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The 30th Legislature
Second Session

Select Special
Committee on
Real Property Rights

Public Input Meeting in Edmonton

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The 30th Legislature
Second Session**

Select Special Committee on Real Property Rights

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Standing Committee on Real Property Rights

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6 p.m.

Wednesday, February 16, 2022

[Mr. Sigurdson in the chair]

The Chair: Hello, everyone. I'd like to call this meeting of the Select Special Committee on Real Property Rights to order and welcome everyone in attendance. My name is R.J. Sigurdson, MLA for Highwood and chair of this committee.

Now, before we begin introductions, I would like to note that in an effort to enhance accessibility during this meeting, we have American sign language interpreters here to provide ASL interpretation during the broadcast.

Now I'd ask that members and those joining the committee at the table introduce themselves for the record, and then I will call on those joining in by videoconference. I will begin to my right.

Mr. Hanson: David Hanson, the MLA for Bonnyville-Cold Lake-St. Paul.

Mr. Yao: Tany Yao, Fort McMurray-Wood Buffalo.

Mr. Milliken: Nicholas Milliken, MLA, Calgary-Currie.

Mr. van Dijken: Glenn van Dijken, MLA for Athabasca-Barrhead-Westlock.

Mr. Rowswell: Garth Rowswell, MLA for Vermilion-Lloydminster-Wainwright.

Ms Sweet: Good evening. Heather Sweet, MLA for Edmonton-Manning.

Mr. Nielsen: Good evening, everyone. Chris Nielsen, MLA for Edmonton-Decore.

Ms Robert: Good evening. Nancy Robert, clerk of *Journals* and committees.

Mr. Huffman: Good evening. Warren Huffman, committee clerk.

The Chair: Excellent. Thank you.

Now I will call on those MLAs that are joining us virtually to introduce themselves. I will start with MLA Rutherford.

Mr. Rutherford: Thank you, Chair. Brad Rutherford, MLA for Leduc-Beaumont.

Mrs. Frey: Good evening. Michaela Frey, MLA, Brooks-Medicine Hat.

Ms Ganley: Kathleen Ganley, Calgary-Mountain View. Good evening.

Mr. Schmidt: Marlin Schmidt, Edmonton-Gold Bar.

The Chair: For the record there were no substitutions for this meeting, so I will move on to a few housekeeping items to address before we turn to the business at hand. I would note for members that masks should be worn in the committee room except when you are speaking, and members are also encouraged to leave an appropriate amount of physical distance around the table. The committee room galleries are currently closed to the public, so guests attending committee meetings are required to do so virtually.

Please note that the microphones are operated by *Hansard* staff. The committee proceedings are live streamed on the Internet and broadcast on Alberta Assembly TV. The audio- and videostream

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Members participating remotely should ensure that they are prepared to speak or vote when called upon, and videoconference participants are encouraged to have their cameras on when speaking and their microphones muted when they are not speaking. Members participating virtually who wish to be placed on a speakers list are asked to e-mail or send a message to the meeting chat to the committee clerk, and members in the room are asked to please signal the chair. Please set your cellphones and other devices to silent for the duration of the meeting.

Now moving on to approval of the agenda, are there any changes or additions to the draft agenda? If not, would somebody like to make a motion to approve the agenda? I see MLA Milliken. Moved by MLA Milliken that the agenda for the February 16, 2022, meeting of the Select Special Committee on Real Property Rights be adopted as distributed. All those in favour of the motion in person, please say aye. All those in person opposed, please say nay. All those committee members online in favour, please say aye. Online any opposed, please say nay. Thank you. That motion is carried.

Moving on to the approval of the minutes. Next we have the draft minutes of our February 11, 2022, meeting. Are there any errors or omissions to note? If not, would a member like to make a motion to approve the minutes?

Mr. van Dijken: So moved.

The Chair: I see MLA van Dijken. Moved by MLA van Dijken that the minutes of the February 11, 2022, meeting of the Select Special Committee on Real Property Rights be approved as distributed. All those in favour in person, please say aye. All those in person opposed, please say nay. Moving online, those members of the committee online in favour, please say aye. Any opposed, please say nay. That motion as well is carried.

Moving on, public presentations. We will now move on to hearing presentations from members of the public. Those interested in presenting to the committee this evening preregistered with the committee clerk and are joining us via videoconference and phone. We have had 19 people that have registered, and so far it looks like we have 15 or 16 confirmed for this evening. They will be allowed to make a presentation of up to five minutes each. At the end of the meeting, if there is some time remaining after hearing all presenters, we will try to move to utilize that time to allow members to maybe ask some clarifying questions. So any members wishing to ask a question, please, when you send your message to the clerk, identify which presenter you'd like to direct it to.

With that being said, I am going to move on to our first guest. But just before that, I would like to just state that before you begin your presentation, I do need to caution that if you plan to discuss a personal matter that is before the courts or an administrative tribunal, please keep your comments general in nature so as not to prejudice the adjudicative process. Also, please note that it would be inappropriate to identify third-party individuals who may be involved in any issue you plan to raise.

Having said that, I will move on to our first presenter, Ms Maureen Lyttle. Ms Lyttle, if you're ready, please go ahead.

Maureen Lyttle

Ms Lyttle: Thank you. Firstly, I would like to thank the chair, the committee, and Ms Stella Varvis, counsel for the ALRI, who really encouraged me to get involved in this issue. My name is Maureen Lyttle of Calgary, Alberta. I read a CBC report dated August 13, 2019, regarding squatters' rights legislation and realized my story

needed to be heard on this very important issue of adverse possession as it relates to property rights.

On March 3, 2016, I was granted a special development permit from the city of Calgary allowing me a fence relaxation for an eight-foot fence. I did so to gain a measure of relief from torts or wrongdoings I had endured at the hands of my aggressive and hostile neighbour since 2007. I also hoped to achieve peaceful, quiet enjoyment of my property, an inalienable right granted by law to all citizens of this country. I met with two top city employees, Carol McClary and Judy Lupton, who interceded on my behalf with this process. A property line stakeout was completed by Global Raymac Surveys in February 2016.

In early April a new eight-foot fence was erected directly on my property, two feet from my side of the property line. I was stopped from putting it closer to this property line because my neighbour refused to remove his old, dilapidated fence. After my eight-foot fence was erected, my neighbour finally removed his derelict fence and, without completing a property line stakeout, proceeded to erect his new fence directly on my property despite numerous signs posted to indicate the exact location of the property line. My neighbour, in an explosive rage, tore down both the signs and what was left of my old fence without my permission. Police were called but refused to do anything. I now risk losing that strip of property in just over four years from now, the 10-year timeline, after which adverse possession takes hold.

Finally, in desperation I pounded up a wooden lath directly in front of my neighbour, specifically indicating the steel pins were off-set 50 centimetres to property line. Rather than move his post to the proper position and in order to make it appear that his fence was in compliance, my neighbour then, knowingly and deceitfully, moved my steel pins. He then had successful possession of my strip of land, which since April 2016 has been open, continuous, exclusive, and notorious. I have had two restraining orders and one no-contact order against my neighbour and his friend to no avail. Six years have now passed, and I have four years remaining to remedy this situation before my neighbour can claim ownership of my strip of land through adverse possession. That is a terrible, terrible injustice no property owner should have to endure.

As a litigator I've been to court several times regarding my neighbour. I was forced to sue the city of Calgary police for \$14 million on April 15, 2016, because none of the officers who attended my residence over the years ever charged or arrested my neighbour for countless acts of tort beginning in 2007. Although I was successful in winning the first hearing in front of Master Farrington in Court of Queen's Bench, the terrible cycle of abuse and harassment continues to this day without police intervention.

