

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

VOL 27 DAY 27
July 15, 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 27 / DAY 27 of the
transcript of the trial proceedings in the
above-noted matter, being held at the Superior
Court of Justice, 330 University Avenue,
Courtroom 5-1, Toronto, Ontario, on the 15th day
of July 2019.

26 B E F O R E:

The Honourable Justice Wendy M. Matheson

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A P P E A R A N C E S :
Benjamin Brookwell, Esq., for the Plaintiffs,
& Roger Townshend, Esq., The Chippewas of
Saugeen First
Nation, and the
Chippewas of Nawash
First Nation.

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

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

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1 --- Upon commencing at 9:59 a.m.

09:59:53 2 THE COURT: Mr. Brookwell.

09:59:54 3 MR. BROOKWELL: Good morning, Your

09:59:55 4 Honour. This morning we're going to be calling

09:59:57 5 Mr. Paul Jones.

10:00:22 6 PAUL JONES: AFFIRMED.

10:00:32 7 EXAMINATION IN-CHIEF BY MR. BROOKWELL:

10:01:02 8 Q. Good morning, Mr. Jones.

10:01:07 9 A. Good morning.

10:01:08 10 Q. Could you begin by telling us

10:01:11 11 when you were born?

10:01:14 12 A. 1955.

10:01:18 13 Q. And where were you born?

10:01:19 14 A. Wiarton Hospital.

10:01:21 15 Q. And you're a member of which

10:01:24 16 First Nation?

10:01:24 17 A. Chippewas of Nawash.

10:01:28 18 Q. And where did you grow up?

10:01:34 19 A. Cape Croker.

10:01:37 20 Q. And where do you currently live?

10:01:39 21 A. Neyaashiingmiing, same place.

10:01:43 22 Q. Can you tell us what your clan

10:01:45 23 is?

10:01:46 24 A. Nigig dodem.

10:01:49 25 Q. And what does that mean?

10:01:51 1 A. It is of the otter clan.

10:01:54 2 Q. And what is your tribal
10:01:56 3 affiliation?

10:01:59 4 A. I'm an Ojibwe Indian, part of the
10:02:02 5 Anishinaabek Nation.

10:02:09 6 Q. Let's just start by speaking to
10:02:10 7 you a little bit about your career. Can you
10:02:13 8 tell us a little bit about some of the work that
10:02:16 9 you have done?

10:02:17 10 A. I was in Canadian Armed Forces
10:02:19 11 for a couple of years. I did a United Nation
10:02:23 12 tour in Cyprus island; came back home and went
10:02:29 13 back to college and took a welding course and
10:02:34 14 then I became an iron worker welder. I moved
10:02:37 15 out to Regina, Saskatchewan and -- out west and
10:02:43 16 I became an iron worker, a unionized iron
10:02:47 17 worker.

10:02:48 18 Came back home and did some more iron
10:02:50 19 work around Ontario and down in the States as
10:02:52 20 well, and actually even over to Jamaica for a
10:02:56 21 few months putting up Butler buildings. And
10:03:01 22 then I became a fisherman.

10:03:07 23 Q. And what role have you held on
10:03:10 24 council for your First Nation?

10:03:14 25 A. I got elected to council in 1991

1 and served on there until 2017 consecutively.

2 Q. I want to take you now to an
3 interview that you have done. I understand you
4 met with Dr. Jarvis Brownlie on June 3rd, 2016.
5 Do you recall that interview?

6 A. I remember meeting that person.
7 I wouldn't know what date it was.

8 Q. Okay. I'm going to put up a
9 transcript for you to see on the screen. This
10 is Exhibit Number 3920, and it's a transcript
11 prepared by Dr. Brownlie. Have you seen this
12 transcript before?

13 A. I believe so.

14 Q. And is it a true reflection of
15 what you said in your interview?

16 A. Yeah, even more so than I would
17 have thought. Yes, it is.

18 Q. I'd like to take you to a couple
19 of passages. The first is on page 15. And
20 looking at the second paragraph that you answer
21 where it says "PJ", it's actually is the third
22 paragraph. And the third line down, I'm going
23 to read out a section to you and ask you a few
24 questions. You say:

25 "My uncle came in and said, you

10:04:58 1 remember this, Fred, and he had a
10:05:00 2 pulley in his hand. And it might have
10:05:02 3 been reversed, where my dad saying
10:05:04 4 that to Uncle Josh, or Uncle Josh.
10:05:07 5 But he said, yeah, he says, 'We had 13
10:05:12 6 that broke the pulley.' He said, 'We
10:05:14 7 had 13 deer hanging on that pulley.'"
10:05:19 8 Now, can you tell us approximately
10:05:31 9 when -- what time period you're talking about
10:05:34 10 for this story?

10:05:35 11 A. Well, it was at the green camp,
10:05:36 12 so it was in the early '60s, say between '65
10:05:41 13 and '68. I wouldn't know what year my dad and
10:05:47 14 Uncle Josh were talking about, but it seemed
10:05:49 15 like a while ago before that for some reason.

10:05:53 16 Q. Okay. In the 1960s and when you
10:05:55 17 were growing up how often did you eat deer meat?

10:06:00 18 A. We ate a lot of deer meat when I
10:06:05 19 was younger growing up.

10:06:07 20 Q. And who would share in the deer
10:06:11 21 meat that someone had harvested?

10:06:15 22 A. Well, the people that were in the
10:06:18 23 hunt. So you might have five or six people
10:06:21 24 hunting and only one person might shoot a deer,
10:06:24 25 but all five or six people would share in that

1 kill. And then once it got divvied up that way,
2 then it would go back and then the individuals
3 would share with their own families, with their
4 siblings or cousins from that particular kill.

5 Q. I want to ask you another
6 question about your transcript here on page 15,
7 and it's the paragraph above at the top of the
8 page, and starting on the second line you say:

9 "He goes, well, you know, because
10 his dad, when they went up to Willow
11 Creek, they used to go up and stay for
12 two weeks; ten days to two weeks."

13 Can you tell us who is in this story
14 that you're citing here?

15 A. I always thought my dad was
16 talking about his siblings and his dad heading
17 up to Willow Creek, horse and buggy and to do
18 hunting for the winter.

19 Q. But where did you go hunting with
20 your dad?

21 A. I went up to Willow Creek, but we
22 were able to have a ride up there and a ride
23 back. Sometimes we'd stay overnight, but most
24 of the time it would be a day hunt.

25 And then when it was hunting season,

1 we'd probably stay for the week at the green
2 camp along with everybody else.

3 Q. And can you tell us what the
4 green camp is?

5 A. There was this -- there was a
6 large wooden shack. No electricity, just kind
7 of lanterns and a wood stove and bunk beds.
8 Everybody kind of ate there and everybody kind
9 of slept in that shack because we were all there
10 for the same reason, was to hunt deer.

11 Q. I'd like to take you now to page
12 18, and the third paragraph down starting on the
13 third line you say:

14 "But, in the end, it is when they
15 start to get at your -- who you are as
16 a person and you're trying to take
17 away, saying, well, nobody has this
18 right to do that, then there was a
19 little bit of pushback[...]."

20 And can you tell us what you were
21 referring to here?

22 A. Can you go up to the question?

23 Q. Yes, sorry, of course.

24 A. Well, I guess talking about
25 conservation officers mostly, but OPP were

1 involved to the -- some extent as well in trying
2 to interfere, I guess the way that I look at it,
3 with your Aboriginal treaty rights, your ability
4 to hunt and fish.

5 Q. And how would they be
6 interfering?

7 A. Well, more recently they're
8 always checking people up on to hunting Willow
9 Creek area in terms of saying, well, let's --
10 can we see your treaty right? Because they see
11 you walking around with a rifle. And they --
12 and they know that you belong to the territory.
13 They still harass you.

14 They'll still pull you over and check
15 out your car. See Aboriginal people driving
16 back home at a certain time of the day or a
17 certain time of the morning, that they'll pull
18 you over and check you out, check out your
19 rifles and see if you have any loaded weapons.

20 These things are general interference
21 because I know that they know who we are.

22 Q. And you say, if I just refer
23 back, "It's who you are as a person that they're
24 trying to take away". What do you mean by "who
25 you are as a person"?

10:11:18 1 A. I think that they're trying to --
10:11:20 2 for me, they're trying to interfere with my --
10:11:23 3 as my Aboriginalness in a way to -- how I
10:11:28 4 provide or how I enjoy my particular territory.
10:11:33 5 I think they're trying to get at the
10:11:35 6 Aboriginalness of -- they're trying to bring us
10:11:40 7 all under the control of the Ministry of Natural
10:11:43 8 Resources or even into the rules and regulations
10:11:45 9 of Canada.

10:11:50 10 Q. I want to look at the sentence
10:11:52 11 that's just before. And you say:

10:11:57 12 "Well, I would probably -- if you
10:12:00 13 went -- probably if somebody went back
10:12:02 14 into the books, that they probably
10:12:04 15 charged a lot of people. But in the
10:12:08 16 end people just paid the fines or they
10:12:11 17 went to jail and moved on."

10:12:25 18 Can you tell us, were you ever charged
10:12:26 19 for hunting?

10:12:27 20 A. I was charged for, yes, hunting
10:12:29 21 at night, hunting with a light.

10:12:31 22 Q. And do you recall when that was?

10:12:33 23 A. Sometime before I went out West,
10:12:34 24 so '77 to '78, around there. '77 to '78.

10:12:44 25 Q. And what happened after you were

1 charged?

2 A. I went in front of a JP and
3 pleaded guilty and paid the fine.

4 Q. And can you tell us why?

5 A. Well, I didn't have much
6 resources to do any -- do any fighting in the
7 band, not that we asked the band to take up the
8 cause either. Just paid the fine and moved on.

9 Q. I'd like to talk to you now a
10 little bit about fishing. And can you tell us
11 when you started fishing?

12 A. Yeah, it was -- I started fishing
13 after Ontario put a ban on the fishermen at Cape
14 Croker to say that they weren't allowed to sell
15 their fish because they had reached a quota of
16 -- I believe it was splake at the time. Splake
17 is a hybrid fish made of speckled trout and lake
18 trout, and then they're grown together and they
19 come up with this thing that they call "splake".
20 But splake is a hybrid fish, and it doesn't
21 repopulate itself.

22 So when I asked people that were
23 fishing around Cape why they weren't fishing,
24 they were saying that the ban was on, there was
25 a ban on and they were scared to lose their --

10:14:17 1 apprehensions, I guess, of losing their boat and
10:14:23 2 motor and nets because they couldn't afford it.

10:14:24 3 And I was an iron worker, so I
10:14:26 4 thought, well, if lose my boat and motor I can
10:14:31 5 probably make enough to go and buy another one.
10:14:32 6 So I went fishing. I started to go fishing. I
10:14:37 7 asked my dad for -- and my dad gave me his steel
10:14:40 8 boat, and he had a couple of raggedy nets down
10:14:43 9 there, and I borrowed a motor off somebody else.
10:14:45 10 And I went out and I started to fish. And I
10:14:47 11 started to sell fish.

10:14:48 12 And then people started to ask me to
10:14:51 13 sell fish in a more publicized area to talk
10:14:53 14 about that this ban is kind of a -- it's not
10:14:57 15 right, the ban that the Ministry of Natural
10:15:01 16 Resources put on Aboriginal people to say that
10:15:05 17 they couldn't fish anymore, couldn't sell their
10:15:07 18 product.

10:15:12 19 Q. So who taught you how to do this
10:15:14 20 kind of fishing?

10:15:15 21 A. Well, after I secured the net and
10:15:17 22 boats, and I went up and asked Bob Nadjiwon, the
10:15:22 23 guy from Cape Croker, probably about the same
10:15:23 24 age as my older brother. I knew that he was a
10:15:24 25 fisherman, so he said, sure. He's the first guy

10:15:26 1 that took me out on a boat and showed me how to
10:15:33 2 set the net and lift the net.

10:15:34 3 Q. And what about your father?

10:15:35 4 A. My dad used to tell me about
10:15:37 5 spots where he used to fish, and he'd help me
10:15:40 6 run the nets when it needed to be run on the
10:15:43 7 ground, like taking out snaps and tying the line
10:15:43 8 back up and that sort of stuff, but he didn't go
10:15:48 9 out on the boat with me. He just told me that
10:15:50 10 these are areas that I used to fish at this time
10:15:52 11 of the year.

10:15:54 12 Q. And speaking of times of year,
10:15:57 13 when does -- when does fishing season start?
10:16:00 14 When does it start for you?

10:16:02 15 A. Well, if there's ice on the
10:16:05 16 harbour, ice has to go. But then you have to
10:16:10 17 still give it a few weeks on top of that as well
10:16:12 18 for the water to warm up a degree or so before
10:16:15 19 the fish come into the shore to the warmer
10:16:19 20 waters.

10:16:21 21 And most of the time fish are -- at
10:16:24 22 least the whitefish are feeding on a
10:16:26 23 thermocline. The thermocline is like 56
10:16:30 24 degrees, so at the start of spring it's very
10:16:34 25 narrow. And as the water warms up and at 56

10:16:39 1 degrees becomes a larger portion of it. And
10:16:40 2 then after a while it kind of goes right from
10:16:43 3 the top to the bottom because the water -- the
10:16:45 4 temperature of the water --

10:16:47 5 Q. Can you tell us briefly what a
10:16:50 6 thermocline is?

10:16:53 7 A. A thermocline? It's a -- I don't
10:16:56 8 actually know what it is, but it's a piece of
10:16:58 9 water that -- at least I'm looking for, 56
10:17:02 10 degrees, might even be a little bit more than
10:17:04 11 that. Maybe not as precise as just somewhere
10:17:06 12 around 56. 54, 55, 56.

10:17:09 13 So in the springtime that's narrow.
10:17:11 14 And like I said, in the summertime that
10:17:13 15 enlargens (sic), larges (sic) up.

10:17:17 16 Q. And when does the fishing season
10:17:20 17 end?

10:17:24 18 A. Well, I guess I've been out there
10:17:26 19 later than you want it to be, but it kind of
10:17:29 20 ends when you -- the fish kind of dissipate or
10:17:32 21 kind of break apart again because the water is
10:17:34 22 back colder again, so they have to go to --
10:17:37 23 they're not grouping up, they're not schooling
10:17:39 24 up anymore. The whitefish are -- kind of school
10:17:41 25 up in the fall time to spawn. So they come to

10:17:44 1 the -- enclose in masses. And then they have
10:17:48 2 different spawning places all up around the
10:17:51 3 territory.

10:17:53 4 And any natural factors, there's
10:17:55 5 scientific literature out there that says that
10:17:58 6 the whitefish for Lake Huron is actually in our
10:18:01 7 territory. That's where all the fish supposedly
10:18:05 8 come up and spawn because it needs a -- it needs
10:18:08 9 a certain type of bottom, a gravelly bottom or a
10:18:13 10 rocky bottom with little holes in it, like kind
10:18:16 11 of honeycomb. They call it honeycomb and those
10:18:20 12 things, so they lay their eggs on there and the
10:18:23 13 water washes back-and-forth over the year. And
10:18:26 14 the more ice cover is, the better chance that
10:18:27 15 the whitefish eggs would survive, more of the
10:18:30 16 whitefish eggs would survive.

10:18:33 17 Q. So you've told us a little bit
10:18:35 18 about whitefish, but can you tell us the types
10:18:39 19 of fish that you'd catch?

