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Chair: Mr. Ken McDonald



Standing Committee on Fisheries and Oceans

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• (1855)

[English]

The Chair (Mr. Ken McDonald (Avalon, Lib.)): Good evening, everybody. I now call this meeting to order.

Welcome to meeting number three of the House of Commons Standing Committee on Fisheries and Oceans. The committee is meeting to hear from witnesses. Today's meeting is taking place in a hybrid format.

I would like to start the meeting by providing you with some information on the motion that was adopted in the House on Wednesday, September 23, 2020.

The committee is now sitting in a hybrid format, meaning that members can participate either in person or by video conference. Witnesses must appear by video conference. All members, regardless of their method of participation, will be counted for the purpose of quorum. The committee's power to sit is limited by the priority use of House resources, which is determined by the whips.

All questions must be decided by a recorded vote, unless the committee disposes of them with unanimous consent or on division. Finally, the committee may deliberate in camera, provided that it takes into account the potential risks to confidentiality inherent to such deliberations with remote participants. The proceedings will be made available via the House of Commons website. So that you are aware, the webcast will always show the person speaking rather than the entirety of the committee.

To ensure an orderly meeting, I would like to outline a few rules for everyone to follow.

For those participating virtually, members and witnesses may speak in the official language of their choice. Interpretation services are available for this meeting. You have the choice, at the bottom of your screen, of floor, English or French. Before speaking, click on the microphone icon to activate your own mike. When you are done speaking, please put your mike on mute to minimize any interference for other speakers.

As a reminder, all comments by members and witnesses should be addressed through the chair. Should members need to request the floor outside of their designated time for questions, they should activate their mike and state that they have a point of order. If a member wishes to intervene on a point of order that has been raised by another member, they should use the "raise hand" function. This will signal to the chair your interest to speak and create a speakers list. In order to do so, you should click on "participants" at the bot-

tom of your screen. When the list pops up, you will see, next to your name, that you can click "raise hand".

When speaking, please speak slowly and clearly. Unless there are exceptional circumstances, the use of headsets with a boom microphone is mandatory for everyone participating remotely. Should any technical challenges arise, please advise the chair. Please note that we may need to suspend for a few minutes, as we need to ensure that all members are able to participate fully.

For those participating in person.... I don't think we have anyone this evening, so I won't read out those rules.

With regard to a speakers list, the committee clerk and I will do the best we can to maintain a consolidated order of speaking for all members, whether they are participating virtually or in person.

I would now like to welcome our witnesses for the first session of our meeting this evening. In the first panel, we have Shelley Denny, appearing as an individual; and we have Allison Bernard, wildlife lead with Mi'kmaq Rights Initiative.

We have reached out to others this evening to get a full slate of witnesses, but it was on short notice and we wanted to get this study started.

We will now proceed with opening remarks.

Ms. Denny, we'll go to you first, for six minutes or less, please.

Ms. Shelley Denny (As an Individual): Good evening, and thank you for the invitation to stand in front of the House of Commons Standing Committee on Fisheries and Oceans as you undertake your study on the implementation of Mi'kmaq fishing rights to support a moderate livelihood.

I'm Mi'kmaq myself, a member of the Potlotek First Nation, but I have lived in Eskasoni for some time now. I am a doctoral student in the marine affairs program at Dalhousie University, seeking solutions to the same issues facing the committee: How can we successfully implement Mi'kmaq inherent and treaty fisheries in Nova Scotia?

I was fortunate enough to be part of a participatory research project, funded by the Social Sciences and Humanities Research Council, known as Fish-WIKS, which is an acronym for “fisheries western and indigenous knowledge systems”. Here, our goal is to use both knowledge systems to seek solutions to improve fisheries governance on all three of Canada's coasts. My role as a doctoral researcher in the Atlantic region was to identify and conduct research for this need to solve a current fisheries governance issue facing indigenous communities and also to explore solutions through the lens of both knowledge systems, referred to as “two-eyed seeing”. In two-eyed seeing, knowledge is viewed as a system in which knowledge is not only what is known but rather how it is known.

A knowledge system, whether it is western or indigenous, comprises many things. What we know, how we practise our knowledge, how we adapt to it and how we transmit and share it are the elements most people are familiar with. But the values and underlying beliefs that underpin these elements and actually distinguish one knowledge system from another are often ignored. This is problematic, because often the values and beliefs underpinning one system are at odds with another, potentially creating a barrier to collaboration.

However, our research in the Fish-WIKS project has shown that there are also similarities that can be used to start building bridges across knowledge systems and to help develop a greater understanding of the differences. This means that it's critical that those coming from different knowledge systems understand the values and beliefs driving each system, and that all parties involved in finding solutions take these into consideration when developing a path forward. While much of the research has shown that deep core beliefs are non-negotiable, many values, for example fairness, tend to be shared across knowledge systems and as such are more easily understood in the efforts to resolve conflicts.

Today I would like to share some of my research outcomes that can help enhance your understanding of the situation. It's unfortunate that the “what” of moderate livelihood takes over discussions, because it is “how” Mi'kmaq treaty-based fisheries can be implemented that is the crux of the issue.

Between 2018 and 2019, I conducted 48 interviews with 52 individuals experienced in fisheries governance, history, fishing and law. Today I would like to share the key challenges uncovered during my research. I'm sure the challenges will sound familiar, but they are supported through research. It is no surprise that conflicting relations are at the core of the current tensions. Reasons underpinning conflicting relations include continued antagonistic behaviour towards Mi'kmaq fishers, a lack of trust externally and internally, the lack of understanding of the Mi'kmaq context, and competition for resources.

There are numerous gaps contributing to the situation we have today. For example, there is no federal policy to address livelihood fisheries. Furthermore, the government needs to better develop its capacity to address Mi'kmaq rights, which is currently inadequate, being more reactive than proactive. Also, in general, things move slowly in government. The industry values rules and is concerned about how industry rules don't apply to indigenous fishing and fisheries and perceive indigenous fishers to be operating in a legal vac-

uum. Mi'kmaq want to support their families through livelihood fishing, but there are no avenues to do so. Negotiations are nation to nation but mostly without the inclusion of the fishers who are affected. While all Mi'kmaq have rights, not all Mi'kmaq are interested in pursuing livelihood fishing. Identifying those who want to fish is part of the process. Governance gaps exist at the community level as well and are of concern to DFO.

Conflicting views of authority to manage fisheries are evident. These are related to perceptions of legitimacy of the governing systems. Legitimacy is how a political action is perceived as right and just by the various people who are involved, interested or affected by it. There are challenges on both sides with respect to perception and acceptance of the governing processes employed. Mi'kmaq fishers value the continuation of their cultural practices and the connection of the exercise of Mi'kmaq rights to their identity and recognition of the treaties. In their eyes, they don't need a licence to fish. They have their treaties, and their authorization comes from their birthright.

Governing based on cultural teachings passed down through families doesn't fit DFO's top-down, highly regulated approach to fisheries. However, there is a shared perspective that an alternative to current fisheries governance is lacking. The Mi'kmaq are aware that there are challenges regarding the exercise of rights, including the abuse of rights, and there is a need for ways to address them that are culturally appropriate, since they involve ethical issues that cannot be addressed by DFO or the Canadian legal system. It is a necessity for the Mi'kmaq to develop fishery and fishing rules.

- (1900)

Moving forward, we need to recognize that this is not only an operational nightmare for DFO. This is a governance issue that requires making room for the Mi'kmaq through the principle of sharing. The industry needs to make room for Mi'kmaq livelihood fisheries by sharing access to resources. DFO needs to make room for an alternate governance model that is consistent with the treaty and Canadian law by sharing authority and decision-making and ultimately facilitating a legal framework to allow for the persistence of an alternative fisheries governance model.

It is evident that DFO's capacity to govern Mi'kmaq fisheries is limited, given the protection of aboriginal treaty rights in Canada's Constitution, but the important point and the opportunity that is overlooked is the willingness and desire of the Mi'kmaq to contribute to fisheries governance. Let's take the opportunity through shared values of governance to explore how they can coexist and employ innovation to address values that are unique to each perspective.

Now that we understand the underlying reasons for conflicting relations, we need to be aware that our actions must build trust through good governance principles, encourage treaty education and minimize competition between fishers and fisheries.

Thank you. *Wela'liog.*

The Chair: Thank you for that.

We'll now go to Mr. Bernard for five minutes or less, please.

Mr. Allison Bernard (Wildlife Lead, Kwilmu'kw Mawklusuaqn Negotiation Office, Mi'kmaq Rights initiative): Hi. My name is Allison Bernard. I'm employed with the Mi'kmaq Rights Initiative. I've been involved on the fisheries file for the last 10 years, really. I've seen a lot of ups and downs, and I've seen two different governments try to pursue this.

My experience with this has been somewhat concerning a lot of times. I see that the Mi'kmaq never really get a chance to move ahead, even though we've had this treaty right or this Marshall decision since 1999, which is 21 years. It certainly brings a heartfelt feeling, because my father was the chief for our community when this came through. Everybody thought that they would go out there fishing and go on with their lives, but, in any case, that didn't happen.

There's been a lot of talk on both sides between the Assembly of Nova Scotia Mi'kmaq Chiefs and government, DFO, right up to the minister's office. It is steady, but progress hasn't really been made.

This is somewhat like the third-generation movement into the Marshall decision. My father, as I said, was the initial person. I'm the second generation. I was a band councillor for about 10 years. Now my son is out there fishing and he's having a really hard time, because there's inconsistency with whatever is happening out there.

Our people are told by our own that we have a right—and the courts recognize that right—but being part of this whole scenario, what's been unfolding in the last many weeks.... I was in the dead centre of Saulnierville, southwest Nova Scotia, where all the protests were happening between the Acadian fishermen, or the area fishermen and the Mi'kmaq. It's really hard to look at your own people, especially the youth—who were so excited going out there—and industry coming in and destroying traps, cutting gear, taking traps and chasing boats out of the water. As an ex-police officer, knowing what's going on out there, there should have been measures and activities by either DFO or the RCMP to prevent such distasteful activities by angry mobs and fishermen.