It is imperative that I keep my city-approved eight-foot fence, which my neighbour now, shockingly, insists I remove, and my neighbour's fence needs to be removed from my property. Abolishing adverse possession would partially eradicate the problem in that my neighbour could never ever claim my property as his own, and I could leave his fence where it is despite it trespassing on my property. I shudder to think how my neighbour would react if ordered by the court to remove it.

6:10

Abolishing adverse possession needs to become law now to protect innocent registered property owners such as myself from losing titled property to trespassers such as my neighbour. This issue has shamefully been debated for far too long and has been far too destructive for far too many Albertans. Surely, the UCP government can finally do the right thing and abolish adverse possession

once and for all without further delay, just as the majority of Canada has already done.

Thank you.

The Chair: Thank you so much, Ms Lyttle.

We will now move on to our second presenter. We have Mrs. Daphne Nemeth online, I do believe. If you are ready to present, please go ahead.

Daphne Nemeth

Mrs. Nemeth: All right. Thank you very much. Okay. Thank you for letting me speak today on a topic that affects every Albertan. Unfortunately, most Albertans are not aware of the possibility that their homes or businesses can be stripped away from them with the stroke of the government's pen. As an average citizen I would like to recommend more transparency in the process of obtaining citizen input. While I'm glad to have this opportunity to speak, I would not have known about it, but because of a social media post I am able to have a voice in the process.

My first recommendation would be to make these types of opportunities, where citizens can have a voice, published on social media regularly so that easy access to government issues can be addressed by all Albertans.

One of the matters that this committee is looking at is whether the real property report should be constitutionally protected. Yes, I am in favour of that. We are to listen to the Canadian constitution of rights and freedoms. It states under legal right number 7 that "everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." Number 8 goes on to say that "everyone has the right to be secure against unreasonable search or seizure." Merriam-Webster's dictionary defines seizure as "the taking possession of person or property by legal process." [An electronic device sounded] Am I still good to go?

The Chair: Yes, you are. Please go ahead. We've paused the clock. But, yeah, please go ahead.

Mrs. Nemeth: The Bill of Rights goes on to say that our fundamental freedoms are

the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law.

It goes on to state that

no law of Canada shall be construed or applied so as to

(a) authorize or effect the arbitrary detention, imprisonment or exile of any person.

Merriam-Webster's dictionary defines exile as "the state or a period of [forced or] voluntary absence from one's country or home," "to banish or expel from one's own country or home." The dictionary goes on to provide expropriation as "the action of the state in taking or modifying the property rights of an individual in the exercise of this sovereignty."

Due process of law is a constitutional guarantee that prevents government from impacting citizens in an abusive way. To me, in this Expropriation Act there should not be the option of seizure of Albertans' lands.. All transactions should be in an amicable agreement with the owner. If an agreement can't be reached, the government should look at alternatives. Having read over the Expropriation Act and process, the Land and Property Rights Tribunal Act, and several other government documents, I see these documents are written in the government's favour, with very little support or benefit for the landowner.

Some recommendations I have for the Expropriation Act and process would be, one, that everyone should have the right to object to their land being taken from them without an amicable agreement for both parties involved.

Two, before the certificate of approval is registered or made, the price should be determined in agreement with the landowner.

Three, the price should be above the market value and take into consideration the increase in land value that will be seen over time and/or the costs in the equivalent of better property which would be agreed upon. If no property is found within the allotted time frame, the government will pay for a temporary relocation fee for the duration of a set time in addition to the agreement upon the price for the land.

Four, the government should cover the cost of the landowner's move since this is instigated by and for the government and its benefits.

Five, since this expropriation is the idea of the government and often put upon the landowner, the government should pay for the legal advice or lawyer fees for the landowner.

Six, the time frame for the expropriation is fast and seems to only benefit the government since they know all the rules in place. The time frame should be licensed.

Through these recommendations you can see that the rights of the owners are not adequate and change needs to happen to these policies that affect landowners.

I know the government has regional plans for cities, and they work together to create long-term development growth plans. A couple of last recommendations I would make would be: one, make these long-term development growth plans easily accessible to citizens and, when change needs to happen, consult the public in a manner that is easy for the public to expect such as through social media; two, all citizens will be [inaudible] or should be made aware of the long-term development plans of the state or government that could impact their purchase.

The Chair: Mrs. Nemeth . . .

Mrs. Nemeth: This could have been highlighted by a link in the paperwork . . .

The Chair: Mrs. Nemeth, I apologize to interject here. I apologize. That is the full five minutes for your presentation, but I will just allow you to briefly sum up your comments there if you just want to quickly finish.

Mrs. Nemeth: Yeah. I'm almost done. I just was going to finish by saying that I do believe the government is decreasing our right and our voice and pushing forward their agenda. I just think that the government's intrusion into our everyday lives is becoming more prevalent and invasive, so I feel that that needs to be toned down. Our rights need to be better protected, including our right to our land that we've invested in.

Thank you very much for this opportunity to have my voice heard.

The Chair: Thank you, Mrs. Nemeth.

Next for presenting we have Mr. Paul Vasseur. Mr. Vasseur, if you're online, if you'd like to go ahead, we will start your five minutes as soon as you start your presentation.

Paul Vasseur

Mr. Vasseur: Thank you, Mr. Chairman and committee members. I am an agricultural grain producer and a land advocate working exclusively for rural Albertans who are being cheated by some

morally corrupt energy operators. I was the executive assistant to the Farmers' Advocate for 12 years, and while there I dealt with many surface rights issues. One act that I believe should be removed is adverse possession. It is not required today and, in my opinion, is at crosspurposes for property rights.

My main concern deals with the Land and Property Rights Tribunal, formerly the Surface Rights Board. In my opinion, the board is not following its original mandate for rural Alberta. The board was constituted as an inexpensive and expedient process by which landowners and operators might resolve their disputes. It was not intended to incorporate all the formal and technical civil procedures, requirements of the courts. The tribunal now is a multifunctional board handling land compensation issues, surface rights compensation issues, the New Home Buyer Protection Board, and the Municipal Government Board whose members, in my opinion, have little or no knowledge of agricultural matters.

It should be noted that energy operations are forced upon landowners. In essence, they were expropriated. They did not invite oil and gas exploration on their lands. It is a concern of landowners that operators and others are now utilizing the board to legitimize their current procedure of reducing annual compensation unilaterally and illegally to landowners and, again, without their consent. These are not good-faith negotiations. In addition, the board is now mandating, post COVID-19, that landowners continue to attend hearings virtually, which I can personally attest does not provide an equal opportunity or fairness to landowners.

Some gas companies are trying to convince the tribunal and landowners that they should only be compensating for the area they use, not what was taken under a surface lease or a right-of-entry order. A vice-president of a gas company advised during a recent hearing that the Alberta government is going to allow operators to obtain partial reclamation certificates for those portions of leases not utilized by the operator. In my mind, this would be a direct erosion of property rights for landowners.

6:20

I am advised that the tribunal has been given a mandate to reduce costs, however, to the peril of landowners. The tribunal most often reduces the landowners' cost to prepare and attend a hearing from approximately 20 to 50 per cent while the energy operator continues to have unlimited access to lawyers, experts, and other resources. Even with the increased funding by this government to the board, we wonder why it should take the tribunal years to render a decision. I note that this appears to be a common problem for many landowners.

The tribunal has now been including the term "unjust enrichment" in many of its section 36 decisions, a term which implies that the landowners are being unfairly compensated by the Crown. I believe the tribunal is doing this in an effort to reduce the cost to the Alberta treasury when operators don't pay the annual compensation to landowners. It has been my past experience that the Crown does not often try to recoup from delinquent operators as it may be cost prohibitive. Many operators are now aware that the Crown will not likely press for repayment to the treasury.