10:18:41 20 A. Well, pickerel is kind of like a
10:18:45 21 treat. You get the odd pickerel on Georgian Bay
10:18:49 22 side. You get more pickerel on Lake Huron side
10:18:53 23 in the fall time, and you get a few pickerel in
10:18:55 24 the nets in the spring. They're a treat, so the
10:19:00 25 captain of the boat and then -- takes his share

1 first and then the next one comes in and it goes
2 down the line until everybody gets one.

3 Trout and salmon, salmon is a -- it's
4 the only place in the world that you supposedly
5 can catch five species of salmon, and salmon
6 don't even really exist in our water, so we have
7 a lot of stock of nonindigenous fish happening.
8 And that is what kind of gets the ire of the
9 recreational fisheries people up.

10 But you catch trout, whitefish, trout,
11 salmon. And I've been eating a lot of ling cod,
12 it's a freshwater cod. And the Ojibwe word for
13 that is "zai" [ph], so I've been catching a few
14 of those lately. And you get a lot of suckers,
15 but you don't -- I don't really eat those or
16 smoke those myself.

17 Q. And what method or technique do
18 you use to fish?

19 A. If you're fishing in a punt, you
20 put your nets in the front, put your boat in
21 reverse, drop a buoy marker, start backing up,
22 drop an anchor, and you're still backing up all
23 this time. And you start throwing the net out,
24 and the net goes out until you get to the other
25 end. And you drop another anchor and you drop

1 another buoy, and you're fishing with a 50
2 diamond. So there's 50 diamonds up to the top,
3 four and three quarters.

4 It's a gill net and the whitefish get
5 caught behind the gills here and they can't back
6 up. So that's why they're called "gill nets",
7 whereas your trout kind of get caught on the
8 teeth sometimes, and they can get caught on the
9 teeth. The trout get caught on the teeth.

10 Q. And how long do you leave the
11 nets out in the water?

12 A. If it's cold you can leave them
13 out for a day or two. I try and fish every day
14 because that's what I'm doing, so it takes a few
15 hours. So -- but you can leave them for one
16 day, two days in the springtime. And in the
17 fall time you can leave them one or two days.
18 And they'll last, the fish will last longer when
19 it's cold water.

20 Q. I'd like to turn to a map now,
21 it's document SC0778. And, Your Honour, this is
22 a map that has been marked up by Mr. Jones with
23 some numbers indicating fishing locations. And
24 in an effort to be efficient today, we asked
25 them to do this in advance, and we've circulated

1 a copy of this to counsel along with a chart
2 that indicates the names of the numbered
3 references, which is document SC0781.

4 I have a printed copy of the chart, if
5 that's convenient for you to refer to. But
6 first I'd like to, subject to any concerns by my
7 friends, mark the map and the chart as an
8 exhibit so that Mr. Jones can discuss it in his
9 testimony.

10 THE COURT: Well, let's begin with the
11 map as a separate exhibit, Mr. Registrar.

12 THE REGISTRAR: Exhibit Number 4103.

13 EXHIBIT NO. 4103: Map annotated by
14 Paul Jones. Document SC0778.

15 THE COURT: And that's a map annotated
16 by Mr. Jones?

17 MR. BROOKWELL: Yes, that's correct,
18 Your Honour.

19 THE COURT: And are you going to bring
20 up the chart on the screen?

21 MR. BROOKWELL: Yes.

22 THE COURT: Or do you want to hand a
23 copy to Mr. Registrar?

24 MR. BROOKWELL: I'll also hand up a
25 copy.

10:22:59 1 THE COURT: Can you hand that up to
10:23:01 2 me, please?

10:23:01 3 MR. BROOKWELL: Yes, Your Honour.

10:23:12 4 THE COURT: What's your intention,
10:23:15 5 counsel, with respect to all these items? Many
10:23:17 6 of them are known locations.

10:23:19 7 MR. BROOKWELL: Simply first for
10:23:20 8 Mr. Jones to confirm what those locations are
10:23:23 9 generally to him and to ask him some questions
10:23:26 10 about when he goes out to those different
10:23:29 11 locations.

10:23:29 12 THE COURT: What exhibit number for
10:23:38 13 the chart, Mr. Registrar?

10:23:41 14 THE REGISTRAR: 4104.

10:11:42 15 EXHIBIT NO. 4104: Chart indicating
10:11:42 16 names of numbered references.
10:11:42 17 Document SC0781.

10:23:48 18 THE COURT: Mr. Brookwell, I know
10:23:49 19 you've done this before, so I assume you'll be
10:23:51 20 doing it on an efficient basis.

10:23:54 21 MR. BROOKWELL: Yes, Your Honour.

10:23:55 22 THE COURT: Please go ahead.

10:23:56 23 BY MR. BROOKWELL:

10:23:57 24 Q. If we could turn back to the map?
10:24:02 25 And zoom in a little bit closer. Are you able

1 to see the numbers on your screen, Mr. Jones?

2 A. Yes.

3 Q. So there are 18 numbered tabs on
4 there. And can you tell us what those locations
5 are generally?

6 A. They look like spots that I've
7 set nets in and caught fish in.

8 Q. And beside some of these numbers
9 there are, I believe, pen marks. Can you tell
10 us what the pen marks mean?

11 A. Trying to describe an area that
12 is where I set the nets at different days
13 around -- in different spots. I never try --
14 you never try and set your net back on the same
15 ground that you just lifted on.

16 And I would say that these numbers
17 here are mostly where I left from to fish from,
18 the fishing is out off the Peninsula.

19 Q. And you say where you "left
20 from". Can you tell us how you get your boat to
21 these locations?

22 A. Well, I've had three larger
23 boats. I've had two, 45-foot steel boats, and
24 I've had a 60-foot steel boat. And now I'm in
25 possession of a 27-foot steel boat, outboard

10:25:31 1 motor. I've had punts. So mostly on the Lake
10:25:37 2 Huron side it's been with a big steel boat, as
10:25:45 3 opposed to a punt fishery.

10:25:53 4 Q. Is there a term for these big
10:25:55 5 steel boats? You've talked about punts. Is
10:25:57 6 there a different name for the steel boats, or
10:26:00 7 are they just a larger boat?

10:26:02 8 A. There probably is a name. I just
10:26:04 9 can't -- the name kind of -- technical name
10:26:06 10 eludes me right now.

10:26:08 11 Q. And what are the factors that
10:26:09 12 determine --

10:26:10 13 A. Oh, a tug, a tugboat. That's
10:26:12 14 what they are called. Excuse me.

10:26:13 15 Q. Sorry?

10:26:13 16 A. They are called tugs.

10:26:14 17 Q. Okay. Thank you.

10:26:18 18 What are the factors that determine
10:26:21 19 which locations you go to?

10:26:23 20 A. Well, mostly the time of year.
10:26:29 21 In the springtime you can catch fish kind of
10:26:32 22 schooling up again in the springtime because
10:26:33 23 they're following the water temperature. And
10:26:35 24 then -- so in -- like in the summertime --
10:26:41 25 whitefish are cold-water fish, so they will go

10:26:43 1 out to the deep.

10:26:57 2 Q. And going out into the deep, how
10:26:58 3 far out do you go?

10:27:00 4 A. Well, I've set all the way from
10:27:04 5 50-foot deep at Lake Huron side to 450-foot deep
10:27:10 6 at different times of the year and different
10:27:14 7 times of the day depending on what kind of
10:27:16 8 weather it was like.

10:27:18 9 And I've -- tullibee is kind of more
10:27:22 10 of a deepwater fish as well. They call it chub,
10:27:28 11 I guess. They're little -- they get caught and
10:27:31 12 they only weigh a few ounces at a piece. Labour
10:27:34 13 intensive, not one of my better jobs. But when
10:27:38 14 you're a captain it's not too bad.

10:27:41 15 Q. Can you maybe bring us to an
10:27:43 16 example? If you're going to go out to deep
10:27:47 17 water, where do you leave from?

10:27:49 18 A. When I was fishing out at 450
10:27:51 19 feet or so, 420, 350 around that area, I was
10:27:56 20 leaving from Stokes Bay.

10:27:59 21 Q. And can you tell us, I think that
10:28:01 22 is number 3 on our map, can you confirm for us?

10:28:05 23 A. Yes, that's right.

10:28:05 24 Q. Number 3. Okay. So from Stokes
10:28:07 25 Bay, and then you head out where?

10:28:10 1 A. Well, you -- you're lifting up,
10:28:14 2 so you're lifting up and you might have set in
10:28:16 3 at, let's say, 150 feet or so and you didn't
10:28:18 4 catch anything. And the weekend's on, so you go
10:28:21 5 out and set your nets deep so that you can get
10:28:24 6 that extra day off and come back the day after
10:28:27 7 and -- it's not -- the fish is not as plentiful
10:28:30 8 out there, but it probably equals out lifting
10:28:33 9 every second day or so.

10:28:35 10 Q. And from Stokes Bay how long does
10:28:40 11 it take in your boat to get out to that deep
10:28:45 12 water?

10:28:45 13 A. We have -- the tug moves around 8
10:28:48 14 knots an hour and probably could push it up 9 or
10:28:57 15 10, but it starts to vibrate after a while. So
10:29:00 16 there is really no need to push the boat if
10:29:02 17 you're out there for the day anyway.

10:29:05 18 Q. So it goes at 8 knots. But how
10:29:07 19 long would it take to get to the deep water from
10:29:09 20 Stokes Bay?

10:29:10 21 A. Probably a couple of hour drive.
10:29:12 22 Two and a half hour drive.

10:29:25 23 Q. You just talked about knots. Is
10:29:27 24 that nautical miles?

10:29:28 25 A. Yes.

1 Q. And are you able to give us the
2 conversion between nautical miles and standard
3 miles?

4 A. I thought a nautical mile was
5 roughly around 1.2. That's how I do my
6 estimation.

7 Q. If I could have you turn over
8 your shoulder for a moment and look at the map
9 there, that's Exhibit P in this trial. And if
10 you have a look at the shaded blue area, light
11 blue, are you able to tell us in your estimation
12 how many Saugeen Ojibwe Nation fishing boats are
13 out on the water during fishing season?

14 A. At spawning time you're probably
15 get about 30, maybe 20, 30 at the peak. Maybe
16 even -- after we got our fishing rights, after
17 we had a good judgment on it that was favourable
18 to us, we -- everybody got into it. The price
19 was good.

20 And after a while the price start to
21 drop down because we had no way to keep the fish
22 cool, and it affected the overall price and
23 people's desire to come out, drive four or five
24 hours to pick up our catch.

25 So 30 in the fall time, and probably

10:31:06 1 10 or 15 in the springtime on Lake Huron side.

10:31:11 2 All the fishermen, the punt boat fisheries on

10:31:15 3 the Georgian Bay side are fishing as soon as

10:31:21 4 they can and just kind of stay on that side and

10:31:27 5 do a daily catch kind of thing.

10:31:29 6 Q. And what about non-Aboriginal,
10:31:30 7 commercial fishermen?

10:31:34 8 A. When I started to move over to
10:31:35 9 the other side it was after the Jones Nadjiwon
10:31:39 10 decision, and there was non-Native fishermen
10:31:43 11 fishing in that area as well.

10:31:45 12 And it became an issue that
10:31:47 13 conservation is the only -- supposedly the only
10:31:57 14 thing that can affect your right. So it became
10:31:59 15 an issue that the Ministry of Natural Resources
10:32:01 16 was saying that they couldn't give us any
10:32:03 17 more -- allot us any more fish because they had
10:32:06 18 already given out a licence to the non-Native
10:32:10 19 commercial fishermen.

10:32:12 20 And so after the decision came, Chief
10:32:15 21 Akiwenzie wrote a letter to the Ministry of
10:32:18 22 Natural Resources, I believe a letter, if not it
10:32:21 23 was definitely a phone call, and saying, well,
10:32:23 24 we need all the fish for the SON people, and if
10:32:27 25 you give out licences from here on in you're

1 breaching conservation yourself.

2 So the Ministry of Natural Resources
3 went in and purchased all the non-Native
4 commercial fishermen in our particular area --
5 at least not all of them in the overall
6 territorial area but the part where that would
7 affect it, where Cape and Saugeen were fishing
8 from at that the particular time on both sides,
9 Lake Huron and Georgian Bay and bought out those
10 non-Native commercial fishermen.

11 Q. How does SON manage the fishery
12 for its members?

13 A. Well, there's a process going on
14 and because I was a part of it, there's that
15 view -- we employed a management biologist,
16 Dr. Stephen Crawford, lots of literature written
17 on -- he's written lots of scientific literature
18 on these particular issues. And then we have a
19 management biologist, he's the management
20 biologist.

21 And we have an assessment biologist,
22 and the assessment biologist has some workers
23 underneath him that are able to go to the
24 different fishermen. And Saugeen on their --
25 Saugeen also has an assessment -- they don't

10:33:41 1 have a biologist right now. They used to have a
10:33:44 2 biologist. They don't have a biologist now.
10:33:47 3 They have a -- but they have an assessment
10:33:49 4 program where fish get assessed.

10:33:51 5 They meet fishermen at the dock or
10:33:53 6 wherever they land and pull scales off, measure
10:33:56 7 fish and take ear bones and collect those things
10:33:59 8 and eventually they'll get around to analyzing
10:34:02 9 them.

10:34:02 10 And how much fish you've -- they weigh
10:34:04 11 your fish so that you can record it.

10:34:06 12 And then you also get a slip from the
10:34:08 13 fish buyer where you sell your fish. He'll give
10:34:11 14 you a ticket on how much poundage that he's
10:34:15 15 paying you for as well.

10:34:17 16 So that's what the assessment is. But
10:34:20 17 your question was?

10:34:21 18 Q. Well, my question was quite
10:34:24 19 broad, was, how does SON manage the fishery for
10:34:26 20 its members?

10:34:28 21 A. Oh, we keep -- Nayausheeng you
10:34:36 22 have to apply to the band council to get
10:34:38 23 recognized that you want to go fishing. And so
10:34:40 24 they issue a licence, and you fish under a law
10:34:45 25 that says you will report your catch and you'll

10:34:47 1 abide by the rules and regulations of the
10:34:51 2 reserve. And that's kind of so that they're
10:34:56 3 able to -- if the total allowable catch gets
10:34:59 4 reached, that they're able to put out a notice
10:35:01 5 to say there's no more fish to be caught in this
10:35:04 6 particular area.

10:35:05 7 So your fishermen then are advised to
10:35:08 8 pull their nets out of the water.

10:35:10 9 Q. And what would happen if someone
10:35:14 10 who has this licence, a SON member, went fishing
10:35:21 11 when the total allowable catch had been met
10:35:25 12 already?

10:35:30 13 A. Food and ceremonial part is never
10:35:31 14 part of the licensing system, but if they were
10:35:33 15 trying to sell their catch they'd be -- they're
10:35:36 16 fishing on their own, we are saying that we'll
10:35:38 17 protect the -- the Nawash Band Council community
10:35:42 18 says that we'll protect you underneath the
10:35:46 19 licence. If you fish outside the protected
10:35:52 20 underneath the licence, then you're on your own.

10:35:54 21 We're not saying you can't exert your
10:35:57 22 Aboriginal and treaty right and you might get
10:36:01 23 charged by the Ministry of Natural Resources or
10:36:04 24 Oceans and Fisheries, I don't know who would try
10:36:07 25 to take on that.

1 But Cape Croker is saying, we'll
2 protect you if you have a fishing licence. And
3 to have a fishing licence you have to abide by
4 the rules and regulations that have been laid
5 out.

6 Q. I want to shift gears for a
7 minute to ask you some questions about going out
8 in the water. And can you tell us what kind of
9 weather you will go out and fish in?

