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—
Chair

Ms. Nancy Karetak-Lindell

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•(1110)

[English]

The Vice-Chair (Mr. Jeremy Harrison (Desnethé—Mississippi—Churchill River, CPC)): Pursuant to Standing Order 108(2), we're conducting a study of on-reserve matrimonial real property. We have one witness here today from the Indian Taxation Advisory Board, Chief Strater Crowfoot, who will be giving a presentation. I hope we will then have time for even more than one round of questioning today.

We'll hand it over to Chief Crowfoot. Thank you very much for being here.

Chief Strater Crowfoot (Chairman, Indian Taxation Advisory Board): Thank you.

Good morning, everyone. I'm very pleased to be here. I was just mentioning to Sue that I'm missing a very important land claims meeting at home today, an internal one. But I thought it would be important to be here to talk about issues that affect all of us on first nations lands, and beyond our lands as well.

I raise that point because I see this issue as including much more than just matrimonial rights. First nations have issues regarding land claims and treaty aboriginal rights that are still outstanding. We're trying to resolve those issues, and I think we should still focus on those issues. This is I think a microcosm of the issues we're facing as first nation peoples: what our rights are, how can we resolve them, who holds the underlying title, and who owns those lands. So I'm glad to be here.

Before I begin, I would like to thank this committee for their support in getting our Bill C-20 through. It received royal assent last month. Our transition planning to put the bill in place by next year is under way right now. It's a lot of work to do, and I want to thank you for your support and your vision in helping us to achieve this very important goal for first nations.

As a sidebar, next week in Calgary I'm hosting the Minister of Aboriginal Affairs from Australia to talk about this issue, other issues we're facing as first nations people in Canada, and what kind of leadership your government is taking in helping us achieve our goals as first nations.

Thank you for this opportunity to come before the Standing Committee on Aboriginal Affairs to talk about matrimonial property rights on first nation lands. I am Strater Crowfoot and a member of the Blackfoot Tribe. My great grandfather signed Treaty 7. My wife and I are proud parents of five boys and one girl. I'm also the chief of my nation, and this is my tenth year as the head chief. Currently I am

the chair of the Indian Taxation Advisory Board, and I'm the former chief executive officer of Indian Oil and Gas Canada.

It is tempting to look at this issue of matrimonial property rights as a single issue that can be resolved with a single solution. I don't view it that way. To me it's a much larger issue. Frankly, we lack the institutional framework necessary to support clear property rights and attract investment. The result is that our current properties are grossly undervalued, and market mechanisms to resolve matrimonial property rights are absent.

The root cause of this problem and of many problems we face is that we are governed by legislation that is over 120 years old. We are run by a bureaucracy that still thinks central planning works. I want to talk about two ideas today that will help change this.

To begin, our problem is that the Indian Act has stymied the development of our own institutions of government. First nations lack a public sector supported by modern legislation and standards. The first nations public sector includes first nations governments and first nations institutions. This public sector is critical to economic development, self-sufficiency, and healthy communities. Today when people think of the first nations public sector, they're more likely to think about DIAND than our own government institutions and bodies.

In fact, when they want to do business with us they have to spend as much time, or more, responding to regulatory requirements by DIAND as they do with our administrations. These layers of bureaucracy are a burden. This has been affirmed by the Auditor General. The result is that it takes five times longer to complete a development on first nations lands than it does in the rest of Canada. I believe this, more than anything else, explains our poverty. The system created by the Indian Act and administered by DIAND has shut us out of the economy. At best it has ruined our investment climate. At worst it has stolen the hope of our children. Everyone recognizes that this has to change.

I've been fortunate enough to be part of a process that is leading this change. I've been a member of the ITAB since 1988. I was deputy chair from 1989 to 2003, and two years ago I became the chairman of ITAB, a board that for the first time represents first nations that want to change the Indian Act and that have established a first nations institution to govern that. As I said, thank you for your support and for your help in doing this.

This is a model for future change. It allows first nations to opt out of the Indian Act through enabling legislation. It provides them with a supportive first nations institutional framework to implement their jurisdictions. I've learned first-hand how well this model works. When the ITAB was first established in 1988, we thought only 20 first nations would be able to collect, or want to collect, property tax. Today there are over 100 first nations collecting property tax, totalling about \$45 million annually.

• (1115)

Property tax jurisdiction has allowed communities to realize the benefit from economic development so that their economies are growing faster than other first nations economies. We encourage this growth. In fact, one first nation we mentioned, Millbrook, on the east coast, on a per capita basis is growing faster than any other economy in Canada. This is on a first nation land, which was helped by first nations taxation to build their infrastructure.

We have helped to expand property tax jurisdiction to railways and provincial hydro companies. We are providing training and support for our tax administrators. We have worked with the consensus building institute at MIT and Harvard to develop a dispute resolution process that is an alternative to the courts.

I believe when people think of first nations property tax jurisdiction in Canada, they think of the ITAB and not the Department of Indian and Northern Affairs.

Last month marked another great step forward. The First Nations Fiscal and Statistical Management Act received royal assent. I am proud to be a part of this first nations team that led this legislation to create four first nations institutions: the First Nations Tax Commission, the First Nations Financial Management Board, the First Nations Finance Authority, and the First Nations Statistical Institute.

These institutions will fill more gaps in our economies. They will help finance infrastructure. They will create more confidence in our governments. They will provide more quality information, and they will ensure that investors receive high-quality services at a fair price. In sum, they will support a market economy on our lands. They will provide a framework for improved property rights. This means higher property values on our lands and the ability to use market value to resolve disputes.

The absence of a market is a principal barrier to resolving matrimonial disputes. We have begun to put in place the tools to resolve this. With this in mind, I would like to present a second idea on this matter. The idea is having a first nations land registry.

