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HANSARD

*Speaker: Honourable Derek Bennett, MHA*

Wednesday

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(Night Sitting)

The House resumed at 6:30 p.m.

**SPEAKER (Bennett):** Order, please!

Admit visitors.

The hon. the Government House Leader.

**J. HOGAN:** Thank you, Speaker.

I move, seconded by the Deputy Government House Leader, that this House resolve itself into Committee of the Whole to consider An Act to Amend the Lands Act No. 2, Bill 68.

**SPEAKER:** It is moved and seconded that I do now leave the Chair for the House to resolve itself into Committee of the Whole to consider the said bill.

Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

On motion, that the House resolve itself into a Committee of the Whole, the Speaker left the Chair.

### **Committee of the Whole**

**CHAIR (Trimper):** Order, please!

The Committee of the Whole is now considering Bill 68.

A bill, "An Act to Amend the Lands Act No. 2." (Bill 68)

**CLERK (Hawley George):** Clause 1.

**CHAIR:** Shall clause 1 carry?

The hon. the Member for Humber - Bay of Islands.

**E. JOYCE:** Thank you, Chair.

I'm going to stand and have another few words on Crown Lands. If you hear the rhetoric going back and forth: Well, you know we're going to stand by what you said in 2015 and if you do that, we're not going to get nothing done. It's going to make it bad. I can tell the minister, that's not helping Mr. MacDonald who can't get his land. That's not helping the Joyce family out in Lark Harbour who can't get their land. That's not helping anybody in Newfoundland and Labrador.

This is why when you come up and you discuss an issue, you go ahead and you debate an issue and you put your views across. I'm sure the views of the Members opposite, of the Loyal Opposition that were elected, they're doing it on behalf of their constituents.

**SOME HON. MEMBERS:** Hear, hear!

**E. JOYCE:** No matter who you are in this House, if you're standing up on issues that are brought, you're doing your job. This kind of thing of belittling people because of what you're bringing up, my blessed Lord. I can tell you Crown land is a major issue.

When you have an older person – and I can name them, I have 10 or 15 of them – who you say, okay, go back instead of 20 years, 10 years. How about go back to 1940 when they thought they lived there. Now they want to give it to their kids and they can't, what do you do then? What do you do? You say pay for the land. They can't afford it, they're on Old Age Security, they can't afford it.

This idea of saying look how good we're doing, we're going back 10 years now and not 20, it's just wrong. You don't understand rural Newfoundland and Labrador. You don't understand it.

Then when you stand here and you talk about – this is something that we need straightened up – dispossession of the land. I was at the briefing and what it said, what I understood and I use the example, was Musseau's Avenue in Curling. That piece of land was there for at least 80 or 90 years,

close to 100 years probably when the church started there in Curling, probably even well before that. Now, a lot of the people who bought the land, now reselling and saying no, you didn't own the land, but the City of Corner Brook came in, they developed the land, water and sewer on the land. The land changed hands many times.

That's the intent, I thought, dispossession of the land. Not this idea that you go up to Bonavista and say here's a big piece of land and now it's not Crown land. That's not the idea I got at the briefing, I could be wrong, but it's not the idea I got at the technical briefing which I attended.

When you look at the whole situation with Crown Lands and people, one of the biggest issues that you get who wants to apply for Crown land, under quieting of titles, is what is acceptable? I'll give you examples because I've dealt with it more than once. One person puts in an application, they get three or four affidavits, no one objects it's your land. Someone else does the exact same thing and they say: No, well we're not sure of those people, are they of sound mind? Do they know how long they've been living there? That's rejected.

There's nothing in this bill here that would generate a consistency in acceptance of Crown Lands. Absolutely nothing. It depends on who the officer is and who it goes to.

I'll go back, you want to talk about inconsistencies, why I bring that up, I remember the Qalipu. This reminds me so much of the Qalipu, when people were applying to be accepted in Qalipu. They sent up 20 people from Newfoundland, they start accepting applications.

You got an application and you said: Yes, you're in. You said: No. They were twins, actually twins, I know them personally. This is what happens here with the Crown land. So if there is some way that we could put in here, in this bill, what is acceptable for quieting of titles so that you can get the land, but there's nothing here. Absolutely nothing.

This is what we need changed. We need consistency in the whole process of Crown Lands. How do you appeal it? I can name many examples, many. The one that I was dealing with was one out in Cox's Cove, three cabins; a father had a piece of land, he split it up to his three sons. Boom, boom, boom, three pieces of land, three cabins. Three of them went to get the title to the land, two got accepted and the one in the middle never – same father.

**AN HON. MEMBER:** (Inaudible.)

**E. JOYCE:** No, but it's serious. Here's Crown Lands saying to them: You're on our land, by the way. And they're saying: Hold it now, this here was a block of land. But they can't get no one to come out to look at it to say, yeah, the two cabins are there, here's the third one, here's the father's deed, here's what our father's will says, and can't get it done. That's the frustration.

The way they've got it taken now is they've got to go to court to try to prove that, spend a lot of money to prove it. That's the inconsistency of Crown Lands.

The other thing – and the minister could speak on this when he stands – what if you send out referrals and you don't receive them back? Because I know one of these statements that was made in the media, that if you don't hear back in 20 or 30 days, assume that it's done.

So that's the other question on this here. I'll give you an example. If you send out a referral to the city of Corner Brook, which I gave as an example last night, what if you don't receive those referrals back in 30 days? Is there some way that you highlight it to make sure that you get the referrals. If you don't get it, do you say now that it's approved.

**P. LANE:** Yes, that's what he said.

**E. JOYCE:** But it's not in the legislation.

**P. LANE:** They give them an extra seven days and then it's approved.

**E. JOYCE:** Give it an extra seven days and it's approved, but is it in the legislation? It's not?

**AN HON. MEMBER:** No.

**E. JOYCE:** It's not in the legislation. So we might say it here in this House as a legitimate concern because I know I dealt with some that never ever got the referral back and it was denied. Then later on, you go back to check with the town and the town says: Here's when we sent it, but it was denied. Oh, we made a mistake, put another application in, another \$175. That's what happens.

So I'll leave that to the minister to see if the minister can put it in the legislation itself that if you do not receive the referral after 30 days, it is automatically approved that they agreed to it. But if it's not there, I can assure you, as sure as we're all in this Legislature here today, there is going to be inconsistencies where one is approved, one is not, or one is delayed and someone else is going to put another application because of it; guaranteed, as sure as I'm here. The same way with the application process, who gets it and who doesn't get it.

Another thing that's not in the legislation, and this is one of the biggest concerns that I hear, is that you can't speak to anybody in Crown Lands. You have to put it in online. They're digital. Just think about ourselves, how many seniors do we know that don't use a computer? How many of us can count the seniors that don't use a computer?

So some senior wants to try to book an appointment, how do you do it? They haven't got access to a computer. If they did, nine chances out of 10, they're not very familiar with it. They can't get hold of anyone on the phone. They can't walk up to the office because they're going to say turn around and say you have to go make an appointment. They'll say can you make an appointment for us? Oh no, we don't do that.

Do you see where the issues are going to come up? As we go on in time, and I am

going way back, I'm going back way in 1989, 1990, with Clyde Wells, it's getting worse every year because the older people that had lands are in their 80s now and trying to give it back to the kids and are finding out that they did not own the land.

This is why we're finding more cases where people had a house on it, trying to give it to their son or daughter or trying to divide the land between their family members, that they can't do it. There's nothing in this legislation that goes back to before '56 to help with that because there is a lot of land here before that era that I can assure you a lot of people got and want to pass on, but they can't. So they're just going to keep it there. Hopefully, Crown Lands won't come back and take the funds.

Thank you, Chair.

**SOME HON. MEMBERS:** Hear, hear!

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Thank you very much, Mr. Chair.

Thank you everyone for participating in this discussion in the Committee of the Whole on Bill 68, An Act to Amend the Lands Act. I am very, very proud of the fact that, in 48 years, this is the first time that substantial amendments have been fostered for the *Lands Act* and they go beyond – well beyond – many of the recommendations and considerations that were made during the course of consultations.

For example, during the course of consultations, I had not heard of any reference or any support for an appeal board. But since I have announced that there shall be an appeal board for those who are grieved with their adverse possession applications, I have heard nothing but support for that initiative, recognizing that it was very innovative, very novel, unanticipated and supported.