We practise our livelihood fishery, and we have been practising for thousands of years under the concept of *netukulimk*. *Netukulimk* is a very strong word in our culture. It limits activities, and it certainly puts you to a point where you respect everything in the ocean and everything around you, including plants, birds, air, water—everything around you. We don't disrupt anything.

In any case, I was really happy that I was invited tonight. I've seen a lot in my days. I think there needs to be something done between the consistency of DFO also, when it comes to the relation of C&P and the regular management of DFO. They're not collaborating, in my opinion, in terms of what's going on region to region. As I said, there have been more seizures of traps in St. Peter's Bay

over the last few days, and the RCMP has actually said that. They haven't had any word from Ottawa or the minister's office that they should not seize any gear. The only gear that's left out there is for our food fishery, and that's food, social and ceremonial stuff.

As I said, I was part of a lot of the actions that are taking place right now. Everything is moving along well. There was a quiet protest today by the Mi'kmaq fishery—fishery committee, I guess—the people who support our youth fishers who are out there. When I say “youth”, I have to say youth because this is, again, the third generation of people. I'm not able to go fishing, so it's my sons who are out there.

The inconsistency, in my opinion, is by DFO and how they convene and conduct themselves, whether it's C&P or whether it's the minister's office. That has to change.

• (1905)

As I said, I've been involved in the moderate livelihood issue over the last many years, but I've also been involved in the consultation side of everything, so I see how everything is connected, whether it's conservation, food, social or industry. It's really disheartening that a group of people, all Nova Scotians, don't seem to be able to get along and find answers to a situation, when clearly there are smart enough people within industry and in the Mi'kmaq and the Mi'kmaq government system.

We have to be recognized. When we assert our rights, we do have a governance structure. We are the third level of government in Nova Scotia. We have the provincial level, we have the Mi'kmaq and we have the federal department.

The Mi'kmaq hereditary rights to implement their own governance structure have been ignored over the last many years, and it took the last month, when the Mi'kmaq said enough is enough.... We have to do what's right for our people, and we have to go fishing.

• (1910)

The Chair: Mr. Bernard, we're out of time for the opening statement. Anything you haven't had a chance to get out hopefully will come out in the questioning, or you can certainly submit your speaking notes to the clerk of the committee.

We'll go now to our questioning. First on our list, for six minutes or less, we have Mr. Bragdon.

Mr. Richard Bragdon (Tobique—Mactaquac, CPC): Thank you, Mr. Chair.

Thank you to both Ms. Denny and Mr. Bernard for taking the time, being here this evening on such short notice and discussing this very important situation that is before us right now. I want to simply express our appreciation to you for taking the time to come before committee and thank you for that. We appreciate your insights and look forward to hearing more from you as we work through this.

Obviously we've arrived at this situation; I don't think this is something that happened overnight. It seems like a situation that has been percolating for some time, and most recently it seems to have escalated to where we are in the current circumstance.

I think it's so important for all Canadians and for all of us to make sure that we get this right and that we do it right. It is without question and very well established the indigenous rights to fish and to have a fishery, and we want to make sure those rights are upheld and certainly are able to be carried out.

We also understand that for both indigenous and non-indigenous fisheries the conservation of the species is very important for all sectors, because we want there to be lots of lobster and fish and species and stock in the oceans for all future generations, both indigenous and non-indigenous, to enjoy and to make a livelihood from.

I appreciate your being here at the table this evening. I'd like to start off by asking both of you this. As you've seen this situation unfold most recently and build to where it's at, it appears very much that there has been, in large part, inaction on the part of the government and on the part of the minister as it relates to this situation in Nova Scotia. I would ask both of you what your thoughts would be towards what the government's response has been—and the minister's response in particular—to this situation thus far.

Mr. Allison Bernard: I find it really disheartening, because as I looked at and participated in stuff in Saulnierville.... I went there as somewhat of a peacekeeper, really, because I knew tensions would rise. The fact that DFO is not going out there in the water and doing what it is supposed to do resonates with the Mi'kmaq people, who feel that DFO doesn't really care about the Mi'kmaq and the government doesn't really care about the Mi'kmaq.

I've witnessed the minister make statements over the last couple of months as industry has rallied and protested in front of her office. I know it's not an easy task to take, and I certainly feel for her. I am a former politician myself and having being involved in politics all my life, I know that you can't please everybody.

But, one thing you have to be careful about when you talk about infringing on aboriginal rights and what we have in treaties is that they should be protected under law by any government agency, whether it be DFO, RCMP or any other agency that's out there. That just didn't happen.

Instead, industry got its way and it was very, very disheartening and really frightening, in my opinion—as I said, I am an ex-police officer—to witness all the injustices taking place in the water. It was like a war zone and we were all praying that nobody would get hurt, but the boats came really close to ramming individual Mi'kmaq boats, which were much smaller in comparison to the other vessels that were out there.

The minister, in my opinion, didn't act properly. She should have made a bold statement there. Instead, the statements were made after the riots and stuff took place.

That could very easily have led to a confrontation. Actually, a couple of times when the two nations got together—the Mi'kmaq and the non-native fishermen—I had to stand in between, along

with an ex-police officer from the area, from Sipekne'katik, and we had to convince our people not to take things into their own hands. A couple of times we prevented a lot of violence from happening.

When you look at it, it hurts you as an individual when you know you're doing what you're supposed to be doing, when you have the treaty right to do that and you should be protected. As I said, as an officer, you have sworn to protect the Constitution of Canada under whatever regulations, whether it's the RCMP Act or the Fisheries Act. At the end of the day, the Constitution is the Constitution and that's where all of the country's rights lie. For a government not to act upon what it sees is really hurtful, and I'm just glad nobody got killed over there.

• (1915)

The Chair: Thank you, Mr. Bernard.

The questioning time allotted for Mr. Bragdon has expired.

We'll now go to Mr. Battiste for six minutes or less.

Go ahead, please.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): My question is for Shelley Denny.

There has been a lot of discussion about conservation and about how there are seasons for a reason and about how, because of that, there's no room for the Mi'kmaq in the lobster fishery. Can you tell me what your thoughts are on that and some of the solutions that you came up with in your editorial in The Chronicle Herald?

Ms. Shelley Denny: Yes, certainly. Thank you, Jaime.

There are reasons for the season, but most of them are around the market conditions. Canada prefers to sell all the hard-shell lobster. There is a reproductive season for lobster as well. It's not a mass spawning event, so there is time needed for lobsters to seek out mates, to protect them and to wait for the molt, which is the shedding of the external skeleton, and also for the shell to harden back up again. That takes a bit of time.

Also, I think a lot has to do with the sea and ice conditions too. Not everyone has the same opportunities to go out all the time, based on sea and ice conditions. The Bay of Fundy is a different place because there are never really any sea ice conditions. The tides are so high that they just come in and back out again.

When they're talking about conservation, it's really hard to justify the seasons for a reason. When you look across Atlantic Canada, and even when you're looking at Nova Scotia, for example, in the gulf there is one lobster fishing area, LFA 25, that actually fishes during August to October. So while fishing was happening in LFA 39, in LFA 25 there was also a commercial fishery happening. It's really hard to justify consistency in seasons when they vary across Nova Scotia and Atlantic Canada.

In making room for Mi'kmaq, you do need to share access. If conservation is an issue, they have opportunities. They're part of an integrated fisheries management plan. They have opportunities to have a larger voice in what happens in the fishery. They can suggest, if they want to, a reduction in traps. They can ask for changes in the season. Actually, I think when COVID happened, they were presented with an alternative to select a different season or to split seasons. It doesn't really make sense to use the reason for the season as a justification for conservation.

I think there are other ways that Mi'kmaq could be in the fishery. You need to be innovative, and I think the industry has a lot of opportunities to make that happen. DFO does, too, but I would like to see it come from the industry, because it's more empowering and it shows a capacity for sharing. It's not a typical top-down approach, whereby people felt that they got their trap numbers cut or anything like that. It's about recognizing their belief that conservation was targeted but also to be able to provide some avenues for solutions.

• (1920)

Mr. Jaime Battiste: Can you expand on some of the simple solutions you put in your article on how you feel the Mi'kmaq could be accommodated in their rights within the current seasons?

Ms. Shelley Denny: That's something that was coming from the Marshall decisions, the second one. It's unfortunate that as Mi'kmaq people you're limited to what you can make in the industry, but at the same time, you can achieve those goals by fishing differently, fishing fewer traps. There are other ways to look at it. You don't have to fish exactly one licence.

I think there are a lot of misconceptions about how many Mi'kmaq fishers are actually out there, so our communities need to find out how many people are interested. Right now, if we're starting to count the traps, I honestly don't have a number at the moment, but I think there would be room if every lobster fisher gave up 1%. That would actually go into a pot of some sort that has flexibility in how access is measured and determined. I think that's something that's simple and easy. It basically wouldn't cost anything.

Mr. Jaime Battiste: How many traps would that be in total?

Ms. Shelley Denny: Well, there are over 3,000 licences. Actually, I had somebody correct me and tell me that there are over 9,000 licences in Nova Scotia. I'm not sure how that number got calculated, but from my calculations, in the Maritimes region alone there are over 3,000. That's including New Brunswick as well. There are quite a few. One per cent of 3,000, I think, at two or two and a half to four, depending on where you are, is over 8,000 traps. The equivalent would be.... You know, people aren't really thinking of one licence per one licence. That doesn't work. It doesn't allow for the flexibility of Mi'kmaq people to fish in the Mi'kmaq way, but

having that opportunity to have access to something is really important. That's first and foremost, especially when you're considering conservation and ways to protect conservation.

Mr. Jaime Battiste: Okay.

Can you give us a sense of what Mi'kmaq indigenous knowledge teaches us about conservation?