Land registration systems are valuable as mechanisms to settle titles, reduce marital property disputes, and support efficient land markets. They are also important sources of land information,

essential for the support of good governance and sustainable development.

Under the current recording system, a complete title search dating back to the original deed must be completed in order to rely on the register. Documents are not filed in common form. The meanings of documents are often obscure. If there is a break in the chain of ownership in the history of the property, the new owner might find that their current interest in the property is affected.

The impacts of this are devastating to our economy. It reduces our property values by between 25% and 90%. This means less investment. It is why we have fewer jobs, poor community services, and poverty.

For matrimonial property, it also means that registered claims against property may be, at worst, meaningless, and at best, impossible to track. Even if these claims are accepted, how can matrimonial property be divided if there is no market for this property?

If I were to make one suggestion that could help resolve matrimonial property disputes on first nations lands, it is this: develop enabling legislation that creates a first nations land registry for those first nations that want to opt in.

Based on preliminary analysis, this legislation should be designed, first, to remove the authority of the Indian Act over the land registry for those first nations that opt in and to facilitate a land title guarantee. It should create an independent first nations institution to operate a first nations land registry, so as to achieve economies of scale.

Second, it must facilitate the transition from the Indian lands registry to the first nations land registry and accommodate first nations under the First Nations Land Management Act, self-government agreements or treaties, as well as those who are party to none of these agreements. It must ensure that registration of the interests in the land is a priority and contains a process for resolving competing interests in land. It must protect matrimonial property. It has to include a requirement for surveys for all registered interests in land and integrate the land title system with land survey documentation.

The benefits of this proposal are substantial. We will create a tool that begins to resolve matrimonial property disputes. We will create more secure property rights on first nations lands and raise our property values. This will attract investment. This will allow us to participate in the market economy.

Our own land registry will make private home ownership on our lands feasible for our members, because the underlying first nations jurisdiction will be clarified.

Our common objective is to reduce our poverty. A first nations land registry is the next step towards this goal.

● (1120)

I prepared a summary of this proposal on a land registry, and I'd like to pass it to the clerk for distribution. I'm sorry, but it's only in English at this point.

That is my formal presentation.

On a personal note, my first nation is east of Calgary and has just under 6,000 members. Our land base is about 176,000 acres. We've never had CPs on our land. In the past, we've had what they call custom allotments; there are pros and cons to that. Our population is growing so fast and our land base is limited, so the people who have acquired land from before are holding onto it. It's forcing our population onto enclaves that are not held in interest by farmers or ranchers, and eventually we're going to be running out of land. It's odd to say that, because we have such a huge land base, but our people are used to having a lot of land for their own personal use, for horses or small farm operations.

Seeing this problem evolving, we set up in my community a system that tries to look at local disputes, and we've settled two recently. I have a pen here with a Blackfoot word on it: *aiskapimohkiiks*, meaning "helpers". We have this forum of eight elders who sit from time to time to hear disputes. Just recently we had a dispute come to council from a couple who had separated, and the male person had done a lot of work on the property, having developed it, built corrals, and put a nice lawn in, and so forth. But the family had split. The council, or rather the housing department, allocated the house to his spouse, or the female member. It's a problem, because we recognize and see that whoever gets the children should get the house, but that doesn't address what the other spouse did in terms of developing the land. So we're putting this case before our forum of elders or helpers to see if they can up with a way of resolving this dispute.

I'm seeing more and more disputes coming to us, and we have to find a way of addressing them. This is a short-term measure for us, but if we have a land registry, where people can register their interest in the land and then record the developments that have taken place, when disputes arise, we can look at the registry and see who owned it, what happened, and how the land was improved.

The Vice-Chair (Mr. Jeremy Harrison): Thank you very much, Chief.

We will now go to questions.

The first five minutes go to the Conservative Party.

Mr. Prentice.

Mr. Jim Prentice (Calgary Centre-North, CPC): Thank you, Chief Crowfoot.

The way this works is that we're allotted nine minutes, but I think most people in the room would rather hear from you for nine minutes than from me.

Certainly, I'm receiving some concurrence from the other side of the room.

Could you go into a bit more detail about custom allotment and just how that operates on your first nation, so that I have a better understanding of how it relates to matrimonial property and what the best way forward is?

Chief Strater Crowfoot: I'll use my dad as an example of how it has worked. Our reserve was quite large, as I said, so different families went out and occupied and started to develop certain parts of the land. As they did that, they acquired their rights, and they became owners of the land, not through title but through occupancy.

So they've lived on the land for a long time and operated it and developed it. Some families have been able to do this. They've been able to carry on and occupy those lands, and it's just recognized that those lands are theirs. There's no formal title or anything that they have to them. It's worked for those families who have stayed and occupied those lands.

However, some people have been forced to leave. My dad left, for instance, when our family split up. So he left those lands for a while. Then the council at the time came in, took those lands, and allocated them to another person who started using those lands for his own purpose.

That affected my dad. He still talks about it today, because he spent the fifties and sixties developing the land, breaking it, raising crops, fencing it. Because he was gone for a few years, the council took it and allocated it to another person. So he still thinks there's something owed to him, but we don't have a formal process for dealing with that, other than what I've mentioned. We've just started this forum of elders we call helpers to see if we can resolve disputes.

A lot of people over the years in my community have had land and have developed it, but then they've moved on or just no longer have an interest in it, so it has been allocated to other people. It's not a clearly defined process. Whoever is there occupies it and has it for their use.

In recent times, people have been building their houses for their own use. We call it on-reserve housing. They're entitled to borrow money and build their own houses. The council has been allocating that land—just the land where the house sits—for the member who has built it. Again, there's no formal registry to identify who has what lands, other than when councils give band council resolutions to allot, by land description, specific pieces of land for specific purposes.