10 A. I think that it goes in kind of
11 stages. Like for a punt, 17 knots is probably
12 at the limit for 17-, 19-foot steel boat. And a
13 little bit bigger you can get out to -- the boat
14 that I have presently, a 27-foot boat, I
15 probably could handle between -- maybe 25 would
16 be the maximum that you'd want to be out, and
17 then you start to get into a gale or at least a
18 strong wind warning after that, and it becomes a
19 little bit more precarious. You can probably
20 still make it back home, it's just a rough ride
21 and not worth risking putting yourself at risk
22 for that.

23 So on the tug part, been out in some
24 rougher seas, because it takes longer to get
25 back to shore and the wind can come up on you

10:37:21 1 quite quickly.

10:37:23 2 So I've been out there probably at
10:37:25 3 least 30. Not something you want to do every
10:37:30 4 day, that's for sure.

10:37:32 5 Q. And when, if ever, has there been
10:37:43 6 dangerous conditions that affected your fishing?

10:37:50 7 A. I didn't know it at the time, but
10:37:51 8 I guess water gets heavier when it gets colder
10:37:58 9 so you don't have the same buoyancy to some
10:38:01 10 degree. And I didn't realize it at the time,
10:38:04 11 but I kind of got caught in a situation at the
10:38:06 12 end of the tug where my boat sank. I got caught
10:38:13 13 on the reef and the boat sank. It was last day
10:38:16 14 of November or roughly around that particular
10:38:18 15 time.

10:38:23 16 Q. In November, can you tell us what
10:38:24 17 year?

10:38:28 18 A. Well, I couldn't specifically say
10:38:30 19 the year, but if it was, let's say, '94, '95,
10:38:34 20 somewhere around there, maybe '96.

10:38:37 21 Q. And what did you do after?

10:38:42 22 A. Well, I went -- well, that
10:38:44 23 boat -- it was sitting on a reef when I went
10:38:48 24 home. After I got on the Oceans and Fisheries,
10:38:50 25 DFO come and pick me up. It was still on the

1 reef when I went back up there. I looked the
2 next day; it was sunk to the bottom. So
3 somebody said it had split apart on the bottom.

4 So I went -- I heard there was a boat
5 for sale down the line at one of the ports south
6 of Hamilton, so I went and had a look at it and
7 it had a ripped up bottom or a rusted out bottom
8 back quarter. So as an iron worker I thought,
9 well, I could fix that. And it had a tugger on
10 it or a puller, so I shipped it back to Cape and
11 I worked on it in the summertime. And I was
12 back in the water in the fall with another boat.

13 Q. Let's return a little bit to
14 fishing in the community. Can you start by
15 telling us how you view lands and waters as an
16 Anishinaabe person?

17 A. Well, I think for me that they
18 kind of all interact with the culture and the
19 heritage or land. We're all land bearing
20 beings, but I think that the spirit through the
21 fish and the animals, and that spirit kind of
22 thing, that connection.

23 So to me they're all kind of the same
24 thing where it's how we as beings kind of
25 survived or see that connection, believed that

10:40:24 1 that connection is we're part of that overall
10:40:26 2 connection.

10:40:31 3 Q. And can you tell us what role
10:40:34 4 fishing has in your community?

10:40:38 5 A. I think that for the -- on a
10:40:39 6 bigger -- starting out bigger is that the
10:40:42 7 Anishinaabek people, and I've heard this from my
10:40:46 8 time roaming around the different provinces and
10:40:49 9 stuff, is that the Anishinaabek people are seen
10:40:55 10 as being wealthy, had been seen as being wealthy
10:40:58 11 because they could go into the water and pull
10:41:00 12 out something to eat any time they had a good
10:41:03 13 resource that they could feed themselves with,
10:41:05 14 compared to a lot of other people that weren't
10:41:08 15 so lucky because they didn't have the clean
10:41:12 16 water around or the ability to go and catch a
10:41:15 17 fish like we could or the Anishinaabek people
10:41:20 18 could. They seen us as a wealthy people, so
10:41:23 19 take some pride in that. And then so...

10:41:37 20 Q. How then did fishing quotas in
10:41:40 21 the past, that we discussed earlier, how did
10:41:42 22 those fishing quotas affect SON fishermen?

10:41:46 23 A. So before I got on council, but I
10:41:50 24 was back on the reserve, the quota was -- I
10:41:54 25 believe it was 33 pounds of whitefish and 10,000

10:41:57 1 pounds of trout, what they are calling trout
10:42:01 2 which was actually a splake coming in and -- the
10:42:05 3 Ministry used to go to the fish buyers and
10:42:07 4 monitor how much catch is coming in.

10:42:09 5 So you always caught the trout, the
10:42:12 6 splake first. You filled your trout quota, and
10:42:16 7 then they used to tell us that you can't -- no
10:42:17 8 longer can go fishing because you filled your
10:42:19 9 trout quota.

10:42:20 10 And even though you might be fishing
10:42:22 11 for whitefish, you're bound to pull up trout.
10:42:25 12 So that was kind of the crux of the whole
10:42:28 13 situation. It became unrealized for the
10:42:31 14 whitefish because you already fulfilled your
10:42:36 15 trout quota. That's what the Ministry was
10:42:38 16 saying.

10:42:46 17 Q. So looking at the time -- at the
10:42:46 18 more recent time, after the court case you've
10:42:49 19 been discussing, from your time as a councilor,
10:42:54 20 what agreements are you aware of that SON
10:42:59 21 entered into with Ontario regarding fisheries?

10:43:06 22 A. So I was on council from the time
10:43:07 23 that they started the first agreement to -- we
10:43:11 24 had different five-year increments of
10:43:14 25 agreements, so I was on council for all of them,

10:43:15 1 except whatever happened since I've been off
10:43:21 2 council since 2017. So I was at the table for
10:43:24 3 all the agreements.

10:43:26 4 Q. And are you able to describe,
10:43:28 5 roughly, the area covered?

10:43:35 6 A. Yeah. Recognizing that we had
10:43:40 7 fishing rights all over the territory, but the
10:43:43 8 agreement is a different thing. So the
10:43:44 9 agreement started to -- because we were saying
10:43:48 10 we needed all the fishing in a certain number
10:43:50 11 and we were catching them up to the particular
10:43:53 12 point, so when we'd exceeded then it became an
10:43:56 13 issue for the Ministry of Natural Resources to
10:43:59 14 take different people out.

10:44:00 15 So they started buying fish out here.
10:44:03 16 Jackson is down around in Southampton, and he
10:44:07 17 was left -- because he mostly fished down over
10:44:10 18 here. But they bought these fishermen out over
10:44:13 19 here, up to where Perks [ph] was on the Meaford
10:44:16 20 side, John Perks, and he was the last -- him and
10:44:19 21 Jackson were the last two people to be bought
10:44:22 22 out of the Ontario fishing licence for that
10:44:26 23 particular area. Jackson might still have a
10:44:28 24 licence, but he fishes down below. But Perks
10:44:31 25 [ph] is out of the game.

1 So John Perks had a licence and fished
2 somewhere in the -- the Ministry of Natural
3 Resources called their management area 5-9, 5-8,
4 5-9. Jackson had a quota over there and he
5 bought his -- the Ontario government purchased
6 his quota off of him as well.

7 Q. And just for the purposes of the
8 record, Mr. Jones was indicating the map on
9 Exhibit P. And his descriptions were following
10 some areas within the light blue part of the
11 map.

12 I'd like to take you -- sorry, just
13 before we move to a different section, are you
14 aware of when the agreement was most recently
15 changed, if at all?

16 A. If it changed, and this is
17 because we were talking about it, all the
18 agreements is that we were -- kept telling the
19 Ministry of Natural Resources that we needed to
20 get back into Colpoys Bay and Owen Sound Bay
21 since those were -- you need to have a certain
22 amount of shoreline to cast your nets, because
23 if you -- when you go and fish around the
24 islands it drops off so quickly that it
25 changes -- when you set your net on the bottom

10:45:53 1 it changes the shape of the diamond, so you're
10:45:56 2 not catching as much fish as you should have
10:45:59 3 caught because the shape of the diamond has kind
10:46:00 4 of collapsed somewhat. So we needed to have
10:46:03 5 more shoreline to be able to fish from, and
10:46:06 6 that's why --

10:46:07 7 And we thought that those were our --
10:46:08 8 where we had the strongest area and recognition
10:46:11 9 of our rights to fish is in those particular
10:46:13 10 areas as well.

10:46:19 11 So those were the two things that got
10:46:19 12 changed if it got -- and it started to change
10:46:21 13 when I was on -- making a small point being
10:46:25 14 there. But it used to get the ire of the sports
10:46:27 15 people up because they think that they owned it
10:46:30 16 because the agreement -- those bays, we left
10:46:34 17 them out of the first couple of agreements.

10:46:36 18 But we only left them out so that we
10:46:38 19 could make the point of, it was never off the
10:46:41 20 table. We were just going to -- when we got to
10:46:41 21 it, we'd include them back in there.

10:46:47 22 Q. I would like to take you now to a
10:46:48 23 couple of articles, newspaper articles and a
10:46:56 24 press release backgrounder that is on this
10:47:04 25 topic.

1 Up on the screen right now is a MNRF
2 backgrounder from March 11, 2013, which is
3 publicly available on the City of Owen Sound
4 website. And I'd like to scroll to the last
5 page, and there is a map at the end of the page.

6 And can you tell me whether you
7 recognize the area covered in that map in the
8 shaded area? We can zoom in more closely if
9 that's helpful.

10 A. No, I think that that's -- that
11 was probably on the agreement for sure. It
12 doesn't take in the whole territorial -- what we
13 say was the treaty map, but those were areas
14 that the Ministry of Natural Resources had
15 acquired licensing out of -- licences back and
16 no longer issued quota for some of those areas.

17 On the left-hand side is a -- of that,
18 that was a management area called 4-4, and that
19 had a large chunk of the whitefish quota in it.
20 And when you move up a little bit more, and I'm
21 not sure if 4-5 is up at the top or on the
22 bottom, but -- and then the areas over on this
23 side, 5-8, 5-9, 5-3 and, I believe, 5-6.

24 Q. And when you were saying "this
25 side", do you mean the Georgian Bay side?

10:48:38 1 A. The Georgian Bay side, yes.

10:48:41 2 Excuse me, yes.

10:48:48 3 Q. And you were talking about
10:48:49 4 reaction of sports fishermen, and this is from
10:48:54 5 2013. Can you tell us a little bit more about
10:48:56 6 what was going on in 2013 regarding the fishery?

10:49:03 7 A. I think that they started --
10:49:05 8 because we started to move in towards Owen Sound
10:49:08 9 Bay and Colpoys Bay to some extent that they
10:49:11 10 always thought that those were off limits and
10:49:13 11 that we shouldn't be in there. It used to get
10:49:23 12 quite violent and quite vocal.

10:49:24 13 There's probably a lot more articles
10:49:26 14 than what the Ministry of Natural Resources is
10:49:28 15 doing there in terms of people writing in to the
10:49:30 16 editors and making statements about our right to
10:49:33 17 fish, our right to harvest fish and what we
10:49:36 18 might be doing to the resource.

10:49:37 19 There's been -- there was even a few
10:49:46 20 altercations, I guess, in the territory over
10:49:48 21 that particular fishing issue. And they were
10:49:50 22 trying to calm -- he was trying to calm the
10:49:54 23 sports people down, the recreational people down
10:49:57 24 by saying we had an Aboriginal right to fish and
10:50:00 25 that there was really nothing he could do about

10:50:02 1 it even if they wanted to do something about it.

10:50:07 2 Q. And, sorry, when you say "he" --

10:50:10 3 A. Meaning the Minister of Natural
10:50:12 4 Resources.

10:50:13 5 Q. Your Honour, I'd like to mark
10:50:15 6 this document, SC0207, as the next exhibit.

10:50:20 7 THE COURT: Mr. Registrar.

10:50:22 8 THE REGISTRAR: Exhibit Number 4105.

10:50:25 9 EXHIBIT NO. 4105: MNRF backgrounder
10:50:27 10 from March 11, 2013. Document SC0207.

10:50:28 11 BY MR. BROOKWELL:

10:50:28 12 Q. I'm going to take you to a
10:50:29 13 newspaper article now, Mr. Jones, it's document
10:50:31 14 SC0685. And this is an article from the Owen
10:50:39 15 Sound Sun Times in the opinion section, April
10:50:45 16 9th, 2013. And the letter I would like to draw
10:50:56 17 your attention to is on the right side under the
10:50:58 18 heading "Both Commercial and Recreational
10:51:00 19 Fisheries Can Exist". It is a letter from the
10:51:04 20 Minister of Natural Resources.

10:51:09 21 And if we can zoom in a little bit
10:51:11 22 closer? Because it's quite small. Maybe a
10:51:16 23 little bit closer, again. And scroll down so we
10:51:23 24 can see the text. So beginning at the last
10:51:31 25 paragraph on the left-side column it reads:

10:51:36 1 "These measures, combined with a
10:51:38 2 cooperative approach to enforcement by
10:51:40 3 the Saugeen Ojibwe Nation and MNR will
10:51:45 4 help ensure a safe, productive and
10:51:47 5 sustainable commercial fishery."

10:51:59 6 Now, Mr. Jones, can you tell us about
10:52:01 7 the work that MNR and SON were doing in 2013 to
10:52:09 8 sustain a safe fishery?

10:52:13 9 A. I think that what they were
10:52:14 10 trying to get at there, what they end up doing
10:52:16 11 was doing brochures or little pamphlets talking
10:52:23 12 about Cape and Saugeen's right, SON's right to
10:52:30 13 fish there and putting out the reasons why they
10:52:33 14 had a right to fish. I believe that's what they
10:52:38 15 were doing. They were putting them on posts
10:52:43 16 where the fishermen were leaving from.

10:52:46 17 And they also could have -- and maybe
10:52:46 18 there might have even been some threatening
10:52:48 19 stuff there that if you bother commercial
10:52:50 20 fishing rights, which it's against the law to
10:52:53 21 interfere with commercial fishing.

10:52:55 22 They -- SON said they didn't need a
10:53:00 23 licence, but the Ministry of Natural Resources
10:53:02 24 said -- so this why it's probably not being
10:53:06 25 entered, because it's Ontario wants to be seen

10:53:09 1 like they're in control and we're saying, we
10:53:12 2 don't really need a licence to exercise our
10:53:14 3 Aboriginal treaty right, but a licence really
10:53:16 4 doesn't harm you that much if you are issuing it
10:53:20 5 yourself.

10:53:21 6 So that's what he's saying, is that we
10:53:22 7 have an agreement and these are rules and
10:53:26 8 regulations of which we're going to abide by.
10:53:29 9 And probably -- maybe I wasn't always the
10:53:32 10 biggest supporter of that particular train of
10:53:35 11 thought, but in the end the majority of the
10:53:39 12 council thought that that worked the best.

10:53:47 13 Q. What about in terms of joint
10:53:48 14 efforts for conservation? Do you recall what
10:53:50 15 steps --

10:53:51 16 A. Well, because when the Ministry
10:53:52 17 of Natural Resources used to approach fishermen
10:53:56 18 and try and do the same thing they were doing
10:53:58 19 about the hunting, let's see, you're Aboriginal,
10:54:01 20 and let's see your status card, and who are you,
10:54:05 21 and do you have a licence kind of a thing, that
10:54:09 22 they were doing the same thing.

10:54:10 23 This kind of set out the rules as to
10:54:13 24 say, the Ministry of Natural Resources couldn't
10:54:16 25 approach SON fishing, fishermen without having

1 an SON person there to verify what it was the
2 Ministry of Natural Resources wanted to find out
3 from that particular fisherman.