The tribunal has now chosen to reject landowners' requests for site inspections of a lease. Inspecting a well site was a common policy of the board during my time with the Farmers' Advocate's office. When hearings were held in rural communities, the board members and oil company personnel would be supportive of the town's lodging facilities, restaurants, and other services. Provincial dollars were at work to help support rural Alberta businesses.

My last issue is the loss of our rights relating to pore space, which were recently taken away by our own government. There is a Latin phrase, a quote that I found when I was with the Farmers'

Advocate's office: *usque ad coelum et ad inferos*; the owner of the land also owns to the heavens and to the depths. This is except what the government has taken away by legislation.

Thank you for the opportunity to make our comments to the committee, and I would welcome an opportunity to expand my concerns on behalf of rural Albertans. Thank you.

The Chair: Thank you, Mr. Vasseur, for your presentation.

Next on the list I have Mr. Robert Shumborski. Mr. Shumborski, if you're online and you're ready, please proceed with your presentation, and we'll start your time.

Robert Shumborski

Mr. Shumborski: Okay. Thank you, Mr. Chairman and committee, for taking the time to hear us. I'm a resident of Whitecourt, and I have made a presentation to the committee, I think, in physical form there. My issue is that quite a few years ago, 40 years ago, I bought a piece of farmland, a quarter section of land, on the boundary of Whitecourt town in Woodlands county. The long-term plan for this property was rural residential, especially into retirement, so the land basically sat undeveloped a long time. I put in power and a well, and ultimately this was to be a retirement home.

That being said, this property was in the Athabasca Flats area in Whitecourt, so I was aware that there were some possible flood issues with the Athabasca River. Even prior to purchasing the land and even considering developing it, I sought information from the Alberta government through what's now called ESRD and through the development people through Woodlands county. It was affirmed to me that under certain stipulations the property was more than acceptable for development into a rural residential situation, so I just took that at its word and planned toward ultimately developing the property for my wife and me as a retirement home, a place to retire.

Now, that situation changed with certain flood situations in the province. I think one of the major ones was down south of Calgary in High River. That caused, I think, government to start reconsidering things. Ultimately, I think what happened was that there was provincial government pressure on counties and MDs to reassess development in areas that had possible flood dangers. That being said, there was finally a flood study done here in Woodlands county – this would be, I think, over 10 years ago now – and that flood study was announced almost identically to the time that my wife and I were planning on getting a building permit and starting to build a home. The development permit was just a no go; it wasn't going to happen.

I just tried to pursue, you know, what to do about this. I did what the mayor of Woodlands county, certain MLAs that I talked to – I really didn't get any positive feedback other than the mayor of Woodlands county thought that there should be some form of compensation for people that were in situations like this. You know, basically, I guess what I'm saying is that we have a property development plan that was brought before the regulations of government, that was acceptable before the regulations of government, and in a very, very short period of time regulations changed, and our situation obviously became radically, radically different.

I guess, that being said, there was a bit of a bright light in this whole situation. I ended up bringing this situation before MLA Todd Loewen. He heard my story and thought, you know, something needed to be done about that. He did end up, I think, working with Kaycee Madu on a private member's bill – I think it was 206 – which I don't think was ever presented or went forward. It was an

exciting moment for us because it certainly was something that we were looking forward to.

That's our situation. Obviously, the finance consequences to us were absolutely massive and something that – there was just no way that we could recoup that in any reasonable way. We just had no way of doing that. So I have been asking for the government to consider compensation for people in situations like this. We would strongly feel that the government needs to step up and help us out in this kind of situation.

Thank you for hearing our story, and we'll leave that with you.

The Chair: Thank you, Mr. Shumborski, for your presentation and joining us this evening.

Next on the presenters list I have Mr. Steven Snider. Sorry; I apologize. Mr. Dennis Woronuk. Mr. Woronuk, if you're ready to present, please proceed, and we'll start your time as soon as you do.

Dennis Woronuk

Mr. Woronuk: Okay. I'm online now. Thank you, Mr. Chair and committee, for allowing us to talk this evening. I wanted to speak specifically about two acts, the Alberta Surface Rights Act and the hydro and energy act. These acts have been in place, obviously, for significant periods of time. They haven't been revised, I think, in over 30 or 40 years. They need to have terms clarified and to remedy some issues that just really haven't been addressed and should be addressed, where other jurisdictions have done so.

The acts have had some changes. I think that back in 1983 was the last time for the Surface Rights Act, and the hydro act: I think there was a provision in about 2000, early 2000. Some of those changes were at the behest of large corporations, who have really unlimited budgets and are able to lobby to get their changes through, and really to the detriment of landowners. Landowners haven't been fairly represented even during those negotiations with the government as far as the changes that were made. Other provincial jurisdictions in Canada certainly have implemented changes that we should have in these acts as well. As well, in 1981 there was a select committee that recommended changes to the Surface Rights Act, and those changes have not been implemented either.

I've presented, actually to Mr. Huffman, a fairly detailed document. I'm not going to have time to go through it here this evening, of course. I would like the committee to review the material that I've presented as I think it contains a lot of details on the issues and how they might be resolved.

6:30

Why this matters, of course, is that the property owners really have been denied proper compensation for decades now. I can speak for myself as a landowner. I went 20 years on a piece of property that a utility has occupied without any change in compensation, and I can tell you that for a 20-year period, the value of a dollar is not what it is 20 years later.

I think as well, you know, that with the acts not being worded clearly, the tribunal has difficulty in interpreting some of the words, and also even in the legal cases the courts have had some difficulty there as well . . .

The Chair: Sorry, Mr. Woronuk. We've lost you on audio here.

Mr. Woronuk: Sorry. Okay. I'll just start again.

I'm just going to say that improving these acts I think would reduce the burden on the court system, the tribunal cost to ratepayers, the overall cost to the province and as well even to, you

know, the landowner because you wouldn't have to go through this difficult situation.

The remedies that I have proposed in the attached material I think are to certainly include a minimum cost-of-living increase and a five-year review. Other provinces do that. The current land value should be considered when rental payments are reviewed every five years. That's currently not done. The taking of a large parcel versus a small parcel is not handled adequately in the act. As well, compensation for a power line overhang was handled – well, from 1983 to the 2000s, then was removed at utility request – in the Hydro and Electric Energy Act. I think that should be fairly compensated for. As well, for pipelines, the federally regulated pipelines, landowners can opt for annual compensation as opposed to one time, and that's not true for provincial pipelines. That should be brought up to date as well.

So those are some of the key points. Even the entry fee was established back in 1983 at \$500. I don't see how \$500 in '83 has the same value today. Key takeaways here are that, you know, these proposed remedies I think would align with the mandate of the committee, and these acts certainly need to be updated. I think it would help with addressing always going to the courts to try and get some of these issues resolved. I think it's an opportunity for the committee to significantly improve the state of property rights in Alberta for landowners. Lastly, I think these remedies are relatively easy to implement and should be fairly straightforward. I think that this is very possible and should be done as quickly as – well, it should be done quickly. Let me leave it at that.

Thank you very much for your time this evening.

The Chair: Thank you, Mr. Woronuk, and just as a note, we did pause and put some extra time on the clock there just because we lost your audio. Thank you again for your presentation. I'm sure the committee members will review what you've submitted.

We will now move on to the next presenter. We have Mr. Steven Snider. Mr. Snider, if you're ready to go, please proceed with your presentation.