But once a member moves on, he may transfer it if he wishes to. In my case, I built a nice house on the reserve, and I was allocated land through a BCR. If I had stayed there I would have had that land through allotment, and my family would have kept on using it—my sons and their sons—but I moved. I was lucky to sell the interest in my house to another band member, who has acquired the interest.

We're allocating land today through BCRs.

● (1125)

Mr. Jim Prentice: The ultimate control is with the chief and council in terms of the allotment process.

Chief Strater Crowfoot: It's the chief and council through BCRs.

Mr. Jim Prentice: I apologize. I'm from Calgary, so I probably should have done more of an introduction of Chief Crowfoot.

For some of the people from other parties who aren't as familiar with Calgary, Chief Crowfoot is one of the most respected people in the Calgary community, both as a community leader and a business leader. He's been chief of his first nation for 10 or 12 years. He also spent 8 years as basically the chair of Indian Oil and Gas Canada, which is in fact one of the largest oil and gas organizations in Calgary. He's a very respected member of the Calgary community, and it's wonderful to have him here today.

If I might just carry on, in terms of matrimonial issues, your community uses the process of helpers to sort out those kinds of situations.

Chief Strater Crowfoot: Yes. We recently put that in place, and we'll see if this works with the situation I mentioned earlier.

Just going back, you asked a question about our land allotment system. We have lost a lot of records. For my dad and other people like him, there is no record of the work that was done or of how the land was acquired and developed. It's critical that we put in place a system to make it possible to start tracking who is on the land and what they're doing to improve the land.

Mr. Jim Prentice: Is this idea of a land registry also an outgrowth of Bill C-20, the package that was approved by the House?

Chief Strater Crowfoot: These are ideas we've been talking about because we're looking at leasehold interest on lands. It's recorded in Ottawa. We need to ensure that there's a central registry, but also that it's accessible and up to date.

Mr. Jim Prentice: So this would be a registry that would be available to any first nation in Canada that opted into that system of land tenure, and it would be maintained as a central registry across Canada?

• (1130)

Chief Strater Crowfoot: Yes. It's a very daunting task, but I think we need to do it.

Mr. Jim Prentice: Are there precedents for this anywhere else? Has it been tried anyplace, or would this be a uniquely Canadian solution?

Chief Strater Crowfoot: I'm not sure.

Mr. Jim Prentice: Have any of the institutions under Bill C-20 done preparatory work on a land registry system?

Chief Strater Crowfoot: We've looked at it at the tax commission. That's why we're forwarding the idea today. We see it as an essential tool to have the leasehold interest recognized and recorded.

Mr. Jim Prentice: Okay, thank you very much.

The Vice-Chair (Mr. Jeremy Harrison): We now move on to the Bloc Québécois, Monsieur Cleary.

[Translation]

Mr. Bernard Cleary (Louis-Saint-Laurent, BQ): Thank you, Mr. Chairman.

Thank you, Chief Crowfoot, for coming to meet with us. We can tell that you know a great deal about this matter. So we will be able to learn a great deal. Moreover, I think that we are at the stage where we are learning more and perfecting our knowledge of this matter.

It is a little bit like an appetizer, but the main course is missing. The main course would be your giving us additional details on the document that you have tabled. We feel, based on the discussion that we have had at this committee, that you might well have the solution.

Therefore, I would like you to elaborate a little more on this document, because you did not really address it. You tabled it, but we did not get it; we have not read it, nor have we examined it. However, if you were to talk about it, we would undoubtedly pick up on the main points, which would enable us to ask questions and delve more deeply into this part.

[English]

Chief Strater Crowfoot: Thank you.

I apologize for this not being translated. This is a diagram that depicts our current situation. Our whole goal here is to improve the economic development on our lands, and there are issues underlying all of this. So why can't we improve economic development? Why can't we acquire the necessary skills or jobs that our people need?

Looking at this, we talk about pending litigation. There are caveats. There are other notices. There are charges, liens, options, and future rights. There are mortgages, matrimonial property rights, joint tenancies, trusts, partnerships. There are covenants, exceptions, easements and rights of way, leases, and designated lands, or CPs, and crown title and aboriginal title. That's what we're faced with on the reserve right now, all these issues coming at us. If we could put them in proper order....

But I think the first thing in putting these in order and dealing with them is recording what is there and then keeping track of all these interests and rights. For first nations, our culture and customs, especially the Blackfoot, are an oral tradition. For us to keep records and to maintain them over a long period of time is new to us, and I'm seeing that more and more today. It's become more apparent today that we need to start doing this.

I recall when I first worked for the band many years ago, I walked into our band office and into the basement to look for some files. There were all these records that belonged to the band that were sitting in boxes rotting, mildewing. So they weren't keeping these records; they weren't recording and properly managing them. I think that's essential today, more than anything else—keeping the proper documentation and a system to understand what you have and how you manage it.

As our people grow, as our populations grow, we'll have a lot more diverse interests, a lot more issues to resolve, and if we can't sit down and say, well, this is how I acquired this right, and prove it... A case in point is my dad, and other people like him. They know what they did, but they can't prove it. They think that someplace in Ottawa there's a record of what they did, and I doubt very much that exists. So we have to find a system that's going to take all of these competing interests and titles and put them together in a system that people can understand, see the benefit of, and then start to use.

Now, what I'm proposing here, personally, I think is going to be seen....

Jim, you talked about whether there was another example of this happening elsewhere. Well, in the States they started to give first nations property rights, and then a lot of land was sold off, and now you have a checkerboard effect in the States. That's what people up here are afraid of. They're afraid of recording the land and then perhaps having land allotted to them or given to them. That's the first step, in their minds, to losing their reserve, losing their land, because it's the non-native imposing their system on us. They'll resist this land registry. I know they will. Some won't see the long-term benefits of this. They'll see it as an incursion or intrusion by the government into their lives again.