4 MR. BROOKWELL: Your Honour, I would
5 like to enter this as the next exhibit.

6 THE COURT: Mr. Registrar.

7 THE REGISTRAR: Exhibit Number 4106.

8 EXHIBIT NO. 4106: Owen Sound Sun
9 Times article, dated April 9th, 2013.
10 Document SC0685.

11 BY MR. BROOKWELL:

12 Q. Mr. Jones, I'm going to take you
13 to an article later in April of 2013. This is
14 document SC0686, and this is dated April 18,
15 2013. It's an Owen Sound Times article. And if
16 we can scroll down to page 2 of the article --
17 sorry, page 3 of the article. And beginning the
18 fifth line down it reads:

19 "People have criticized the
20 agreement for including an \$850,000
21 payment to SON over five years.
22 Orazietti said the money is to be used
23 to ensure the 'management and
24 sustainability' of the fish resource."
25 And, Mr. Jones, can you tell us a

10:56:13 1 little bit more about that management and
10:56:15 2 sustainability of the fisheries resource, the
10:56:18 3 steps that were taken together with the Ministry
10:56:22 4 of Natural Resources?

10:56:24 5 A. Well, I'll put out there that we
10:56:27 6 also got criticized for accepting 850 because it
10:56:31 7 was a shortfall for sure.

10:56:32 8 But what that money was supposed to do
10:56:34 9 was to help offset some of the cost of
10:56:36 10 collecting data, scale samples, weights, places,
10:56:41 11 times that the fish were caught and kept track
10:56:45 12 of so that we knew how much fish were being
10:56:49 13 caught in a territory and which management areas
10:56:51 14 were being caught. So that's kind of what that
10:56:53 15 850 was. Five years, so we divide that by five
10:56:57 16 years. It's certainly not enough to run the
10:56:59 17 program on, that's for sure.

10:57:01 18 Q. And the numbers of fish caught,
10:57:06 19 what was that --

10:57:08 20 A. It was agreed upon. The numbers
10:57:09 21 that were caught are numbers that are agreed
10:57:11 22 upon by SON and the Ministry of Natural
10:57:12 23 Resources. So the Ministry of Natural Resources
10:57:16 24 over the course of a year, collecting data from
10:57:19 25 all over the Great Lakes and then they do

10:57:21 1 their -- some analysis and come up with a number
10:57:28 2 that they think is sustainable.

10:57:30 3 So they have a total allowable catch,
10:57:32 4 and out of that total allowable catch number is
10:57:35 5 a number that can be used allocation for
10:57:36 6 fishing. This is how much fish can be caught
10:57:39 7 and still have a sustainable fisheries.

10:57:41 8 So Cape and Saugeen with our
10:57:45 9 management biologist and research and people
10:57:48 10 would work with the Ministry of Natural
10:57:49 11 Resources, look at their data and analyze their
10:57:53 12 data or they'd analyze our data, and then we'd
10:57:55 13 come up with a number agreed upon and say that
10:57:58 14 we think we can support a 10 percent increase or
10:58:01 15 a 20 percent decrease, whatever the case may be,
10:58:05 16 and then we might differ on that. And it all
10:58:07 17 came down to how much risk you're willing to
10:58:09 18 take in terms of the fish, protecting the fish
10:58:12 19 population.

10:58:16 20 MR. BROOKWELL: Your Honour, I'd like
10:58:17 21 to enter this as the next exhibit.

10:58:20 22 THE COURT: Mr. Registrar. Just
10:58:22 23 checking to make sure no one is objecting. Yes,
10:58:28 24 please go ahead.

10:58:29 25 THE REGISTRAR: Exhibit Number 4107.

1 EXHIBIT NO. 4107: Owen Sound Sun
2 Times article, dated April 18, 2013.
3 Document SC0686.

4 BY MR. BROOKWELL:

5 Q. Mr. Jones, I have two more
6 articles that I'm going to take you to. The
7 first is document SC0687.

8 And this is a copy of an Owen Sound
9 Sun Times article from February 23rd, 2018. And
10 I'd like to direct your attention to the first
11 two lines that read -- maybe we could centre it
12 a little bit:

13 "A new five-year commercial
14 fishing agreement between Saugeen
15 Ojibwe Nation and the Ontario
16 government signed this week extends
17 the previous agreement with a few
18 changes."

19 So this is now 2018, and can you tell
20 us, to the extent that you're aware, what
21 changes were covered in the 2018 agreement?

22 A. No, I was off council by that
23 particular time, but I can hazard a guess at
24 what's more like an increase in the amount of
25 money that was being allocated. But I'm not

1 sure that I can comment on that because I wasn't
2 at the table.

3 Q. Okay. That's fine, thank you.
4 Your Honour, I would like to mark this as the
5 next exhibit.

6 THE COURT: Mr. Registrar.

7 THE REGISTRAR: Exhibit Number 4108.

8 EXHIBIT NO. 4108: Owen Sound Sun
9 Times article, dated February 23rd,
10 2018. Document SC0687.

11 BY MR. BROOKWELL:

12 Q. Let's turn to the last article
13 here. It's document number SC0688. And this is
14 a copy of an article in the Owen Sound Times,
15 and it is from the opinion section, dated
16 February 27th, 2018.

17 And the byline is "Natalie Des
18 Rosiers, Minister of Natural Resources and
19 Forestry". I would like to direct your
20 attention to the third paragraph. Starting at
21 the second sentence it reads:

22 "Commercial fishing will continue
23 to be managed collaboratively through
24 the conditions of the agreement
25 including mutually agreed on quotas,

1 harvest reporting, fishing seasons and
2 other types of harvest restrictions."

3 Mr. Jones, can you tell us, as a
4 fisherman, how the agreements, including this
5 more recent agreement, has affected your
6 interactions with the Ministry of Natural
7 Resources?

8 A. Just as a personal level, I don't
9 know if it really does other than the fact that
10 they've probably got more distance into the
11 Colpoys Bay and Owen Sound Bay.

12 I would just say that some of this
13 stuff, the Minister of Natural Resources likes
14 to claim that they're doing this because they
15 thought about it first. But in actual fact,
16 conservation is one of those areas that SON --
17 you know, Ojibwe people are very concerned about
18 themselves. So to say that it's being done on a
19 sustainable basis that's in our best interest,
20 and that's what we were always striving for as
21 well. But the Ministry of Natural Resources
22 gets to say that, I guess.

23 But I don't really see how it would
24 affect me, at a fisherman's level. I haven't
25 even looked at it really.

1 Q. I would like to shift gears and
2 talk a little bit about fishing, but not in a
3 commercial sense. Can you tell me about how
4 fishing works for SON members? This is
5 noncommercial fishing.

6 A. You mean for food and ceremonial
7 purposes?

8 Q. Yes.

9 A. Food and ceremonial purposes were
10 never part of this particular negotiation.
11 They're something that -- I think that the band
12 council got chastised a few times by saying,
13 that could never be up for negotiations. So
14 this is just strictly a commercial fishing
15 agreement about reporting numbers, agreeing upon
16 numbers, total allowable catch.

17 Q. Now, moving away from the
18 agreement, can you tell us a little about the
19 techniques that people use when they are fishing
20 for food and ceremonial purposes?

21 A. I think they're using the same
22 techniques, I think, that people generally pay
23 respect to the water and the spirit of the fish,
24 put some tobacco down. But generally it's the
25 same type of thing. They wouldn't sell it. If

11:04:23 1 they had anything extra that they didn't need,
11:04:25 2 they would just give it away to somebody else.

11:04:27 3 Q. And what about in the wintertime
11:04:34 4 in terms of ice fishing? What kinds of
11:04:36 5 techniques are used?

11:04:37 6 A. Well, people still ice fish, and
11:04:39 7 I get asked all the time to go -- if I want to
11:04:42 8 go set a net through the ice, but it's not that
11:04:46 9 interesting to me. People still do it. They
11:04:49 10 chop a hole in the ice and get a stick and tie a
11:04:54 11 rope on there and shove that stick through.
11:04:57 12 Where it ends, they'll cut a hole in the ice and
11:04:57 13 grab that again and push it all the way through
11:04:57 14 until they get how much yardage they want to
11:05:01 15 set. And then they'll just drop the anchor and
11:05:03 16 a buoy there and go back in a couple of days to
11:05:09 17 see what's there and lift it back up.

11:05:17 18 Q. Now, this is turning back a bit
11:05:18 19 to your father's time. Can you tell us about
11:05:20 20 how people may have gone around with
11:05:23 21 nonmotorized boats, if at all?

11:05:26 22 A. Well, my dad was quite the
11:05:34 23 canoeist, but people did a lot of rowboat
11:05:36 24 rowing, rowing fisheries, row out there. And
11:05:37 25 from what I hear, in the '50s the people from

11:05:41 1 Cape used to row non-Native people out on a rod
11:05:45 2 and reel and fish for trout before the crash of
11:05:47 3 the trout fisheries. And they used to do that
11:05:50 4 on a daily basis.

11:05:52 5 Q. And what about for nonfishing
11:05:56 6 purposes?

11:06:01 7 A. State the question again.

11:06:02 8 Q. This is using nonmotorized boats
11:06:05 9 outside of fishing. Do you have any
11:06:12 10 recollection of that taking place?

11:06:18 11 A. You mean like angling?

11:06:20 12 Q. Angling or transportation or --

11:06:23 13 A. Well, the canoe and the rowboats.
11:06:27 14 And my dad used to go to the shore once in a
11:06:30 15 while and cast line, more like I always
11:06:35 16 considered he was thinking about something as
11:06:37 17 opposed to really trying to catch a fish.

11:06:42 18 Q. Let's return again to the map
11:06:44 19 behind you, Exhibit P. And there's a line going
11:06:56 20 across the north part of the light blue area.
11:06:58 21 From your time on council, can you tell us how
11:07:06 22 that north boundary line came about?

11:07:12 23 A. Well, my recollection was that I
11:07:17 24 thought that we did some research about how far
11:07:19 25 people used to go out there and fish, and then

1 we went out to Wikwemikong and talked to them
2 about how far they used to come back down and
3 fish.

4 I thought it was written in an
5 agreement, but apparently it never made it to
6 the agreement part. But I came away with the
7 understanding that this would be the extent that
8 would be part of the territory on the northern
9 part.

10 Q. And can you tell us a little
11 about the meetings with Wikwemikong?

12 A. Well, I thought that they had
13 sent some councilors up there. We had sent
14 councilors from both Cape and Saugeen. And I
15 thought Darlene was -- Darlene Johnston,
16 Professor Johnston was part of that particular
17 endeavour, but it never made it into the
18 agreement, so maybe she wasn't.

19 But we've had -- they didn't come back
20 down. I thought -- we went up there in the
21 wintertime, and we thought that they were coming
22 back down. But I think that there might have
23 been -- they might have had bigger fish to fry
24 at that particular time, why it didn't
25 materialize.

11:08:34 1 Q. And what about the southern
11:08:36 2 boundary? I just want you to keep in mind the
11:08:39 3 court has already heard some evidence on this
11:08:42 4 from Mr. Kaugy. So to the extent that you want
11:08:52 5 to comment on it, please do so.

11:08:54 6 THE COURT: Well, I don't know what
11:08:55 7 you mean, Mr. Brookwell, by the "southern
11:08:58 8 boundary".

11:08:59 9 BY MR. BROOKWELL:

11:08:59 10 Q. That line extending out south of
11:09:01 11 Goderich.

11:09:02 12 THE COURT: All right. So you're
11:09:02 13 looking at the left-hand side of the map at the
11:09:06 14 bottom?

11:09:08 15 MR. BROOKWELL: Yes.

11:09:09 16 THE COURT: In the light blue area
11:09:11 17 only; so it's a partial southern boundary, is
11:09:14 18 that what you're looking at?

11:09:16 19 MR. BROOKWELL: Yes, that's correct,
11:09:16 20 Your Honour.

11:09:22 21 THE COURT: Please go ahead,
11:09:23 22 Mr. Jones.

11:09:24 23 THE WITNESS: And you wanted to know
11:09:25 24 what?

25

1 BY MR. BROOKWELL:

2 Q. If you can tell us from your time
3 on council, how that line came about?

4 A. Well, I don't -- I know that our
5 line, at least the territory, SON territory,
6 believes that the Maitland River and we were
7 supposed to be 11 miles south of that, where the
8 other three reserves say they're 11 miles north
9 of the Maitland River.

10 So the Maitland River is our
11 territory. There is probably some overlap to be
12 taken into account down there at some point.
13 Chief Kaugy [ph] is probably more articulate on
14 that particular issue.

15 The Maitland River is that point that
16 11 miles south is what SON believes to be their
17 territory, the three reserves -- well, actually,
18 five reserves, but Kettle Point, Walpole Island,
19 Stoney Point. Believe that they come 11 miles
20 north of that.

21 So there's a shared territory there at
22 some point, an overlap, but a shared territory.
23 We don't -- when we've had discussions on it,
24 even actually in terms of that worked out an
25 agreement on it, SON and those three reserves.

11:11:10 1 Q. And I think it's on your screen,
11:11:12 2 so you can also look on your screen. The line
11:11:16 3 that intersects the middle of Georgian Bay on
11:11:19 4 the east portion of the light blue area, can you
11:11:26 5 tell us about how that line came about?

11:11:30 6 A. If you notice that in the other
11:11:32 7 maps that you showed me where the Ministry had
11:11:39 8 different indentations on that black and white
11:11:42 9 lined paper, it didn't extend out there because
11:11:45 10 they didn't license people for that.

11:11:51 11 This particular part here is what SON
11:11:54 12 believes to be their boundary on that particular
11:11:57 13 side of Georgian Bay. And if we just -- it's in
11:12:00 14 the middle and so the people on the other side
11:12:02 15 have the same amount. It kind of divvied up
11:12:07 16 Georgian Bay. So I would think that that was a
11:12:09 17 fair assessment.

11:12:10 18 I would say that people -- Beausoleil
11:12:12 19 who's -- and I can't really speak for them, but
11:12:15 20 they only had one big tug and they fished mostly
11:12:19 21 around the islands. They wouldn't really come
11:12:21 22 over to this side of -- this side of the land to
11:12:25 23 fish over here on this side because the pickerel
11:12:27 24 is on that side. The pickerel is a more
11:12:29 25 desirable fish than whitefish.

11:12:33 1 Q. Can you just help us in which
11:12:34 2 islands you're referring to?

11:12:36 3 A. Oh, I was talking about the
11:12:37 4 islands around Beausoleil, around that side of
11:12:41 5 the -- on the other side of that line.

11:12:48 6 Q. And just for reference, is that
11:12:49 7 near to the white box?

11:12:50 8 A. Yes, the white box is covering
11:12:52 9 that up.

11:13:04 10 Q. Now let's move to the last side
11:13:06 11 of the boundary line on the light blue on the
11:13:09 12 west side, which is a black and pink dotted
11:13:13 13 line. Can you tell us how that line came about?

11:13:22 14 A. That's out to the international
11:13:24 15 border. And because I was involved, heavily
11:13:30 16 involved with fishing over there, I know that at
11:13:32 17 least from my understanding is that Aboriginal
11:13:34 18 people are the only ones that can set nets on
11:13:37 19 the other side of the bay.

11:13:41 20 So there was no need to go further
11:13:44 21 than that. We probably couldn't -- we can fill
11:13:47 22 our quota with inside that blue line, all the
11:13:51 23 quota that needed to be -- is available to be
11:13:54 24 harvested can be filled inside of that lake
11:14:01 25 line.