Steven Snider

Mr. Snider: Thank you, Mr. Chairman. I'm a fourth-generation grain farmer south of Camrose. I own quarters NW 6-45-19-W4, SW 6-45-19-W4, and legal subdivision 6-45-19-W4 on the west shorelines of Driedmeat Lake. In 2003 the province proposed a project to raise the stabilized level of Driedmeat Lake from 2,246 feet to 2,250 feet of elevation under survey plan 7620520 to increase the water supply to the city of Camrose. They purchased lands from adjacent owners to the 2,250-foot elevation level. Mine was expropriated. In 2007 the bridge on highway 56 was constructed to the 2,248-foot level. This created a variable bathtub ring of property between the 2,250-foot surveyed elevation line and the lake shoreline.

The province deemed these areas as a Crown lease and have ordered landowners to purchase Crown grazing leases to graze cattle on this isolating, narrow strip of land. After invoking these contracts, they deemed my neighbours not in compliance with lease rules and ordered them to construct a fence on the new 2,250-foot property elevation line at their own personal expense.

All landowners on Driedmeat Lake were, and by and large still are, unaware of the loss of these access rights, which are protected under British common law and are defined as riparian rights. Riparian rights include the right to egress, which means to launch a boat, land a boat, or own a dock on a front of water; the right to a continued, undiminished flow of water supply; the right to continued quality of water without upstream pollution; the right to gain lands

through accretion. If climate change dries up this lake, which is not supplied by mountain runoff, lands exposed can be added to the land title up to the quarter section boundary lines under application to the province.

The right to use water. In the province of Alberta a landowner is allowed 1,250 cubic metres of water for household use and 6,250 cubic metres of water for agricultural purposes. A key principle to riparian rights is that the property must be appurtenant to, which means adjoining to, the water for them to be granted to the landowner.

The underhanded creation of this buffer of the Crown lease land deprived all landowners on Driedmeat Lake of their riparian rights. No terms under the Expropriation Act either allow or acknowledge the transfer of riparian rights or recognize them for compensation for their loss. Water rights are pertinent to the land. The province should not have the right to take them without the landowner's consent. I do have a registration for traditional agricultural water use, number 00163852-00-00, which was approved by the province on December 28, 2001, and it guarantees my water usage and priority out of the lake. Removal of my shoreline renders this document useless. The actions that I wish to have undertaken are that riparian rights should never be allowed under any circumstance to be removed from a land title without the written consent of the land title holder.

The Expropriation Act should clarify that where riparian rights are attempted to be taken, the expropriating authority is bound to notify the landowner of the potential loss of such rights and their legal rights to block such an action or seek compensation for the loss of those rights. The Expropriation Act is clear on leaving a landowner whole after a taking. I had riparian rights before; now I don't. My rough calculations are that there are approximately 57 titles of land bordering the lakeshores at 7,500 cubic metres of titled water per allotment. That means, times 57 titles, there are 427,500 cubic metres of water per year that have been taken from landowners without compensation.

Under the Water Act the director can transfer these licences to the province, as they now hold title of the lands that are pertinent to the lake, without notification to the landowner. They can then be reassigned, with the priority number intact, to any commercial user. Water use in this province is first in time, first in right. These licences, upon transfer, do not lose their priority, so they will have priority over most upstream city licences. In other words, they are the last water to be turned off in a drought.

I thank the committee for your time.

The Chair: Thank you, Mr. Snider, for your presentation and joining us this evening.

Next on the list I have Mr. Dave Bjorkman. Mr. Bjorkman, if you're ready to present, please proceed, and we will start your time as soon as you do. Thank you.

Dave Bjorkman

Mr. Bjorkman: Yes. Thank you, committee. Good evening, everybody. My name is Dave Bjorkman. I've been in Alberta my whole life. I'm fifth generation; my kids are sixth. I have embarked on a world tour since 2019. I've met the best constitutional experts in the entire world, including Canada's Richard Albert. Property rights constitutionally, for us here in Alberta, are represented from the 1867 Constitution Act of Canada, consolidated in 1982 with the Charter. All Albertans, committee members, the biggest defining problem I hear everywhere, all over the world and now right here from all of you, and why I wanted to be here today is that we do not have a constitution in Alberta. To this committee, property rights, water rights: it goes beyond the rural, the resources, the companies,

the city fences. It'll go all the way. If the committee hasn't heard it yet, it'll go to intellectual property. It will go into so many areas, even in finance there, beyond even all of us. This is why we need a constitution.

When you look at that section 92 from 1867, it told you: develop provincial constitutions. To this day and for the life of every single province and territory created from then till now, not one Premier has ever said: "Hey, you know what? Let's do what they did in the United States of America and – you know what, everybody? – everywhere else in the world where you find federal systems. They have regional constitutions."

6:40

This committee, these MLAs – God bless you all, and God bless Albertans – you're not up to the task. We can bring in real experts. Property rights, water rights: these are huge. Look at any state in the United States of America. Every single state constitution is almost 70 per cent enshrined in your property rights and your water rights. It's huge, not a small undertaking. We need to start getting with the times, getting with the world. I've heard you all, so many of you: the Crown, the Crown, the Crown. Jason Kenney and the UCP, you have an opportunity for once in Alberta's history: no more next government coming in, ripping up the act from before or amending it, changing it for corporate interests. You can stop all of this now. With property rights being the biggest, everybody – this is for all Albertans – do what they did in the States. It's your right, your right in the Constitution Act of Canada.

I can bring forward the best legal minds on my behalf for free for all of you. I mean, they're going to want a wage. It's millions of dollars, not tens. It's millions of dollars. Richard Albert, the greatest legal mind in Canada, is ready to go for Alberta. You can look at part V of the 1867 act, still in power today. Provincial constitutions: where are they, folks? I know you all hate it. I know you hate to pay.

My family has been on this land forever. Why is it that every couple of years they change this and change that? I'm getting slapped out this way; I'm getting slapped out that way. A new government comes in, and they change the goalposts. They move everything. Let's have rules that govern how to govern and accountability for once in our lives. Let's get with the 21st century. Let's lead the world forward. Let's start this today, and we can do that.

This committee: you know you can't address all the issues; it's not possible. This can be done; it can be done right now. I don't want a dollar. It's free because I love my Alberta, and I do want to see it go forward, but it will never go forward as it is now. Even if this government does all the proposals, which are too many for property rights, way too many – it's not a small undertaking. It's not a committee thing. It's not of the Crown. The Crown can't function anymore today. We need real constitutionalism, folks. We need to address more than just property rights. Water rights: that's separate.

We could go on and on into so many different avenues that are taking everything from many Albertans. Even if you do get something now, the next government will rip it apart. You know it's all true. They say that constitutionalism is the soul of the nation or the soul of the region in federalism, with different powers. We can do this, people. We can do it together.

The Chair: Thank you. Thank you, Mr. Bjorkman, for your presentation this evening. I really appreciate you talking on that topic.

Next on our list we have Ms Kaitlin Niksic. If you are ready to present, please proceed.

Kaitlin Niksic

Ms Niksic: Good evening. Can you hear me?

The Chair: I sure can. We will start your time as soon as you proceed, so go ahead.

Ms Niksic: All right. Thank you very much. I just wanted to say, first off, that this is absurd, absolutely absurd. The fact that this committee exists, the fact that we are having this conversation right now, is proof that the system is broken. It is proof and evidence that our government has tried to take, unlawfully, far too much control and has tried to become far too involved in our lives.

I'm disappointed that I'm here taking part in a system that I don't believe in. That is not my Canada.

Nonetheless, let me share with you a quote by Ayn Rand.

The right to life is the source of all rights – and the right to property is their only implementation. Without property rights, no other rights are possible. Since man has to sustain his life by his own effort, the man who has no right to the product of his effort has no means to sustain his life.

Let me repeat that last line. "The man who has no right to the product of his effort has no means to sustain his life." That's the end of the quote by Ayn Rand – her name is spelled A-Y-N, last name R-A-N-D – and I very strongly suggest that everybody become acquainted with her work, her writing. You can look her up on Ayn Rand Institute, or she's written a number of books and essays.