But, Mr. Chair, the hon. Members opposite seem to be perpetuating a circular position

of contradiction. They say on one instance you must abide by the blue-ribbon panel, to do anything less would be in contempt of the public interest and it would disrespect the Auditor General and her work. That is exactly what the –

**E. JOYCE:** Point of order.

**G. BYRNE:** Mr. Chair, please do not accept a point of debate as a point of order.

**CHAIR:** Order, please!

The hon. the Member for Humber Bay of Islands has a point of order. Excuse me, Minister.

**E. JOYCE:** Mr. Chair, the minister just stated that the Members opposite was talking about the blue ribbon. I never, ever brought it up. So I ask that section 49 –

**G. BYRNE:** This is not a point of order. This is a point of debate.

**E. JOYCE:** I'm just saying that you're stating that the Members opposite just spoke and are bringing up 2015. I at no time brought that up, at no time. So I ask the minister to clarify that or withdraw the statement because you just heard what I said and I did not bring that situation or that report to my speech.

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Thank you very much.

I believe that point of order was not a point of order, it was a point of debate, which would not be consistent with our *Standing Orders*. With that said, that assertion that the hon. Member makes was not made. This is in reply to two successive, consecutive speakers. So, Mr. Chair, while we engage in the discussions on the floor, while I know that the hon. Member may think that all of my comments are made directly at him, I'm responding to two consecutive speakers.

The tone of the debate or the content of the debate thus far –

**CHAIR:** Order, please!

There's a lot of liberty; as long as we're staying focused on the bill, I'll allow it.

Please continue, Minister.

**G. BYRNE:** So I'll respond to the Member for Humber - Bay of Islands shortly, but first I will respond to the Members opposite who made the case – and clearly made the case – that there's an expectation that the government must abide by the blue-ribbon panel, and to do anything other than abide by the recommendations, the core recommendations of the blue-ribbon panel, would be in contempt of the public interest. They further suggest that it would be a disrespect to the Auditor General and her work.

But then I would argue and say with conviction, that they make a half-worked argument that the blue-ribbon panel is flawed and that it should not be accepted because it does not necessarily meet the expectations of their constituents. Mr. Chair, which side of the argument are they going to follow?

So with that said, I will move to some of the issues that have been raised by the hon. Member for Humber - Bay of Islands. He asked a legitimate question, that our referrals that are not replied to, what is their status? Referrals that are not replied to by a department agency or government entity, what will be their status?

As I have said repeatedly on many occasions, they are deemed accepted. There will be a 30-day expectation of a reply; should the department to which the Crown land application has been referred to request a seven-day extension, a seven-day extension may be granted, but the answer must be given within 37 days. We don't know what the answer will be, but an answer must be given within 37 days.

So to answer the question to put it in legislation or not, one of the issues that hon. Members have raised is on one hand they demand rigidity to put it in legislation, while on the other hand they demand flexibility. So allow me to give an example as to why it may not be in either the public's interests, your constituent's interest, or the public good to put all things into legislation, statutory deadlines on all things.

For example, say there was a forest fire in Eastern Newfoundland that shut down operations of offices for a period of time; a very, very unfortunate situation but it does happen. When you prescribe something in law with a defined period requiring a reply, there is no option not to comply. So that is one of the flexibilities that we have.

In this particular bill, we will remove the statutory requirement for supplying a real property survey from a registered surveyor. Why would we do that? Because now it says you must do it within receipt of your letter of authorization. You must submit your survey report from your registered surveyor. I have been inundated by requests from Members opposite to waive that statutory limitation, that statutory period, because their constituents were unable to meet that deadline, but when it's written in law, you must meet that deadline.

So we are removing that deadline and we're making it more flexible. That is one of the reasons why the hon. Member for Ferryland and I had a great discussion last night and in the previous days and weeks before about the value of doing just that and why I think the hon. Member for Ferryland was caught off guard when the leader of his party stood on the floor and argued that we should have statutory deadlines because he would argue that we should not. These are the realities of the fine art of legislation, of building statutes.

So with that said, we also have the argument of empowered public servants and I respect that because I have a huge amount of respect for public servants. Then in the next case, we have arguments that public servants' decisions are often very

inconsistent. So here's how we do both. We apply clear policies which have not yet been done. We apply clear policies, an exercise which has never before been done. Many of the Crown Land's policies actually date back to 1985. We are fixing that. We cannot apologize for those before us because there has been 48 years of this. We can simply adapt to the circumstances we are in today and fix it.

At the same time, while we respect and empower our public servants and give them the ability to do their job consistently and professionally and to have pride in their work and have their work received with confidence, we also accept that there's deserving of an appeal process, which has never been thought of before. We're giving applicants an appeal process so that if they feel aggrieved by the conclusion of the application, they can move forward to an appeal.

This, Mr. Chair, is what this bill is all about. I hear constantly stories which are very, very difficult, that are very, very real, but there's a suggestion that they are current, that this bill will not fix them. The reality is, in many, many, many of these cases, the current legislation, which they feel is flawed, will fix these very problems. It is important that hon. Members perpetuate a position which is not circular, which is forward-thinking. Do not perpetuate a circular position of contradiction; perpetuate a position of advanced thinking.

Thank you very much, Mr. Chair, I appreciate that.

**CHAIR:** Thank you.

I now call the Member for Conception Bay South.

**B. PETTEN:** Thank you, Chair.

Chair, a lot of people in this province, a lot of people in this Legislature are hopeful and wishful for a piece of legislation on Crown land. It's something that we've been waiting for and hoping for, for a long time. But when you sit there and listen to this, I don't know,

I can't put a term on it, what the minister is getting on with.

We are here, goodwill, we want to try to get a good piece of legislation. There are no punches pulled. It's a very open process. We've had a conversation. There are some amendments. There are a couple of clauses. I've had conversations with the minister. It's the way legislation should be debated. Maybe we'd go to Committee. In the absence of Committee, we're being very forthright on this. We want a good piece of legislation that everybody in this House and everybody in this province can live with. Because it's going to affect our constituents, just like it's going to affect government's constituents. We see issues, we bring it up. It affects every other Member in the House of Assembly, not just the PCs, not the NDP, not the independents.

For the minister to be standing and sitting in his place – he's sitting, maybe he should be standing – and to be making these references of the blue-ribbon committee, the blue-ribbon committee, the blue-ribbon committee, I take great exception –

**G. BYRNE:** Point of order, Mr. Chair.

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture on a point of order.

**G. BYRNE:** May I inquire to the Chair as to whether or not it's proper and reasonable for Members to assume a seated position in the (inaudible)?

**CHAIR:** You can sit or stand, Sir.

Please go ahead, proceed, the Member for Conception Bay South.

**B. PETTEN:** But to be referencing this committee as a blue-ribbon committee and making references to a PC committee. It's not the blue-ribbon committee, either. This Committee was formed in 2015 to review Crown Lands. This Member was a minister in 2017. The government is going on their 10th year and they finally brought it on themselves to bring in legislation that we see issues with.

We have every right to debate it here in the House and get the proper piece of legislation, but to do a respectable debate. Every time you get this show, this spectacle that we're seeing here, to make references to this blue-ribbon committee. This committee is a spectacle. This Committee is the Review Committee and we "would like to thank everyone who participated in this review. Especially for the assistance provided by solicitor, Jennifer Berlin" – I have no idea who she is, I don't know if she wants to be appreciated to be part of a blue-ribbon campaign; it sounds like we're talking about a type of chicken, I mean, come on – "on topics of Cabinet and ministerial authority, access to information and protection of privacy, abandoned lands and fencing. Patrick Cahill, a Memorial University student, also provided the committee with much appreciated research support.

"The Review Committee is also grateful for the support and guidance of the Advisory Committee. Specifically a very special thank you to:

"Mr. Denis Barry" – very respected – "QC, Law Society Representative

"Ms. Dianne Smith, QC, Law Society Representative

"Mr. Herb Edwards, Solicitor, Justice and Public Safety

"Mr. Peter Howe, Assistant Deputy Minister, Lands Branch, Municipal and Intergovernmental Affairs

"Mr. Kevin Guest, Director of Communications, Municipal and Intergovernmental Affairs."

None of them would appreciate being called part of a blue-ribbon committee. They were part of an Advisory Committee to work on getting a good piece of legislation back then in the day in 2015.

I have said in this House on this legislation, when I spoke on it yesterday or last night, there are lots of issues with this 2015 report,

but we said why didn't they take that as being the good start, a first step in solving, getting to work on fixing the issues with Crown Lands. That was always said and we've talked about it. There are issues. There are concerns. I've heard the minister – I would have to go back through *Hansard* and count – more times than I want to count: We're big supporters of this and picking apart this piece of legislation. How disrespectful to the people who are part of this Committee.