Ms. Shelley Denny: Yes, definitely.

Allison mentioned *netukulimk*. It's a way of life the Mi'kmaq people have. When you're trying to operationalize *netukulimk*.... There are certain things I've learned over the years, not just through research, but also through my position here at UINR. It's a "take what you need" thing, so there is a self-limiting element to *netukulimk*. There's also the ability to prevent waste. There are also the spiritual and ceremonial components, such as making sure that you're able to share and to give back. There is the inclusion of ceremony in that concept.

Mr. Jaime Battiste: On the last question, with your work for the UINR have you been able to manage any stocks of any species collaboratively with the government?

Ms. Shelley Denny: Yes. We have worked with DFO on salmon.

That was a bit of a process. It started with consultation. It took a while to really understand that even though we have similar conservation values, there are different ways to get there. A few years into the process, when we started to figure out and map out Mi'kmaq knowledge and DFO knowledge and how we could move forward, we ended up having to agree to disagree. However, we also recognized that if we stayed within a certain limit, a certain rate of exploitation, they were comfortable with it. We felt that we weren't actually harvesting that exploitation level; we weren't anywhere near close to that level...that we were all comfortable in how we could go forward.

However, there are things that we have to do to—

The Chair: Thank you, Ms. Denny.

Thank you, Mr. Battiste.

We now go on to Ms. Gill, for six minutes or less.

[Translation]

Mrs. Marilène Gill (Manicouagan, BQ): Thank you, Mr. Chair.

First of all, I would like to thank both witnesses. I have some questions for them, of course.

Ms. Denny, thank you for the quality of your testimony. I found it very interesting. I have a lot of questions for you, but I'm going to limit myself to a few. You've already talked about conservation, so I'm going to talk to you about something else that we're all interested in, and that is the issue of moderate livelihood. I would like to hear your views on how the authorities should define this concept, both quantitatively and qualitatively.

I'd also like to hear Mr. Bernard on this as well, please.

• (1925)

[English]

Ms. Shelley Denny: I'll go first, Al, if that's okay.

With regard to moderate livelihood, there is a concept; it's not really about a definition. That's unfortunately what takes over discussion. Until you have a process where people can actually work together to drive that concept...I hate to call it a "definition" because a definition is limiting. A livelihood concept is about the ability to support oneself spiritually, culturally, economically, socially. It's more than making money to people.

I think that's something missing in people's concept of what a moderate livelihood is. Sure, you can make money, but there are more things to consider. I think that defining it will limit it. Then once you limit it, we're really not sure how you can achieve it. I think it's more important to figure out how you can work together to govern a livelihood fishery than it is to put a definition to the term "moderate livelihood".

[Translation]

Mrs. Marilène Gill: Thank you.

I don't know if Mr. Bernard wants to add something or give us his own point of view.

[English]

Mr. Allison Bernard: I heard everything in French, and I really didn't understand it. Did you say, "If it's a moderate livelihood?"

As Shelley was saying, you can't define a moderate livelihood, because it's been our way of life for the last many thousands of years, and times have changed, and so have our responsibilities and the needs of the Mi'kmaq.

As everybody knows, I live in a community with severe poverty rates—up to 75% of our community is poor. We have high suicide rates, a lot of social problems. Basically 75% to 80% of community is on social assistance. When you see youth walking around who really don't have any future in sight or anything they might be able to look forward to, it's really disheartening.

When this came around and we all decided that the Mi'kmaq were going to go fishing, Eskasoni and Chapel Island did their management plans, and so did Sipekne'katik. It was really encouraging to see these youth being happy for once and managing to get some self-respect, because they just didn't have that before. Now that they can look to some sort of a future to make a living and provide for their families, it's truly heart-wrenching when you witness what has happened, because this has been available to them since that treaty was signed as a birthright, and those treaties are sanctified under the Constitution of Canada. What really got me is why

DFO and other levels didn't approve them or didn't support them and their agencies. Being able to see that and also seeing the bad side of everything right now, people who can't afford to buy traps had them seized over the last few days, so they're asking what they should do now, because our neighbours in industry are pushing suppliers with bait and licences. And other fish products that we might need to accomplish our fishery are not being sold because industry has placed pressures on them.

The tides are turning. I saw some statements in Montreal and the Halifax area that the restaurants don't want the lobster because of the dispute. Moving forward, I think there is a way. Our lobster fishery gets an extra 25 tags per licence in Nova Scotia, so in south west Nova, they operate 375 traps, but they also get an extra 50 traps per licence-holder, which equates to up to 50,000 traps alone. The Mi'kmaq wouldn't be able to use 50,000 traps in that area, let alone in Nova Scotia. A lot of room can be played with there and could be utilized, but there has to be a little give-and-take, because at the end of the day, we do have a right; we don't have a privilege.

• (1930)

The Chair: Thank you, Mr. Bernard.

That's all the time for Madame Gill's questioning. We'll now go to Mr. Johns for six minutes or less, please.

Mr. Gord Johns (Courtenay—Alberni, NDP): Thank you, Mr. Chair.

I'm joining you from the unceded traditional territory of the Hupacasath and Tseshah people. I want to thank you, Ms. Denny and Mr. Bernard, for your testimony today.

Mr. Bernard, I'm going to ask you a question about the principles of the Sipekne'katik rights implementation lobster fishery management plan that you cited. Earlier, Ms. Denny talked about the traditional Mi'kmaw principle of netukulimk, and that the goal is to achieve adequate standards of community nutrition and economic well-being without jeopardizing the integrity, diversity or productivity of the environment. Do you support Sipekne'katik in its autonomous position to manage its fishery with this conservation principle?

Mr. Allison Bernard: Yes, I do, 100%. I support any nation in Nova Scotia, New Brunswick or the Maritimes that wants to do its own management plan under the terms and conditions of netukulimk.

Netukulimk is a very strong word. I started hearing this when I was a youth living with my grandfather, because he was a single fella living alone and I moved into his house. He is a very wise man. I learned a lot from my father also. They both taught me how to hunt and not to take more than what I need for our people and our tables.

That goes for fishing also. I never brought home a bagful of fish or a bagful of lobster. Any time I did, I would be put to the road, saying, "You go serve your neighbours and your family and others around our neighbourhood. Give all that stuff away, because they will need it."

The concept of netukulimk is so deeply entrenched that when I'm doing yard work around my house, I won't cut certain trees or stuff that I don't have to, because they're not bothering me. This is Mother Nature's gift to us. We have plants and medicines everywhere that we've all lived in accordance and harmony with for thousands of years. That concept is entrenched in who you are and what you are.

We will be the first ones to fight in battle, as Shelley said when we were talking about salmon, and we developed our plan. However, even though we are entitled to take probably over 500 salmon from rivers in our area, we don't. We probably take maybe 30 or 40, if that, during the fall season, and that's not much.

We don't go and do stuff that might hurt a species, the way the cod were.... If everybody practised the concept of netukulimk, we'd still have codfish along our shores, and we don't have that. Species like herring used to turn our waters white in Crane Cove, where I live. That doesn't happen anymore. There's no groundfish in the Bras d'Or Lake. There's hardly any lobster because of overfishing.

Now, if everybody practised netukulimk, netukulimk wouldn't even give you those 50 tags. Our communities would laugh at you if you had 200 or 300 tags and you were asking for replacement tags of upwards of 50. As I said, and I'll go back to this, that 50 alone equates to 50,000 traps.

With all of these things that are taking place, we are nature's conservationists. We are the only life that they do have. Our respected elder Albert Marshall, who is a neighbour of mine, has always said that you have to speak on behalf of the species, because they can't speak for themselves, so it's on us to protect everything out there. I think if it boils down to having an industry fight, then we'll have that fight.

• (1935)

Mr. Gord Johns: I really appreciate your indigenous knowledge and your connection and bringing us to that place through sharing the principles and the interpretation of those.

I have a question. Can you think of any rationale or any scenario through which you can justify cutting traps, cutting nets or destroying lobster as a way to support conservation?

Mr. Allison Bernard: Oh my God. That is such an absurd way to try to protect species or conservation, especially when you know that you have 50,000 extra traps out there in any given season, in any given year.

It's vandalism. It's taking away from people who are really impoverished, who are working these boats and who can barely afford to buy those traps and their vessels. I can't see anything that would actually help conservation there. If anything, they're going to destroy it, because they've left garbage under the sea everywhere.

Mr. Gord Johns: I have only 30 seconds left. I just want to ask you if you support the Sipekne'katik in asserting their section 35 constitutional rights to self-govern, with their rights and the implementation of the lobster fishery management plan.

Mr. Allison Bernard: Yes, I do wholeheartedly, because I think first nations are the best resource people ever. We've been here for thousands of years, and we've shown the world and everybody around it that we do protect our Mother Nature and everything that's involved in it in this world, really.

Mr. Gord Johns: Thank you so much.

The Chair: Thank you, Mr. Johns. Your time is up.

We've gone through a full round of questioning for each party. I know we were a bit late starting due to some difficulties earlier, but I would suggest that we do another round of probably two and a half minutes for each party, if everyone is in agreement. We may have to go a few minutes late.

I'm not seeing any objections.

Okay, we'll continue now with Mr. Arnold, for two and a half minutes, please, or less.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Thank you, Mr. Chair.

Thank you to Ms. Denny and Mr. Bernard for being with us today.

When I see what's happening in Nova Scotia, it troubles me greatly.

I think back a few years ago to when I was president of the B.C. Wildlife Federation and we had conflict on the Fraser River over salmon fishing. There was a meeting scheduled to bring the parties together to discuss the different activities that were taking place to try to understand each other's positions better. The day that meeting was supposed to take place, there was a conflict on the river, and one of the first nations' chiefs was hit in the cheek with a pellet from a pellet gun. Luckily, there were no serious injuries, but because of the incident, the meeting that was supposed to be held—being hosted by DFO—was immediately called off.