With that, if we don't have property rights – I'm sorry – we don't have individual rights, and if we don't have individual rights, then we live in a dictatorship. The fact that this committee even exists, to me, is proof of that. That's all.

The Chair: Thank you.

Next on our list we have Ms Hannah Konschuh, and hopefully I got your last name correct. If you're ready to present, please go ahead, and we'll start your time. Thank you for being with us this evening.

Ms Konschuh: Thank you, Mr. Sigurdson. First, I'll ask if you all can hear me since I'm tuning in from rural Alberta.

The Chair: Absolutely. We can hear you well. Go ahead.

Hannah Konschuh

Ms Konschuh: Okay. Perfect. Good evening and hello to the committee members of the Select Special Committee on Real Property Rights. Thank you for the opportunity to present this evening. My name is Hannah Konschuh, and I run a grain farm in Wheatland county, located east of Strathmore. I'm here tonight speaking on behalf of the Wheatland and Area Surface Rights Society. We're a grassroots advocacy organization that was formed to advance the concerns of landowners in their dealings with energy companies. We represent over 110 members, and we've had meetings with Minister Savage, Minister Horner, and other MLAs who represent constituents in Wheatland county. We're also working with our county leadership to advance a resolution advocating for landowner rights.

Alberta's oil and gas industry has successfully expanded over past decades by the granting of leases by the Alberta government and the subsequent good-faith negotiations of those lease terms between landowners and oil and gas companies to access resources. The overriding principle of that development has been that in return for being subject to expropriation of their land use, the landowner is not to experience financial loss due to that development. Said using different words: the landowner is to be made whole.

In Wheatland county we've observed actions taken by certain operators in the last two years to be in direct conflict with what is considered to be a good-faith negotiation. It's also worth noting here that there are operators that continue to respectfully engage with landowners and work together successfully. But in terms of the problematic activity that we're seeing, we've had offending operators send compensation payments that are in the range of 40 per cent to 60 per cent less than what landowners are owed. They've used aggressive written and verbal communications. They've attempted to force landowners to accept compensation for smaller acreage than is on their original leases. They've also threatened quasi legal action if signing is not completed. We've also observed that certain operators are using the quasi-judicial process, through the Land and Property Rights Tribunal, of which compensation is reviewed to their advantage.

Our actions as a group have been focused on helping landowners attempt to remain whole in their dealings with operators. We've been doing this work within the constraints of the current system that exists that are in place to apparently support the landowner, but we've found some significant shortfalls. To date, to give you a sense of some of the things that we've been advocating for that we hope you consider as well, we've been advocating for mandatory mediation to occur between landowners and operators prior to a section 27 application review at the Land and Property Rights Tribunal. This is expected based on the wording in the Surface Rights Act, but it's certainly not being mandated, and it's certainly not occurring. What we've seen, generally speaking, is that operators are not taking the opportunity to mediate with landowners at that process. They're preferring to bump the conversations to a full hearing, which is to their advantage.

We're also advocating that it be mandated that oil and gas operators be required, as has occurred historically, to pay costs related to contractual negotiations with operators and proceedings that happen at the LPRT to ensure that the landowners are made whole. The Surface Rights Act allows for costs to be covered at the board's discretion, but we've observed situations where fees are not repaid, and this causes a severe disadvantage financially and a great source of risk for landowners who are forced to go through this process through no fault or motivation of their own.

6:50

We're also advocating for third-party oversight of the current in-house reclamation process of both the operator and the firms hired by the operator. Landowners want to see communication of the process, photo evidence of the reclamation that's occurred, and they want to see a reclamation certificate of the finished area. This is what landowners need, and we know from our members that this is currently not happening.

As you can see, this is a bit of a piecemeal approach to try to improve and strengthen the existing parameters that are in place to protect and support landowners in their dealings with operators. Unfortunately, as you've heard already tonight from a number of other speakers, these issues are widespread in Alberta, so we believe that stronger action needs to be taken to remedy these issues. For that reason, we're requesting that a multiministerial approach be taken to tackle surface rights issues for property owners, because we know that these issues span multiple portfolios such as Energy and Municipal Affairs. We've observed that the system is failing us as landowners and that the legal remedies available to us as real property owners who are deprived of the use of our real property are inadequate.

We, of course, appreciate the opportunity to contribute to your review of real property rights, so please access my contact information through the clerk. And just to end, the Wheatland and

Area Surface Rights Society members would be glad to discuss any of this with you further.

Thank you for your time.

The Chair: Thank you so much, Ms Konschuh, for joining us this evening and your presentation.

Next on the list we have Mr. Rodvern Lowry. Mr. Lowry, if you're ready to present, please go ahead.

Mr. Lowry: Hi. I'm here.

The Chair: Excellent. We can hear you now. We will start your time as soon as you're ready.

Rodvern Lowry

Mr. Lowry: Okay. First of all, I'd like to thank you for letting me present at your committee tonight. My name is Rod Lowry. I've lived in Alberta all of my life. I've taught in the province for 40 years, and I also run a small farming operation near Lethbridge. I believe that individuals have the freedom to own, use, and make decisions about the use and disposition of their property. The government should only infringe on these rights in extreme, clearly demonstrable, and necessary situations.

Though property rights were never included in our Charter of Rights, it should have been. Through the recommendations your committee makes, you have the opportunity to correct or at least mitigate the situation here in Alberta. Our rights and freedoms are paramount and founded upon principles that recognize the supremacy of God and the rule of law, as stated in the Canadian Charter. It is never appropriate for a cabinet or a government to simply remove those rights at the stroke of a pen. You must be aware that when governments change and philosophies become less democratic, Albertans must be protected by having firm and clear laws that entrench the principles of property rights. These rights were completely trampled upon by the last regime.

I recognize that there are situations where the government must expropriate property, the fact that property refers to much more than just land. For example, my concern is with regard to water rights in my farming operation. It is incumbent on that government to only do that which is necessary to impinge on those. Before this happens, property owners must have adequate notification. If it is needful, they must adequately be compensated.

And in all instances there should be the opportunity to appeal to courts before an expropriation occurs. It is my understanding that a private member's bill was up for consideration in 2020 but was never passed. I have looked at that bill – it was Bill 206, a private member's bill – and I've gone through the recommendation that it proposed. I'm in agreement with those, and I would ask the committee to consider reintroducing that bill, or alternatively I would suggest that government sponsor bills with those amendments being included.

I understand your mandate is as follows. One, consider whether the legal remedies available to a real property owner who is deprived of the use of their real property are adequate. I say that they are not. Consider whether the real property rights should be expanded or, in the case of an individual, constitutionally protected. I say that definitely they should be. Consider whether the law of adverse possession should be abolished. I say that it should be abolished. Consider whether the expropriation process provided under the Expropriation Act is adequate. I say that it is not.

In summary, I urge this body, in considering the real right properties, to reintroduce to Alberta the real property rights of owners. Give us the opportunity to make use of our land and to

dispose or use or otherwise enjoy that property and land appropriately.

Thank you for allowing me to present here tonight.

The Chair: Thank you, Mr. Lowry, for your presentation this evening.

Of course, we're going to move on to the next presenters, but of course everybody is welcome to stay online to listen to all the presentations. Just as a brief reminder, if we do have time at the end, there may be some questions from some of the committee members to the presenters.

Once again, thank you, Mr. Lowry.

We are now moving on to the next presenter. I'm going to pause for one quick second. We've had a couple of individuals that just haven't logged on quite as of yet. The next person that is logged on – and, hopefully, they are ready to present because they will be a bit, maybe, caught off guard by this. Ms Tammy Broen, if you are online and ready to present, we have you next and available and online. If you're ready, please go ahead.