I don't know those people, I know a couple of them, but those people deserve better. These people who volunteered, they gave their time to make this a good piece of legislation. I know Mr. Barry, I spoke to him a few years ago on this and he was always frustrated. He's retired now, but he was very frustrated that the government of today, the Liberal government, never took this Committee report and done some work with it. We're not saying this is a good report. We're not saying it's flawless. There are parts of it that's good, parts that's not.

But to listen to the minister sit in his place and make an absolute mockery, an absolute mockery of a good debate. We'll get here sometimes in our debates and some of it is routine, but this legislation means something to everyone in this House. We're doing it for a reason. We're not here to be sitting down and trying to outwit one another in a debate on Crown lands. I find it so offensive. It should be offensive. It is offensive to me and I know all of my caucus and I think most people on this side of the House, it's offensive.

The minister has been around here for a long time, at what he's at, and it's fine for him to do it at times, because most times, to be quite frank, I don't pay attention to him much – very little. It's unbelievable what I can tune out. But I do care about this legislation because once it's passed, I think there are going to be issues with this legislation that's going to affect a lot of people.

I think the word is not out on the street yet. People don't know what's in this legislation.

We're trying to communicate it, but I think once it's passed, you will be hearing question after question, and that's the reality of the world we live in. They're going to say, what's that? We heard about the legislation on the ATVs, bikes and helmets months later.

What frustrated me was, didn't you realize we were debating it? It was on VOXM, we were in the House debating it and we were sitting nights debating it. They didn't know. I get it, everyone is busy. Everyone is not plugged in to watching this every night. Most people, if they hear about it, they might go in and look at it online.

But that does not excuse the behaviour that I'm watching here tonight, the minister showing absolute disrespect to the House and to this Committee that was formed in 2015, and to Members of this Legislature who are here to debate a good piece of legislation. They sit in their place with a smirk and laughing and really, in my mind, making an absolute mockery of every question colleagues are asking.

I mean, I know they're offended. I'm sitting here listening to it. I wasn't even going to get up. I mean, you're forcing the standing up because you feel you have no choice because the way that man gets on don't do any justice to this House. It does not do any justice to the people of the province, any justice to the department he serves and, heaven forbid, the district he represents.

Thank you very much.

**SOME HON. MEMBERS:** Hear, hear!

**CHAIR:** The hon. the Member for Exploits.

**P. FORSEY:** Chair, it is good to get up and debate Bill 68 again. I'm listening to the debate on this side of the House and listening to the debate of different Members. It's healthy.

We've been waiting for years for some legislation to come into the House of Assembly. We're trying to get it right. The people of Newfoundland and Labrador want

us to get it right. It's something that they've been asking for, for years, and all we're doing is trying to make it right and make it easier for the people of Newfoundland and Labrador to acquire the lands that they've been trying to acquire for years and years without obstruction from Crown Lands. That should be done.

To listen to the minister come up with and say that – he's already said that he's not interested in our advice. He's already said it – not interested in our advice. We're in the Committee here where we ask questions and now, when it comes to questions, the minister says he haven't got any questions in two weeks. We've been asking questions for five years.

**SOME HON. MEMBERS:** Hear, hear!

**P. FORSEY:** We've been asking questions for nine years and haven't got an answer. So now he hasn't got a question in two weeks, but I tell you, we're in Committee, we've got lots of questions for the minister. We'll have lots of questions for the minister. Actually, I'm going to ask a couple here now in a minute just to see if we can get started on some of his questions.

Anyway, I'm hoping he's going to answer those questions when I get a chance. But first of all, I'd just like to continue with what's happening here. So that's the reason why we're here. And those questions in Committee will help this debate. We've got some amendments to put through. The minister has already said he don't care about our advice. He doesn't care what we're putting through, don't care what we're trying to help with, but we're going to put through those amendments. So what I do ask the minister is to accept those questions, accept the debate, listen to the debate in good faith, and let's do it right.

When we present amendments, we do this to help the people of Newfoundland and Labrador. We might see something in that bill to help make it better for the people of Newfoundland and Labrador. We want to see those changes. I heard the minister on one of the talk shows saying when he was

bringing in the legislation for Crown Lands, saying what they were going to do, news releases went out, they got out and talked about it, and he was on the talk show: I'm the champion for Crown land. He said he was the champion.

So if the minister wants to really be the champion, he'll listen to all the debate, he'll listen to, certainly, the people of Newfoundland and Labrador, and he's listening to our advice, take some advice on questions, take some advice on some issues that we've got, and take our advice on the things we're going to put in, and then if the minister wants to be the real champion, he can claim his own title.

He certainly can. He can claim his own title and we'll give it to him. But this is going to take some debate from the Opposition, it's going to take some debate from other Members in the House, and we've heard stories from Members of what they've been going through, what they've heard constituents going through, what they've heard the people of this province go through.

We do have some problems. We mentioned them last night. Right off the bat, the five years to get all this done. We mentioned it last night. I'll mention it again now. With the scathing report of the Auditor General of her concerns of the inability for government to administer Crown Lands and they're going to get this done in five years. They've got boards to set up. They've got to pass the resolution. They've got to get all these amendments done, put them out. They've got to have people put in their applications. You know, we've got areas that are totally Crown lands.

All those applications coming in, one appraiser doing the job and they expect to get this done in five years. They're not going to start in five years. So that needs to be lifted. That's one thing that we will be asking for, by the way. I'll wait until we get there.

That's going to be a challenge right on its own. There are some other questions that are going to be asked here and we do ask

the minister – we're not doing this to be stars. We already got us to this point. We brought in the PMR. If he wants to think that we're showboating, we already brought in the PMR. The PMR is what got us here in the first place – twice.

The first time, they felt there was no problem, so they turned it all down. The second time, well, maybe they've got a point, so we'll agree with it. So why not accept, now, some of the references that we're going to use, some of the questions we want and some of the amendments we're going to use? If the second time you thought about it and they said, oh well, probably, we should bring in some legislation, it seems, this time, we must have missed something the first time they brought in the PMR.

So with that, you know, the minister just can't come in here and push this bill down our throat and say this is the way it is. This is the way it works. This is the way it's going to be and accept it. We're just here to debate it. We'd like to see some healthy debate, whether it's amendments, questions and for the minister to accept some of those amendments, accept some of our suggestions and as a whole body, here, as 40 Members in the House of Assembly, after 50 years, five decades, according to the minister that we've had problems, so we would say that it would take 40 Members to at least get this right for the people of Newfoundland and Labrador.

**SOME HON. MEMBERS:** Hear, hear!

**P. FORSEY:** That means suggestions in legislation brought in that we can debate from the government, some suggestions that we can provide on this side of the House of Assembly for all people, the Third Party, independents, that we can have some healthy debate, some healthy answers, some healthy solutions. I'm sure the minister doesn't have it all. I'm sure he doesn't have it all. But with everybody collaborating and working together, by the way, which you want us to do all the time – we have no problem collaborating and it's about time we did.

This is a very important piece of legislation. We're bringing it into the House of Assembly, and we need to debate this right and get it right, and the minister should take advice. Never mind saying he's not going to take advice right off the cuff. Right off the cuff, not going to take our advice. We're not even into questions. He doesn't even know what we're going to propose. He doesn't even know.

So that attitude from the minister really says that there's no collaboration in this House. We're not going to help debate the bill, which is too bad that the minister takes that attitude. But we will be asking those questions. We still will be putting our suggestions forward and the Members, I'm sure, will be telling their stories, because the stories that's out there, sometimes it's frightful. We saw the big dollar values. We saw that.

So with that, maybe I will ask the minister a question. If he wants some questions, Minister, let's start with a question. If you want a question, here's one: With regard to the quitclaim, what documentation will a person be required to provide with their quitclaim application?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Thank you, Mr. Chair.

It's very simple, very rudimentary. It's nothing too complicated at all. It's perhaps a copy of your driver's licence indicating that that is your primary address, the tax bill from your community. There could be some other additional information that might be required if there's some ambiguity about that. But that's about it.

So I think that the hon. Members opposite might be saying that there's some other plot here, but providing a copy of your driver's licence, maybe a tax form where you do actually indicate where your primary residence is, that's about the extent of it.

Thank you, Mr. Chair.

**CHAIR:** Thank you.

The hon. the Member for Exploits.

**P. FORSEY:** I ask the minister, what would happen in an LSD or municipality? Or LSD or UIA (inaudible)?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** (Inaudible) as long as it's an organized community where there is a Local Service District committee that would be applicable as well.