So from my experience...and I'll show this diagram here. There's all this information here; it's all out of whack. And over here, if we have a proper system, we'll have everything lined in proper order, and the base title here would be aboriginal title. We have to clarify aboriginal title.

I mentioned when I first started that this issue goes way beyond matrimonial rights; it goes back to the aboriginal underlying title of the land. And first nations still feel there's something that is owed to them. I know we've spent a long time trying to resolve it, and we'll spend a lot more time in discussing it, but I think addressing it and looking at those issues for the long term would be far better for us than trying to ignore them.

•(1135)

[Translation]

Mr. Bernard Cleary: I would like to ask a sub-question.

I live on a reserve too. I have a property there that is listed on the Indian Register at the Department of Indian Affairs and Northern Development in Quebec city.

So for us in Mashteuiatsh, and in Pointe-Bleue, things were registered with the Department of Indian Affairs and Northern Development. I am inclined to think like your father. There is undoubtedly some information that should be useful. Of course, it might not be the information that we would like to have or that you would like to have, but there is, at the very least, a basic register for the history of this land at the Department of Indian Affairs and Northern Development.

Has the department offered to help you so that you can complete your work back home?

Do you really think that working in that direction would be a waste of time? I am speaking solely from my own experience. I have

information on my property that would certainly be useful, if I compare it to other homes that I may own elsewhere.

In reality, as aboriginal people, we are not inclined to consult this information often, but in terms of the matter we are considering, I think that you have hit the nail on the head: we need registers. We must be able to build registers, and they should be returned to the band council. I do not even know if there are any, if they have information, but I know that it exists.

•(1140)

[English]

Chief Strater Crowfoot: You're right in pointing out that there are certain parts of the country that have these registries, especially first nations lands set aside outside of development. When non-natives live on reserve lands, there's an interest that's recorded.

However, I'm talking about first nations themselves. And the information my dad is seeking is somewhere, but it's not in a place where they can easily access it. Is it properly organized and formatted, so that we can acquire it? I don't think so. That's the point we're making, that we need to put in place a system today so that we can start tracking all of these developments, all of these land titles and the interests in land.

In my community we have had resort development since 1977. We have 300-plus cottages of non-native people living on our land, and we know who they are, but is there a formal land registry as people change ownership there or sell their houses? Something is kept at the office, but in terms of Indian Affairs keeping track of it, I don't think they do. For one thing, they don't have the resources or manpower to do that.

So what I'm saying is we need to look at all of these different types of transactions and start to record them.

The Vice-Chair (Mr. Jeremy Harrison): Thank you very much.

I see that we don't have a representative from the NDP here today, so we will move on to the government now and Madam Barnes.

Hon. Sue Barnes (London West, Lib.): Thank you very much.

That was an interesting presentation. It was a little different from what I expected this morning, which is fine, because it shows there are different creative solutions.

Under the First Nations Land Management Act, they have set up a system, so is this an entirely different institute that you're talking about setting up?

Chief Strater Crowfoot: Yes.

Hon. Sue Barnes: That's an optional system, but in your institute of a land registry system, would you also be advocating, or did you plan for, putting that data over into the institute you're talking about?

Chief Strater Crowfoot: You'd have to correlate and cross-reference the data, but I'm saying there should be one body in charge of it.

Hon. Sue Barnes: Okay.

Right now, most of the country, I think, is on a land title system. When reserves are there, are they mapped out and registered as a block of land, as a collective, or are they just vacant from the land title system as they exist in the provinces?

Chief Strater Crowfoot: They are vacant. I suspect from their venture perspective it shows reserve land. On our maps its reserve land, I.R.146.

Hon. Sue Barnes: In a prior life I used to teach real estate law at bar admissions and I understand the complexity of land registration. Everybody needs gas or electricity or oil coming into their houses. How do people deal with easements on a custom allotment? How is the mapping done?

Chief Strater Crowfoot: With our first nation, we have different types of home ownership. A lot of houses are band houses. So the band manages those lands and houses. There are rental units where people are, say, renting to own. There are also people who have houses they've built themselves. In regard to accessing the services we need for easements, our situation is largely governed by the fact that the land is owned as communal land. As a band, we're allowed to access what we need to put the infrastructure in. If a company comes in and wants to develop, and if it needs to go over the property of a farmer who has a custom allotment, he might get quite upset. We have to ensure that we explain to him what is going on. He would then collect a fee for disturbance.

Hon. Sue Barnes: Suppose a custom allotment band with communal ownership and occupancy allotted by a chief wants to do economic development. Do they always try to access outside land for the development? You need to have different services, infrastructure, to do a commercial development, and you get the equivalent of industrial parks on some lands. Is there special mapping done on the custom allotment for this type of development?

Indian Affairs has no knowledge, because on a custom allotment you don't have the information. So for 50% of reserves, we don't have information. It's hard to make policy, hard to plan, when you don't have this information.

•(1145)

Chief Strater Crowfoot: Some reserves, including ours, are moving towards having their own land use policies. We've identified certain areas of land as residential, commercial, or light industrial.

Hon. Sue Barnes: Similar to zoning bylaws?

Chief Strater Crowfoot: Right. But we've yet to get the membership to accept what we're planning. For us, it's internal at the moment. We've spent the last year and a half in developing our land use plans and talking with people about it. But we need to get it passed by the people, recognized, and recorded. We're moving in that direction, but it's hard to do. Again, the underlying fear of first nations is that you're doing this to start requiring fees for the land.

Hon. Sue Barnes: The underlying premise you're putting forward today is that you have to address the real property aspect first. The matrimonial issue is an overlay.

Say your solution is the solution. It's going to take time to do something like that. What do you do in a situation of violence in a home, in a custom allotment? You said the custom in your community would be that where the children go, the house goes. The reality in Canada is that there are not enough houses. If we're

going to tackle this problem, we need an immediate or transitional solution before adopting one for the long term.