Tammy Broen

Ms Broen: Yes. I'm available. My name is Tammy Broen. I own a property in Edmonton, Alberta, and I also own mineral rights in Alberta. I believe that our real property rights need to be protected constitutionally and guaranteed for our lives and for the lives of our children and future generations. We need to protect our property owners' rights. That's something that obviously is not being done right now, or we wouldn't be having this conversation. All Albertans have the right to own and use their property as they see fit. It is not acceptable for any cabinet, this government or going forward, to seize property at the stroke of a pen. Obviously, we're looking at that in a federal manner right now, and it is having great repercussions on our whole country.

When expropriation is necessary, proper notification, compensation, and judicial recourse are essential to all Albertan property owners. The committee could save itself a lot of time and red tape by simply reintroducing the endorsed private member's Bill 206.

That's all I really have to say. I thank you for this opportunity.

The Chair: Thank you again, Ms Broen.

I'm just going to check with the clerk just to see who we have next online and available to present. I'm just going to pause briefly.

Next that I have online is Mr. Ken Allred. Mr. Allred, if you're ready to proceed with your presentation, I think we are ready for you. As soon as you start, we will start your time. Oh, sorry. Mr. Allred, you're on mute. We'll do a sound check first, please. We still can't hear you quite yet.

Mr. Allred: I'm here.

The Chair: Oh, there we go. We've got you now. Thank you, Mr. Allred. Go ahead.

Ken Allred

Mr. Allred: Could you move the camera so the clock is visible? There we are. Thank you. Okay. Thank you very much, Mr. Chair and ladies and gentlemen.

Adverse possession is an issue I've been involved with for 50-some years now, including making two presentations as an MLA, one a private member's motion and one a private member's bill. Both of those documents got consent from all parties within the House.

I've had some involvement in the Woodward case at Cardston, the McIndoe case at Lake Bonavista in Calgary, the Andriet case in Cooking Lake, and other cases that were resolved outside of the court.

7:00

The issue of the abolition of adverse possession was brought forward by the Property Rights Advocate in 2015 and I believe again in 2016. Since then several other attempts have all died on the Order Paper, but they had general acceptance. Judging from *Hansard*, I would suggest that there was a lack of understanding about what adverse possession is all about. Now, hopefully, you've had an opportunity to peruse my report. I apologize for its length, but there are many issues that support the abolition of adverse possession.

Alberta is the only Torrens jurisdiction in Canada that has not abolished adverse possession. Our Torrens system is one of the best land registration systems in the world, and I'm pleased to note that your government has abandoned the proposal to privatize our land titles system. Privatization in Ontario has resulted in a rash of fraudulent claims.

As I've noted, it's my contention that adverse possession was wrongly adopted in the 19th-century case of *Belize versus Quilter*, where the specific provisions of the Territories Real Property Act would have made a strong argument against adverse possession. That argument was never raised.

As I've pointed out, we have a survey before settlement system in Canada, where parcels are surveyed prior to settlement, as opposed to the English system, where adverse possession came from, which is a system of general boundaries that are established based on long-standing physical features.

In going through the 34 submissions, there is almost unanimous consent for abolition. As I recall, only one person spoke against abolition in the written papers. None of the presenters this evening have spoken against it. In fact, several have advocated for the abolition. I disagree with the gentleman's conclusion in the written report. His qualification is the observation that possession of land has been recognized as legitimate before Alberta became a province. I grant that that's correct. Before the province was surveyed, the federal government created river lots to accommodate the Métis settlements and gave them patent to the land that they claimed.

I think it's significant that the Legislature has amended the legislation concerning adverse possession on three separate occasions to accommodate extenuating circumstances: once where there was a major establishment of farm buildings, once where a municipality lost a lot by possession, and once where two irrigation districts had actions filed against them. In the 1980 case of *Lutz vs Kawa*, Justice Laycraft strongly hinted that it was up to the Legislature to deal with the issue once and for all. The initial case, *Boychuk versus Boychuk*, led to the improvements constructed on long property clauses currently in the Real Property Act. This is very good legislation. I was involved in a Nova Scotia case where a landowner lost his house and lot he'd recently constructed, which would have been avoided if Nova Scotia had a similar legislation. They have now adopted it.

It is significant that the Law Reform Institute is supporting abolition, as they have studied the issue on four separate occasions. At one time the Alberta Law Reform Institute's Sandra Petersson, who I've known for a long time, commented that there were only two people in Alberta that had strong opinions on adverse possession, her and myself.

I recommend that the Legislature treat the issue of adverse possession as a separate bill, a shovel-ready bill. You do not want

it to get clouded with some of the other issues that are before you tonight.

Thank you.

The Chair: Thank you, Mr. Allred, for your presentation and for taking some time out of your evening to present to the entire committee.

At this point in time we are running a little bit ahead of schedule. We're still waiting for some of our presenters to log on, and considering that we've notified them of their times and presentation, we're roughly about five minutes ahead of schedule. So we're going to take a brief pause here, and we will reconvene – we'll say a five-minute break – at about 10 after 7, just to allow some more presenters to log on. Be patient, everyone. Stay online. Of course, it looks like we will have some time at the end for some questions if possible. We will be on a five-minute break, starting now.

Thank you.

[The committee adjourned from 7:05 p.m. to 7:15 p.m.]

The Chair: Thank you, everyone, for your patience. We've just been waiting for a few additional presenters to log in.

During the break we were joined by Ms Lindsye Murfin. If you're ready to present, please go ahead, and as soon as you start, we will start the five-minute time. Please go ahead.

Lindsye Murfin

Ms Murfin: All right. Thank you so much for the opportunity to address you guys tonight. It's really appreciated. My name is Lindsye Murfin. I'm the general manager of the Western Stock Growers' Association. We have a long history of being involved in property rights as they pertain to those that operate on the landscape. One of the specific mandates of this committee was to review Bill 206, the Property Rights Statutes Amendment Act. These proposed amendments work to strengthen property rights in a number of statutes and would undoubtedly be in the best interests of Albertans.

Recognition of property rights in the Alberta Bill of Rights would correct the omission of property rights in the Constitution and in the Canadian Charter of Rights and Freedoms. This lack of clarity in legislation for property rights makes it difficult to develop robust policy, protect all Albertans, and create an environment where the economy can enjoy some security. With things as they currently are in Alberta, anything that supports security and investment will anchor business and economy in the province. But we really don't have to go down the road of making a case for why property rights are important. Everybody here knows how they are.

Bill 206 was tabled in 2020. In business terms a considerable amount of time has gone by since then, making us concerned that by the time this committee has submitted its report, it has been reviewed by cabinet, and decisions have been made on whether to make any changes at all, it will almost be obsolete. I don't want you to mistake this for ungratefulness, because we are very grateful that there has been initiative for any improvements in property rights in statute law. But the core of our point is that there are a number of other legislations that need to be flagged for amendments to protect and support property rights. This committee has done a great job of highlighting the big ones that need amendment: the Alberta Bill of Rights, the Alberta Land Stewardship Act, the Land Titles Act. It's all an excellent start.

The Chair: Sorry, Lindsye. We seem to have lost the audio. We're just going to pause briefly. I'm not sure if you accidentally muted

yourself, but we just can't seem to hear you at this time. Lindsye, I'm not sure if you can hear us. We have lost your audio.

I guess at this point in time I'm just going to pause briefly and allow the clerk to try to send a message through to see if we can get that connection re-established, in which we would proceed with the little over two minutes of presentation. Just give me two seconds.