I happened to be in the office of the organization at the time and worked with people in that office.... We contacted the first nations chief's office directly, and we were able to continue that meeting. We put it together so that both sides could come together to talk and understand each other's position much better.

Out of that came the Fraser River Peacemakers organization, which has worked for years to better understand the different positions of the fish harvesters on that river. There has been peace, to a great extent, compared to what was there before.

I will quickly ask both of you, do either of you feel that this might be part of the solution in this situation?

• (1940)

Ms. Shelley Denny: Mi'kmaw fishers and commercial lobster fishers are largely not interacting. That's pretty much how it's been. If negotiations are going on government to government, nation to nation, they are largely being excluded from those discussions. There's so much tension right now that it would be challenging to get people in a room, I think. I'm not sure.

At the same time, we often have looked to DFO for support, for having conservation officers out there to support Mi'kmaw rights, to educate the industry on Mi'kmaw rights. That hasn't happened. It hasn't happened for us for salmon, and that's something we still pursue on an annual basis.

I'm mildly optimistic, I would say, that that might be a way forward, but I think there definitely needs to be a calm-down period. I think some constructive communication is needed between the two groups, some sharing of information, and definitely some education on what's going on, what's being harvested and how many people are out there.

It's not right for anybody to take matters into their own hands, and cutting traps is the opposite of conservation. People need to harvest more now to get capital, to replace that capital cost they have struggled to put together. It's not a good position to be in, for sure.

The Chair: Thank you, Ms. Denny.

Mr. Arnold, your time has well passed.

Now we go to Mr. Morrissey, for two and a half minutes or less, please.

Mr. Robert Morrissey (Egmont, Lib.): Thank you, Chair.

My first question is for Ms. Denny. I would appreciate it if you could give me a short answer, because you've spoken about the conservation aspect.

I would like you to make a comment. Over the past 40 years, the management practices put in place in the fishery, both in terms of structured seasons as well as size limits on lobsters, have led this industry to be very lucrative, very valuable today.

What would be a primary reason or justification for moving away from that established management practice that has led this to being a very valuable fishery in Atlantic Canada?

Could you give me a quick response?

Ms. Shelley Denny: There really isn't too much movement away from that, other than the use of different seasons. Fishers cannot be on the water at the same time as commercial fishers. They'll just be outnumbered. They use much smaller boats and much smaller gear, and it's hard to tell who is cutting whose traps. At least in the off-season they have the opportunity to see who is out there and who is

doing the damage. A lot of the conservation measures are adopted from the commercial industry. The Mi'kmaq are very good two-eyed seers. We're very interested in promoting conservation and using tools that have helped the industry succeed.

Mr. Robert Morrissey: Okay. That's fine, Ms. Denny. You would generally agree that those management measures that evolved over the past have been positive for the industry in growing it.

My question would be of interest to Mr. Bernard, because there was a question earlier about the inaction of this government. There was a government in place before us for nine years. What was accomplished during that nine-year period by the former Conservative government?

Mr. Allison Bernard: There was actually no movement, in my opinion, because.... I was a part of the transition from the PCs to the Liberals. There was some, but when we started talking about treaty-related measures and coming back to the table and trying to discuss the implementation of our rights, there was really no movement there. There was just enough to justify to say there was contact made by government with the Mi'kmaq of Nova Scotia.

Since then it really hasn't moved, since I've been a part of this. It's gotten more structured. There has been a lot more movement from current court decisions, and it becomes consultation and other stuff that's being placed in our region. It shouldn't have to come from the courts to express that. There should have been an open dialogue many years ago. I think 21 years is way too long for anybody, and it's been both governments....

• (1945)

The Chair: Thank you, Mr. Bernard.

Thank you, Mr. Morrissey.

We'll now go to Ms. Gill for two and a half minutes or less.

[*Translation*]

Mrs. Marilène Gill: Thank you, Mr. Chair.

First of all, I have another question for both witnesses, and I'd like to avoid politicizing the debate. I don't want to know who acted worse than the other one. I'd rather we look for solutions.

Ms. Denny, you've said a number of things that challenge me, such as how the government and the department could do a better job. In your article in the Chronicle Herald, you said that the concept of conservation—it comes back to this concept—is exploited and used politically by the department.

Can you give more details about what you think could be improved?

[English]

Ms. Shelley Denny: Yes, conservation is a tool now. It's a tool now to infringe on the rights of indigenous people. It is one of the means that government can use to infringe.

When you're working with conservation, there are different ways to do things. It's really not that difficult to imagine different ways of conserving. It doesn't have to be a one-size approach for everything all the time. That goes back to that knowledge system approach, where the values and beliefs are just as important, and when you do value conservation but you can't agree quite how to get there, that is one significant challenge.

[Translation]

Mrs. Marilène Gill: Do I have any time left, Mr. Chair?

[English]

The Chair: You have 50 seconds.

[Translation]

Mrs. Marilène Gill: Okay.

Ms. Denny, I'd like you to tell us about conservation measures. I'm curious about conservation values and knowledge. Of course, members of the committee are also here to learn. So they will have a better understanding of how to resolve the crisis or impasse.

Can you tell us more about these values and knowledge, please?

[English]

Ms. Shelley Denny: Yes, it's important to have shared values between perspectives, such as the ability to be involved in fisheries governance. We see the Mi'kmaq having a willingness and a desire to initiate their own fisheries governance plans and opportunities. We also have to understand that we're not going to have the same values coming forward and we need innovation to address them, so we need to know what those perspectives are, what those values are and what's really important to those perspectives in order to move forward.

The Chair: Thank you, Madame Gill.

We'll go now to Mr. Johns for two and a half minutes or less, please.

Mr. Gord Johns: Thank you, Mr. Chair.

Our party respects the nation-to-nation process and dialogue. We think it's critical that it be protected here. We know that right now the minister is in talks with the Sipekne'katik. She said she won't negotiate in public. We agree that this is the right course.

We're sitting here studying this issue that is ongoing while the most important parties are in active discussions.

Ms. Denny, maybe you can help me with this question. Do you have any concern at your end, by the committee...that these could undermine these discussions?

Ms. Shelley Denny: I'm not sure if I can answer that. These discussions need to happen. Hopefully, those who are doing the negotiations are well informed and have the processes in place to make sure they are well informed.

Mr. Gord Johns: Mr. Bernard, do you have anything to add on that question? You've been in politics, so....

Mr. Allison Bernard: There's always a need for dialogue in any place. That's how our country was formed. There has to be give and take in everything that we do. I don't really think what we're doing here will have an impact on any of that, because we are a nation in Mi'kma'ki, so we take care of each other. Whether it's Sipekne'katik or other communities, like Membertou or We'koqma'q or Eskasoni, it will affect everybody at the end of the day. I would hope that if there's any implementation of anything that comes down to how we practice, how we do our fishing, it will go right across the whole nation of Nova Scotia.

Mr. Gord Johns: Mr. Bernard, can you talk about your feelings around the definition of "moderate living"? Do you agree that it should be the responsibility of the Sipekne'katik to define?

• (1950)

The Chair: You have 20 seconds.

Mr. Allison Bernard: It's pretty hard actually to talk about something that you're not really aware of. A moderate livelihood, I think, would be....

I would end up in a lot of trouble if I tried to define it myself. I won't.

Mr. Gord Johns: Would you just put it back to the netukulimk in terms of the principles, as embodied in that?

Mr. Allison Bernard: The netukulimk would seriously have a whole impact on this. Mi'kmaq won't go out there to get rich. We don't have a lot of rich people around us. We share our resources with everybody, so you're not going to see that. But you do need people out there practising a moderate livelihood to make a decent living for their family outside of social assistance, really.

The Chair: Thank you, Mr. Bernard.

Thank you, Mr. Johns. Your time is up. I believe you're leaving us now. Mr. Bachrach will be your replacement, and he is already in place.

To our witnesses who have been here for the first hour of our committee meeting this evening, thank you for your time. Your testimony was very valuable. I'm sure it sure will help us in finishing our study when we get there.

We'll suspend for just a moment while we get the other three witnesses ready to go. We may have to extend for a few moments to get in a full couple of rounds of questioning as well.

Ms. Shelley Denny: Thank you very much.

Mr. Allison Bernard: *Wela'lioq.*

The Chair: Thank you.

• (1950) _____ (Pause) _____

• (1955)

The Chair: Welcome back, everyone.

I would like to make a few comments for the benefit of the new witnesses.

Before speaking, please wait until I recognize you by name. When you are ready to speak, you can click on the microphone icon to activate your mike. All comments should be addressed through the chair. Interpretation in this video conference will work very much the way it does in a regular committee meeting. You have the choice, at the bottom of your screen, of floor, English or French. When speaking, please speak slowly and clearly. When you are not speaking, your mike should be on mute so that we don't get any feedback from any other noises.

I would like to welcome our witnesses in the second panel: from the Bay of Fundy Inshore Fishermen's Association, Mr. Sproul, president; and from Regroupement des pêcheurs professionnels du Sud de la Gaspésie, Madame Canet and Mr. Cloutier.

We'll now go to the speaking part for the witnesses.

We'll start with you, Mr. Sproul, for five minutes or less, please.

Mr. Colin Sproul (President, Bay of Fundy Inshore Fishermen's Association): Thank you, Mr. Chair.

Good evening, committee members. Thank you very much for the invitation to speak here today. The members of the Bay of Fundy Inshore Fishermen's Association are grateful for this opportunity to voice our concerns. The association represents nearly 200 family fishing businesses along Nova Scotia's Fundy coast. For 30 years, we have advocated for sustainable practices and community-based fishing management. We have been a leader in peaceful co-existence between non-indigenous and first nations fishers, and we have a long history of co-operation with governments and regulators at all levels. This has given us a reputation as a valuable ally on ocean issues. Needless to say, our members are proud of their legacy as progressive fishers who embrace a different way of doing things. We are all committed, one hundred per cent, to preserving our way of life for future generations of Nova Scotians.