1 Q. Mr. Jones, I would like to move
2 away from fishing and touch on hunting now.

3 Can you tell me -- we've spoken a
4 little bit of it, but can you tell me a little
5 bit about your experience with hunting?

6 A. Yeah, just before I do that, I
7 hope I don't forget your question, I was
8 thinking about you asked me earlier about how
9 much deer meat did I eat when I was younger. I
10 remember my sister saying to my dad, can you buy
11 a pork roast or a beef roast, because she was
12 tired of eating deer meat.

13 And she was the -- and since my mom
14 had already left, she was the main cook and she
15 was tired of the nonvariety of meat we had
16 available to eat. So it was all deer meat. So
17 she was asking for something different, asking
18 for pork or beef.

19 So you wanted to know what again?

20 Q. Well, let's start at sort of the
21 beginning. When did you start hunting?

22 A. I used to follow my dad around
23 when I was about 8, 8 years old. I had gotten a
24 .22 for Christmas one time. I was quite -- I
25 must have been quite young at the time because I

11:15:14 1 couldn't fully cock the .22 back, pull the
11:15:18 2 hammer back. So I had to have a string tied
11:15:21 3 under to get it to cock back. So I would
11:15:21 4 probably say I was around 8, 7 or 8.

11:15:26 5 And from that time on I used to be
11:15:29 6 able to go with him on the weekends or even he
11:15:32 7 would take me out of school to go hunting and
11:15:35 8 follow him around in the bush.

11:15:44 9 Q. And you've been talking about
11:15:47 10 deer. What else would you hunt?

11:15:49 11 A. Well, I guess that's where my .22
11:15:52 12 came in. I used to kill the odd rabbit and kill
11:15:55 13 the odd partridge for supper.

11:15:59 14 Q. And what would you do with the
11:16:00 15 meat that you -- off of the animal that you
11:16:03 16 hunted?

11:16:03 17 A. Well, the rabbits and partridge,
11:16:06 18 the partridges were made a soup or stew out of,
11:16:09 19 and the rabbits were roasted up and eaten.

11:16:12 20 And in actual fact, rabbits were kind
11:16:14 21 of a big staple for large families, because you
11:16:19 22 could catch and snare and you could collect them
11:16:21 23 and hold them up and eat a bunch of rabbits at
11:16:25 24 one time. There was a lot of rabbits being
11:16:28 25 eaten by a lot of big families on the reserves.

1 Q. So then what does hunting mean to
2 you?

3 A. I think that hunting is just part
4 of -- I always -- not to try and romanticize
5 anything, but hunting is very crucial to the
6 Aboriginal people. It's one of those things
7 that shows your connection to the land, your
8 respect -- so you have to have -- take care of
9 something, you have to have that respect.

10 So with the respect comes interacting
11 at a level that merits that you don't denigrate
12 or destroy that property or that land or take
13 away something that that particular animal might
14 need. So your connection to that land is kind
15 of -- is true to hunting. You're walking around
16 and you're enjoying the -- some for esthetics
17 and some for just being naturally in the bush.

18 It's kind of just the way that
19 Aboriginal people have always did -- it was kind
20 of like their -- I would say their grocery
21 store. For me that's kind of how I boil it down
22 to. That's where they went to when food was
23 hard to come by. And maybe it doesn't seem like
24 it nowadays, but there was a lot of poorness
25 back in the '60s on the reserve.

1 Q. We've heard evidence in this case
2 about a meeting in 2004 between SON and Parks
3 officials. Were you at that meeting?

4 A. Yes, I was at that council
5 meeting when the superintendent came down to a
6 joint council and tried to tell us -- tried to
7 tell the chiefs and the councilors that we
8 wouldn't be allowed to be permitted to hunt in
9 the park, national parks anymore.

10 Q. And how did you feel when you
11 heard that view from Parks Canada?

12 A. I wanted to throw them out right
13 away, but the chiefs listened to what they had
14 to say and then they told them to get out, that
15 it wouldn't be tolerated, that Parks had no
16 business trying to tell us that we couldn't hunt
17 and fish in the territories.

18 As I said earlier, I believe that
19 we're part of that system, the circle that
20 people talk about is that we're just as integral
21 to that part of the circle as anybody else. So
22 without getting into the definition of what the
23 national park is, is it a preservation park, or
24 is it a conservation park? So those two have
25 different meanings.

1 But either way, Ojibwe people or
2 Anishinaabek people are going to enjoy the use
3 of that -- the way that they've used it in the
4 past, a continuous use and preferred means and
5 use of that park. That's how I see SON
6 utilizing the park.

7 And I don't -- if the park -- the park
8 exists at a different layer. The first layer
9 for me is that the Anishinaabek people, our
10 homeland, and that's where we live. That's
11 where we learned to interact with the land and
12 live off the land. We're part of that
13 ecosystem, as far as I'm concerned.

14 And it wasn't well received by --
15 nobody from either reserve said, well, that
16 might be a good idea to stop hunting in the
17 park. Nobody. And we heard them out and they
18 were asked to leave, and we wanted to hear no
19 more about that nonsense.

20 MR. BROOKWELL: Your Honour, if I may
21 confer with my colleague for a moment?

22 BY MR. BROOKWELL:

23 Q. Just a couple more questions,
24 Mr. Jones. When we were talking about rowboats
25 in your father's time, how would they be used,

1 if they were used, to transport children?

2 A. You're probably referring to --

3 THE COURT: Excuse me, sir.

4 Mr. Beggs.

5 MR. BEGGS: Your Honour, it seems too
6 leading of a question.

7 THE COURT: Well, it is a leading
8 question, which it should not be. It's going to
9 be hard to remedy that at this point, but I
10 still would ask you to do so, sir.

11 BY MR. BROOKWELL:

12 Q. How were rowboats used, if at
13 all, in a way other than for fishing purposes?

14 A. Besides when I was talking about
15 people going out and rowing non-Native people
16 around for -- so that they could angle trout, my
17 dad was telling a story to me. And I used to
18 cook for my dad because he was elderly, so on
19 Saturdays I would cook for him and he would
20 talk. I never pressed him to talk or tell a
21 story.

22 But one time after super, he was
23 having his cup of tea and he was telling me
24 about George Keeshig Senior rowing up to pick
25 his kids up in Spanish. And as a person that's

1 on a boat and knows the water, a little bit
2 about the water, I was thinking it was quite a
3 ways to go on a rowboat. But that's how George
4 Keeshig went and picked his kids up at Spanish
5 and brought them back home.

6 Q. And where is Spanish?

7 A. Spanish is up on the island,
8 Manitoulin Island. Maybe even further than
9 that. Spanish, I always just assumed it was a
10 residential school named Spanish, but there
11 could be a spot named Spanish.

12 Q. And you told us at the beginning
13 of your testimony that you live on Cape Croker.
14 What sort of work, if any, do you do on your
15 property?

16 A. I'm a -- I actually still fish.
17 I still catch fish, and now I have a small
18 processing operation where I process fish and
19 smoke fish for sale.

20 I kind of add value to the fish
21 because I'm on the smaller scale so you have
22 to -- less work, more money kind of a thing.
23 You add value to the fish, so that's what I'm
24 into nowadays.

25 Q. How large is your property?

11:24:20 1 A. I got -- I own three lots. One
11:24:24 2 lot is around 17, excluding an acre and a half
11:24:29 3 where my house is at. And then I own another
11:24:32 4 lot about 18 acres where the fish smoke shop is
11:24:39 5 on. And then I own another 25 acres, same side
11:24:46 6 of the reserve but up a concession or so.

11:24:52 7 Q. And can you tell us what sort of
11:24:54 8 trees you have on your property?

11:24:55 9 A. On one side, on the 17-acre lot I
11:24:59 10 have a maple -- a lot of maple trees and I
11:25:03 11 actually do maple -- make maple syrup in that
11:25:07 12 bush. I do it on taps, hoses. I have a
11:25:12 13 stainless steel evaporator, a vacuum pump and I
11:25:17 14 get to have about -- well, there's probably
11:25:19 15 about 500 trees. I probably do about maybe
11:25:22 16 between 250 and 400 trees.

11:25:31 17 And the other part has a cedar growth
11:25:34 18 near the road and I -- it doesn't have that many
11:25:39 19 maple trees on it.

11:25:40 20 Q. Your Honour, there's one document
11:25:44 21 that I neglected to make an exhibit that I
11:25:48 22 referred to with Mr. Jones. It's the article
11:25:50 23 February 27th, 2018. The document number is
11:25:54 24 SC0688. I would ask to mark that as an exhibit.

11:26:07 25 THE COURT: Mr. Registrar.

11:26:09 1 THE REGISTRAR: Exhibit Number 4109.

10:11:42 2 EXHIBIT NO. 4109: Owen Sound Sun

10:11:42 3 Times article, dated February 27th,

10:11:42 4 2018. Document SC0688.

11:26:11 5 BY MR. BROOKWELL:

11:26:13 6 Q. Thank you, Mr. Jones. Those are
11:26:14 7 my questions.

11:26:16 8 THE COURT: Canada.

11:26:19 9 MR. BEGGS: Thank you, Your Honour.

11:26:20 10 THE COURT: Actually, looking at the
11:26:21 11 time, Mr. Beggs, why don't we take the morning
11:26:23 12 break now.

11:26:25 13 Sir, you're about to be questioned in
11:26:26 14 a procedure called cross-examination. And if
11:26:30 15 you would please, until you are completely
11:26:32 16 finished here, not discuss any of these matters
11:26:34 17 with anyone.

11:26:35 18 THE WITNESS: Sure.

11:26:36 19 THE COURT: All right?

11:26:38 20 THE WITNESS: Understood.

11:26:38 21 -- RECESSED AT 11:26 A.M. --

11:26:38 22 -- RESUMED AT 11:51 A.M. --

11:51:02 23 THE COURT: Please go ahead,

11:51:03 24 Mr. Beggs.

11:51:03 25 MR. BEGGS: Thank you, Your Honour.

1 CROSS-EXAMINATION BY MR. BEGGS:

2 Q. Morning, Mr. Jones.

3 A. Morning.

4 Q. My name is Michael Beggs. I'm
5 counsel with the Attorney General of Canada. My
6 questions will jump around a lot, but there's
7 not that many of them, so it may seem like the
8 topics are widely varying.

9 This morning you mentioned that the
10 Anishinaabek were considered wealthy by other
11 First Nations in terms of their resources
12 available to them. Is that just the Anishinaabe
13 along the Great Lakes, or is it all Anishinaabe
14 you were thinking of?

15 A. Well, in terms of -- I guess
16 relating to my interaction with the Great Lakes
17 I just assumed it was Anishinaabek people around
18 the Great Lakes.

19 Q. I'm just wondering if some place
20 like Alderville or Curve Lake might be -- would
21 be considered the same?

22 A. Probably -- well, it's somebody
23 else that's saying this. It's not me that's
24 saying it --

25 Q. Yes, of course.

11:52:03 1 A. It's somebody else that's saying
11:52:06 2 it, and whatever kind of -- whatever view they
11:52:08 3 had in their mind when they said that, I'm not
11:52:11 4 too sure. I just took it as they were talking
11:52:14 5 about the people living along the Great Lakes,
11:52:16 6 which is the deeper lakes. The inland lakes
11:52:18 7 kind of have a lower rate of fish, as far as I'm
11:52:21 8 concerned.

11:52:22 9 Q. Okay. And you mentioned this
11:52:29 10 morning about meeting with groups from
11:52:34 11 Wikwemikong. And you mentioned that before
11:52:36 12 you -- before your community did so they -- you
11:52:41 13 said they did some research about how far people
11:52:44 14 used to go out to fish, was that right?

11:52:48 15 A. About how far people went out to
11:52:50 16 fish. I may have said it in the context that
11:52:54 17 Darlene was working as a researcher. So I don't
11:52:56 18 know if she was -- not in terms of out how deep,
11:53:00 19 but how far north they used to go on a regular
11:53:03 20 basis. That's what I was trying to get -- bring
11:53:06 21 to the front.

11:53:07 22 Q. Towards Wikwemikong I guess?

11:53:09 23 A. North.

11:53:10 24 Q. Yes. Okay. And do you know what
11:53:13 25 sort of research they would have done?

11:53:15 1 A. No, I was only on as a councilor.

11:53:18 2 I just assumed that people are being paid to
11:53:20 3 research. They're doing their work, and I'm
11:53:23 4 doing mine. I don't -- it wasn't really -- I
11:53:27 5 didn't have day-to-day oversight of them. I
11:53:30 6 had -- you know, maybe a monthly chance to
11:53:35 7 chitchat with them, but I wasn't directing --

11:53:38 8 Q. So you don't know if it was, for
11:53:40 9 example, archival research or --

11:53:43 10 A. No, I don't know.

11:53:44 11 Q. Okay. Do you know when it was
11:53:58 12 that there was first talk of the national park
11:54:00 13 being created?

11:54:02 14 A. I wasn't around in the territory
11:54:06 15 at the time because I was out West for a long
11:54:09 16 period of time. But my dad used to, once in a
11:54:13 17 while, go and cut down the survey lines for the
11:54:16 18 Ministry of Natural Resources. But I was out
11:54:19 19 West probably when that was being discussed
11:54:22 20 because I know the first agreement -- I believe
11:54:23 21 the first agreement was signed between Chief
11:54:25 22 Vernon Roote and Ralph Akiwenzie in 1987.

11:54:30 23 Q. Okay. And was the land that
11:54:39 24 would become part of the -- how should I put
11:54:43 25 that. The land that the government intended to

1 set aside as a park, was it wilderness? Or was
2 it --

3 A. No, I think that the -- there was
4 Crown land up there for sure. There was land
5 that hadn't -- at least my belief, Crown land
6 that hadn't been sold. There was some private
7 lands that were bought, and so when somebody has
8 a vision it takes a while to get that into
9 place. So they're trying to build it around
10 this particular chunk of land and adding on
11 where they can and buying out people.

12 Q. So would I be right then to say
13 that your community was able to hunt on the
14 Crown land prior to that?

15 A. It hunted on any land that's not
16 posted. Just hunt where you needed to hunt. If
17 you seen something that you needed, kill it. I
18 wouldn't necessarily -- for me it doesn't need
19 to be Crown land or provincial land. It's just
20 land that has some deer on it that if I see it
21 there, I'm going to shoot it or interact with
22 it.

23 Q. And is that your understanding of
24 how your father might have done it?

25 A. I would believe so, yeah.

11:56:01 1 Q. Now, I'm going to reveal my
11:56:04 2 ignorance here or -- but you mentioned when you
11:56:07 3 were talking about the nets this morning
11:56:08 4 around -- and using them around islands you
11:56:11 5 mentioned that the diamonds would become
11:56:13 6 distorted. Would the diamonds -- are the
11:56:15 7 diamonds the holes in the net? Is that what you
11:56:18 8 referred to?

11:56:19 9 A. Yes.

11:56:19 10 Q. And the problem was that the
11:56:23 11 islands -- that it was too deep around the
11:56:27 12 islands?

11:56:27 13 A. The slope is too big. It was
11:56:29 14 like this, whereas if you're coming from the
11:56:32 15 shore and coming back this way, it's more of a
11:56:34 16 slope this way. It is not as steep a slope, so
11:56:37 17 around the island it becomes more steeper. And
11:56:39 18 actually, your net can roll down the bank and
11:56:42 19 can be lost.

11:56:49 20 Q. So it's better to use the nets on
11:56:50 21 a more gradual slope? Is that --

11:56:52 22 A. Yeah, or else you can -- you can
11:56:53 23 kind of pick the back, pick the end up by
11:56:57 24 putting jugs on it so that it becomes not
11:57:00 25 anchored to the bottom, more floated from the

11:57:05 1 buoys that you can add on that float up on the
11:57:08 2 top of the water. Then they can come straight
11:57:10 3 across again as much as possible.