**AN HON. MEMBER:** Do they pay taxes?

**G. BYRNE:** They do. They pay committee fees.

**CHAIR:** The hon. the Member for Exploits.

**P. FORSEY:** Just another couple of questions – if the minister wanted some questions, we'll give him some.

The minister will be able to set terms and conditions. Can the minister provide them to the House?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** The nature of terms and conditions are normally – they are policies, and they are currently being drafted. But that is the direction of the policy. That is the normal course of establishing a government process, and that's what we're doing.

**CHAIR:** The hon. the Member for Exploits.

**P. FORSEY:** How high will the bar be, to prove ownership? How high?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** I think we just indicated that. That may be a redundant question, but by the municipal tax bill, CRA tax return, and maybe something to the effect of a driver's licence. If for some reason the applicant

themselves do not have any of those documents, we may move to other instruments, but that's a flexible policy process.

**CHAIR:** The hon. the Member for Exploits.

**P. FORSEY:** Certificate of disposition: Where and how will these be determined?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** A certificate of disposition is for larger areas of land within municipal planning boundaries. They will be determined first by consultations with the municipality themselves, and secondly will use such instruments as aerial photography and other things to establish that there is clear dispossession of the Crown. It's been noted that Prescott Street, right now, is considered Crown lands.

I want to be very mindful for everyone to note that right before you enter the Crown Lands Atlas, there is a disclaimer that says this is to be a helpful tool, but it should not be used as a depository or registry of title, of chain of good title. It's to help you understand what is known, but don't take this to be a final legal instrument or tool to determine it.

If that is causing confusion, I've asked my deputy as of today, because this seems to be creating confusion, we will happily take the land use atlas down. If it's not achieving what it was supposed to do and if people are feeling as though this was a hindrance to good information going out, maybe it's time to take the land atlas down. But that's what it was intended to do. That's what it says right upfront, is that this is a tool; do not consider it to be a descriptor of a legal title. And there we go.

With that said, to answer the earlier question more specifically, we will look at legacy towns. Those towns are not restricted to two, to St. John's and to Bonavista. We will look at all areas of the province, both Labrador and the Island of Newfoundland and basically consult with

towns to determine where land areas, neighbourhoods have been clearly dispossessed from the Crown and offer certificates accordingly.

**CHAIR:** The hon. the Member for Exploits.

**P. FORSEY:** What isn't a definition of quitclaim being added to the legislation?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** A quitclaim is simply a deed, a statement, a certificate that says the Crown does not own this particular property. It's not necessary to advance it in legislation because it simply states the Crown does not have an interest in the property.

**CHAIR:** The hon. the Member for Exploits.

**P. FORSEY:** So why are people being charged for a quitclaim?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Because before the issuing of the quitclaim, the Crown may have an interest in the property. That's why we offer the quitclaim.

The hon. Member may not know this, but quitclaims have been issued by the Lands Branch for decades. Many people have quitclaims today. This is not a new instrument. It is now that it's being established within the context of the legislation. We're establishing a quitclaim within legislation for the very first time.

That doesn't necessarily give it any more particular power or effect, but it does resolve things from the point of view if there was ever any judicial interpretation where the quitclaim itself was brought before the courts or referenced by the courts, the statute, by referencing it and establishes its validity, it's helpful to court review.

With that said, the Crown Lands Branch has been issuing quitclaims for decades. So why and where would we issue a quitclaim?

When there's a situation where the Crown has been clearly dispossessed – and this is the way it has always been – an applicant may come forward with an application for squatters' rights, for section 36 rights, and the application itself may show that the Crown, between the period of 1957 and '77, the Crown was clearly dispossessed. Someone was on that property, occupying that property, using that property, openly and notoriously, consecutively, exclusively for the entire period between 1957 and '77. That's been produced by the evidence itself and the Crown accepts that, that somebody has been there.

I'll use this with a tongue-in-cheek example. Say, for example, your great-grandfather may have had six children and one of those children, your grandfather, may have had five children and you can see the family tree spread out. The purpose of a quitclaim is when the Crown is quite confident and willing to certify, to say out loud, that the Crown has been dispossessed from this but because the investigation will not allow us to do so, because you have not produced a chain of good title, a verifiable chain of good title, that we can't say with certainty who owns that land.

Therefore, for decades, the Crown has been issuing quitclaims. What the quitclaim says is we can't say for certainty whether it's you who owns the land or your cousin or your 16 cousins, or your brother and your sister and you or whomever, but we are prepared to acknowledge that it's not the Crown. That's what a quitclaim is. They have been issued for decades.

**CHAIR:** The hon. the Member for Bonavista.

**C. PARDY:** Thank you, Minister.

I'm well aware of the quitclaims, but I know that I can give you lots of examples in the District of Bonavista where there was no competing interest for the land and the Crown stepped in there and sometimes it ended that they bought the land from Crown. Other times is they knew that if

finances weren't available, that they just gave up the pursuit.

My colleague from Exploits asked you about certificates, and I was a little bit set back in the answer. You had stated, in the response to the question, certificates of dispossession, number one, look at larger areas of land. Then you said consultation with municipalities. I think then you may have said legacy towns, and then the last qualifier you had mentioned was aerial photography. Then you talked about Prescott Street in St. John's.

We know I come from a district where a large portion of the peninsula, all those communities that I mentioned to you in a previous address like Plate Cove East, Plate Cove West, Tickle Cove, Open Hall, Old Bonaventure, these aren't municipalities, and there's no municipal tax roll.

But one thing that you didn't state – and I'm not using the Lands Act Review of 2015. I'm now just referring to the Canadian Bar Association reforming the law on adverse possession in 2021. Here is what they state, which you didn't state in your answer: Quitclaim – here's what they say on page 25 – is seen as unnecessary in circumstances where lawyers have certified land as owned, grant a quitclaim by default. You gave four examples, but you didn't use anything on the Registry of Deeds or the registry of what the law association, which is governed by the laws of this Legislature, in law, to conduct land transactions, but you never once used that term.

Here is what they say: "Crown Lands does not consider the effect of registered documents ... this has been the point of registration for private land claims for almost 200 years." Now I know that you're interested who the new proponents are, like you did on the 2015 Lands Act Review. So just for the sake of reading into *Hansard*, the House: Adam Baker, lawyer from Corner Brook; Gregory French, a lawyer from Clarenville who was the report's author; Christopher Gill, St. John's; Keith

Morgan, St. John's; John O'Dea, St. John's. That is from what they say.

But you never once said that, and if that is correct, that means that the practice from Crown Lands is that you don't refer to anything that the lawyers have registered, because you didn't even include it as number five.

Now can we revisit that again and can you rationalize why you don't use the Registry of Deeds, a registered legal title of the land that would give and provide a quitclaim to demonstrate ownership of land and ownership of land means it's not Crown land?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**SOME HON. MEMBERS:** Hear, hear!

**G. BYRNE:** That's interesting advice, Mr. Chair, because one of the things we also note that the Canadian Bar Association, Newfoundland and Labrador Branch, as well as, I think, joined by the Law Society of Newfoundland and Labrador did say is that we should not have a 20-year possessory period or a 10-year possessory period, we should have a 40-year possessory period. The hon. Members may want to hear the answer to the questions that they just asked.

With that said, I'll start again. One of the things that the Canadian Bar Association, Newfoundland and Labrador Branch did advocate for, as did the Law Society of Newfoundland and Labrador – I think I'm making a fair (inaudible) of their presentations – is that they did not advocate for a 20-year possessory period. They did not advocate for a 10-year possessory period, they advocated for a 40 year. You would have to supply evidence to the Crown that you possessed the property for 40 consecutive years. That is what they suggest.

I think that's a higher, harder standard – that's a higher, harder standard. So, with that said, let's examine lawyer's certified

title because I think the mistake the hon. Member has made is suggesting that the lawyer's certified title could be a replacement for otherwise good title achieved through the act. In order for a lawyer to certify title – and, by the way, there is no such thing in law, in regulation, in the *Quieting of Titles Act* or the *Lands Act* about what lawyer's certified title is. A lawyer's certificate, it does not exist. It is a convention that is often used to describe something that lawyers do, that they provide a lawyer's certificate for something. But a lawyer's certificate is interesting, because do you know who often takes the greatest contention about the validity of a lawyer's certificate? Lawyers.

I keep on repeating this: In a real estate transaction in the legal business, and it is a business, they may say the lawyer for the buyer is preparing to produce a lawyer's certificate that says that the buyer believes, or at least the lawyer believes, that the land in question that is being conveyed will meet the test of adverse possession.