I came here today in defence of a 400-year-old truly sustainable way of life. Last year, the fishing industry exported well over two billion dollars' worth of seafood from Nova Scotia. We are not a quaint, cottage industry. Fishing is the economic powerhouse of this province. It employs 26,000 people directly and 26,000 people indirectly. That makes our industry the largest employer outside of the public sector in Nova Scotia today. But these numbers do not tell the whole story. What's important to understand is how that \$2 billion is delivered as a diffuse economic benefit into some of the most isolated communities in Nova Scotia. This is truly the lifeblood of our economy and the only bulwark between the current prosperity enjoyed in many coastal communities here and the drastic economic decline evident elsewhere in rural Atlantic Canada.

The fishing industry did not get to this stage by happenstance. It is due to hard work, respect for the environment and the application

of the precautionary principle in fisheries management. We have taken care of our inshore fishery, and now it is taking care of us.

The Bay of Fundy Inshore Fishermen's Association respects and supports indigenous fishery access rights, and we condemn explicitly all acts of violence in the fishery. This begs the important question today of why recently we have suddenly found ourselves in a conflict when we have had 21 years along the road of mutual peaceful coexistence. In his day, my great-grandfather fished from our small cove on the Bay of Fundy in peace and coexistence with African Nova Scotians and Mi'kmaq fishers. We all had things in common—our reliance on and respect for the sea and its bounty, and most importantly of all, extreme poverty. Since that time, terrible things have been done to Mi'kmaq fishers by colonialism and by the government effectively dispossessing them of their right to fish. My grandfather and the others who shared the cove didn't do that to indigenous people; the government did. We should all accept that this is still the case in the present conflict. The problems in St. Marys Bay have been caused in Ottawa, not in our fishing communities of Nova Scotia.

This division is being driven by just that, division in its own right. I have spent my life fighting for social justice for fishermen, regardless of heritage. The government's current attempt to divide us for political reasons is at the core of this conflict. All of our communities, both indigenous and non-indigenous, rely on one lobster resource, and the lobster does not care who catches it. What's really at the centre of the current crisis in St. Marys Bay is sustainability. Lobster landings during the last three years have declined by 65% within St. Marys Bay, while they remain strong across the wider lobster district and across Atlantic Canada.

What is evident is how important it is for all people who participate in commercial fisheries to operate under one set of rules. During my youth, I witnessed the horrors of what happens when politics enters fisheries management. What happened was the total extermination of ground fish stocks on the Scotian Shelf, and it had horrible consequences for all communities in Nova Scotia. Subsequently the lobster industry has been managed with an organic set of management procedures developed by the industry, for the industry. Its outcome has been an incredibly lucrative, well-managed fishery.

Currently, I see the re-entry of politics into fisheries management in Nova Scotia, and I don't want those outcomes for my community, and I don't want them for indigenous communities.

• (2000)

All the remedies for fishermen on both sides of this equation are evident in the Marshall decision as it stands. We must all respect the Marshall decision in all its parts and apply it to achieve peace in Atlantic Canada.

I would draw your attention to section 40 of the Marshall clarification, which clearly says:

The paramount regulatory objective is conservation and responsibility for it is placed squarely on the minister responsible and not on the aboriginal or non-aboriginal users of the resource.

The Chair: Thank you, Mr. Sproul. Your time is up.

We'll now go to our other witnesses for their opening statements. I don't know if both of you are speaking for five minutes, or if one of you will deliver the opening remarks.

• (2005)

Ms. Claire Canet (JOBEL Project Officer, Regroupement des pêcheurs professionnels du Sud de la Gaspésie): Mr. Cloutier will be speaking.

The Chair: Mr. Cloutier, please go ahead for five minutes or less.

[*Translation*]

Mr. O'neil Cloutier (Director General, Regroupement des pêcheurs professionnels du Sud de la Gaspésie): Good evening.

In fact, we're going to split our time and make sure that we don't exceed the 10 minutes allotted to us.

Mr. Chair and members of the committee, thank you for agreeing to hear the testimony of the 148 commercial lobster fishers from the Gaspé Peninsula represented this evening by the Regroupement des pêcheurs professionnels de homard du Sud de la Gaspésie.

I am O'neil Cloutier, general manager of the Regroupement. I am also the president of the Alliance des pêcheurs professionnels du Québec and the secretary of the Federation of Independent Fish Harvesters of Canada. Finally, I have also been a professional fisherman since 1983.

My colleague Claire Canet is a project manager at the Regroupement. She has a degree in French law and a university diploma in conflict resolution. She has practised as a lawyer and facilitator in New Zealand.

We will send you our detailed written statement within the next 24 hours.

The mission of the Regroupement is to ensure the sustainable development of the fishery by maintaining a balance between the economic needs of inshore fishers in the southern Gaspé Peninsula and the sustainability of the species on which they rely, particularly American lobster.

On December 13, 2019, a mandate was given to the Minister of Fisheries, Oceans and Canadian Coast Guard to execute and accelerate reconciliation with first nations. In this context, the process followed by the department raises fundamental questions regarding the way in which fishing activities are managed, access to the resource for all, the sustainability of stocks and the economic balance of coastal communities that depend on the fishery.

The current violence is a symptom of a flawed negotiation process followed by the government and the constant exclusion of commercial fishers from fisheries management discussions. The government approach divides coastal communities that depend on fishing for a living. This is compounded by the repeated public use of violent terms such as “disgusting”, “racist” and “terrorist”. I should also mention that recent events were due to a minority of fishermen, and that the Coalition of Atlantic and Québec Fishing Organizations, of which the Regroupement is a member, does not tolerate violence.

Since October 30, 2019, the Regroupement has been calling on the Department of Fisheries and Oceans to put in place a process of discussion, dialogue and communication involving the first nations of the Gaspé Peninsula, the Regroupement and the department. To date, the department has still not responded to this call.

In addition, the Regroupement has still not received a response from the department regarding the measures that were under discussion. The Regroupement has also not been consulted by the department on these measures.

Any change in the measures of a conservation-based lobster fishing plan in favour of one group of fishers inevitably causes inequalities and tensions within the coastal communities that depend on the fishery.

Since the 17th century, non-indigenous coastal communities in the Gaspé Peninsula have depended on lobster for food and income.

The commercial fishing season lasts 10 weeks, from the end of April to the end of June, a period when lobsters are not moulting and when egg-bearing females are released as much as possible. It is during this period that commercial lobster fishers derive a portion of their annual income.

In 2013, the Standing Senate Committee on Fisheries and Oceans noted that, since 2008, the lobster fishing sector has been facing unprecedented economic and structural challenges. It felt that these efforts should not be relaxed, that the lobster sector must stay the course and continue to make the changes necessary to ensure its stability and sustainability.

Since 2006, the Regroupement des pêcheurs professionnels de homard du Sud de la Gaspésie has implemented multiple measures to reduce fishing effort by 30% in order to rebuild lobster stocks. It plays a central role in the conservation and sustainability of the stocks, in order to allow all lobster fishers, whether from first nations or non-indigenous communities, to continue to carry out their fishing activities, on which all depend, in an equitable and sustainable manner.

In 2019, the commercial lobster fishery in Gaspésie in areas 19, 20 and 21 represented close to \$45 million, or 24% of the total landed value recorded in Gaspésie. According to public statements from Listuguj, the Mi'kmaq first nations in the Gaspé Peninsula earned more than \$40 million in commercial fishing income that same year.

The Department of Fisheries and Oceans issued a total of 163 lobster fishing licences in 2020 for areas 19, 20 and 21: 148 to non-indigenous persons, 12 to the three Mi'kmaq first nations of the Gaspé Peninsula and three to the Maliseet first nation of Viger.

• (2010)

This is the equivalent, in 2020, of one lobster fishing licence for every 610 non-aboriginal residents in the Gaspé Peninsula and one lobster fishing licence for every 223 first nations residents in the Gaspé Peninsula.

Ms. Claire Canet: I'll continue the presentation, if you don't mind.

I will now turn to the notion of moderate livelihood.

In 1993, in a judgment of the British Columbia Court of Appeal in *Van der Peet*, Judge Taggart indicated that, in his view, regardless of its origins, the concept of "moderate livelihood" did not provide an appropriate or practical basis for determining the scope and nature of aboriginal rights or the extent of aboriginal priority for the exercise of those rights. He added that the notion of what constituted a moderate livelihood was inherently subjective. In his view, even if it could be determined how and, more importantly, by whom such a fluid standard could be defined, it would not advance the issue of aboriginal rights.

In the same...

[English]

The Chair: Madame Canet, we're way over time for the opening remarks. Hopefully anything you haven't said already will come out in the rounds of questioning.

We'll now go to our first round of questioning, for six minutes or less, with Mr. Bragdon.

Mr. Richard Bragdon: Thank you, Mr. Chair. I'm going to be deferring my time and relinquishing it to Mr. Calkins.

The Chair: Mr. Calkins, go ahead.

Mr. Blaine Calkins (Red Deer—Lacombe, CPC): Thank you, Chair. Thank you, Mr. Bragdon.

Thank you, witnesses, for your testimony here today.

Colin, if I may call you that, thank you very much. I'm going start my first line of questioning with you. You were very eloquent and articulate in what you had to say, and I understand the frustration you've had.

Can you expand a bit on the 65% decline in St. Marys and what that might be attributed to?

Mr. Colin Sproul: First, I think it's important to understand what St. Marys Bay is. It's a shallow, warm coastal bay that acts as a lobster moulting and breeding ground. During the warm summer months, lobsters gather there in incredibly dense concentrations. What it means is that when fishing takes place out of season, the catchability of traps in that area is considered by many to be 10:1, compared to fishing during the commercial season.