At this point in time we have just lost the connection, so we're just waiting for the presenter to relog back in. We're just going to pause briefly. As soon as they're relogged in and we're good to go, we will proceed with the rest of the presentation.

Lindsye, hopefully, you can hear me and we have you back.

Ms Murfin: Yes. Technology never . . . [inaudible]

The Chair: Well, excellent.

Ms Murfin: I was almost done.

The Chair: You betcha. Well, we will provide you a few additional seconds due to the interruption. Please go ahead with the final part of your presentation. Please proceed.

Ms Murfin: Thank you. I appreciate that. As I was saying, the committee has done a really good job of highlighting the big legislations that need amendment: the Alberta Bill of Rights, the Alberta Land Stewardship Act, the Land Titles Act. It's a fantastic start. We would recommend that this committee also create a road map for including property rights in other legislation. On the top of that list we recommend the Carbon Capture and Storage Statutes Amendment Act and the Climate Change and Emissions Management Act. The carbon market and, specifically, the volunteer carbon market is on the verge of boom. It would be absolutely tragic if Albertans and businesses in Alberta could not benefit from this because of the regulatory handcuffs imposed by those acts.

Right on the heels of those in terms of priority would be recognizing the property rights for ecosystem goods and services, which would incent markets and stimulate the economy. This provides incredible opportunity not only for agriculture but also forestry, First Nations, other natural resource managers and could also ignite innovation through value-added opportunities. The government has indicated several times that it's interested in developing market mechanisms to encourage stewardship and the production of ecosystem goods and services, and we ask that you do deliver on this.

That's all we had prepared for our comments. I would be willing to take questions if anybody has any that come to mind.

The Chair: Well, thank you so much for joining us this evening, especially it was a little short notice. I know you had jumped in there to be able to do this presentation on behalf of Western Stock Growers'. Thank you so much for doing that.

We are at the point of the presentation where we do not have any further presenters online, so I am going to open it up to the members of the committee to ask any questions that they may have based on the presentations that we've seen this evening. I would please ask that if you are going to ask a question, please make sure you indicate to whom you are asking the question. At this time the first individual that has signaled me as the chair for questions is MLA van Dijken. Please go ahead.

Mr. van Dijken: Thank you, Chair. I do have a question for Mr. Dave Bjorkman. With regard to the Constitution Act of 1867 he alluded to that provinces were encouraged to develop their own constitutions, and I'm just trying to seek out more information as to how he may interpret that as being beneficial, for each province to

have their own constitution, and how that would translate into essentially more security with regard to property rights within Alberta.

The Chair: Thank you.

Mr. Bjorkman, I see you are still online. Please proceed.

Mr. Bjorkman: Well, everybody, here's the thing. Alberta is a hundred per cent ceded. We have the treaty Indians; there are 49 of them. One group is working with Edmonton right now. I'm sure you guys will get that in years to come. But we could take care of all of that and actually release a lot, almost all of the provincial Crown land. Albertans, you don't have access to all of what is Alberta.

We don't have Water is Life, which is important to see in the United States. Alberta does respect that. You guys have heard of Crown land. Some of our presenters here – I heard from Paul. He alluded to it. There was another speaker. We can go far beyond all this with constitutionalism, with the First Peoples, the treaty, the 49. We can get right into the Arctic with Treaty 8. We can also deal with the Métis. Alberta, to its credit, is the only province that dealt with the Métis and has actually settled all the Métis.

7:25

I don't know if Albertans know this. You have the most access in all of Canada in the province of Alberta to private property. This is long before the Conservatives. It's not that the Conservatives didn't know about it. It's just that it was done with the Social Credit Party. We're highly settled.

Constitutionalism could see that we get complete settlement, meaning unlocking all the land among many, many other things. It's not just property rights. Property rights are huge. It's everything, everybody. There's a tremendous amount of wealth that is given to us from 1867. When you go to section 92 – and I have the best constitutional experts in the world. Canada is number one. That's a fact. But I have them from everywhere in the world. So many from the United States. It's unbelievable. I can bring them all forward. I can release that to the UCP no problem. No problem. I don't mind doing that.

But you go to section 92. Part V says, "provincial constitutions." You see the Lieutenant Governor, the act of the Crown. The Premier can influence the Lieutenant Governor. They can work together. The Lieutenant Governor stamps all acts and bills.

We can go right through. Prime Minister Justin Trudeau or whoever the Prime Minister is can't refuse you. They have to follow. The Supreme Court will back you up. It's there in black and white. I have the best experts in the world. If people don't believe it, Richard Albert – you can't become a lawyer in Canada anywhere unless you pass his law portion of class right here in Canada. He's all over the world. He's the director of law of the state of Texas, which has a population almost that of which is Canada now.

You go to section 92(13), which is what we're here today on, subsection 13, property and civil rights, which is of the province. Right below it: "The Administration of Justice in the Province, including the Constitution." We don't have one, and we never have. No Premier wanted to give up that power. I'm not here to slam Jason Kenney or Rachel Notley before him. We could go on and on and on.

Alberta, you have a chance here. All of you do. Everyone can be heard: businesses, we could do conventions with all the First Peoples, absolutely all Canadians. I have it at \$13 million. Richard originally said \$10 million. He doesn't address the Arctic. He doesn't address the First Peoples. I've taken care of that. I've continued on in much, much more detail. I even have the Supreme Court of the United States of America. I just was in talks with them a week ago. People

can say that it's not true. I just did Ukraine live, Russia-Ukraine on the Russian Parliament. I even have Russian experts. There isn't anyone in Canada who has that, let alone the United States of America. I'm shaking ground, and I want to give that to all of my people right here in Alberta, address all the issues, not just property rights, all of it, one cost, one time.

This committee knows everything you can do in acts and bills. As I heard from Lyndsy – you were feeling the frustration, Lyndsy. But guess what? The next government coming in, that could replace, can remove all of it. We all know that. Every Albertan knows that. Let's just stop it all now. Let's give everyone a voice. Let's get a real education from all the greatest legal minds in the world with, like, the founding fathers. I would love to be a part of that. I wouldn't even charge the province of Alberta. This is ready to go. It could be in every community, in every reserve, everywhere for everyone over the age of 18 in conventions for about \$13 million – every Albertan over the age of 18 – for many months, just like this live stream we're doing now. Even in community halls where we can't get that Internet access, we could have that set up there; \$13 million for many months.

That would do not even just property rights, everybody: water rights and every kind of issue, all acts and legislation privy to the province of Alberta given to us by 1867. There ain't nobody who could stop that if the Premier said: okay; I submit the Crown doesn't work anymore. It's 2022. Let's do this. Jason could do that. You MLAs could do it . . .

The Chair: Mr. Bjorkman, please just wrap up your answer there. I'll just allow you a couple of seconds. Excellent. Well, thank you, Mr. Bjorkman.

Mr. van Dijken, does that answer your questions? Do you have any follow-up to that?

Mr. van Dijken: No. That's good. That's quite helpful. I look forward to possibly speaking with Mr. Bjorkman in the future.

The Chair: Excellent. Thank you, Mr. van Dijken.

Thank you, Mr. Bjorkman, for sticking around to answer questions.

Next question I have is from Mrs. Frey. Mrs. Frey, please go ahead.

Mrs. Frey: Thank you, Mr. Chair. I have a question for – my apologies – Mr. Allred if you're still on. You mentioned that we should be expediting a separate bill on adverse possession, and I was just curious as to why you chose adverse possession to be the single issue for that bill and why you would want to see that removed from a general Property Rights Statutes Amendment Act. Probably a pretty easy question for you, but I thought I'd give it to you anyway.

