6 58 Q. So it's fair to say that you had
10:16:10 7 discussions with Darlene about the history of
10:16:11 8 your people or about the Treaties?

10:16:13 9 A. Yes.

10:16:15 10 59 Q. And is it fair to say that some
10:16:17 11 of your knowledge or information about the
10:16:18 12 history of your community you learned through
10:16:21 13 your working with Darlene or your discussions
10:16:23 14 with her?

10:16:25 15 A. Yes. Some of the things I --
10:16:29 16 that was through her, and some of the things
10:16:31 17 that my dad had said over the years came
10:16:34 18 apparent in that time also; because I didn't
10:16:38 19 realize that they were really connected until I
10:16:42 20 heard a couple of lines of a treaty that said
10:16:45 21 this, and then I realized I had heard that from
10:16:49 22 my father, right? And I didn't connect those
10:16:53 23 two until that time.

10:17:00 24 60 Q. Now, you're married, is that
10:17:01 25 correct?

10:17:01 1 A. Yes.

10:17:02 2 61 Q. And is your wife Linda Jones?

10:17:04 3 A. Yes.

10:17:05 4 62 Q. And what is her background? Is
10:17:07 5 she of European descent?

10:17:10 6 A. Yes, she's Irish. Her mother's
10:17:11 7 Irish and her father was Scandinavian. She was
10:17:15 8 a law clerk. She had an English degree first
10:17:17 9 and she's a law clerk. And she worked for land
10:17:20 10 claims and other departments at Cape, also
10:17:24 11 education, alternative justice, native child
10:17:27 12 welfare.

10:17:29 13 And she worked for land claims as an
10:17:33 14 archivist. I think she transcribed -- I want
10:17:36 15 to -- she said six thousand things on to --
10:17:43 16 transcribed from the notes to digital I guess.

10:17:52 17 63 Q. She sounds like a busy woman.

10:17:54 18 A. She is.

10:17:55 19 64 Q. And do you know how long she was
10:17:56 20 involved for? Was it for about seven years or
10:17:59 21 so?

10:18:00 22 A. Possibly. As well I remember
10:18:01 23 that we moved the office from Saugeen to Cape
10:18:04 24 and it was just me and her. And I remember I
10:18:08 25 must have carried it felt like a thousand boxes.

10:18:12 1 But I remember it was a thing that -- there was
10:18:15 2 no money even then. So I remember I had a
10:18:18 3 pick-up truck so I came back and forth for, I
10:18:20 4 don't know, maybe a day picking -- moving stuff.
10:18:24 5 And I don't know if you're married but my wife
10:18:28 6 told me to do this so I did what she asked,
10:18:30 7 right.

10:18:31 8 65 Q. So she was involved for a long
10:18:32 9 time?

10:18:35 10 A. Yeah.

10:18:35 11 66 Q. And do you recall when abouts
10:18:37 12 that would be in terms of years? Even roughly?

10:18:41 13 A. Well, I think that she worked for
10:18:45 14 land claims before I was a councilor, so maybe
10:18:50 15 in '93, '94, '95, something like that. Because
10:18:57 16 I remember her talking one day about, well, did
10:19:05 17 you know your grandfather -- your great
10:19:09 18 grandfather signed the original treaties? And I
10:19:11 19 went, yes. And she said, you don't seem to be,
10:19:15 20 you know, like -- I said, well, I knew that my
10:19:18 21 whole life because my family is, you know, is
10:19:23 22 right from the beginning. My great, great
10:19:26 23 grandfather signed the Treaties and then the
10:19:30 24 onset of the next chiefs, and that history has
10:19:32 25 always been told to me.

10:19:36 1 And you could -- we've always been
10:19:40 2 from there. That's what I been told. We always
10:19:45 3 been from here.

10:19:46 4 67 Q. So in the early '90 is your best
10:19:49 5 guess of when she worked on the land --

10:19:52 6 A. I would have to say after '93
10:19:53 7 because that's when we came up from Toronto to
10:19:56 8 -- we lived in Chesley for a short time. And my
10:19:59 9 wife went from Chesley to Saugeen to work for
10:20:02 10 land claims.