Chief Strater Crowfoot: When there is a split-up in families, depending on who had the house and where the children go, their families bunch in with their parents or their brothers and sisters until it's resolved.

Hon. Sue Barnes: This gets really bad.

Chief Strater Crowfoot: It's very hard. It's hard to say.

Hon. Sue Barnes: Okay.

I know a Kamloops band has another recreational property I've seen, and I think they have long-term leases, but they're not under either FNLMA and they're not custom. They've designed some other—

Chief Strater Crowfoot: They have CP holdings, I think.

Hon. Sue Barnes: Are they CP...?

Chief Strater Crowfoot: Yes, I think they have CP holdings.

Hon. Sue Barnes: All right, so then they're using the CP holdings. They would register leasehold interests.

Chief Strater Crowfoot: Right.

Hon. Sue Barnes: Okay.

Has this idea been explored outside of the taxation board? Has it been explored at other times within some of the aboriginal organizations?

Chief Strater Crowfoot: Last year the department tried to start talking about how they could do this, have a land registry. They tried to have an intergovernmental department discussion about it, and they invited first nations leaders to participate and see what could be done, but in the last few months I've heard nothing about it.

We all know it's an issue, but how can we go about addressing it, and who should be involved in this?

Hon. Sue Barnes: In your discussion, you talked about enabling legislation.

Am I out of time, Mr. Chair?

The Vice-Chair (Mr. Jeremy Harrison): You have a couple of minutes.

Hon. Sue Barnes: One of the things I heard you say in your presentation would have required a change in the Indian Act. How does any government get a change in the Indian Act when you have half of first nations not wanting to touch the Indian Act? Are you saying you have to do another stand-alone piece, or have you thought that part through?

•(1150)

Chief Strater Crowfoot: I'm thinking that if you find like-minded people, like-minded leaders, and say this is what we need, and then from there build it up and have them lead the charge, much like Bill C-20.... There was a need there and we tried to fill it.

As people develop their lands...there are lands across this country where first nations are moving ahead, and I think this issue is going to be hitting them at some point. The more you develop your lands, the more you're going to have the need for how it's registered.

As our people, our population, become more educated, if they invest on reserve, how can they protect their interest? I think we're going to have to address that.

Hon. Sue Barnes: Is custom allotment the same? What you describe to us as the band and council and the chief allocating lands, is that the same system that's used in all those first nations that utilize custom allotment, or can it vary from first nation to first nation?

Chief Strater Crowfoot: It varies from first nation to first nation. I described just my situation at Siksika.

Hon. Sue Barnes: Could you then describe some of the other situations in custom allotment?

This committee is trying to make sure we encompass everything that's out there. So we're searching out also those witnesses who would have a different type of custom allotment situation than maybe your first nation.

Chief Strater Crowfoot: There's a tribe to the south of us that has...not CP holdings, but the land is allocated to family members and it stays in that family much longer than in my situation, where the council can move in and say, "No, you aren't using the land", and they can reallocate it.

In other reserves, the families are so strong and the politics so strong that the council dare not move in and try to reallocate land. So it depends on the council at the time. Also, systems are entrenched as to how bands operate over the years, so it's very difficult for a council to seize hold and say, "We need to this today for the betterment of the future."

As reserve populations grow and land holdings begin to shrink, you have certain families holding all these lands and other people saying, "I'm a first nation member. I'm entitled to certain lands. How can I get some land?" All they're entitled to would be perhaps just having a house, yet they may want to farm and ranch, and they can't because the lands are reallocated.

I see that as another issue coming down the road, when the land is basically gone and people want to have a vision, want to plan a future for themselves, and there's no land for them.

The Vice-Chair (Mr. Jeremy Harrison): Thank you.

We'll now move on to Ms. Skelton for five minutes.

Mrs. Carol Skelton (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Chief Crowfoot.

Last week, I believe it was, we heard testimony from women's organizations. One group told us that it's essential for the women and children on reserves to have legislation. In fact, they're going ahead and proposing legislation themselves. Have you talked to these women's organizations?

Chief Strater Crowfoot: No, I haven't.

Mrs. Carol Skelton: What do you think about their recommendation? Do you think we need legislation put through right now on

matrimonial real property rights, or should we keep negotiating and keep working at this longer?

Chief Strater Crowfoot: Could you explain a bit more about the legislation they're asking for?

Mrs. Carol Skelton: They were just saying that the women's and children's issues on the reserves are desperate and they need legislation right away. They're tired of waiting for the government to propose legislation on this issue.

Chief Strater Crowfoot: What would the legislation do? Would it force the councils to allocate property, or what?

Mrs. Carol Skelton: They don't have it written yet, but I'm assuming that's what they would do. It would force the councils to make decisions and to basically look at the rights of the people on the reserves.

Chief Strater Crowfoot: My reaction, as the chief, would be that for us, we wouldn't like it, because again, you're intruding in our jurisdiction. Speaking as a leader, we'd have to balance the interests of our people, especially the women and children. I think it should be resolved internally, if it can be, and we would look at those interests that all people have out in the community and try to address them. But again, the resources are limited. What people want and what they get is so broad and so diverse.

• (1155)

Mrs. Carol Skelton: You talk about your farming operation. If you don't have rights to the land and everything, how do your agricultural producers manage to survive? Most farmers are able to take their land base to the bank and say to the lender, "You can have my land". But you're not able to do that.

Chief Strater Crowfoot: No. I think a lot is based on their credit history, the type of farmer they are, and what kinds of assets they have, like moveable assets. Some are having a hard time accessing more money for operations. In Alberta, we do have some support through Aboriginal Business Canada.

Mrs. Carol Skelton: But you wouldn't have many young farmers, then, at all.