Because they can't actually certifiably say this is good title; there is good title associated with this land and it's good title because in my world – just to use for a point of illustration. The lawyer can't say that in my family, we believe that as long as somebody was on that land for five years, that they have title.

The lawyer has a responsibility to the law. The lawyer, if he or she is going to provide a lawyer's certificate, must actually take the statute as it exists at that moment in time, coupled with the evidence that they collect or are aware of and say, in my opinion, this meets the adverse possession test. So, with that said, you get the land for free.

If someone has a lawyer's certificate which has been registered with the Registry Of Deeds, bring forward the lawyer's certificate and all the evidence that it contains, because it must contain that evidence, bring it forward for an adverse possession claim and you get the land for free because you have successfully dispossessed the Crown.

That's, I think, maybe why the hon. Member is a little bit confused about some of this. There's an assumption here that the lawyer's certificate is something different than it is. If the lawyer themselves produced a certificate, which is not accepted by the Crown, that can happen. Because, often, in a transaction between two parties with two lawyers representing either party, it is one of the lawyers who does not accept the validity of the lawyer's certificate.

I'll say this in conclusion, as a final point, is that with what was said about the Registry Of Deeds, it's said – these are my words, but it just generally describes what has been noted about the Registry Of Deeds – it's like a big bulletin board. There's no strong gate to make sure that only clear, good chain of title properties are registered. There have been deeds, for example, surveys that have been produced where the survey – and I'm not making this up. One of the survey points and markers is the rock in the stream northwest of the brook.

So the whole notion of the legality of can we take this to be a good indicator of good title, the Registry of Deeds was meant as a bulletin board. Because you do not have to prove first that you have chain of good title to register something with the Registry of Deeds.

Now, finally, on the issue of the certificate of dispossession, this is a very particular instrument which is used for relatively larger pieces of land. The certificate of dispossession is not meant for a single piece of real estate or a single titled piece of real estate. It can mean for any LSD. It does not have to be in an LSD. It has no direct teether to a municipality or community. Anywhere a large piece of land that where the Crown has been clearly dispossessed, a certificate of dispossession can be offered.

So I hope that's helpful to the hon. Member, because anyone who has received a lawyer's certificate, I would argue that the first thing the lawyer should have done – because the lawyer said we have to get this transaction done in 30 days. So we can't do an adverse possession application in 30

days, so will you take – she says to the client – my certificate saying that I believe that it's okay for you, down the road, to file an adverse possession claim? That's what it is.

Hopefully, the lawyer then said to the client, now take that certificate and all the evidence of it and try to get an adverse possession application in the system as soon as you possibly can, because as the adverse possession headline reads, abolishment of adverse possession. So it's really in your interest to get that application in as soon as possible.

I hope that's been helpful to the Member.

**CHAIR:** The hon. the Member for Mount Pearl - Southlands.

**P. LANE:** Thank you, Mr. Chair.

Minister, I'm trying to get my head around this. You make it sound simple but then when I hear questions and so on, it seems to be contradictory views.

I will say again, as I did in second reading, from the perspective of my district – I just put that out there to the minister – mostly what I get are people that are just simply frustrated with the wait times that they have when they're trying to purchase Crown land to build a cabin and that type of thing and other issues in terms of if they run into issues with Crown land and I guess it's where Crown Lands might be dealing with other departments and so on, hopefully this 30-day thing is going to clear a lot of that up.

I guess where my head is with all this is that, is this process with Crown Lands supposed to be a revenue-generating project? Is this about generating revenue for the province? To my mind, what this is all about – and forgive me if I'm wrong – is about the fact that we may have people living, primarily, in rural Newfoundland and Labrador – the nans and pops and so on – and they've been living in a property for years and years, however many years that might be. There are arbitrary dates which

were put in place long before now – they currently exist – that 1977 – that 20-year window.

If the whole idea in the concept here is to say to the Cullimores that I hear my colleague from Bonavista talk about and to these other families, listen, you've lived here for years. Really, we all know, in all practical fact, that it is your land. Why doesn't the government just simply give them the land and be done with it? That's what I'm trying to understand.

We can talk about these processes, these appeal boards, these quitclaims, all this stuff, all these tools that are there but if the intent is simply to say to people in these rural areas who have lived there for years that, really, this is your land, why don't we just give them the land and to heck with all this business about going to court? I mean, they may have to go to court if there's a dispute between family members and so on, but why doesn't the government just stay out of it altogether? Just recognize the fact you've been there for years, give them the land and be done with it. Issue everybody a certificate.

I know there might be other special circumstances but, as a general rule, why don't we go down through the community – like my colleague talked about Plate Cove East, for argument's sake. If there's a whole bunch of people in Plate Cove East, if there are 100 houses in Plate Cove East and they're all on Crown land and the houses have been there for the last 20, 30, 40, 50 years, why don't you just give them all a certificate and be done with it? End of story. No appeal boards, no nothing.

Just go out tomorrow – I know you can't do it tomorrow. But, in theory, go to them all and just give them all title, or say to them, listen, if you've got any litigation that has to happen between you and family members, that's fine; but, as far as we're concerned, as the government we're staying out of it. We're not seeking claim to that land at all.

Just do that and be done with it. Because if not, when we're talking about these

processes, and sliding scales, and what you might have to pay based on income and so on, it seems like we're trying to go back in time and get a return, to get some revenue out of it, out of some land that people had for years. If we didn't have the revenue for the Cullimores's house in last year's budget, we never had it in the budget as a budget line last year, the year before, the year before, the year before and if they decide that they're going to sell their house this year, why do we need to get a piece of that action? Why do we need any piece of that action? We've never had it. Leave them alone, give them a certificate and be done with it.

I know that's very simplistic; I know there's legalese involved in all this. I'm not naive enough to think it's that simple. But the concept – I don't know how you do it. I don't know from a legal point of view exactly how you make it happen. But I wonder – and I'm asking the administrators sincerely – why we can't simply say, look at all these areas, look at these communities, and just give people title, say we're out of it, we're not going to challenge anybody in court anymore? If it says here that it's Crown land, we're going to transfer it to you; you've been here for years. Never mind this between 1957 and '77; you've been here since 1984, 1974, 1964, you're here long enough as far as we're concerned.

On a go-forward basis, if I were to try to buy a property today, I would think that I wouldn't be able to do that. I wouldn't be able to acquire land like people acquired land years ago. If I was going to buy a cabin now, and you see these cabin lots and so on, I'm buying these through lawyers, through real estate and so on, and all the ducks are in a row. If it's Crown land, I'm paying Crown land at fair market value as of today, as of maybe last year, 10 years, 20 years ago.

So all the people that acquired land before that, at a time when you never had all those policies in place, you never had all those procedures, you never had all those rules in place, why don't we just grandfather all those people in and just give them the land

and be done with it, end of story and then that ends it? Because, on a go-forward basis, we're not going to have it happen again anyway. Under today's standard, that cannot happen. So what we're talking about is grandfathering in anybody who were in that situation before all these rules came into place.

I'll end with that but I guess that's sort of my question to the minister: Was that considered? Did the government consider simply wiping the slate clean, giving title to all these people and be done with it and as we move forward, of course, any land that would be purchased from the Crown in the future would be purchased at fair-market value, but all those people who had that land years ago, forget about it, give them title and be done with it?

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Thank you very much, Mr. Chair.

It's an interesting question because we don't charge anything for quitclaims under section 36 now. If the Crown has been dispossessed, clearly been dispossessed, the Crown will award a quitclaim deed. They have done so for decades. You don't pay anything except for processing fees for adverse possession applications.

When we set about this, I think the innovation and the novelty to the approach that the government has taken here, which has not been done in 48 years, the original intent was that adverse possession shall die. There was a very prescriptive process that in order to gain chain of good title, that you would have to meet a test of law.

So when you look at our Primary Residence Property Title Program, that was never contemplated by any legislature, any reviewer, any expert adviser in any way,

shape or form prior to this government bringing it in.

I would have to say that the balance in always understanding the law of unintended consequences – if this Legislature would go forward with something to that effect and say that for the Primary Residence Property Title Program, to which a quitclaim deed will be issued – because, of course, the Town of Bonavista, the Member for Bonavista may want to hear this. He doesn't have to fight. Presuming that the Town of Bonavista proper, the inner sanctum of the Town of Bonavista is dispossessed, there's a certificate of dispossession that's issued for the entire populated area within the boundary of the Town of Bonavista, nobody pays anything for a quitclaim deed in Bonavista then because it's already issued. It's issued en mass. So that's what we are doing. It's in the program.