Mr. Allred: Well, yes, as you can appreciate, I'm a little frustrated. I've been fighting this thing for so many years now and not getting anywhere. Several bills have been presented over the last number of years, some specifically on the issue of abolishment of adverse possession, but some have been tied up with other things which have really stalled them. The issue of abolishment of adverse possession is very specific. There's a shovel-ready bill all ready to go.

You've got a problem? Have we got a problem, Mr. Chair?

The Chair: No problem. Please go ahead, Mr. Allred. I apologize.

Mr. Allred: Okay. Sorry. I thought you were pointing at me.

We've got basically a shovel-ready bill ready to go. MLA Gotfried presented one under the former government, and then I think there

was also another one under the former government that was presented by MLA Stier, but it was tied up with a bunch of other issues. The other issues bogged it down, and it ended up getting tabled into the standing committee on resource development, I believe it was.

What I'm saying is that you've got a simple bill ready to go. Put it through the next session of the Legislature without any other complications, and it should go through with no problem. As I indicated earlier, when I initially introduced my bill and my motion, I had all-party support. I wouldn't say that there was total understanding of it, and certainly in debate in the natural resources committee and in the debate in the Legislature last session it was very clear that a lot of MLAs didn't understand the concept of adverse possession.

Does that answer your question?

The Chair: Mrs. Frey, do you have a follow-up to that?

Mrs. Frey: I don't have a follow-up. That was great. Thank you.

The Chair: Thank you again to Mr. Allred.

Next for questions I have Ms Sweet. Please go ahead.

Ms Sweet: Thank you, Mr. Chair. I appreciate the opportunity to speak. I have a question for Lindsye and the stock growers' association. I appreciate the comments that were made in relation to legislation, but she'd also made comments about looking at the carbon market and the impact that that may have on agriculture. I was just looking to see if there was any additional information that she'd be able to provide in relation to – obviously, there are four protocols that already exist out of the 19 protocols when it comes to carbon offsets. Are there additional protocols or suggestions that her organization may have in regard to looking at the carbon market?

The Chair: Thank you.

Lindsye, if you're still online, please go ahead.

Ms Murfin: I'm still here. Yes. Thank you. I think it's important to distinguish between the regulatory carbon offset market and the voluntary carbon market because there are differences, and whereas a protocol might be legislatively required in a regulated carbon market, it is not in a voluntary carbon market, which makes the opportunity exponentially higher in a voluntary market. When I was talking about carbon markets earlier, I was specifically speaking to the voluntary market. Our organization, Western Stock Growers', is actually looking to pilot a free-market carbon and ecosystem goods and services opportunity for ranchers in Alberta, which would operate outside of the offsets.

Does that answer your question, Heather?

7:35

Ms Sweet: Yeah. That's perfect. I just wanted to clarify that you were talking about voluntary versus the protocols. Thank you.

Ms Murfin: Yeah. For sure.

The Chair: Excellent. Next for questions I have MLA Ganley. Please go ahead.

Ms Ganley: Hello. Thank you, Mr. Chair. My question is for Hannah Konschuh. Sorry; I may be mispronouncing that. I just wanted to ask some follow-up questions about procedure. I'm just a little bit curious about – you're saying that essentially the operators are providing compensation, which is 40 to 60 per cent of what was originally agreed, and then sort of threatening legal proceedings. I'm just wondering if you can expand on that a little

bit. Like, normally once an agreement is in place, you can't sort of unilaterally alter that agreement. That's kind of a very basic principle of contract law. So I'd love to hear a little more about that.

Ms Konschuh: Absolutely. Thank you for the question. It is a bit of a complicated process. Most of it is laid out and is dictated by the Surface Rights Act. I'll give you an example. We have some leases that have an anniversary date of January 1, 2006, so as per that contract every five years that lease needs – it comes up for renewal, basically. The Surface Rights Act dictates that the operator needs to make me aware of my right for a review every four years or every five years, and they must notify me on the fourth anniversary year.

So typically – well, actually, let me explain one important component. The compensation that I get paid on that lease is based on two main calculations. The first is called loss of use, and this is based on the loss of revenue that I would see if I was able to farm that land because it is my property. That calculation is based on: what would I grow there and what would I be able to sell it for? Basically, kind of you can think of it like an opportunity cost. The second calculation is adverse effect, so this speaks to the tangible and intangible losses that I experience from not being able to farm that land where the lease is, in my case farming. In some cases it's, you know, ranching or, say, a tree farm or something like that. That speaks to the extra time, the extra fuel, the noise, the extra contact I have with the operator.

That's what that calculation is based on, and it's not just some random number that's thrown out. It is based on those two things. Typically every five years, based on my market conditions, that lease rate has gone up depending on the market conditions. Within the last couple of years the very surprising thing that happened was that operators were trying to drastically reduce that payment. It was arbitrary, so they were citing things like: we are suffering. Obviously, all of us are aware of the fact of the ups and downs of the oil and gas sector in Alberta, but we're now in a place where we all know where the natural gas price is. The fact that they're still trying to pursue those drastic reductions – and Paul alluded to this earlier in his presentation. It's completely arbitrary, and it's very damaging and, you know, stressful for landowners who would much rather be able to farm their land than have to deal with basically fighting oil and gas operators.

I hope that gives you a bit more information about the process.

The Chair: Ms Ganley, do you have a follow-up?

Ms Ganley: No, I don't. Thank you. That was super helpful.

The Chair: Excellent. Thanks again to Ms Konschuh for being here as well and answering questions in addition to your presentation.

At this point in time I have no further questions, and we have no further presenters this – oh, sorry. I just was notified by the clerk that Ms Ganley has one more question. I apologize, MLA Ganley. Please go ahead.

Ms Ganley: I absolutely do. If Mr. Allred is still on, I have one more question for you. I was just curious. The committee received a briefing from ALRI with respect to – like, the bill which comes before the committee has one way to eliminate adverse possession. In some ways it differs from the recommendations that ALRI made about how to get rid of adverse possession. I'm just curious: when you're saying that you have a ready-made bill, are you suggesting that we do it the way ALRI wants it done or the way it was in, I think, Bill 206?

Mr. Allred: Well, I guess from my perspective – I've looked at the ALRI recommendations, and I think they're fine-tuning what we

have recommended and passed. Personally, I didn't see that they made a lot of difference. I think they were maybe taking extra precaution, you might say. I know that you're a solicitor. You probably have a better concept than I do, and certainly your legislative draftsmen will look at those. I don't think I can really give a good answer to that because I've looked at them and I've looked at the previous bill and I don't see that makes a lot of difference. You'd be better qualified to decide on that than I am.

The Chair: Ms Ganley, do you have a follow-up to that?

Ms Ganley: No. That was everything. Thank you very much.

The Chair: Thanks again, Mr. Allred. Thank you, MLA Ganley.

I'm just going to briefly pause to make sure that we don't have any further questions for any of our presenters this evening.

Seeing and hearing none at this time, I want to, just before everyone goes, say thank you on behalf of the committee members and myself for taking the time this evening to present to this committee on what many of us believe is one of the most important topics and a pillar of our freedom and rights here in Alberta. Thank

you again for taking time out of your busy schedules and being here to present and provide information to this committee.

At this time we are moving on to the next agenda item, which is other business. Are there any other items that members would like to discuss today?

Seeing and hearing none, we are moving on to agenda item 6, date of next meeting. The next meeting will be at the call of the chair.

Moving on to adjournment, if there's nothing else for the committee's consideration, I will call for a motion to adjourn.

Mr. Nielsen: So moved.

The Chair: Moved by MLA Nielsen that the meeting be adjourned. All those in person in favour, please say aye. All those in person opposed, please say nay. All those online in favour, please say aye. Online any opposed, please say nay. Hearing none, that motion is carried.

Thank you, everyone. This meeting is adjourned.

[The committee adjourned at 7:43 p.m.]