Chief Strater Crowfoot: No, very few young farmers. The people I'm talking about have been farming for... They are the second generation now, and they pass it on to their kids. In fact, a lot of farmers who operate on our land are having a hard time continuing on, but they still want the land. They aren't retaining the land, so we have to look at taking it back, and there's a big fight between them and councils.

Let me point out here that the biggest problem we have with these issues we're dealing with, the chief and councils, is the two-year term, because council is always in election mode. In two years will I get voted back in if I make a hard decision now? Will people forget about it a year and a half from now?

You're always in this election mode, worrying about the electorate. So it's hard for councils to make those hard decisions, unless you get people who don't care about their own personal standing, who want to look at what's best for the community. It's a tough environment.

When you talk about land, and councils moving in and making decisions, taking land away and reallocating it, there's a big fight. There are so many aunts and uncles and cousins involved. It's a tough decision.

Mrs. Carol Skelton: I understand totally because my husband and I would like to pass our farm on to our son, but with the economics of agriculture right now, that is almost unfeasible. So I can look at your band, which is very successful in agriculture, and feel for your people. That was my concern, how you get the equity you need.

Thank you.

The Vice-Chair (Mr. Jeremy Harrison): We now go to Mr. Valley.

Mr. Roger Valley (Kenora, Lib.): Thank you, Chair, and thank you, Chief Crowfoot, for coming today.

My comments will be very similar to Ms. Skelton's at the start; I'll just phrase them slightly differently.

We've heard—as you mentioned, being a chief yourself—that if anybody was going to impose anything on you, it would not be welcome news. What we heard, though, very clearly from some of the groups she mentioned was the absolute urgency to get something done immediately, even if there are mistakes made. Some of the groups that spoke to us felt it was important to get something done immediately to protect the people who are being hurt as a result of some of the issues.

I want you to think of this as I make a couple of other comments. What do we do when we hear about the urgency that's there? We know of some jurisdictions, I think in B.C., that used provincial legislation, and we've heard talk and comments about the fact that maybe we should be thinking about legislation that has a time window in it, where provincial legislation may cover the bands until they enact or adopt something. How urgent do you feel—and not specifically about your own community but about the situation across Canada, from the information you have—this matter is? How do we move forward to protect some of the people in the communities who are being hurt, children and people of either gender?

I want to go back to your comment about the BCRs, the band council resolutions. We all have anecdotal information. I have 38 communities in my riding, and we hear the bad news stories sometimes about a change in council. You just mentioned how fickle political life can be sometimes; you mentioned two years.

We'd like to have two years here, but that's probably not going to be the case.

I know we get stories of family disputes and how things change during an election. Certificates of possession are changed because there are disruptions in the political life in the communities. Do you have any anecdotal information about BCRs being rewritten because of disputes when elections happen? If stuff like this is happening in Canada, it adds to the urgency of us doing something.

I believe you're quite right; nothing we force on anybody is ever going to work. It has to come from the communities themselves. We spent 20 years without much accomplishment in this area. I know

there are successes, but there are not enough of them for the 600-plus communities we're talking about.

My question is, how urgent do you think it is? Are we going to make mistakes before we get this right? How do we get it driven from the communities, the legislation we can enact, so it starts protecting the people we need to protect in the near future, not 10 or 15 years from now?

• (1200)

Chief Strater Crowfoot: Let me start first with the legislation. It's fine to pass it, but who's going to enforce it, and how will we enforce it? Think about that. If it's not going to be homegrown, then forget about it. You're not going to impose it on first nations; you'll have more resistance from everybody, so I'd be careful of that.

Just from my perspective, I think the best thing is to have people who really understand the situation and have a desire to change it and to create an environment so people are heard, where they feel there is a process for them to be heard and there's an unbiased body making decisions. The courts...because you have marital disputes, land disputes, and family disputes. How do you handle that? In the past we dealt with those through custom, but now, because we're stuck in today's environment with federal law, provincial law, and so forth, people can go to the courts to seek remedy. But that's one case where I don't think people want to go there.

If we can do it internally...and I mentioned our system; we're trying to put in place a group of elders who are called helpers. If we can get that recognized, where both parties sit down and agree to go through that mediation process and agree to whatever the outcome is, they'll follow it. That's the best solution for the short term: you have willing parties sitting down with an unbiased party who's going to help make a decision.

Mr. Roger Valley: I agree with you that in the short term the solution has to come from your people, but how do we move that timetable, that agenda, up so it happens sooner than later? That's my question. How do we expand on that? Is it resources?

Chief Strater Crowfoot: It's partly resources; it's partly proper training.

I think it's going to come from the people themselves in the community, saying this is a need we have; we need this resolved somehow. Let it grow within the community, with leadership and with the community leaders. That's the best solution for the short and long term.

But you have to have a system where people are willing to listen and to sit down and work something out together. For example, these people who come here and make these complaints are justified, but I wonder how often they've tried to go to their leadership to address these issues. I don't know.

Mr. Roger Valley: As we deal with all of Canada, how would you phrase this as an issue for Canada then? Is it urgent? Do we have to develop this from the inside? Do we have to do it right away?

Tell me what you would like to see in 20 years. We've taken 20 years getting to this point, but there hasn't been a lot of progress. Like I said, there are some success stories, but tell me when we can see the end of this once we start working on it.

Chief Strater Crowfoot: I wish I knew the answers.

I have an opinion on that. Find the good examples that are out there in the communities, in the first nations. Show the successes and how they work, like with Alkali Lake, Sucker Creek, and people like that. They did it themselves because they wanted to. And then from there, people will start to recognize what others are doing and say, we can try that; we can do that. So focus on successes and publicize them. That's one model I would recommend.

And offer resources for proper training to help these groups that are growing up. In our process, with a lot of training we've put in place a mediation process between ratepayers and band councils, and we've used it successfully over the last few years. By properly training people internally, you can handle disputes.