You don't pay anything when you apply for adverse possession, are not necessarily successful, but the Crown believes that the Crown has been clearly dispossessed. We always examine the law of unintended consequences, which is there are people who will have paid for land that otherwise will now – I always use the expression or the analogy that if a highway is marked with an 80 kilometre an hour speed limit and you get pulled over – sorry if it's 100 and you get pulled over and then suddenly it goes up, because you did 110, and then it goes up to – no, I'd better go back to the 60 example.

It's posted 60. You get pulled over doing 70. Then all of a sudden the speed limit goes up to 80, because there's been a reconsideration of the speed limit, does anyone who paid a ticket going 70, now that the speed limit is 80, get refunded? The answer is no. In our justice system and our legal system is that decisions that are taken are taken. If we start to revisit every decision that's ever been taken, then the entire system goes into chaos. It's one of these things why governing is tough, but that is the way it is.

So with that said, recognizing that many, many people did indeed buy their property,

is there some way to kind of create a compromise between their situation and the situation of today where a primary residence property owner shall pay some sort of modern fee? That's the thinking of all of this.

But I will always stand by the fact that in this particular piece of legislation what is really, really driving it is the importance of recognizing long-term possession, which is what this program does. It is recognizing an easier access and pathway to adverse possession, which is what our program does. It recognizes the value of having an appeal process – never before been done – which is what our program does. It recognizes a whole bunch of other things, like taking out unnecessary binding time frames from the legislation so that it's more flexible and easier to do. This can be done.

So we have already built the tenets, the foundations and the pillars of a very, very successful program on that basis. I will listen to hon. Members from this side of the House and from that side of the House because that's what we set out to do.

I know that there's offence taken by the fact that I think you got caught a little bit, I will say this – let's just have a little chat with each other here. You got caught a little bit by raising up the 2015 Lands Act Review report. You did endorse it, but listen –

**AN HON. MEMBER:** (Inaudible.)

**G. BYRNE:** No, cool your jets. It is true that the 2015 Lands Act Review report recommendations do say, for God's sake, do not change the rules on squatters' rights on adverse possession, kill it. That's what it says. It says don't remove the exemption period of 1957-1977 to any different period. Keep it status quo. That's what the Lands Act Review report says.

It also says that for those who are successful in adverse possession what you really, really need to do is don't issue a grant, issue a quitclaim and make sure that before you can apply for it, that you have to have a survey done first. Then after you do

the survey, you have to engage a lawyer to be able to get this done.

So I know that there's some back and forth. This is difficult to listen to; I appreciate that. It is difficult to listen to and you may have gotten a little bit caught by it, but that's what the act says.

**AN HON. MEMBER:** You get to speak for the government side and we get to speak for our side (inaudible).

**G. BYRNE:** Absolutely. So let's let the report itself –

**SOME HON. MEMBERS:** Oh, oh!

**CHAIR:** Order, please!

**G. BYRNE:** – speak for the report. Let's let the report speak for the report and in the recommendations of this report it – bear with me, Mr. Chair, because I do have two minutes and 28 seconds to speak, and as I do so –

**SOME HON. MEMBERS:** Oh, oh!

**CHAIR:** Order, please!

**G. BYRNE:** – it says: "Maintain the 1957-1976 exception. That is, those people who can show open, continuous, notorious and exclusive possession from 1957-1976 may come forward with an application." It says maintain the 1957 to '77 exception.

**SOME HON. MEMBERS:** Oh, oh!

**CHAIR:** Order, please!

**G. BYRNE:** Yes, exactly.

**AN HON. MEMBER:** (Inaudible.)

**G. BYRNE:** You're not going to win this because F is something very, very different. So with that said, F will not make the case for you but we will go forward with –

**AN HON. MEMBER:** (Inaudible.)

**G. BYRNE:** Yes, I got you.

With that said, we've already built the foundations of a very, very successful lands program for Newfoundland and Labrador, which has never, ever been contemplated before. If we are to be governed by the AG report, we would say that – because the AG says that all lands that cannot be proven in law to be dispossessed from the Crown, the public has a right to gain value for the public lands it owns. In other words, make sure you charge. I think that's my interpretation of the AG report.

So with that said, we can agree to disagree, but I am quite confident that on the balance of facts and from the assessment of a reasonable person, which is a common test, that the Lands Act Review says don't change a thing. Which is why I don't want to follow the recommendations of the Lands Act Review of 2015: I want to change it.

Thank you very much, Mr. Chair.

**CHAIR:** Thank you, Minister.

The hon. the Member for Exploits.

**P. FORSEY:** Thank you, Chair.

I do have one more question, Minister.

**SOME HON. MEMBERS:** Oh, oh!

**CHAIR:** Order, please!

**P. FORSEY:** Minister, I do have one more question I'd like to get answered.

In the minister's news release, the "maximum lot size to be considered will be 1,860 square metres, except in cases where the applicant can demonstrate a strong and satisfactory claim to a larger area." How was this determined and why does there have to be a maximum lot size? Are there people going to pay for more, other than the half acre – are they getting just free on the half acre or what they own? Do you know what I mean?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Thank you very much for the question.

Under current policy, if someone wants to apply for a residential piece of land, that's all prescribed. It's been that way for a while – I forget what the frontages are, but one can't request two square miles – again, just for the point of emphasis, one can't ask for a very, very large piece of land for the purpose of building a home. That's been in place for years, and people can understand that, that there is a reasonable-size footprint for the establishment of a residential piece of land.

With that said, especially in rural communities, the septic system may go beyond that boundary. The septic system may be on this side and the shed may be on the other side. It is totally acceptable to go beyond the otherwise-prescriptive or understood boundary. That's why we don't put those things in statute, that's why we don't prescribe them in law, we put them in policy so that there is flexibility to go outside of that, and that's exactly what we intend to do.

If there's a septic field on this side and a field on this side, and the boundary of the property doesn't fit on that proposed footprint, we can approve beyond the prescribed footprint.

**CHAIR:** The hon. the Member for Mount Pearl - Southlands.

**P. LANE:** Thank you, Mr. Chair.

First of all, in response to the minister's response to me, Minister, I just want to say, again, as my colleague for Humber - Bay of Islands, I never raised anything about this blue-ribbon report, you called it, and the recommendations in it, nor the Auditor General's report, to be honest with you.

I don't want to give you the impression – because that's certainly not my intent – that I do not recognize the fact that until you brought this piece of legislation forward, that successive administrations had affirmed and reaffirmed over time, through inaction –

well, through action originally and then through inaction, in terms of not making changes, the whole concept of the fact that there shall be no adverse possession.

I totally get that. I'm not being critical of your bill either; I'm recognizing the fact that there are significant improvements. So I get the feeling sometimes with some of the responses it's almost as if, if you don't agree with me 100 per cent totally on everything I'm doing, somehow you're on the other side of this. I don't think any Member on this side is against the concept or the bill; I really don't.

There are parts of the bill that they may have issues with, have concerns about but I don't think, in general, I think we all applaud the fact that we have something to debate and we're going to try to improve Crown Lands. So I just want to say that.

Minister, you also said, you talked about a balance, I guess, in terms of the Crown perhaps receiving some recompense for the land and trying to strike that balance that we can't simply give everybody the land for free.

There are processes in which people could get the land for free. You indicated the Town of Bonavista could apply and, potentially, have all the residents within their town boundary, theoretically, could get their land for free and gain access to land.

You still never commented on the small communities, like Tickle Cove, Plate Cove and Noggin Cove and whatever those other places were, New Bonaventure. I'm not sure how it would work in those towns. I'm going to stick to the theme here now that under what is being proposed, albeit much better than what currently exists and again I acknowledge that, it seems to me that there's going to be some people that are going to have to pay for the Crown land. They're going to have to pay some portion on this sliding scale based on income, the value of the property and so on. Okay? We can agree on that, or we can agree to disagree that that it should happen or it shouldn't happen.

One of the problems I'm hearing from my colleagues, and I don't pretend to know these issues inside and out because I don't really deal with them, as a general rule, is the fact they're saying if somebody wanted to sell their home and they're trying to get title to the land so they can sell the home, there's going to be a cost to them, to the Crown, to acquire this land and they can't afford that, whether it's \$4,000, \$10,000, \$20,000. I think my colleague from Bonavista talked about the Cullimores, I think he said it was \$36,000, I think that's what he said and they can't afford \$36,000 in order to straighten the land up so that they can sell the house and actually be able to sell it.