10:20:04 11 68 Q. Okay. Thank you. You mentioned
10:20:07 12 that she worked as an archivist and she
10:20:11 13 transcribed a bunch of documents?

10:20:12 14 A. Right.

10:20:13 15 69 Q. Did she also do research?

10:20:15 16 A. Yes, she did research with
10:20:18 17 Darlene. And I remember they went to, I want to
10:20:22 18 say the Archdiocese in -- I'm not sure where, to
10:20:26 19 look at the records; and she went with Darlene
10:20:32 20 at that time. She said she liked it there
10:20:34 21 because that was right up her alley, right.

10:20:36 22 70 Q. And would she ever share any of
10:20:39 23 those documents with you?

10:20:40 24 A. I was thinking about that the
10:20:41 25 other day. And sometimes we would talk about

10:20:47 1 things about law, because I had said stuff to
10:20:52 2 her when we were first dating that, well, you
10:20:57 3 can't believe the government. Everything they
10:20:59 4 say is a lie. They made a law that said we
10:21:02 5 couldn't hire a lawyer to fight land claims.

10:21:04 6 My wife thought that was a flat out
10:21:08 7 lie. And she was -- she was a legal clerk at
10:21:11 8 the time. And she said, I'm going to look into
10:21:14 9 this. And when she went and looked into it she
10:21:17 10 said, I couldn't believe that. I couldn't
10:21:19 11 believe that that was a law in Canada.

10:21:22 12 And so we had conversations about the
10:21:26 13 law and I would ask her questions more about the
10:21:29 14 process and what she thought of that. And the
10:21:37 15 history of records were more of what she did for
10:21:41 16 a living and not really -- somewhat of it, but
10:21:46 17 at the time we were both very busy so there was
10:21:49 18 always something going on, right.

10:21:54 19 71 Q. But it's fair to say that you two
10:21:56 20 would discuss her research and what she was
10:21:58 21 working on?

10:21:59 22 A. Sometimes.

10:22:00 23 72 Q. And so is some of your knowledge
10:22:02 24 about the history of your community also from
10:22:04 25 what you've learned from your wife?

10:22:07 1 A. I would say somewhat. Some of
10:22:10 2 the -- maybe some of the signings because of --
10:22:17 3 she one time asked me about the Clan system.
10:22:22 4 And I told her that my Clan was the otter and
10:22:25 5 that that was the things. And she goes, why do
10:22:28 6 you think that was? And I said, well, if you
10:22:31 7 signed you had to be -- I don't know how to say
10:22:37 8 that in -- I was told this is called sachem [ph]
10:22:41 9 in my language, but that was the head of the
10:22:41 10 family. And all the heads of family would go
10:22:47 11 to -- hold council. And that's a European thing
10:22:50 12 is that you had a Chief in council.

10:22:52 13 There was no councilors in the old
10:22:54 14 time, there was only heads of families or Chiefs
10:22:57 15 and they held council. And that's a European
10:23:01 16 thing, Chief in council.

10:23:02 17 And so I told her that was the
10:23:06 18 difference is that that's a European concept and
10:23:08 19 that wasn't our concept. There was no
10:23:11 20 councilors, there was only Chiefs at the council
10:23:13 21 table. There was no table but at the council,
10:23:17 22 right.

10:23:18 23 73 Q. And your wife gave a presentation
10:23:20 24 to the traditional Council in Chiefs about her
10:23:22 25 work on the land claims, is that correct?

10:23:27 1 A. She did come to a meeting with --
10:23:33 2 I consider it kind of a made-up kind of thing
10:23:36 3 with a guy named Alex Akiwenzie had some
10:23:39 4 little -- he tried to have a traditional council
10:23:43 5 but I didn't think very much of it. And she
10:23:47 6 came there and they had asked her a few
10:23:50 7 questions.

10:23:51 8 But I didn't believe it to be anything
10:23:56 9 I wanted to be part of or would believe in.

10:24:07 10 74 Q. And do you know when about she
10:24:08 11 gave that presentation?

10:24:09 12 A. Probably within the last five
10:24:10 13 years.

10:24:11 14 75 Q. And was the purpose of your
10:24:12 15 wife's presentation to educate those members who
10:24:16 16 attended at that meeting?