Even though we've seen a 65% decline in landings within St. Marys Bay over the last three years, compared to a 6% decline across the wider fishing area, which is attributed generally to seasonable variability, the landings don't account for all the damage that's taking place by out-of-season fishing. Also, it is never appropriate to fish in a lobster breeding ground during the closed season, because the lobsters are soft-shelled at that time and really susceptible to damage.

I've heard the defence that Americans fish year-round for lobster, but I think if you spoke to any American fisherman they would talk to you about the incredible strength of the lobster resource in Atlantic Canada, and fishing them during the season when it's most sustainable to do so is really at the core of that.

As for lobster fisheries taking place at different times throughout Atlantic Canada, they take place because of a change in the envi-

ronmental conditions. Lobster fishermen across the region harvest lobster when it's most sustainable and when it's most profitable.

Mr. Blaine Calkins: You would argue that if conservation is the pinnacle, then we need a rules-based system in order to govern when to take lobster and how many lobsters to take: the season, the times and so on. The previous testimony we heard from Ms. Denny talked about an alternative governance model, even though she didn't provide details about that. I'm not saying that as a criticism, because I didn't have a chance to ask her any questions, but she was talking about things such as a spiritual limit or a spiritual fulfillment and to fish until that is fulfilled.

How would you expect the Department of Fisheries and Oceans to be able to come to terms with both indigenous and non-indigenous fishers in that type of construct or concept?

● (2015)

Mr. Colin Sproul: I believe in those ideals and in *netukulimk* when it applies to food, social and ceremonial fisheries, but when we look at fisheries based on profit, then we have the entry of non-indigenous people into this as consumers of the product. That's when I see problems with fisheries management based on those ideals.

There's also the obvious fact that all Atlantic Canadian communities rely on one lobster resource, which has been managed through the concerted efforts of more than 9,000 lobster licence-holders and a ton of science by the industry and by government, and also a commitment to precautionary principle management and sustainability that has built this into what it is. I think it's really the heart of folly to think that anyone, no matter how well-intentioned, could manage one lobster resource with 34 different sets of management plans as well as the accepted one.

Mr. Blaine Calkins: Thank you very much for that.

I've been a long-standing member of this committee, and we've talked to a lot of fishermen over the years. I know there have been significant investments by the Government of Canada to assist aboriginal people to be enabled to enter the commercial fishery in Atlantic Canada. Some of those investments would have been to purchase craft, quota and so on, to the point that I believe the total on-reserve fishing revenues for the Mi'kmaq and Maliseet grew from about \$3 million in 1999 to about \$152 million in 2016. I don't know if that number is accurate or not.

Is the growth we've been able to provide for aboriginal fishers, in your opinion, enough to satisfy the modest livelihood they would have in a communal-based fishery if they were sharing that wealth?

Mr. Colin Sproul: What you're asking begs the question why indigenous people still do not have access to the fishery, given that the federal government spent more than \$600 million buying fishery access from non-indigenous communities and delivering it to first nations. It's at the heart of this issue, and it's not being discussed.

The issue is that the majority of that access is then leased back and rented to non-indigenous fishing corporations, effectively dispossessing first nations people of their legitimate right to fish.

As early as last month, Minister Jordan made clear that the government views the implementation of moderate livelihood rights through the communal commercial access program, the transfer of access from non-indigenous communities to indigenous communities.

I see that some indigenous fishery leaders in Nova Scotia are missing the true value of what the fishery is. It's not lobsters landed on the dock or dollars in a bank account. The true value of fishery access is to create fishing families and a lasting legacy of prosperity in Atlantic Canada's first nations.

Mr. Blaine Calkins: Mr. Cloutier or Ms. Canet, can you talk a little about whether a similar type of structure has been set up for the purchase of quota and vessels for aboriginal fishers in the Gaspé?

[Translation]

Ms. Claire Canet: Indeed, a number of licences were bought back by the Department of Fisheries and Oceans and given to the three first nations that are present on the Gaspé Peninsula territory. These are commercial licences. You will have the details in our written presentations, which will be submitted to you tomorrow. In addition, the Listuguj first nation has the equivalent of one commercial fishing licence, i.e. 235 traps, to carry out a subsistence fishery in the fall.

I would like to point out that, in the Gaspé region, in the fall period, lobsters have just reproduced. The females that have been fertilized do not yet bear their eggs. These females, which would allow the renewal of the stocks, are not identifiable among all those caught at that time, contrary to the spring commercial fishing period.

I'll let Mr. Cloutier continue.

[English]

The Chair: We're out of time for that particular question.

We'll now go to Mr. Battiste for six minutes or less, please.

Mr. Jaime Battiste: Mr. Sproul, you stated that section 40 of Marshall II states that is clear that the Minister of Fisheries can unilaterally regulate or infringe a treaty because of conservation. It's odd, because Donald Marshall Jr. fished out of season, sold his catch out of season, and the court found him not guilty—not once but twice—because of the treaty of 1761.

Mr. Sproul, I'm wondering if you've read the other case law on indigenous law that relates to treaty, or just Marshall?

● (2020)

Mr. Colin Sproul: No, I've read the Marshall decisions—

Mr. Jaime Battiste: So you would know that in Badger, it said that in order to infringe an aboriginal treaty right, you first have to justify it through either safety or conservation. However, Mikisew Cree, in 2006, also stated that before you can even get to infringement based on safety and conservation, you have to show that the honour of the Crown is met.

I'm wondering if you scrolled down to section 45 of the Marshall decision, five clauses after the one you mentioned, which says:

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. It is the obligation of the courts to give effect to that national commitment. No useful purpose would be served by a rehearing of this appeal to revisit such fundamental and incontrovertible principles.

I'm wondering why you keep saying that it's clear that conservation and regulations can come from the minister.

Mr. Colin Sproul: Well, there are two reasons.

First of all, immediately post-Marshall we saw the chaos that ensued in Burnt Church, New Brunswick. That's what really drove the clarification in November of that year by the court, and what drives my focus on paragraph 40. It clearly showed at that time that management needed to fall with the minister, and then the current minister moved forward with implementing the right through the communal commercial access program.

The second part is that I agree with you that the government needs to pass the Badger test. The first part of that test is a real consultation process with the Mi'kmaq. For the last 21 years, there has never been a consultation process. That is maybe partly because it wasn't set up right for the Mi'kmaq people, but also because indigenous fishery leaders refused to engage in a consultative process—literally putting a sign on the table that said, “This is not a consultation; it's a negotiation.” I would venture to say that for the government to be able to pass the Badger test, the chiefs within Nova Scotia have to be willing to engage in it.

Mr. Jaime Battiste: I was talking to the litigators today from Marshall, Eric Zscheile and Bruce Wildsmith. Would you be surprised to hear that the Crown never once raised the argument or called any evidence on the scope of the regulatory powers in the first Marshall case? Does that surprise you?

Mr. Colin Sproul: No, it doesn't surprise me.

I agree with you that the government has failed the Mi'kmaq people, but they've also failed the people of my community, and I think—

Mr. Jaime Battiste: Colin, this isn't about the government; this is about the law.

You're quoting the law, so I want to know.... In Marshall II, it was actually the West Nova Fishermen's Coalition that brought this argument of regulatory powers. Paragraph 31 is pretty specific when it says, “this question is not raised by the subject matter of the appeal, nor is it capable of being answered on the factual record.” The courts didn't even look...or had no evidence or any kind of argument about regulatory powers.

You keep quoting a part of the case that is legal dicta. Are you familiar with legal dicta?

Mr. Colin Sproul: I'm not a lawyer; I'm a fisherman. You're the lawyer.

Mr. Jaime Battiste: You've been quoting the law quite a bit, and I want to read for you what legal dicta are: "The part of a judicial opinion which is merely a judge's editorializing and does not directly address the specifics of the case at bar."

Is it true that you've been using these legal dicta as the only source for being able to say that the minister has regulatory power over the Mi'kmaq? True or false?

Mr. Colin Sproul: I'm not sure I understand the question, but I've certainly been saying that the minister has the regulatory authority here. That's definitely my position.

Mr. Jaime Battiste: The case ruled pretty specifically, not only once but twice, that Donald Marshall Jr. was not guilty because of a treaty right, despite fishing out of season, despite selling catch out of season. Yet, you say that the law is clear. I'm trying to figure out how.

Mr. Colin Sproul: I believe the real problem is that it was Donald Marshall Jr. and not his nation. I believe in his individual inherent right to fish. I think that most of the problems that have occurred since then are due to the fact that we have one nation's government and another nation's government dealing with this problem, and fishers have been left out of the equation, on both sides, all along.

Mr. Jaime Battiste: Colin, you feel that it's the government's fault, but we're seeing vigilante justice, the cutting of traps. Do you think that's the right way to handle the situation? Do you condemn the cutting of traps and what has happened in that area?

• (2025)

Mr. Colin Sproul: I condemn violent acts of any kind, as well as sending fishing equipment to the bottom of the ocean. I don't think any sustainability-minded fisherman would ever be advocating for something like that.

Just so we're clear, Mr. Battiste, the lobster resource can sustain all of our communities if we focus on sound management by the precautionary principle, and not on politics.

There's a bigger question here that needs to be answered: If moderate livelihood fisheries are intended to make money for indigenous people—it's been accepted by previous witnesses that part of the reason for commercial seasons, other than sustainability, is marketability—why would it not make more sense to fish in the highly marketable season?

Another way of looking at it is that the price that moderate livelihood fishers have been receiving for their catch this summer is somewhere around \$3 to \$3.50 a pound in Canadian dollars, but the price that fishermen are receiving in open LFAs right now, where the lobster resource has transitioned into a high-quality marketable product, is \$12 a pound. If the people of Sipekne'katik left those lobsters in the waters of St. Marys Bay for another eight weeks, the value would increase fourfold.

What's important to know is that Chief Sack's nation possesses 15 commercial lobster fishing licences to fish during commercial seasons in different areas within Nova Scotia. I think the activity that's taking place there now is a bit of a double-edged sword for the people of his nation, in terms of deriving an economic benefit from the industry.