So if nothing changes in terms of your position and the Cullimores still are going to have to pay that \$36,000. Rather than having to come up with \$36,000 upfront, which they may not be able to afford to do, in order to gain title to the land so they can sell their home is there any consideration, at least, given by the government to say, you're going to have to pay the \$36,000 but rather than you having to come up with money upfront which you can't afford, when you sell the house if you sell the property for \$100,000 or \$150,000 or \$200,000 or whatever it is, then we get our \$36,000. In other words, we're not going to prevent you from selling your home because you don't have the money to pay the Crown first in order to make it saleable. We're going to acknowledge the fact that you owe us this money and once that house goes up for sale, once that house is sold then we can have some sort of a lean or whatever on that property to get our \$36,000 and you can keep the other \$100,000 or \$150,000 or \$200,000 or whatever it's worth. Is that something that's been considered or could be considered?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Thank you, Mr. Chair.

The foundations of everything that the government has done is affordability. When you consider the fact that charting out and

certifying large scopes of land and dispossessing it through a certificate of dispossession, anybody whose believes themselves to be or is a landowner in that particular area, no charge. There's nothing they have to pay. Anyone who applies for a section 36 grant, because they have a lawyer's certificate that they can now apply to advance an adverse possession and get a grant. So that's good title. That's unquestionable good title. They can do that using their lawyer's certificate. That's free of charge.

One of the things that we did propose – and this is what I really always like we as legislators to do, is always to consider the significance of unintended consequences – the balance between those who have already paid and those who have not. What I'm hearing from the hon. Members is that should not be our concern as a Legislature. That we can't deal with the past, we can only go forward. That we can't reverse things that have occurred in the past, only go forward. I hear you, that is your advice on a go-forward basis. That's what I'm hearing.

With that said, we mapped this out, we published this schedule. This is not new information to anyone, but I'll just give you tangible examples. If you were a senior citizen eligible for the Guaranteed Income Supplement, there would never be anything for your quitclaim deed ever, under the Primary Residence Property Title Program.

Say if you had a piece of property that was worth \$5,200, now that's not the home, that's just purely the property itself, the land. The house and barns and everything else that may be on that land is not in question. That is not calculated in making a fair market value determination. It is solely for the real property, the ground on which surrounds your house. If that land was worth \$5,200 on a fair market assessment and you made, say \$30,000 in annual income, the cost of that land to get that certificate, as being proposed, would be \$390.

It's always been affordable wherever possible. That has always been our objective. But there was a consideration that, given the fact there are people who paid fair market value, like the Diamonds, for example. I think if I remember correctly, the outcome of their situation was that – the Diamonds in Catalina – they ended up paying the Crown \$10,000 for their property. I think it was \$10,000.

**AN HON. MEMBER:** A little over \$10,000.

**G. BYRNE:** A little over \$10,000 for their property.

While we may spend a lot of time saying, this is the way it was and that's unfair; that's exactly what we're saying too. We can't go backwards, but we can go forwards. We can try to balance out all of these circumstances to create a fairer path that's defensible, that you're comfortable with, that I'm comfortable with. Everything we have done has been within that lens of affordability, reasonableness, trying wherever possible.

This is not a cash grab by the government. If you've got a \$5,200 piece of property that you cannot meet the test of law, what we suggest is that there would be a fee of \$390 and its yours. The amount of paperwork that you would require would be nothing more, really, than a photocopy of your driver's certificate and your income tax form. We're pretty good with this. This is all consistent with affordability.

On your question of whether or not we can actually have a holding bank where we put in arrears and that sort of stuff. I don't think that's the art of the possible; that would create quite a difficult situation. But that would be still prescribed in law because the minister can still set fees and that may not be able to be determined later but I'd rather deal with the art of the possible.

Members opposite, always remember, nothing substantial ever happened because unless you could solve everybody's problems, solve nobody's problem and let's make sure the perfect is the enemy of the good.

This is a solution to many, many problems and they're good solutions. Let's go forward.

**CHAIR:** The hon. the Government House Leader.

**J. HOGAN:** Thank you, Chair.

I move, seconded by the Deputy Premier, that this Committee rise and report progress on Bill 68.

**CHAIR:** It has been moved and seconded that the Committee rise and report progress.

Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

Thank you.

On motion, that the Committee rise, report progress and ask leave to sit again, the Speaker returned to the Chair.

**SPEAKER (Bennett):** Order, please!

The hon. the Member for Lake Melville and Chair of the Committee of the Whole.

**P. TRIMPER:** Thank you, Speaker.

The Committee of the Whole have considered the matters to them referred and in terms of Bill 68, I've been directed to indicate that we have made some progress and ask leave to sit again.

**SPEAKER:** The Chair of the Committee of the Whole reports that they've made some progress on Bill 68 and ask leave to sit again.

The hon. the Government House Leader.

**J. HOGAN:** Speaker, I move, seconded by the Deputy Premier, that this House recess for 10 minutes.

**SPEAKER:** Recess for 10 minutes?

**J. HOGAN:** Yes.

**SPEAKER:** This House do stand in recess until 8:12 p.m.

### Recess

**SPEAKER:** Order, please!

The hon. the Government House Leader.

**J. HOGAN:** Speaker, I move, seconded by the Deputy Premier, that this House resolve itself into a Committee of the Whole to consider An Act to Amend the Lands Act No. 2, Bill 68.

**SPEAKER:** It is moved and seconded that I do now leave the Chair for the House to resolve itself into a Committee of the Whole to consider Bill 68.

Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

On motion, that the House resolve itself into a Committee of the Whole, the Speaker left the Chair.

### Committee of the Whole

**CHAIR (Trimper):** Order, please!

Welcome back to the Committee of the Whole.

We are now considering Bill 68, An Act to Amend the Lands Act No. 2.

A bill, "An Act to Amend the Lands Act No. 2. (Bill 68)

**CLERK:** Clause 1.

**CHAIR:** Shall clause 1 carry?

The hon. the Member for St. John's Centre and Leader of the Third Party.

**J. DINN:** Thank you, Chair.

I will start off again by saying that the number of calls that I've received regarding land claims or anything along those lines, I don't even need one hand to show the calls I've received. However, the fact is, I would assume that many of my constituents may very well have land that would be in dispute.

I have been listening to this debate, much like my colleague from Mount Pearl - Southlands, trying to make sense. I thought I understood it before; I don't know if I understand it any better now or not.

The minister has made comments that clearly the government must abide by the blue-ribbon panel, or that if we can't solve all problems, well, we can't solve any. And that's fair enough, but I guess what I haven't heard from my colleagues is I haven't heard any of that, really, from my colleagues in the Official Opposition. I've heard a lot of questions, which I'm trying to make sense of and make sure that I'm understanding it.

If I look at, certainly, the notes that we have and listen to what the minister has said, look in the act, this is supposed to simplify the process. It talks about removing the time frame, it talks about shortening the process, going to make the process easier. Instead of proving 20 consecutive years of possession, we are cutting the period in half.

It talks about applying clear policies, and I guess this is where I'm trying to make sense of it, is how will this actually simplify the process? Because what it comes down to, I guess, is what is the process that is followed? It's great to shorten the time frame and maybe the process, but has the process changed in any way, shape or form?

As a lawyer that we consulted said: If the standards to obtain title by adverse

possession aren't changed – and they're not – it's only shortened from 20 to 10 years. What you have to do in that 10-year period hasn't changed, and then we still have lots of questionable but legitimate title.

So I guess that's where I'm going with it. If we shorten the time frame, will there be or has there been any changes then made to the process to make it doable within that time frame? I listened to the minister, and he can certainly clarify this for me, with regard to the question on quitclaims: driver's licence and tax bill, that makes sense, but here's the part: and maybe some other documentation. I guess the devil is in the details, because it makes sense if you've got the documentation, but what if it comes back, no, we need more documentation.

My concern, Chair, and maybe the minister can address this, is this, I know in my own experience in dealing with other issues in my district where evidence is required. On the surface, the policy seems to be very clear, until the documents are needed and you don't get a response or more details are needed, and it further complicates the process. It doesn't get any shorter, it gets longer.

Policies are currently being drafted and I guess that's fine. Well, how will these policies be enforced? Will the people who are enforcing the policies be knowledgeable? What if they change out? Because I can tell you that in dealing with other government departments, I can get an answer on one issue and a different answer on the same issue, and we're trying to reconcile it.