10:24:17 17 A. Well, she had read all the
10:24:19 18 Treaties and transcribed a lot of things. So my
10:24:24 19 wife was well versed in the English language.
10:24:31 20 And, you know, she has an English degree.

10:24:34 21 And she said, if they ask me any
10:24:37 22 questions I can explain to them how to Treaties
10:24:40 23 were made and what was said and what was done.
10:24:44 24 And that's what, you know, she was a law clerk
10:24:47 25 so she understood that part. And she said, I

10:24:50 1 can explain this to them if they don't
10:24:52 2 understand.

10:24:53 3 76 Q. And did she ever give any other
10:24:55 4 presentations like that to other community
10:24:56 5 members?

10:24:57 6 A. I don't -- I think she was with
10:25:00 7 Darlene many times and they had maybe presented
10:25:03 8 other things to the joint councils; because
10:25:08 9 that's who they work for, right.

10:25:11 10 77 Q. To the other councils?

10:25:12 11 A. Yeah, both councils. My wife
10:25:14 12 worked for land claims; and at the time the
10:25:16 13 office was here in Saugeen at the beginning.
10:25:19 14 And her and Darlene both came to joint council
10:25:23 15 and talked about.

10:25:24 16 78 Q. And they would present their
10:25:25 17 research?

10:25:27 18 A. Yes.

10:25:28 19 79 Q. And that was not uncommon for
10:25:30 20 them to present their research to counsel?

10:25:32 21 A. I assumed that was their -- I
10:25:33 22 just thought that was their job and that's what
10:25:34 23 they did, right.

10:25:36 24 80 Q. So now let's shift to discuss
10:25:37 25 your involvement in council. You mentioned you

1 were on council from 1997 to 2003, correct?

2 A. Yes.

3 81 Q. And during your time on council
4 were any of the findings from the research from
5 the land claims presented to Chiefs in council?

6 A. Monthly.

7 82 Q. And would it be Darlene Johnston
8 who would be doing the presentations or various
9 people from the land claims?

10 A. It depended on what the issue
11 was. Darlene would come, Roger would come
12 sometimes and other parts of -- and they would
13 report on what the process was or wasn't.

14 83 Q. I'm just going to stop you right
15 there because I don't want to hear about what
16 exactly they presented on, just the land claims
17 is general enough, thank you.

18 A. All right.

19 84 Q. And today you mentioned that when
20 you were on council you worked as a land claims
21 liaison, and that involved reading the Treaties,
22 and discussing the land claims, and meeting
23 about the land claims.

24 Prior to you holding that position,
25 were there other people in the past who held

10:26:47 1 that position?

10:26:48 2 A. I assumed that there was a
10:26:48 3 liaison as long as there was a council.

10:26:53 4 85 Q. So is it fair to say that some of
10:26:56 5 your knowledge regarding the history of your
10:26:57 6 community you also learned through your
10:26:59 7 participation as a land claims liaison?

10:27:05 8 A.
10:27:05 9 I would say that I did learn many
10:27:07 10 things by doing -- reading those things and
10:27:10 11 having, I think, things explained to us by
10:27:18 12 Darlene; and the lawyer would come and explain
10:27:22 13 how this was going on, or how the process was
10:27:25 14 going on. And the things that maybe we didn't
10:27:27 15 understand Darlene would make -- clear that up
10:27:29 16 for us and explain what this meant or what that
10:27:34 17 meant. And that was one of the things that I
10:27:36 18 did know.

10:27:37 19 And I did learn things from those
10:27:38 20 encounters for six years. It was always -- it
10:27:44 21 was a monthly thing, so it was a monthly
10:27:47 22 meeting. So there was always some issue that
10:27:51 23 would be dealt with or talked about and there
10:27:54 24 would be different things that we'd learn.
10:27:55 25 Like, we'd have to go to different processes;

1 and sometimes we'd have to go to court or
2 different things in that when you're the land
3 claims liaison to represent your position,
4 right?

5 86 Q. You mentioned that your father
6 was Chief from 1965 to 1967, is that correct?

7 A. Right.

8 87 Q. And you mentioned he was also on
9 council after that but you're not sure exactly
10 when, right?