• (1205)

The Vice-Chair (Mr. Jeremy Harrison): We will now move on to Mr. Cleary from the Bloc.

[Translation]

Mr. Bernard Cleary: I would like to continue my earlier line of questioning.

Aboriginal women appeared before us and talked about an act. It was not clear, to my mind, that they wanted the act to be drafted by the Department of Indian Affairs and Northern Development. Instead, they wanted an act that would come from aboriginal groups, that would come from the political side. There was no question of the government imposing anything. However, they also said that if no one took any action, someone somewhere would have to move. We cannot wait for ever—I do not think I am parodying this, I am trying to accurately reflect their ideas—for the chiefs to get the ball rolling. Something must be done, otherwise we will continue to live with our problems, and the door will be closed without our having resolved anything at all.

So I am trying to get a clearer picture of the position of certain band councils. If I understand you correctly, you want to find solutions. You do not want solutions to be imposed on you, but you want to come up with solutions. The proof is that you have proposed some interesting solutions that can be evaluated. That is what we must look for.

I saw the proposal by the aboriginal women in a good light. I did not have the impression that their opposition was designed to cause more squabbling at the political level in the groups. They were attempting to solve their problems, because they want them to be resolved. In my opinion, they are right.

Do you think that we will be able to do something here that would really get the ball rolling? I understand that it cannot be resolved in two, three or five years, but we must get the ball rolling if we want to arrive at the solutions.

Could it be a kind of pilot project, like what you were suggesting? Could it be something else? A little earlier, you said that the Indian Act posed a problem. I agree with you 100 per cent. It is full of problems, but where are those problems? How could we resolve them? Everyone says that the Indian Act poses a problem. We cannot... Well, I still cannot come up with a solution or a potential solution. I am trying to connect to what you were saying earlier,

which seems to me to be a step in the right direction. How could we take this step? Can you shed some light on that for us?

[English]

Chief Strater Crowfoot: I think perhaps an initial step could be pulling together like-minded people from different parts of the country to talk about the issue. Bring in some women who are affected, some chiefs and councils, and others who have expertise in this area, and talk about the issues that people are facing, talk about solutions and what can be done, and then look at the range of solutions. You talk about legislation. I think that's one solution over here perhaps, but at the local level, what can be done? I think we should bring in these people to talk about it. They can perhaps sponsor these conferences and workshops where everybody addresses those issues. Have the leadership that's interested in coming and listening, and then develop solutions together with the people who are affected. I see that as one good step.

• (1210)

The Vice-Chair (Mr. Jeremy Harrison): Are you done, Mr. Cleary?

[Translation]

Mr. Bernard Cleary: Let me go a bit further. Obviously we should not fall into the same old trap of launching new conferences or other undertakings that do not end up anywhere.

We feel that people really need to be consulted. You made a suggestion to this effect, but you do understand that the decision is not up to us, from now on. I think that there might be some problems if we propose one consultation or more discussions while people seem to be asking us for solutions.

I agree with what you said, but I would need more than that. Obviously, you are not in charge of all the solutions either. We should not torment someone simply because he is familiar with the file. That is not what we have in mind. However, you have spoken to us freely about this, and it is pleasant to be able to debate without feeling that we are trying to back each other into a corner.

That was what I meant by my questions. Now, I will let others put questions if they wish.

[English]

The Vice-Chair (Mr. Jeremy Harrison): I think Mr. Smith is next on the list.

Mr. Smith.

Mr. David Smith (Pontiac, Lib.): Thank you very much, Mr. Chair.

Chief Crowfoot, thank you very much for being here this morning.

I believe sincerely that everybody sitting around the table here has the same concerns that different people in the community have. An idea I support and believe in is that the solution should come from the communities, from the people in the community and its leaders.

My biggest concern is with the communities that have more difficulty. Personally, I was brought up near an aboriginal community that I believe is making great efforts and doing great work to try to find solutions on this issue. I have members of my family who are social workers and another member, my sister-in-law, who works with aboriginals on this issue.

My biggest concern is with communities that have more difficulty, that are maybe not as structured. How can we help these people? I want to help the people; that's why I'm here.

I've heard stories and I've seen some situations that are troubling. My question is on whether maybe there's a way you see, as a leader of a community, that at least we could have a minimum...where we could maybe help the communities that have more difficulty organizing themselves, not to tell them how to do it, but at least to offer a source, an option—maybe the word would be option. If they have difficulty participating in a discussion on this issue, at least they have the option of using that plan, and maybe living that plan and going to the next step.

Compare this to communities like yours, for example, where you've said to us that maybe they've seen other ways of doing it. Your community may have a different vision of the issue than they have in more difficult communities. For example, I have one community in my riding that I do believe would need an option, and maybe by seeing this option, it would give them the opportunity to organize something for themselves based on this option, or on something else.

So what do we do with communities that have more difficulty?

• (1215)

Chief Strater Crowfoot: I think, first of all, people have to recognize—or should be able to recognize—that there is an issue there that they have to deal with and want to deal with. The leadership, the community, needs to get to that point—because you can't force them.

How can we get them to see that there's a need for them to address this issue? I think that's a big step, that and their wanting help to address it. As I said before, if you can showcase what's going on across the country, that people are sitting down with community leaders and resolving these disputes, I think that would be one way.

But in terms of having these working groups or these sessions across the country, it doesn't have to be endless. I think just having a few key ones to find out what's going on, identify the issues, and then identify from there the champions who will lead this and perhaps work with the communities, work with the leadership, look at the options, look at legislation, look at other ways to address these issues....

Social conditions are the root cause—lack of housing, lack of opportunity, lack of hope. It's the whole big picture here. So how can you look at everything? You can't look at just one thing without looking at everything and what's causing these problems.

As I said, Bill C-20 is one start on trying to fix the problems, but there are other things we need to do.