I can think of one incident where – and this is an example when it came to a boot cast that a doctor, a surgeon, an attending physician at an emergency room said this person needed, only to have the person, I forget in CSSD or in the Health, say: No, we need further information from the doctor. My comment to the person: It's great, if I was the one recommending it, but you want me now to go back to this surgeon and we want more detail. Someone in the Department of

CSSD said: Well, this should never have happened but it did.

So here's my issue with this, on the surface, I can be told this shouldn't happen, but how do I know in the process, simply cutting it in half, will it really simplify the process of making it easier? Will there be more people hired to do the job? Will there be a consistency?

Here's what one legal opinion said: The creation of an appeal board is functionally meaningless. The appeal board has to review and apply the same underlying law that's creating the problems we have today. The problem we have isn't overzealous Land's officers going rogue, it's that they're correctly applying a bad law and bad policy. The decisions being made are legally correct but not morally or practically right.

I guess what I'm asking is, other than shortening the timeline, has the process been changed fundamentally to make sure that it's now actually easier?

As I noted, the minister talked about the quitclaim – and it made sense to me. At first, I was, okay, that makes sense, until he said it may be some other documentation. That's where my concerns are because if there's not a clearly defined process, then have we actually made it more or less streamlined. Not that I'm expecting to get any calls on this from my constituents, but I guess my concern is – and I'd like to believe what the minister believes, this is going to be a simplified process, but I know that in the reality of it, in the carrying out, it often isn't. It actually proves a lot more frustrating.

I'd like the minister to address that: Is the process different? Are there going to be changes in the process that will simplify what's going to happen? Or is someone going to be asking for documentation that we don't have and there's going to be a back and forth for information? So a shortened process won't make much of a difference.

A better question is: When I look to having, let's say, the title to our land in Carbonear,

will the process now be any different than what I had to do at that time, or is it just simply we've shortened the time frame?

Thank you, Chair.

**CHAIR:** Any further speakers?

The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** That's a pretty broad question because, of course, the question was, if I understand it correctly, has the process been made shorter. There are about five different processes here, whether it be for adverse possession, for quitclaims, for dispossession, certification and other things.

So allow me, Mr. Chair, to sort of anticipate what may be in question here. There's no bogeyman about other documentation. If somebody doesn't own a driver's licence, then we really need to be able to prescribe some other documentation. So maybe it's a certified copy of your MCP record that shows your residential address. That's really all that is.

When I say that other additional evidence or documentation may be required, it's because a significant number of people, maybe a lot more than people suspect, actually don't have driver's licences. So what do we do then? We need another piece of identification that shows material information about their status of their primary residence and that can be achieved through an MCP record, as one of other documents, as well.

Processes are being shortened by the online portal, the online application process. Processes are being shortened, as we talked about synchronous referrals instead of consecutive. They will occur within 30 days with a seven-day grace period, if requested, but the referral process will conclude within 37 days.

We're taking it outside the time frames so that there's a little more flexibility there. If someone's having trouble finding, for example, a registered professional surveyor

because they waited until the end of the calendar year, the 12-month period, all of a sudden find themselves in a place where the snow has hit the ground and you can't get the survey done, we're moving those statutory time periods so that there's more flexibility.

I think that may answer the Member's question, Mr. Chair.

**CHAIR:** The hon. the Member for St. John's Centre.

**J. DINN:** I appreciate that, Chair.

I guess it comes down to, even, the steps in the process, if they're the same. Synchronous referrals sound good, but I know that plan will hit reality when it comes in place and now we're talking about, not theory, but actual reality.

Here's the question then: Would something like affidavits – like, if you don't have any clear documentation, a sworn affidavit, along those lines, would that be a piece of evidence, or by a Commissioner for Oaths, that kind of thing?

**CHAIR:** The hon. the Minister of Fisheries, Forestry and Agriculture.

**G. BYRNE:** Of course it would.

**CHAIR:** The hon. the Member for St. John's Centre, anything further?

**J. DINN:** No, that's it.

Thank you, Chair.

**CHAIR:** Any further speakers?

Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

The motion is carried.

On motion, clause 1 carried.

**CLERK:** Clause 2.

**CHAIR:** Shall clause 2 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, clause 2 carried.

**CLERK:** Clause 3.

**CHAIR:** Shall clause 3 carry?

The hon. the Member for Exploits.

**P. FORSEY:** Thank you, Speaker.

Clause 3, section 6.1 in the bill says: "The minister may issue a quitclaim to a person in respect of an area of Crown lands subject to those terms and conditions and subject to the payment of the consideration that the minister may set out in the quitclaim."

The amendment for the Member for Exploits, seconded the Member for Bonavista, is to move at clause 3 of this bill be amended by deleting the words "and subject to the payment of the consideration."

**CHAIR:** Thank you.

The Committee will now recess to consider the proposed amendment.

Thank you very much.

### Recess

**CHAIR:** Are the House Leaders ready?

Thank you.

Order, please!

The Committee of the Whole have reviewed the proposed amendment and we find that it is in order.

**SOME HON. MEMBERS:** Hear, hear!

**CHAIR:** Any speakers to the amendment?

Seeing no speakers to the amendment, shall the amendment carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

The amendment is carried.

On motion, amendment carried.

**CHAIR:** Shall the clause, as amended, carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

The clause, as amended, is carried.

On motion, clause 3, as amended, carried.

**SOME HON. MEMBERS:** Hear, hear!

**CLERK:** Clauses 4 through 29 inclusive.

**CHAIR:** Shall clauses 4 through 29 inclusive carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Clauses 4 through 29 have carried.

On motion, clauses 4 through 29 carried.

**CLERK:** Be it enacted by the Lieutenant Governor and House of Assembly in Legislative Session convened, as follows.

**CHAIR:** Shall the enacting clause carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, enacting clause carried.

**CLERK:** A bill, An Act to Amend the Lands Act No.2. (Bill 68)

**CHAIR:** Shall the title carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

The title is carried.

On motion, title carried.

**CHAIR:** Shall I report Bill 68, An Act to Amend the Lands Act No. 2, carried with amendment?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

Motion, that the Committee report having passed the bill with amendment, carried.

**G. BYRNE:** Point of order, Mr. Chair.

**CHAIR:** You're kidding me.

**G. BYRNE:** May the record note, I'm to be known as Mr. Good Deeds.

**CHAIR:** Oh yeah.

**SOME HON. MEMBERS:** Oh! Oh!

**CHAIR:** Order, please!

The hon. the Government House Leader.

Go ahead, Sir.

**J. HOGAN:** Thank you, Mr. Chair.

I move, seconded by the Deputy Premier, that this Committee rise and report, An Act to Amend the Lands Act No. 2, Bill 68, as amended.

**CHAIR:** It is moved and seconded that the Committee do rise and report Bill 68 carried with amendment.

Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, that the Committee rise, report progress and ask leave to sit again, the Speaker returned to the Chair.

**SPEAKER (Bennett):** Order, please!

The hon. the Member for Lake Melville and Chair of the Committee of the Whole.

**P. TRIMPER:** Thank you, Speaker.

The Committee of the Whole have directed me to report very good progress and, in fact, we have passed Bill 68; it has been carried with amendment.

Thank you very much.

**SOME HON. MEMBERS:** Hear, hear!

**SPEAKER:** The Chair of the Committee of the Whole reports that the Committee have considered the matters to them referred and have directed him to report that Bill 68 be carried with amendment.

When shall the report be received?

**J. HOGAN:** Now.

**SPEAKER:** Now.

When shall the bill be read a third time?

**J. HOGAN:** Tomorrow.

**SPEAKER:** Tomorrow.

On motion, report received and adopted. Bill ordered read a third time on tomorrow.

**SPEAKER:** The hon. the Government House Leader.

**J. HOGAN:** Speaker, I move, seconded by the Deputy Premier, that the amendment be now read a first time.

**SPEAKER:** It is moved and seconded that the amendment be now read a first time.

Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

**CLERK:** First reading of the amendment.

**SPEAKER:** The hon. the Government House Leader.

**J. HOGAN:** Speaker, I move, seconded by the Deputy Premier, that the amendment be now read a second time.

**SPEAKER:** It is moved and seconded that the amendment be now read a second time.

Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

**CLERK:** Second reading of the amendment.

On motion, amendment read a first and second time.

**SPEAKER:** The hon. the Government House Leader.

**J. HOGAN:** Thank you, Speaker.

I move, seconded by the Deputy Premier, that this House do now adjourn.

**SPEAKER:** Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

This House do stand adjourned until 1:30 p.m. tomorrow.

On motion, the House at its rising adjourned until tomorrow, Thursday at 1:30 p.m.