The Chair: Thank you, Mr. Sproul.

Thank you, Mr. Battiste. Your time has expired.

We'll now go to Madame Gill for six minutes or less, please.

[*Translation*]

Mrs. Marilène Gill: Thank you, Mr. Chair.

First of all, I'd like to calm the waters. We are here, in committee, to find solutions. The vigorous exchanges we've just had are evidence of difficulty or perhaps frustration on both sides. I hope that we are able to rise above the fray to find solutions and create that space that is needed, that we have discussed. We have to give space to the other, the other with a capital "O", to understand their concerns, of course, and to arrive at a space for negotiation. It is important to be open to the other person, to respect them and to recognize their merit.

Also, I know Ms. Canet didn't have time to mention everything she wanted to talk about in her introduction, so I'll leave her some time.

As with the other witnesses, I am particularly interested in the concept of moderate livelihood and what the Department of Fisheries and Oceans could do to facilitate negotiations and the resolution of the crisis we are currently experiencing. Having said that, the other issues that you are interested in are equally important, of course.

Ms. Claire Canet: Thank you very much for your comments, Ms. Gill.

Indeed, we are in a forum that is meant to be informative for everyone. We want to understand the situation that urgently brings us all together today at the Standing Committee on Fisheries and Oceans. In the current situation, it is important that we move forward with an open mind, so that we can all search for solutions that are acceptable to all, taking into account the needs of each and every one of us.

Speaking of needs, I would say that the notion of moderate livelihood is an extremely complex notion that has been left very vague in various court decisions, including the Marshall decision. This is now causing problems of interpretation and understanding.

The only thing I could contribute today has already been said in different courts, namely that the notion of moderate livelihood is extremely subjective and will be difficult to implement. It has also been said that, in order to determine the meaning of this notion, it would be necessary to take into account all the resources available to a community, regardless of its origins.

The Regroupement des pêcheurs professionnels du Sud de la Gaspésie therefore suggests that, in the event that such a notion should be defined—if such a thing is even possible—one should look at access to commercial fisheries, access to subsistence fisheries, access to other sources of income, access to the private income of the households that make up these communities, tax benefits that could be put in place by the government, as well as other additional assistance.

In this context, it is difficult to make the notion of a moderate livelihood apply only to fisheries. It is true that it is important to ensure that all communities in Canada, regardless of their origins, have access to the same standard of living.

It can be said that communities in the Gaspé, like most coastal communities in eastern Canada, are all economically and socially disadvantaged communities. They all depend on commercial or subsistence fishing. It is therefore important to have a dialogue on this subject.

[Technical difficulty—Editor]

Paragraph 61 of the Marshall decision suggests in passing—at least this is my personal interpretation—that the government may, by regulation, establish what a moderate livelihood means and that the definition itself is not subject to the Badger test. This leads me to believe that any notion of a moderate livelihood must be defined, if at all possible, for all Canadians and must not relate only to fisheries.

We are therefore in a vague and extremely complex context where the exchange of information and mutual understanding are essential.

• (2030)

[English]

The Chair: Thank you, Madame Gill, for doing that so the witness could get that on the record.

Before I go any further, I will ask committee members for unanimous consent that we extend enough to get this round and the next round in, as we did the last time for our witnesses. Okay, I see thumbs-up. We're good to go.

I see Mr. Bachrach has left us and Mr. Johns is back.

It's good to see you, sir. You're up now for six minutes or less.

Mr. Gord Johns: Thank you, Mr. Chair. It's great to be back.

Mr. Sproul, as you know, in 1999 the Supreme Court clarified:

The paramount regulatory objective is the conservation of the resource. This responsibility is placed squarely on the Minister and not on the aboriginal or non-aboriginal users of the resource.

Can you clarify when this responsibility for conservation was officially transferred away from the minister and given to the fishers who have been cutting traps and stopping the Mi'kmaq from practising their right to fish?

Mr. Colin Sproul: It certainly has not, Mr. Johns. What I would say—and I'd refer back to section 40—is that it's clearly not the responsibility of non-aboriginal people to manage the resource.

Mr. Gord Johns: How do you feel...? Do you think there's any situation that can justify cutting traps and cutting fishing lines and the destruction of lobster in the name of conservation? Is there any situation that could justify that?

Mr. Colin Sproul: No. I don't think sending lobster gear to the bottom of the ocean is justified by conservation in any way.

Here's what I think is the most important argument to make on it. Fishermen went to a closed lobster breeding ground and removed untagged lobster gear illegally set under current Canadian law, brought it to the Meteghan DFO detachment and placed it in the evidence locker. All of that took place under the careful over-watch of hundreds of RCMP, coast guard and DFO personnel on ships and helicopters, and no charges were laid nor any enforcement action was taken.

I understand a lot of people wouldn't agree with that—

Mr. Gord Johns: I think it's disgusting, and I'll give you the next question, Mr. Sproul.

Mr. Colin Sproul: Can I finish my statement?

Mr. Gord Johns: Sure, if it's quick, go ahead.

Mr. Colin Sproul: What I would say is that a lot of people don't agree with that, so let's look at the other side of the question. Chief Sack came to Saulnierville and issued lobster licences, set up traps and issued tags that aren't covered under any existing legal framework, all under the same careful over-watch. No enforcement action was taken against the chief or any of the moderate livelihood fishers either by the same people.

I think that no matter which side of that argument you're on, we should all be able to agree that the onus is on Minister Jordan.

• (2035)

Mr. Gord Johns: I agree. It should be on Minister Jordan, and it's disappointing that the fishers were pointing the blame at the indigenous fishers. They should have been pointing the finger at Minister Jordan. It falls at the government's feet. They have continually sent negotiators to the table without a mandate. They've dragged their feet in supporting the nation so that it can assert its right.

The Sipekne'katik are asserting their constitutional right to self-governance rights and the implementation of a lobster fishery management plan, which is their plan, and they are implementing it. It's currently discussing it with Canada, on the invitation on a nation-to-nation basis, which is the right form in terms of where that conversation is held.

Do you support that this current study of the standing committee must not undermine any discussions that the nation is currently having and engaged in with Canada?

Mr. Colin Sproul: I think what's most important to understand is that, post-Marshall 1999, this very same committee engaged in a study and sent a set of recommendations to the House of Commons on how to implement moderate livelihood rights. They listened to testimony from a lot of people from all sides of the industry from all across Atlantic Canada.

I believe the resolution to all of the issues here, for both of our communities, is evident in Marshall and its clarification. I respect the decisions and would call on the government to implement Marshall. All of our solutions are already here. They just need to be recognized by the government.

A key one for me is the statement made by the committee, which was chaired by Wayne Easter, who still sits in the Liberal caucus, and this is what the committee recommended:

[A]s licences are transferred to aboriginal groups, particularly in the lobster fishery, a way must be found to prevent excessive localized fishing effort in order to avoid adversely affecting the health of stocks, particularly in sensitive areas such as spawning and nursery grounds. No greater fishing effort should be allowed than is already the case, including at the local level.

We can see that a lot of these questions and problems were explored 21 years ago, but they weren't acted on.

Mr. Gord Johns: It's funny that you bring up that study. The committee presented a report on the Marshall decision and its implications for the management of Atlantic fisheries back in December 1999. That report found that DFO was caught off guard and didn't have a contingency plan.

Knowing that the Mi'kmaq fishers would be on the water and threatened by commercial fishers, we're sitting here in 2020 and Mi'kmaq fishers are still being threatened and intimidated. Traps are cut and a building has been burned down. In the last 21 years, do you get the impression that DFO has developed a plan to keep the Mi'kmaq fishers' interests safe when they're on the water, or on the land actually as well, or has DFO been caught off guard again?

Mr. Colin Sproul: They've certainly been caught off guard again, but there's no excuse for it, Mr. Johns, and here's why. It's because, as we've heard previous witnesses from within the indigenous communities say, they've been raising these issues with government for years, with successive governments, as has the industry. For three years, we've lobbied extensively Minister Jordan and Minister Blair and have raised the public safety concerns.

Let's be clear on what is really at the centre of this issue. Over the last three years, Justin Trudeau's cabinet, as a tactic at the negotiating table, has stopped enforcing existing Canadian fishery policy and law because they don't want to sour the mood at the table. That lack of law enforcement is precisely what led to the chaos and the animosity between fishermen who have peacefully coexisted.

Mr. Gord Johns: A committee is not "nation to nation". I just want to underscore that. You understand that, do you?

Mr. Colin Sproul: Yes, and I've been clear in my statements that I think the government should and certainly can have whatever nation-to-nation conversations the nations desire, and I don't believe we have any part in that.

What I believe we have a part in is conversations around the sustainability of the lobster resource, which affects the long-term sus-

tainability of coastal communities in Nova Scotia. There are precedents for the government to have nation-to-nation conversations and still take advice from the industry, the Northwest Atlantic Fisheries Organization being the best example, whereby the minister sits with other nations and directly negotiates and, in a side room, she takes advice from people from all parts of the fishing industry, indigenous and non-indigenous alike.

The Chair: Thank you, Mr. Johns. Your time is up.

We'll now go to the second round of questioning.

We have Mr. Calkins for two and a half minutes or less.

Mr. Blaine Calkins: Thank you, Chair. I believe Mr. Mazier was going to take these questions.

The Chair: Okay.

Time is ticking, Mr. Mazier.

Mr. Dan Mazier (Dauphin—Swan River—Neepawa, CPC): Thank you very much to the presenters this evening. This has been great. I'm from the Prairies, from Manitoba. Talk about a fish out of water.... It has been quite the experience to be learning about all of this.

I've been watching in horror what's unfortunately happening to your province and your communities. Colin, I can see the pain and frustration in your community and what you and your community are going through. It's terrible to see that. For a person who works the land myself, I totally understand where you're coming from in trying to protect your resources and make sure that everything is sustainable. Thank you for that.