11 A. No.

12 88 Q. No he wasn't on council or no
13 you're not sure?

14 A. No, I'm not sure.

15 89 Q. Okay.

16 A. I don't really know when -- I
17 didn't really pay attention to that too much.
18 It wasn't -- he didn't come home and say, I have
19 a meeting. My dad was always busy and I tried
20 to stay out of his way when he was, you know.

21 90 Q. No, I understand, thank you.

22 And while your father was Chief, or
23 while he was on council he was involved in
24 hiring lawyers for the purposes of bringing land
25 claims, is that correct?

10:28:54 1 A. Well, I think that one of the
10:28:55 2 things that he -- I don't know if he was in the
10:28:59 3 process of -- but he realized that when -- I
10:29:06 4 guess because of his knowledge of what he worked
10:29:08 5 around and seeing that lawyers were the way to
10:29:14 6 go instead of us saying, this is wrong. Because
10:29:18 7 that went nowhere, right?

10:29:20 8 And he said that he realized that it
10:29:22 9 had to go through the -- what did he say? He
10:29:27 10 said, you have to go through the white mans' way
10:29:31 11 because that's the only way that they are going
10:29:32 12 to understand the organization. And us saying
10:29:34 13 that they ripped us off or did stuff like that
10:29:36 14 is never going to work.

10:29:38 15 And now we have to fight on their
10:29:40 16 level and learn their ways. Because that's
10:29:44 17 what -- that's the way he believed the only way
10:29:49 18 we'd get ahead. And hiring the lawyers at the
10:29:51 19 time was the issue because the Band Council had
10:29:53 20 no money. And he seen the process had to go
10:29:59 21 that way.

10:29:59 22 And he knew -- my dad was a fighter
10:30:03 23 and he -- when he got something into his head,
10:30:06 24 this is how we're going to have to fight it.
10:30:09 25 We're going to have to get lawyers. We're going

10:30:11 1 to have to do this, do that. And I think that
10:30:14 2 was his whole issue in that time.

10:30:16 3 But I'm not sure if they ever hired a
10:30:18 4 lawyer but I think that was one of his things
10:30:21 5 that he told me he wanted to do.

10:30:32 6 91 Q. Thank you. So I'm just going to
10:30:37 7 pull up the transcript of your interview that
10:30:40 8 you saw earlier today. Just give us a moment,
10:30:52 9 we're just sorting out the technology here.

10:30:55 10 THE COURT: That's Exhibit 3921.

10:30:59 11 BY MS. LE PAN:

10:30:59 12 92 Q. Exactly. Thank you.

10:31:22 13 If we go to page 27 of that document,
10:31:25 14 just right at the top there. So 27 in the PDF.
10:31:47 15 Can you read that there, Mr. Jones, or would you
10:31:49 16 like us to zoom?

10:31:52 17 A. I'm good.

10:31:52 18 93 Q. On the third line down it says
10:31:54 19 "DJ", which I believe is you?

10:31:57 20 A. Yes.

10:31:57 21 94 Q. And it says just a few lines
10:31:59 22 over:

10:32:00 23 "I really think that's why they
10:32:02 24 sent you to me because that's the
10:32:03 25 history of how that started to work.

10:32:05 1 And then in the '70s they started to
10:32:07 2 hire lawyers for land claims because
10:32:09 3 my father and those people, right?
10:32:11 4 And saying, let's hire, let's fight
10:32:14 5 this. We can't be second-class
10:32:16 6 citizens in our own territory."

10:32:19 7 A. Right.

10:32:20 8 95 Q. So is it correct to say that your
10:32:22 9 father or somebody else on council hired lawyers
10:32:25 10 in the '70s to fight the land claims?

10:32:28 11 A. I don't know if they hired
10:32:29 12 lawyers but that was the thing that was talked
10:32:32 13 about, the only way that we could fight the
10:32:35 14 system.

10:32:36 15 Because nothing in his time, or his
10:32:39 16 grandfather's time, or his great grandfather's
10:32:42 17 time, they were all alive in his lifetime, and
10:32:44 18 nothing they said or talked to through the
10:32:46 19 Indian Agent, or any of those people, got
10:32:49 20 anywhere or was ever listened to, that he knew
10:32:52 21 of. And so he thought the only way to do this
10:32:55 22 was to hire lawyers.