11:57:21 4 Q. Now, you spoke this morning about
11:57:27 5 various agreements of the SON communities with
11:57:30 6 the Ministry of Natural Resources, and I think
11:57:39 7 if I understood you correctly the boundaries of
11:57:41 8 those agreements with the MNR don't entirely
11:57:47 9 match the traditional territory boundaries?

11:57:49 10 A. I would say, yes, I would say
11:57:50 11 that they're less than the traditional
11:57:52 12 territory.

11:57:53 13 Q. So the agreements are less than
11:57:55 14 that, okay.

11:57:56 15 A. And because there's different
11:57:58 16 agreements. So your non-Native commercial
11:58:01 17 fishermen were being bought out at that time, so
11:58:04 18 it started out like this, and then these one,
11:58:06 19 southern ones would get bought out and those
11:58:09 20 ones would get bought out.

11:58:11 21 Q. Right. Okay. And what you were
11:58:28 22 describing, I think it was the discussion of
11:58:32 23 boundaries with neighbouring First Nations or
11:58:35 24 other First Nations, as you -- as we talked
11:58:39 25 about, you mentioned the discussions which were

1 with Wikwemikong, and you mentioned the
2 discussions to the south where there's an
3 overlapping zone, I think, that your traditions
4 say that it was south of Goderich, and the other
5 First Nations say it was north of Goderich. So
6 there is an overlap zone, is that correct?

7 A. I thought I said south of the
8 Maitland River.

9 Q. Oh, yes, you did, of course. My
10 apologies. So there's no official agreement on
11 the east side of Georgian Bay, is that correct?

12 A. With neighbouring --

13 Q. With Beausoleil or the other
14 First Nations?

15 A. Well --

16 Q. Or that you're aware of.

17 A. Well, we have a verbal agreement
18 to meet and discuss the overlaps.

19 Q. Okay.

20 A. And as a fisherman, because I was
21 out fishing and because I was councilor, I got
22 to go to different meetings where you'd bump
23 into these other Anishinaabe from Christian
24 Island and Beausoleil. And when we start
25 talking about fishing and they didn't -- they

1 were saying that they were almost out of quota
2 and stuff like that, I used to invite them to
3 write the band office and say that they needed
4 some more fish to finish up the year. And I
5 said that the band would probably look
6 favourable upon giving you more fish to fish.

7 Q. So are these arrangements with
8 other First Nations, are they arrangements of
9 traditional territory or arrangements of how far
10 the fishing goes?

11 A. Can you say it again? State it
12 again?

13 Q. Yes. The discussions with other
14 First Nations, are they for recognition of
15 traditional territory of SON versus other
16 groups? Or is it a recognition of how far the
17 fishing goes before you intrude on someone
18 else's territory?

19 A. So I was doing it unofficially as
20 a councilor and invited people. Maybe they
21 scoffed at my offer, I don't know. Maybe they
22 said, well, who are you to invite me? We had
23 fish. The fish was in our territory, and we
24 didn't -- we weren't utilizing all of it at that
25 particular time. And they needed fish, and I

12:01:14 1 thought the band would say, yes, go ahead and --
12:01:17 2 because they were under some different licensing
12:01:19 3 system than we were. They were actually under
12:01:21 4 the Ministry of Natural Resources licensing.

12:01:24 5 But I thought that it would have
12:01:30 6 worked if they needed fish to come and have some
12:01:33 7 of our fish to the extent that we're Aboriginal
12:01:36 8 people and there is a need for them to have
12:01:39 9 fish.

12:01:39 10 Q. And these are the people on --

12:01:40 11 A. Beausoleil.

12:01:40 12 Q. Beausoleil.

12:01:41 13 A. But I would have probably thought
12:01:42 14 the same thing of the tri-council fish at Rama
12:01:47 15 and Georgina. I don't know what kind of fish
12:01:49 16 that they do, but I would have made the same
12:01:52 17 offer to them if they needed to come up to the
12:01:53 18 territory to fish when they needed the fish.

12:02:04 19 Q. So would it be fair to say that
12:02:06 20 the boundary that's marked as traditional
12:02:08 21 territory is also the limit of fish, although
12:02:14 22 there is some flexibility?

12:02:16 23 A. "The limit of fish" meaning what?

12:02:18 24 Q. The limit of how far one side or
12:02:22 25 another would fish, in Georgian Bay, for

12:02:28 1 example?

12:02:29 2 A. Like I say, I think it's all the
12:02:30 3 fish that we -- that we say that we can fish and
12:02:35 4 still leave us something for sustainable
12:02:37 5 development can be caught inside of that blue
12:02:40 6 area.

12:02:40 7 So is there a need to go out of it?
12:02:43 8 No, if you wanted to drift over top or beside
12:02:47 9 the line, I don't think that nobody would say
12:02:49 10 anything about it. Because then you'd be
12:02:50 11 probably relying on your Aboriginal and treaty
12:02:53 12 right. Or your treaty right, your
12:02:56 13 Aboriginalness, your Aboriginal right, not so
12:02:58 14 much a treaty.

12:02:59 15 Because the fishing agreement doesn't
12:03:00 16 cover the whole treaty area. It covers kind of
12:03:04 17 like management system. You need to kind of be,
12:03:07 18 when you're talking about how lines get
12:03:11 19 developed, it's about identification of land.
12:03:12 20 Because that's how you set your nets is you look
12:03:16 21 on the shore and start to set and you look which
12:03:19 22 direction you're going and you pick another spot
12:03:22 23 over there on that land.

12:03:23 24 And you pick about how many feet
12:03:25 25 you've got so that when you come back to pick

12:03:27 1 your nets up that you have some idea. And you
12:03:31 2 traverse those two points or try and intersect
12:03:35 3 them and that's how you find your nets in the
12:03:37 4 morning. So you're constantly looking for land
12:03:39 5 to identify where your nets are.

12:03:44 6 It seems like you're setting a lot of
12:03:46 7 net when you're setting but in the -- it looks
12:03:49 8 small when you come back to look for them again.
12:03:52 9 It seems like you've been setting and setting
12:03:55 10 and setting. But then when you drive up in the
12:03:57 11 morning and go, gee, it looks -- it's a short
12:03:59 12 distance in that vast area of that water.

12:04:08 13 Q. And I think you said that the
12:04:09 14 international boundary, the west side, you were
12:04:14 15 respecting the Indigenous groups on the other
12:04:19 16 side in the U.S.?

12:04:20 17 A. Yes.

12:04:22 18 Q. Is that boundary -- would you say
12:04:25 19 that boundary marks the traditional territory or
12:04:29 20 is it something that goes -- or is it a modern
12:04:32 21 type of a boundary? Would you have -- would you
12:04:35 22 think that the tradition would go farther?

12:04:37 23 A. I think that people used to go
12:04:39 24 and fish wherever they wanted to go and fish.

12:04:44 25 Q. Okay. If I could ask for a

12:04:45 1 document to be brought up, please? It's SC0738.

12:05:22 2 Oh, it's not the one I thought it was.

12:05:24 3 Can we bring up SC0737? So this is a band
12:05:36 4 council resolution for the Chippewas of Nawash
12:05:41 5 from the 10th of September, 1997. And there is
12:05:44 6 a motion there, number 362, and it says, "Moved
12:05:50 7 by Paul Jones". That's -- yes, from 1997, do
12:05:54 8 you -- perhaps you might want to take a moment
12:05:56 9 to read it, but do you recall this motion?

12:05:59 10 A. Over the course of 26 years I
12:06:01 11 probably moved lots of motions.

12:06:03 12 Q. I'm sure.

12:06:04 13 A. So, what did you want to know
12:06:05 14 about this one?

12:06:07 15 Q. Well, if I could just read it, it
12:06:09 16 says:

12:06:10 17 "Chippewas of Nawash Band
12:06:12 18 Council, Bruce District hereby state
12:06:18 19 that any files involving Chippewas of
12:06:21 20 Nawash membership, lands or general
12:06:26 21 housekeeping are not to be transferred
12:06:28 22 from the Bruce District Office, DIA
12:06:30 23 [...]"

12:06:30 24 Which I assume is the Department of
12:06:30 25 Indian Affairs.

1 "[...] to the regional office,
2 DIA, without prior approval by the
3 Chippewas of Nawash Band Council.
4 Further, advise that the police should
5 be called should DIA move into the
6 Bruce District Office to remove said
7 files."

8 So first of all, do you recall this
9 motion?

10 A. No, I don't recall moving the
11 resolution specifically, but I recall the issue,
12 yeah.

13 Q. So was the issue that the Bruce
14 District Office had closed?

15 A. They were trying to close, they
16 were in the midst of closing, and they were
17 moving all our -- they were trying to take our
18 files and move them somewhere else. We always
19 considered that kind of like -- records always
20 get lost every time that that takes place. So
21 that's what we were trying to avoid.

22 Q. Right. And this would have been
23 the office in Saugeen at Chippewa Hill, is that
24 right?

25 A. If it's not in Saugeen, it's

1 awfully close to Saugeen.

2 Q. Sorry, actually, can I make this
3 the next exhibit? It's the band council
4 resolution of the Chippewas of Nawash, dated
5 10th of September, 1997.

6 THE COURT: Mr. Registrar.

7 THE REGISTRAR: Exhibit Number 4110.

8 EXHIBIT NO. 4110: Band council
9 resolution of the Chippewas of Nawash,
10 dated September 10th, 1997. Document
11 SC0737.

12 BY MR. BEGGS:

13 Q. Thank you. And if I can call up
14 document SC0738. This is another band council
15 resolution of the Chippewas of Nawash, and it's
16 dated 16th of April, 1998. So the following
17 year. This one is not moved by you, but it
18 says:

19 "Chippewas of Nawash First Nation
20 Band Council hereby direct the lands
21 manager to remove Chippewas of Nawash
22 files previously handled by Bruce
23 District, Department of Indian
24 Affairs, in order to guarantee
25 protection due to closure of

12:08:54 1 Department of Indian Affairs district
12:08:55 2 office and takeover of building by
12:08:57 3 another party. Removal of files to be
12:08:57 4 done as soon as possible."

12:08:59 5 You were still on council in '98, is
12:09:03 6 that right?

12:09:03 7 A. Yeah, I was on council.

12:09:05 8 Q. Your signature is, I don't think,
12:09:06 9 here. But were you aware of that -- that step
12:09:10 10 to move the records?

12:09:11 11 A. Well, yeah, it only takes five to
12:09:18 12 make that resolution -- five signatures to make
12:09:18 13 it a valid resolution. And so -- and it kind
12:09:20 14 of -- and passed around and people signed them
12:09:22 15 when they come in. But I wouldn't know if I was
12:09:25 16 there for that particular resolution.

12:09:26 17 Q. Okay. But do you recall the
12:09:29 18 decision to move the records from the Bruce
12:09:32 19 District Office to the Nawash Office?

12:09:35 20 A. It probably hit the table a few
12:09:36 21 times. So, yes, I was at the table for the
12:09:38 22 discussions -- some of the discussions.

12:09:41 23 Q. And do you know what happened to
12:09:44 24 the records that were moved?

12:09:46 25 A. Yeah, they're at Cape Croker in

12:09:47 1 the basement.

12:09:48 2 Q. In the band office?

12:09:48 3 A. Yeah, in the band office.

12:09:53 4 Q. Do you know if any of those
12:09:54 5 records were disposed of or destroyed after
12:09:57 6 you -- after they were moved?

12:09:59 7 A. No, but I don't know if we got
12:10:02 8 all that we thought that was there either. We
12:10:04 9 thought that there was records missing before we
12:10:06 10 passed that first resolution to the time that
12:10:09 11 they made it up to the Chippewas of Nawash Band
12:10:12 12 Council. We thought that there was files
12:10:14 13 already missing.

12:10:34 14 Q. Now, was the Bruce District
12:10:35 15 Office -- you were elected in 1991?

12:10:38 16 A. Yes.

12:10:39 17 Q. And at that time was the Bruce
12:10:41 18 District Office at Saugeen or near it, as you
12:10:45 19 said?

12:10:46 20 A. Yeah, I believe so.

12:10:47 21 Q. And do you recall, from your own
12:10:53 22 memory, there being an agent's office on Nawash?

12:11:04 23 A. Well, the office I remember from
12:11:06 24 Indian Affairs would have been -- I don't know
12:11:11 25 what they call them him, Fred Purser -- Indian

1 agent. So to some extent I remember the Indian
2 agent, I believe he left around '66 or '68.

3 Q. Okay. Now, in your interview
4 with Professor Brownlie, I'm not going to call
5 it up, but it's Exhibit 3920. I can call it up
6 if you like, but you mentioned that the Indian
7 agent was run out of the reserve?

8 A. That's the story I heard from --
9 Wilmer Nadjiwon told that story quite often.

10 Q. And I think you estimate that
11 that was around the mid-'60s?

12 A. Yeah, probably '66, '67.

13 Q. Is it possible that the office
14 was already located at Saugeen but it was -- the
15 agent -- the agent was being essentially
16 forbidden from visiting, is that the case?

17 A. When they said they kicked him
18 off Cape Croker, that doesn't mean that the
19 agency didn't have any more say or work to be
20 done in terms of documenting and keeping track
21 of stuff. But he was no longer had the power
22 that he was wielding before by saying he's off
23 the reserve.

24 Q. Okay. So it reduced the agent's
25 role in band council affairs?

1 A. Being quite young at the time, as
2 I was born in '55, and this had taken place in
3 '66, '67, so I would assume that his role became
4 less, yes, that they didn't have to have him.

5 If you read reports that he was
6 actually in band council meetings and saying
7 what could get recorded and what couldn't get
8 recorded. I think that all stopped for sure
9 when he was gone.

10 Q. Thank you very much, Mr. Jones.
11 Those are all my question, Your
12 Honour.

13 THE COURT: Thank you.

14 Ontario. Go ahead, Ms. McRandall.

15 CROSS-EXAMINATION BY MS. McRANDALL:

16 Q. Thank you, Your Honour.

17 Good afternoon, Mr. Jones.

18 A. Good afternoon.

19 Q. I just had a few -- sorry, I
20 should introduce myself first. My name is Julia
21 McRandall, and I'm one of the counsel for
22 Ontario.

23 And first I just have a few questions
24 about your family.

25 A. Sure.

1 Q. So your father was Frederick or
2 Fred Jones, right?

3 A. Fred Jones, Frederick Jones, yes.

4 Q. And he testified in 2002, I
5 think, for this litigation, and that video was
6 played in this trial?

7 A. Yes, it's the same guy, yeah.

8 Q. And I think your father spoke
9 about spending some years living in Ottawa, BC,
10 Manitoba? Was that --

11 A. Yeah, he was married to a lady
12 minister, and he followed -- he went where she
13 went for a period of time, yeah.

14 Q. And was that at all when you were
15 growing up, or was that later?

16 A. I was in high school when they
17 first moved to Ottawa. I stayed in Wiarton.
18 And then he went from Ottawa to Manitoba, I
19 believe.

20 Q. And did your father have a sister
21 named Beatrice Johnston?

22 A. Yes, he did.

23 Q. And the Edward or Ted Johnston
24 who testified earlier in this trial, he's her
25 son, right?

12:15:28 1 A. Yes, that's right.

12:15:28 2 Q. And your cousin Ted Johnston's
12:15:32 3 daughter is Darlene Johnston, who also testified
12:15:35 4 earlier in this trial?

12:15:36 5 A. That's right, yes.