My question is for you. Why do you think this government is ignoring the situation? What has to be done? What happened, how many years ago.... We've talked about 21 years, but this certainly has escalated in probably the last six months or even in the last one or two months, in going after the lobsters that are going to be the next season, in going after the golden goose, basically.

Why do you think the government is ignoring that? Why do you think the minister is not acting? What do you think is going on there?

• (2040)

Mr. Colin Sproul: I started to detail it earlier. Really, at the core of the problem is that the government has good intentions to reach rights reconciliation agreements with the nations, but the problem is that as a tactic during the negotiations they stopped enforcing the law. That only empowered people to keep fishing outside of regulations. It has obviously been a failed tactic. What we've seen come of that is 12 nations get up from the table and not one sit down. I think it's a really obvious sign that things aren't working out here.

We also need to recognize the fishery access that already exists in the communities. I want people in first nations to be allowed to fish. I care about social, economic and environmental justice for all fishers, regardless of heritage, but the current state is not producing Mi'kmaq fishermen. We need to change the process. What I find most immoral about what the government has done so far is that after 21 years of no legitimate final reconciliation of these rights for Mi'kmaq fishers, they're only attempting to do more of the same, and it's only going to drive more division.

The Chair: Thank you, Mr. Sproul.

Thank you, Mr. Mazier. Your time is up.

We'll now go to Mr. Cormier for two and a half minutes, please.

[*Translation*]

Mr. Serge Cormier (Acadie—Bathurst, Lib.): Good evening.

Mr. Cloutier, I'm glad to see you back at the committee. My question is for you.

Explain to me why you would be concerned if, for example, first nations in your area were allowed to fish for food outside of the commercial fishing seasons.

I would like you to answer as quickly as possible, so that I have time to ask more questions.

Mr. O'neil Cloutier: Good evening, Mr. Cormier. I'm pleased to meet with you.

Fisheries and Oceans Canada and all of the scientists have always told us that we should not exploit a species for too long, to give it time and opportunity to reproduce and live properly. For lobster, it's the same thing. It is very clear that we must not exploit this species when it is in a vulnerable period.

In the Chaleurs Bay—north of it for Gaspésians and south of it for New Brunswickers—summer and fall are periods when lobsters can moult or lay their eggs. So, based on the principle that we must ensure the sustainability of the species, we must refrain from fishing during these periods.

Mr. Serge Cormier: Perfect, thank you.

I can attest to the collaboration with first nations in my region. I want to know about the collaboration in your region over the years or the inclusion of first nations, for example, in discussions regarding fisheries and conservation. In my region, I know that there's a great deal of collaboration on both sides in terms of conservation efforts. What about your region?

Mr. O'neil Cloutier: As you know, there are three Mi'kmaq indigenous bands in our region, as well as the Maliseet of Viger first nation. We all participate in the advisory committee to develop proper rules and measures for the exploitation of this resource. We meet every year, and everyone comes to the table. In 2006, we decided that we needed to take many measures to preserve the resource, and the indigenous communities agreed. Today, they're reaping the benefits.

In our view, collaboration is easy. I'll provide an example. In 2020, the advisory committee decided to entrust the co-management of the 2021 advisory committee to an indigenous group, the

Maliseet of Viger. This group agreed to manage the advisory committee with Fisheries and Oceans Canada. In 2019, I was the co-manager.

• (2045)

Mr. Serge Cormier: Okay, thank you.

[*English*]

The Chair: Thank you, Mr. Cormier. Your time is up.

We'll now go to Madame Gill, for two and a half minutes or less, please.

[*Translation*]

Mrs. Marilène Gill: Mr. Cloutier and Ms. Canet, I would have liked to hear you talk about conservation.

I want to hear your views and ideas about the possibility of having resource management and conservation models for both indigenous and non-indigenous communities. These models would share the same goals, but would differ based on the values, knowledge and principles of each community.

Mr. O'neil Cloutier: In the Gaspé region, I think that we all, including the indigenous groups, understand that we need a single management model and that Fisheries and Oceans Canada should be responsible for implementing it. The reason for this is quite simple. There are four indigenous bands in the Gaspé region, one of which is located in the north. If these bands decide to establish their own management model, in other words, to opt for self-management, it would be difficult to share the territory. In addition, non-indigenous fishers would be caught between different management models. It would be very difficult to implement.

This is why we believe that the Department of Fisheries and Oceans must take on the responsibility entrusted to it, as long as the various groups agree, of course. Right now, I think that we're managing this fairly well. The goal is to avoid any negative impact on the exploitation of the stocks. That's very important. The negative impact must be set aside in any conflict. We must ensure the sustainable development of this resource. We're convinced that this is the best way to help indigenous communities.

Mrs. Marilène Gill: Do I have any time left, Mr. Chair?

[*English*]

The Chair: You have 30 seconds.

[*Translation*]

Mrs. Marilène Gill: I'd like to invite Ms. Canet or Mr. Sproul to take these 30 seconds to outline what action they consider essential and urgent.

Ms. Claire Canet: It's urgent and essential to develop a fair and equitable process that gives first nations, commercial fishers and the government the chance to sit down together to find acceptable solutions for everyone.

The government's current fisheries management process is directly responsible for the tensions in southern Nova Scotia. The priority is the urgent need for an inclusive fisheries management process and a mutual understanding of the values on which this management must be based. We understand that first nations have traditional knowledge of the fisheries and that, as a result, this knowledge must also be heard by everyone. This can only be done through an inclusive process.

[English]

The Chair: Thank you.

We've gone a little over time.

I'll now go to Mr. Johns for the last question period of two and a half minutes.

Mr. Gord Johns: Thank you, Mr. Chair.

Mr. Sproul, the Sipekne'katik are the second-largest Mi'kmaq community in Nova Scotia, and the largest community in mainland Nova Scotia, which I'm sure you're well aware of. Their community has been affected by centralization, oppression under the Indian Act, and intergenerational effects from residential schools. Their leadership has chosen to implement its 1760-61 treaty right, the constitutionally protected right in Supreme Court decisions. Given these colonial oppressions that have suppressed the Sipekne'katik people from entering the middle-class society of Canada, do you support the fact that the Sipekne'katik themselves must determine what a moderate livelihood is?

• (2050)

Mr. Colin Sproul: First, I'd like to be clear that I accept the presence of systemic racism within Nova Scotia and its effects on indigenous people, and also the horrors of colonialism and how it effectively dispossessed the Mi'kmaq from rights, especially rights to fish, in this case.

What I would say about defining "moderate livelihood" is that it was deliberately left vague by the court, because this is an issue that was to have been solved within the House of Commons and through negotiations with the nations. I don't think we'll ever be able to define "moderate livelihood" right. I think it's vastly different in the Lower Mainland of B.C. than it would be in coastal Newfoundland, for instance.

I think what we need to do is look at—

Mr. Gord Johns: Do you agree that they themselves should determine that?

Mr. Colin Sproul: I believe in the section 35 rights of Mi'kmaq people for self-determination, but I also believe that when it comes to natural—

Mr. Gord Johns: Do you believe they should be able to assert their own section 35 rights to self-govern themselves, with their own rights implementation lobster fishery management plan?

Mr. Colin Sproul: I'm trying to finish the answer, sir.

I believe in the right of Mi'kmaq people to self-determination.

When it comes to natural resources that all people of Canada rely on, I think the Supreme Court was clear, after the chaos that ensued in 1999, that the minister needs to make management decisions. I

say that with the acceptance that my members do not own the lobster resource in the Atlantic Ocean's waters. No one does. It belongs to all Canadians. That's why I think it's important that the minister, who ultimately needs to take the best decisions for all Canadians into her heart and mind, needs to be the one who makes the decisions.

I feel that it not only agrees with the Supreme Court but also agrees with the majority viewpoint of the Canadian public, which we've revealed through polling in August by Nanos Research. It showed that 79% of Canadians believe we should all be sitting at a table and having these discussions together with the minister, and that 89% of Canadians believe commercial fishing should happen only within commercial seasons, for the benefit of all our communities.

The Chair: Thank you, Mr. Sproul.

Thank you, Mr. Johns.

That closes our rounds of questioning.

I want to say a huge thank you to our witnesses for this portion of our committee meeting this evening. I apologize to everybody for the lateness. We've kept everyone, even though I should apologize to myself, because we are probably up the latest here. It's almost 10:30 p.m. here in Newfoundland, where I am. It's a little later than normal for committee.

I'll give a second now for the witnesses to leave. We have one piece of business that we have to look after, which should take only a moment.

Thank you again to the witnesses.

Mr. Robert Morrissey: It's difficult when we're keeping you up so late, Mr. Chair.

The Chair: I know. I'm usually in bed before this time, and I'm not joking.

Mr. Robert Morrissey: It was a very good meeting, though.

Mr. Mel Arnold: I thought this was just when the pubs got rolling out there in Newfoundland.

The Chair: I'm not a pubber.

It was very interesting, Mr. Morrissey, with the witnesses we had this evening.

The Clerk of the Committee (Ms. Nancy Vohl): Mr. Chair, the witnesses are gone, if you want to continue with the budget.

The Chair: Okay.

I think everybody was sent a copy of a proposed budget. I will remind everyone that it has to be approved, and it needs to be approved now. It's only a preliminary budget so the clerk can start reimbursing people for travel or for time or whatever is involved to get the witnesses to appear. Of course, that amount may increase. They'll come back to us again if that is the case.

I'll entertain a motion to approve the budget as presented here this evening.

Mr. Robert Morrissey: I so move, Mr. Chair.

evening. Once again, you're at our beck and call and we appreciate it very much.

The Chair: It's moved by Mr. Morrissey, and seconded by Mr. Cormier.

Is there any discussion?

See you all Monday evening for a regular full pull.

(Motion agreed to)

The Chair: Thank you, everyone. Thank you as well to the clerk and the analysts for being so co-operative as we ran late this

The meeting is now adjourned.

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