10:33:02 23 And I think the issue was there was no
10:33:05 24 money for lawyers, and he talked about that all
10:33:07 25 the time. But I don't know if they ever hired a

10:33:10 1 lawyer to do that, but he talked about the way
10:33:10 2 to go about this was hire lawyers.

10:33:12 3 And I know that he talked to lawyers
10:33:14 4 but I don't know if they hired any at the time.
10:33:17 5 I was only 12 or 13-years-old. So he didn't
10:33:20 6 talk about the present-day issues about --
10:33:23 7 because I probably wasn't interested, right.

10:33:27 8 96 Q. Thank you.

10:33:28 9 Okay. So I just have a few last
10:33:30 10 questions for you. I want to turn now and I
10:33:32 11 want to ask you about your interview with
10:33:35 12 Dr. Brownlie, so that one there. But I just
10:33:39 13 want to talk to you more generally about the
10:33:41 14 process. You're aware that Dr. Brownlie
10:33:42 15 interviewed other community members as well as
10:33:45 16 you, right?

10:33:45 17 A. Yes.

10:33:46 18 97 Q. And do you have any information
10:33:48 19 about who decided who should be chosen for those
10:33:51 20 interviews?

10:33:52 21 A. No.

10:33:54 22 98 Q. And you have -- do you have any
10:33:56 23 information about how that decision was made?

10:33:58 24 A. No.

10:33:59 25 99 Q. And did Dr. Brownlie provide you

10:34:02 1 with the questions for the interview before the
10:34:04 2 interview started?
10:34:06 3 A. No.
10:34:07 4 100 Q. And did you do anything to
10:34:09 5 prepare for the interview? Did you read
10:34:11 6 anything or have discussions with your wife?
10:34:13 7 A. No.
10:34:16 8 101 Q. Those are all my questions,
10:34:20 9 Mr. Jones. Thank you very much.
10:34:22 10 A. Oh.
10:34:23 11 THE COURT: Thank you, counsel.
10:34:23 12 Ms. Guirguis, do you have any
10:34:26 13 re-examination?
10:34:27 14 MS. GUIRGUIS: No, Your Honour.
10:34:29 15 THE COURT: Thank you. Sir, that
10:34:33 16 completes your evidence. You can stay there for
10:34:35 17 a minute because we're going to adjourn court
10:34:37 18 now.
10:34:37 19 Before we do that I want to extend
10:34:40 20 everyone's thanks for the welcome that we've
10:34:42 21 received here at the James Mason Memorial
10:34:43 22 Culture and Recreation Centre, and the very
10:34:49 23 substantial efforts that everyone has taken to
10:34:53 24 permit us to sit at this location.
10:34:55 25 This court is now adjourned until

10:34:59 1 Wednesday of next week where the trial will
10:35:02 2 resume in the courtroom in Toronto where it
10:35:06 3 began.

10:35:07 4 I wish to remind counsel that if
10:35:09 5 anyone needs access to that courtroom on Tuesday
10:35:14 6 they need to speak to Mr. Registrar before they
10:35:16 7 leave today so that those arrangements can be
10:35:19 8 made.

10:35:22 9 Court is now adjourned.

10 --- Whereupon the proceedings were
11 adjourned at 10:35 a.m.

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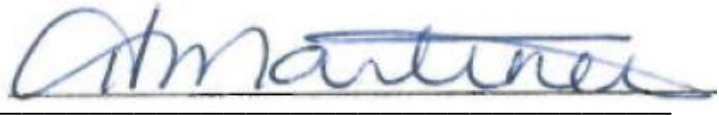
REPORTER'S CERTIFICATE

I, HELEN MARTINEAU, CSR, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein
set forth at which time the witness was put
under oath;

That the testimony of the witness and
all objections made at the time of the
examination were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and
accurate transcript of my shorthand notes so
taken. Dated this 24th day of May 2019.



PER: HELEN MARTINEAU
CERTIFIED SHORTHAND REPORTER

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