12:15:39 6 Q. And your father had a brother
12:15:41 7 named Alfred Jones?

12:15:43 8 A. Yes.

12:15:46 9 Q. And he also had a sister named
12:15:48 10 Irene, is that right?

12:15:50 11 A. Irene, Aunt Mabel, Milly, Uncle
12:16:02 12 Josh, Uncle Jim.

12:16:05 13 Q. And your Aunt Irene, she had a
12:16:08 14 son named Charles Keeshig, is that right?

12:16:11 15 A. Yes.

12:16:12 16 Q. And your father's father was
12:16:12 17 Charles Kegadonce-Jones?

12:16:14 18 A. Charles Kegadonce-Jones.

12:16:15 19 Q. Kegadonce-Jones. And I think you
12:16:16 20 told Professor Brownlie, and you can correct me
12:16:19 21 if I have this wrong, but I think you told him
12:16:22 22 that your grandfather lived to be about 100
12:16:24 23 years old?

12:16:25 24 A. 100 years, three months, ten
12:16:27 25 days, yes.

12:16:28 1 Q. So he lived from about 1852 to
12:16:32 2 1952, is that right?

12:16:34 3 A. 1852 to 1952, yes.

12:16:37 4 Q. And your father's mother was Ella
12:16:41 5 Ann Penn?

12:16:43 6 A. Yes. Amelia is what gets more
12:16:49 7 used, documented. I don't know whether Ann was
12:16:52 8 her first name or second name. Amelia, Amelia
12:16:54 9 Penn, yeah.

12:17:02 10 Q. You said before that you were on
12:17:04 11 council for Nawash from 1991 to 2017. In your
12:17:09 12 time on council did you read historical
12:17:11 13 materials or research about the 1854 or 1836
12:17:18 14 treaties?

12:17:18 15 A. I never researched anything, no.

12:17:26 16 Q. Did you read any of Darlene
12:17:28 17 Johnston's historical research?

12:17:30 18 A. Probably.

12:17:33 19 Q. Did you review any of the
12:17:34 20 historical documents that she retrieved?

12:17:37 21 A. I think that Darlene worked for
12:17:43 22 the joint -- SON joint council, so she would
12:17:49 23 probably come and brief council, joint council
12:17:52 24 which happened on a monthly or bimonthly basis;
12:17:56 25 and she would talk to joint council about the

12:17:59 1 work and what she may have done. I don't know
12:18:01 2 if that answers your question or not.

12:18:03 3 Q. Well, thank you, it's helpful.

12:18:05 4 But also, were there any historical
12:18:08 5 documents that she retrieved that you might have
12:18:11 6 reviewed? Or that you did review? Pardon me.

12:18:21 7 A. Not that I recall. But there was
12:18:22 8 a lot of paper being passed back-and-forth at
12:18:25 9 council level. I was just thinking about that
12:18:27 10 the other day about how much paper must have
12:18:30 11 come over my -- into my house, into my basement
12:18:34 12 over the course of 20 years, right. That's a
12:18:37 13 lot of paper.

12:18:46 14 Q. If I could ask some questions
12:18:48 15 about fishing. So in commercial fishing do you
12:18:52 16 fish mainly for whitefish?

12:18:55 17 A. You start out targeting
12:18:57 18 whitefish. Any fish you catch besides whitefish
12:19:01 19 is kind of called a "by-catch".

12:19:10 20 Q. And in the fall are whitefish
12:19:11 21 usually found close to the shore?

12:19:13 22 A. Yeah, they have to come in and
12:19:15 23 spawn. They're after a certain terrain to
12:19:17 24 spawn; gravelly area where the eggs will sit
12:19:28 25 inside a gravel or a hole or something like that

1 and survive the washing of the waves and stuff,
2 that's kind of how that whole process takes
3 place.

4 They're actually -- the males come in
5 first and lay a melt down, and then the females
6 come in, and talking about big waves and drop
7 their eggs on that. And then the males come by
8 again and drop more melt on top of those. And
9 they sit like that and that washes
10 back-and-forth until either there's a freeze up
11 or until -- and if it doesn't freeze up, then
12 the waves -- the eggs have less of a chance of
13 surviving because you get some ferocious winds
14 down so it means that they're exposed to the
15 wave action more than they should be getting it.

16 Q. Thank you. The gill nets that
17 you use for commercial fishing, what material
18 are they made from?

19 A. Nylon, poly, poly nylon and
20 monofilament or something like that.

21 Q. Do you pull up the gill nets by
22 hand, or do you have a hauler or a device --

23 A. Sorry to say, yes. I pull them
24 up by hand right now, but I've had lots of boats
25 where I've had pullers on them.

12:20:43 1 The more nets you have -- I mean, the
12:20:45 2 more you can lift by a puller, the more nets you
12:20:48 3 can set and still be done in a reasonable time.

12:20:54 4 Q. And you mentioned, I think you
12:20:57 5 said going out to a depth in Lake Huron of about
12:21:00 6 450 feet?

12:21:02 7 A. Yeah.

12:21:02 8 Q. How far out from the shore is
12:21:04 9 that about?

12:21:06 10 A. If you think that my boat,
12:21:08 11 without making it vibrate too much, was moving
12:21:13 12 at 8 knots, around 2 and a half hours. So you'd
12:21:17 13 be talking roughly 20 miles or so.

12:21:25 14 Q. And did you say you used a tug
12:21:27 15 for those trips?

12:21:28 16 A. Yes.

12:21:28 17 Q. And what size is that tug?

12:21:31 18 A. I've had two, 45-foot steel boats
12:21:34 19 and I've had -- and I would imagine that would
12:21:36 20 be called a "tug" as well. But I had a 60-foot
12:21:39 21 steel boat, 50-tonne steel boat.

12:21:47 22 Q. And those are, just so I'm sure
12:21:48 23 that I'm correct, those are enclosed, right?
12:21:52 24 The tugs?

12:21:52 25 A. The 50-tonne one was enclosed all

12:21:56 1 the way around. The two, 45-foot ones were
12:22:01 2 semiclosed. The back was always open. The
12:22:04 3 windows were always open.

12:22:08 4 Q. And what size crew can you fit on
12:22:11 5 those kinds of boats?

12:22:13 6 A. So on the 45-foot boat three, but
12:22:16 7 if you're in the fall time you probably had an
12:22:18 8 extra person just so that you could be done in a
12:22:21 9 reasonable amount of time, because you have to
12:22:23 10 stay until the job is done and all the fish are
12:22:25 11 pulled out of the net and you have it packed
12:22:27 12 away and loaded on.

12:22:30 13 So if you don't -- if you catch too
12:22:31 14 much fish, you can be there -- I've been --
12:22:34 15 worked right around the clock a couple times
12:22:37 16 pulling fish and making sure I've got
12:22:39 17 everything. So with the three -- three is
12:22:39 18 probably a good number, four if you're catching
12:22:49 19 lots.

12:22:52 20 And if you were to do chub fisheries,
12:22:55 21 which I've participated in, four or five because
12:22:58 22 somebody always would -- didn't get up in time
12:23:00 23 or didn't want to come out that day, so you had
12:23:02 24 to have four to make sure that you got done.

12:23:05 25 Q. And the tug that you used for

12:23:07 1 these trips, would they have -- would it have an
12:23:10 2 engine?

12:23:11 3 A. Yeah. It had a big diesel engine
12:23:13 4 in it, yeah. It was an inboard engine, diesel.

12:23:22 5 Q. And does it have a compass or
12:23:25 6 GPS?

12:23:30 7 A. Yeah, it had a GPS, radar, fish
12:23:35 8 finder, not on all of them but the last -- the
12:23:38 9 60-foot one had all of that. And the 45s had
12:23:41 10 one or the other at some point in time.

12:23:44 11 Q. Does the radar system help with
12:23:46 12 tracking weather conditions at all or no?

12:23:50 13 A. No, but you can see land even in
12:23:51 14 the darkness, and if it was cloudy or rainy,
12:23:54 15 dark out you'd be able to see land. You'd be
12:23:58 16 able to see boats that were there as well,
12:24:00 17 crossing boats.

12:24:09 18 Q. How do you monitor the weather
12:24:10 19 when you're out on the boat?

12:24:12 20 A. Well, back in those days it was a
12:24:14 21 VHS -- VHF radio and the weather station was
12:24:18 22 constantly playing on channel 6, I believe.

12:24:21 23 Nowadays I got it right on the
12:24:29 24 iPhone. You can pull up the marine forecast
12:24:33 25 right on the iPhone. And you can also pull up

12:24:36 1 a GPS enough to guide you into shore if it was
12:24:40 2 foggy out.

12:24:49 3 Q. You wouldn't make a trip that far
12:24:52 4 out into Lake Huron in a punt, would you?

12:24:55 5 A. I wouldn't, but Marshall
12:24:57 6 Nadjiwon, who fished whitefish, has been out in
12:25:00 7 a punt -- recent -- within the last ten years
12:25:03 8 for sure, setting nets; which I thought was kind
12:25:06 9 of foolhardy, you might say, but he did it; but
12:25:13 10 he's a better fisherman than I am so -- it takes
12:25:17 11 a lot to try and find those nets out there,
12:25:19 12 especially with Marshall's equipment, Marshall
12:25:24 13 Nadjiwon had.

12:25:27 14 Q. And I think you spoke about ice
12:25:29 15 fishing before, but you said you don't do ice
12:25:33 16 fishing, right?

12:25:33 17 A. No, I don't do it, no.

12:25:35 18 Q. And those members of SON who do,
12:25:36 19 is that on the Georgian Bay side?

12:25:43 20 A. Just because I live right on the
12:25:44 21 harbour I can see fishermen go out there and set
12:25:48 22 nets through the ice. So that's on the Georgian
12:25:51 23 Bay side.

12:25:52 24 There could be stuff happening on Lake
12:25:56 25 Huron side, but it seems like it's awfully rocky

1 because of the ice keeps breaking up and getting
2 piled up on the shore, so even to get out there
3 seems like it would be a chore.

4 But I'm not sure what everybody else
5 is -- if the need was there -- I guess if you're
6 hungry enough, you'd go and do it.

7 Q. Did your father's father fish?

8 A. Yeah, yeah.

9 Q. Do you know what kind of boat he
10 used?

11 A. He was probably more into the
12 canoe part, but I wouldn't say that was the only
13 thing he had. My first cousin, uncle Josh's
14 daughter, and Jack Jones' daughter actually
15 talked about that my grandfather put both of the
16 two daughters in and paddled across in a canoe
17 over towards the park -- he was already quite
18 elderly at that time -- and set a net.

19 And then he set this -- they just sat
20 on the shore until they could see the corks
21 move. And when the corks moved and they had a
22 couple of fish in there he would just pick it
23 back up and went back home.

24 Q. Do you know what materials the
25 nets he used --

12:27:15 1 A. They were cloth at that
12:27:16 2 particular time.

12:27:24 3 Q. So when you're fishing but not
12:27:26 4 for a commercial reason, would you use something
12:27:28 5 besides a gill net?

12:27:29 6 A. If I was not commercial fishing?

12:27:31 7 Q. If you were fishing for food or
12:27:34 8 for --

12:27:37 9 A. You can -- yeah, you can set a
12:27:37 10 line and you put -- you get a line and put an
12:27:40 11 anchor on this side, an anchor on that side, not
12:27:45 12 as big as anchors when you're setting nets, and
12:27:47 13 then you can bait hooks and just let the hooks
12:27:50 14 float up and the fish will come by.

12:27:55 15 And you can leave them out for a night
12:27:56 16 or two nights and go back and pick them back up
12:27:59 17 and you'll have fish in there at certain times
12:28:04 18 of the year. You can do that right off the
12:28:06 19 point where I live.

12:28:19 20 Q. So you mentioned that you went
12:28:21 21 hunting with your father when you were a child.
12:28:22 22 Did your father use only firearms for hunting?

12:28:25 23 A. Yes.

12:28:26 24 Q. And when you hunt, do you also
12:28:27 25 only use firearms?

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A. Yes.

Q. How often would you say you go hunting?

A. Back when I was a kid?

Q. Now.

A. I don't know when the last time I went out for a day of hunting, so it's been a while.

Q. And when you go hunting will you sometimes hunt on private property?

A. If I was going hunting and I happened to see some deer, I would hunt them, I would take the opportunity to take a shot at it on -- stop the car and go up, go to the side of the road and take a shot, yeah.

It doesn't bother me that it's a deer. If I needed -- if I needed a deer, it doesn't bother me to take it at a certain time of year. You don't hunt them until they're ready to be taken, which is sometime middle of August or -- until that time you don't really hunt deer because the fawns can't survive. That's the time my dad said that fawns can survive on their own.

Q. But you wouldn't be doing this

12:29:45 1 near a house, for example?

12:29:48 2 A. Well, you're trying to be as safe
12:29:49 3 as possible about doing it.

12:30:06 4 Q. So your father, Fred Jones, he
12:30:08 5 was on council at Nawash in the 1960s,
12:30:12 6 correct?

12:30:13 7 A. I believe so, yeah.

12:30:15 8 Q. And around that time were there
12:30:17 9 discussions that you heard or that your father
12:30:20 10 talked about having in council with respect to
12:30:24 11 potentially bringing any claims against the
12:30:26 12 government?

12:30:28 13 A. No, not that I recall about land
12:30:33 14 claims or claiming that. But the one discussion
12:30:35 15 I did hear was about -- the big discussion at
12:30:39 16 that time when my dad was on council was about
12:30:41 17 bringing -- Alfred Jones wanted to bring in
12:30:44 18 welfare, and my dad didn't want welfare on the
12:30:47 19 reserve. So that was the bigger discussion that
12:30:49 20 I remember them having.

12:30:53 21 Q. So your uncle Alfred Jones was on
12:30:57 22 council around the same time as your father,
12:30:59 23 then?

12:31:00 24 A. I wouldn't know -- I didn't know
12:31:01 25 that he was -- if he was, he was the welfare

1 administrator, that's where the discussion took
2 place, or else he took that job over when it
3 came onto the reserve, where he took that job
4 up. Whether he was on council at the time or
5 not, I don't know.

6 Q. Was your cousin Keitha Johnston
7 ever on council in Nawash?

8 A. Yes, I know her as Keitha
9 Keeshig, but yes, that she was a Johnston --
10 yes, she was on council. She ran for chief
11 maybe a couple of times as well.

12 Q. And was she on council in the
13 late 1960s, early 1970s? Around that time?

14 A. I believe so, yeah.

15 Q. And around that time were there
16 discussions you heard or that your cousin Keitha
17 Keeshig talked about having in council with
18 respect to potentially bringing any claims
19 against the government?

20 A. I would say that I interacted
21 with Keitha somewhat less because she was --
22 lived up in Sydney Bay.

23 Q. And was your cousin Giles Keeshig
24 ever on council at Nawash?

25 A. Yeah. Actually, I sat on council

1 with Giles. The last time he was on council --
2 he may have been on council before that, like in
3 the '60s, but I sat with Giles Keeshig on
4 council the last time he was on council.

5 Q. In the '90s?

6 A. Yes.

7 Q. So in the 1960s were there any
8 discussions that you heard or you had with your
9 cousin Giles where he talked about potentially
10 bringing claims against the government?

11 A. There is a bit of an age
12 difference because my dad was the youngest one
13 in the family, aunt Irene was somewhere up over
14 here, so there's quite a bit of a distance in
15 terms of age. So Giles was already grown up,
16 has his own family, probably not much need to
17 talk to a 12-year snotty old kid.

18 Q. I'd like to turn to your
19 interview with Professor Brownlie. I don't
20 think we need to pull it up just yet. Could you
21 tell me how you were selected to be interviewed
22 by Professor Brownlie?