Mr. David Smith: I agree with you on that point, and I believe these round tables will help with these issues.

Again, in the community where I was brought up we see economic development, schooling, health centres. I'm very proud of that community. But in another community I represent, there's no economic development, there is very little education, and high levels of alcoholism and drugs; it's a difficult community.

It's not the community itself; it's the situation they're living in that is difficult. How am I going to help these people with this issue when there are so many issues out there? I have bigger concerns for that community than for the first one.

Chief Strater Crowfoot: On that point, I see it as identifying your long-term goals. I grew up in a broken home and had five different foster homes. It's realizing who you are and what you want out of life. Luckily I made a choice just out of high school and I got to where I am today. So it's knowing who you are, but having hope. I think we need to create that hope in the communities.

We hear concerns about cutting back on post-secondary education and taxing post-secondary students, and yet that's the one ticket out of their situation. It's getting education so they can have the skills, get the job, have the dream, build the family.

In terms of a long-term vision, what are the things we can put in place? We can be stuck with these issues forever, but identify the long-term goal: what do you want as a government, as first nations leaders, and how can we get there?

Mr. David Smith: I share your vision.

Chief Strater Crowfoot: In the meantime, we're stuck in all this—

Mr. David Smith: Exactly. What we're trying to find is possibly a short-term solution to a long-term problem. How are we going to do this? The Senate went around on an 18-month consultation. They did a very nice piece of work, but what's the short-term solution?

Thank you very much for your input on this.

The Vice-Chair (Mr. Jeremy Harrison): Next on our list is Mr. St. Amand.

Mr. Lloyd St. Amand (Brant, Lib.): Thank you for being here today. I think we all understand that you had another commitment, yet you saw fit to relieve yourself of that commitment. It's their loss and our gain that you've bothered to come here today to present to us.

We've heard various individuals on this issue, one of whom was a pretty persuasive female lawyer from British Columbia dealing exclusively in family law, who said you've got to light a fire under them. I don't mean this impolitely, but I'm getting the impression there's somewhat of an old boys' network operating. It's perhaps an unfair impression that I've been left with, but there it is.

The nub of the immediate issue is this, as I see it. Say there is a young couple with young children off reserve. They separate, and there may or may not have been abuse. The young mom decides she wants to have custody of her children and to maintain the home for herself and her children, who may attend a nearby day care centre, have friends in the neighbourhood, etc. She lives half a mile off reserve. She goes to court and obtains a court order allowing her and the children to stay in the home. That's a commonplace occurrence. Now, think of the same situation, except a half a mile away. A young mom on reserve has no such remedy available to her. That's the nub of it.

We've seen no firm data on this, but we've heard enough anecdotal presentations to convince all of us, I think, that this is a day-to-day reality and a day-to-day issue for separated spouses, particularly females, and we're being asked to do something.

I've got to say, I'm not confident that consulting and mediating are going to address the problem any time in the future. So can you assist us at all with what we should be doing?

I'll tell you that it's rather tempting to go the legislative route. There will be resistance, but surely it's unfair that a court order is enforceable half a mile away, but on reserve, oh, no, it won't be enforceable. It just seems like unfair treatment of people who are in, more or less, the same situation. That's the gap we're trying to close.

• (1220)

Chief Strater Crowfoot: Well, in that situation, I just think of my experience with my community. We look at who has custody of the children, and then from there we make the right decision for the family and the children. In some cases, we allocate the house to the spouse, female or male, depending on who has the children. For us, it's what's in the best interests of the children.

As for this old boys' network, it's changing. We've got more people coming in, and there are women on councils bringing their perspective in. Most of the people I know are concerned about their people as a whole, whether they're male or female, which doesn't matter. They're the leadership, or the chiefs, of all their people.

Mr. Lloyd St. Amand: You've mentioned elders. What percentage of elders are male compared to female?

Chief Strater Crowfoot: There are more female elders than male elders.

Mr. Lloyd St. Amand: Okay.

Do you see it as an urgent problem that we need to address, or are you confident that the situations are being addressed properly across the country by most communities?

Chief Strater Crowfoot: I think the latter is true, that most communities are addressing it.

As I said, people who run for office are leaders of all their people, not just one segment. I hear all kinds of issues coming to me from all groups. I try to look at the issues very carefully, to deal with them fairly, and to do what's right.

I think the issue is being dealt with by most communities in the proper way, but I think they lack the resources and the support or expertise from the outside to help them set up their systems properly.

Mr. Lloyd St. Amand: Thank you, Mr. Chair.

The Vice-Chair (Mr. Jeremy Harrison): Thank you very much.

I think at this point—we have only four minutes left in the meeting—I would suggest we figure out what we're going to be doing May 3. What I would suggest for the May 3 meeting, since nothing is scheduled, would be to first of all have a discussion amongst ourselves, then give directions to the analysts on the general direction of the drafting of the report, and maybe discuss some future business items. That would be my suggestion for the next meeting.

• (1225)

Hon. Sue Barnes: Mr. Chair, I think the chair of the last meeting said we were trying to get witnesses in on that thing. If we can get those witnesses scheduled, let's listen to those witnesses so we can get to the analysts on that. There's no sense having direction if we haven't finished with those witnesses. I think there was a list with the clerk—I just saw the list—that he's trying to get at. So let's see if we can get as many of those as possible in the next two meetings and then go to our future business.

The Vice-Chair (Mr. Jeremy Harrison): My suggestion would be that we leave it up to the clerk. If we can get the witnesses there, we can get them there. If not, then we'll have to do the analysts thing. I think we should leave it up to the clerk, though, and see how things go.

Hon. Sue Barnes: I thought we decided the other day, that's all.

Thank you.

The Vice-Chair (Mr. Jeremy Harrison): Thank you very much, Chief Crowfoot, for coming in and answering our questions.

The meeting is adjourned.

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