23 A. I wouldn't know, but I kind of
24 thought -- I don't know why I was selected, but
25 I kind of think that because I was on council

12:33:29 1 and because I was a fisherman that I used to get
12:33:32 2 all kinds of requests for people to come and --
12:33:33 3 would you talk with this guy? Would you talk to
12:33:37 4 this professor? Would you talk to this
12:33:39 5 scientist? So yeah, I just talked to people
12:33:42 6 that wanted to talk about -- wanted to know
12:33:43 7 about fishing.

12:33:44 8 Q. Did you receive the questions in
12:33:46 9 advance?

12:33:47 10 A. I don't know if I did or not. I
12:33:54 11 couldn't say for sure I didn't.

12:33:56 12 Q. Did you do anything to prepare at
12:33:57 13 all for the interview?

12:33:59 14 A. No, because fishing is just one
12:34:00 15 of those things I kind of -- whatever I know I
12:34:03 16 know, and I kind of go through a different
12:34:05 17 system.

12:34:05 18 Some people might write stuff down. I
12:34:08 19 tend to listen and make it try and stick in my
12:34:14 20 brain as opposed to writing it down. Because a
12:34:16 21 different -- two trains of thought there, right?
12:34:19 22 If you write it down, then you really don't
12:34:20 23 really have to remember it because you can
12:34:22 24 always go back and read it. So I'm of the
12:34:25 25 belief that try to listen and hear what they're

12:34:28 1 trying to say. So I don't really write anything
12:34:31 2 down.

12:34:32 3 Q. Did Professor Brownlie ask you to
12:34:34 4 provide any names of other people who might be
12:34:37 5 beneficial for him to talk to?

12:34:38 6 A. Did he ask me? I don't know.

12:34:49 7 Q. I'd like to pull up the
12:34:50 8 transcript of the interview now.

12:34:52 9 A. Sure.

12:34:52 10 Q. And that's Exhibit 3920. I would
12:35:01 11 like to go to page 5, the second paragraph from
12:35:05 12 the bottom. I'm sorry, it's the bottom
12:35:12 13 paragraph. So it says:

12:35:12 14 "PJ. Well, you know, if you
12:35:18 15 think that the treaties say that,
12:35:19 16 'This is what we're willing to share
12:35:21 17 with you, over there.' Canada says,
12:35:24 18 'Now, you just gave that outright.'
12:35:27 19 That's not the case. We're supposed
12:35:31 20 to share. There's been lots of
12:35:33 21 documentation that even when those
12:35:34 22 treaties were signed back then, is
12:35:36 23 that Aboriginals said, well, that's
12:35:36 24 not what we -- that's not our
12:35:36 25 interpretation. We can go and still

12:35:36 1 gather our medicines there, our food
12:35:38 2 is there, our dodems are there. Our
12:35:41 3 brothers and sisters in terms of the
12:35:43 4 wildlife, their connection is there."

12:35:47 5 The documentation you refer to in that
12:35:49 6 interview, were those historical documents about
12:35:52 7 the treaties?

12:35:54 8 A. I would imagine so. I don't know
12:35:56 9 what else I would have been talking about.

12:36:07 10 Q. And are those documents a source
12:36:09 11 of information for you about the treaty?

12:36:14 12 A. Well, one of the things that I --
12:36:18 13 when I sat on council, that you have certain
12:36:21 14 things that you're interested in, there are
12:36:24 15 certain things that councils need done. One of
12:36:26 16 them was the land claims, fishing, big files. I
12:36:31 17 took an interest in both of those. I thought
12:36:34 18 I'd had an interest in both of those areas. I
12:36:37 19 thought I could give it some time, and I thought
12:36:40 20 I could do something with it, so...

12:36:42 21 And your question again was?

12:36:44 22 Q. If those kind of documents were a
12:36:45 23 source of information for you about the
12:36:46 24 treaties.

12:36:48 25 THE COURT: I'm struggling because the

1 witness said he didn't recall what the documents
2 were and now you're asking him whether the
3 documents were a source of information, unless I
4 have it wrong.

5 Please go ahead if you wish to,
6 counsel, I'm just a little bit lost at this
7 point.

8 BY MS. MCRANDALL:

9 Q. No, I'll move on. The next
10 question is perhaps a bit more specific.

11 Mr. Jones, have you read any
12 historical documents held by the churches which
13 discuss the treaties?

14 A. Actually, I know that when the
15 treaties were being talked about in '54 that
16 there were some, I believe, Methodist people --
17 have I read any -- have I seen documentation
18 about --

19 THE COURT: The question was whether
20 you've read any historical documents held by the
21 churches regarding the treaties.

22 THE WITNESS: Held by the churches?
23 Not that I know. But I do know that the
24 churches, the United Church has become some sort
25 of advocate for Aboriginal -- harms that may

12:38:16 1 have happened to Aboriginal people, the United
12:38:19 2 Church in that vein belief are trying to do
12:38:23 3 something to help Aboriginal people now. I
12:38:27 4 don't know what they might have purported to
12:38:29 5 participate in in kind of trying to make that
12:38:32 6 right now.

12:39:00 7 BY MS. MCRANDALL:

12:39:00 8 Q. I would like to take you to
12:39:01 9 another document, and it's SC077. Here at the
12:39:04 10 top you can see that it says:

12:39:06 11 "Interviewee: Fred Jones.

12:39:09 12 Interviewers: Ed Koenig, (Paul Jones
12:39:13 13 assisted). Interview date: March 30,
12:39:18 14 2006. Interview place: Nawash, Jones
12:39:22 15 property, maple sugar bush.

12:39:22 16 Transcriber: Ed Koenig."

12:39:23 17 Your Honour, may this be entered as an
12:39:23 18 exhibit?

12:39:23 19 THE COURT: Mr. Registrar?

12:39:23 20 THE REGISTRAR: Exhibit Number 4111.

12:39:28 21 EXHIBIT NO. 4111: Interview of Fred
12:39:31 22 Jones, March 30, 2006. Document
12:39:31 23 SC077.

12:39:32 24 BY MS. MCRANDALL:

12:39:32 25 Q. Thank you.

1 Mr. Jones, do you remember your father
2 being interviewed by Ed Koenig in 2006 with you
3 assisting?

4 A. I used to go and visit my dad
5 fairly regular. If there was people there that
6 was interviewing my dad, I probably sat in on
7 it. But this looks like it's saying it's in the
8 sugar bush. Oh, it says on the property of the
9 sugar bush, which I would assume then is in the
10 bush as opposed to his house.

11 Q. Do you remember assisting with
12 one of those interviews?

13 A. I remember having many
14 conversations with Ed Koenig.

15 Q. If we can turn up page 8, the
16 second paragraph from the bottom. The response
17 after FJ reads:

18 "Well, there must have been
19 treaties. He was more interested in
20 hunting treaties, because that's how
21 the Indian lived, by hunting. And he
22 was more interested in hunting
23 treaties, so when he spoke of
24 treaties, it was always the right to
25 hunt."

1 My question then is, in your
2 discussions with your father, if he talked about
3 what his father or others passed down about the
4 treaties, he always talked about hunting?

5 A. I think that -- I thought I
6 answered that earlier on by -- for my dad -- for
7 me, what the question was was that hunting --
8 how does hunting affect you as an Aboriginal
9 person or how integral is it to you? That's
10 kind of where I was coming from.

11 And so it looks like my dad is saying
12 the same thing. That's what I get by reading
13 that particular paragraph, that he's saying the
14 same thing, he's interested in utilizing the
15 land.

16 Q. So your father's source of
17 information about this, was it his father or --
18 about the importance of hunting?

19 A. I wouldn't know where Dad got his
20 beliefs from. His dad was already 60 by the
21 time my dad was born. And then my dad went off
22 to war and spent a whole time there. And he did
23 receive the farm off my dad, so there must have
24 been a lot of interaction, at least after that
25 time. But before that time Kegadonce was

12:42:17 1 probably already -- well, he was already 60 by
12:42:21 2 the time my dad -- how much more my dad --
12:42:21 3 Kegadonce would have hunted and fished after
12:42:26 4 that, I don't really know. So even if you said
12:42:28 5 my dad was 10 or in there, then that would have
12:42:32 6 put Kegadonce at 70.

12:42:36 7 Q. Thank you, Mr. Jones.

12:42:37 8 Your Honour, could I have a moment to
12:42:38 9 confer with my colleague?

12:42:57 10 Thank you, Mr. Jones, those are all my
12:42:59 11 questions.

12:42:59 12 A. Thank you.

12:43:00 13 THE COURT: Mr. Jones, I have a
12:43:01 14 question for you that relates to Exhibit P,
12:43:04 15 which is that map behind you. But because we
12:43:08 16 need everyone to hear you, I wonder if whoever
12:43:10 17 has control of the technology could put Exhibit
12:43:14 18 P on the screen?

12:43:31 19 There we go.

12:43:33 20 Now, Mr. Jones, you were asked
12:43:36 21 questions about the outside boundaries of the
12:43:38 22 light blue area on this map?

12:43:40 23 THE WITNESS: Yes.

12:43:43 24 THE COURT: Do you recall those
12:43:44 25 questions?

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1 THE WITNESS: I believe I --

2 THE COURT: Generally speaking.

3 THE WITNESS: Well, I know that there
4 was questions asked about it.

5 THE COURT: Right. So the line that
6 I'm going to ask you a question about is on the
7 right-hand side going, roughly speaking, on a
8 diagonal from top to bottom.

9 THE WITNESS: Yes.

10 THE COURT: Through the middle of
11 Georgian Bay. Do you see that line, sir?

12 THE WITNESS: Yes.

13 THE COURT: I'm just trying to
14 understand your response to Mr. Brookwell about
15 the -- that particular line. And I think you
16 said something like that that was what SON
17 believed was its territory.

18 THE WITNESS: Yes.

19 THE COURT: Is that what you said,
20 sir?

21 THE WITNESS: Yes, I did.

22 THE COURT: What I was unclear on is
23 that these visually to me, sir, it looks like
24 the line goes straight down the middle of
25 Georgian Bay. Do you see that?

12:44:29 1 THE WITNESS: That's what it looks
12:44:30 2 like, yeah.

12:44:31 3 THE COURT: And do you happen to know
12:44:33 4 why it is that it goes down the middle and, as
12:44:35 5 you put it, that is what SON believes is its
12:44:38 6 boundary, or words to that effect?

12:44:40 7 THE WITNESS: Probably to the effect
12:44:42 8 that both sides can go that distance and still
12:44:46 9 make it back home. I would have assumed that's
12:44:49 10 what that line --

12:44:50 11 THE COURT: Okay. But do you have any
12:44:52 12 firsthand information, sir, about why the line
12:44:55 13 goes straight down the middle? As opposed to
12:44:59 14 assumptions and perhaps --

12:45:02 15 THE WITNESS: Well, that's what -- I
12:45:04 16 guess you're trying not to encroach on other
12:45:08 17 people's territory as well. So I don't really
12:45:10 18 know why that is like that. That's what -- if
12:45:12 19 you have to pick a spot and Collingwood is one
12:45:16 20 of those markers of our boundaries down there,
12:45:21 21 and then you come back up to where you thought
12:45:23 22 that the boundaries were on the north end of
12:45:26 23 Wikwemikong.

12:45:30 24 THE COURT: Just to help you out, sir,
12:45:30 25 when I say "firsthand knowledge" --

12:45:33 1 THE WITNESS: Do I have firsthand
12:45:33 2 knowledge.

12:45:33 3 THE COURT: I mean you personally know
12:45:35 4 why it was done that way as opposed to making
12:45:38 5 reasonable assumptions.

12:45:40 6 THE WITNESS: Firsthand, no, I don't,
12:45:41 7 no.

12:45:47 8 THE COURT: Okay. Thank you. Now,
12:45:47 9 since I asked you those question, sir, I have to
12:45:50 10 give the lawyers another chance.

12:45:52 11 THE WITNESS: Sure.

12:45:52 12 THE COURT: Mr. Brookwell?

12:46:04 13 MR. BROOKWELL: Your Honour, I have no
12:46:05 14 follow-up questions based on your question.

12:46:08 15 THE COURT: Thank you, Mr. Brookwell.
12:46:10 16 Mr. Beggs?

12:46:11 17 MR. BEGGS: No, Your Honour.

12:46:12 18 THE COURT: Ms. McRandall?

12:46:14 19 MS. MCRANDALL: No, Your Honour.

12:46:15 20 THE COURT: Sir, that concludes your
12:46:16 21 testimony. Thank you very much.

12:46:20 22 MR. BROOKWELL: Sorry, Your Honour, I
12:46:21 23 do have one re-examination question.

12:46:23 24 THE COURT: Oh, I'm sorry. I
12:46:24 25 overlooked re-examination. That's my oversight.

1 Okay. Well, we'll see if -- you may have
2 another question, sir.

3 Go ahead, Mr. Brookwell.

4 RE-EXAMINATION BY MR. BROOKWELL:

5 Q. Mr. Jones, Ms. McRandall asked
6 you whether you hunt now. Can you tell us why
7 you haven't hunted recently?

8 A. I don't really have any
9 particular reason. I don't -- if I needed to --
10 if a deer was to walk by my property, and it
11 has, I would probably shoot it. But other than
12 that, I don't really -- I can trade, I can
13 barter, I can trade fish for deer meat if I want
14 deer meat. It's not that I'm incapable of
15 hunting. I don't know if I walk in the bush to
16 hunt, that's all.

17 Q. Thank you, Mr. Jones, that was my
18 question.

19 THE COURT: Thank you, Mr. Brookwell.
20 Again, I'm sorry I overlooked your
21 re-examination just then.

22 Mr. Brookwell is finished, as are we,
23 sir. So, Mr. Jones, you may now step down and
24 go into the body of the courtroom.

25 THE WITNESS: Thank you.

12:47:42 1 THE COURT: Mr. Townshend or

12:47:43 2 Mr. Brookwell? Yes, Mr. Townshend?

12:47:48 3 MR. TOWNSHEND: We have arranged for
12:47:49 4 the next witness to be available tomorrow
12:47:50 5 morning.

12:47:51 6 THE COURT: Not until tomorrow
12:47:52 7 morning?

12:47:53 8 MR. BROOKWELL: No.

12:47:58 9 THE COURT: I take it that person is
12:47:59 10 not in the City of Toronto, is that correct?

12:48:01 11 MR. BROOKWELL: He is in Toronto but
12:48:02 12 not ready.

12:48:07 13 THE COURT: I'm going to let it go
12:48:09 14 this time, sir, but we've had this discussion
12:48:09 15 before, and I think you've said to me before
12:48:12 16 that going forward you would have the next
12:48:14 17 witness ready and waiting if there was time.

12:48:16 18 MR. BROOKWELL: Yes, we're trying.

12:48:18 19 THE COURT: You're trying. All right.
12:48:20 20 Well, let's -- I know you're trying, but we need
12:48:23 21 to do better than that, sir. You need to have
12:48:25 22 them actually waiting.

12:48:26 23 MR. BROOKWELL: Yes, Your Honour.

12:48:28 24 THE COURT: Okay. We'll adjourn until
12:48:30 25 10:00 o'clock tomorrow morning.

12:48:55

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--- Whereupon the proceedings were

12:48:55

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adjourned at 12:49 p.m.

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REPORTER'S CERTIFICATE

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

That the foregoing proceedings were
taken before me at the time and place therein
set forth the witness having been 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 29th day of July 2019.



PER: HELEN MARTINEAU
CERTIFIED SHORTHAND REPORTER

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