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CAEPLA Landowner Journal

Special Edition

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"Promoting the responsible use of our lands and resources"



The Canadian Association of Energy and Pipeline Landowner Associations (CAEPLA) is Canada's foremost and leading association of landowners who have a direct and ongoing interest in the way government and energy regulators define, and then influence, the relationships that exist between landowners and various aspects of the energy sector.

A decidedly pro-development association, CAEPLA's role is to advance the legitimate interests of landowners within the context of development, and at the same time, provide all Canadians with a better understanding of the way property rights encourage responsible stewardship.

As a non-profit landowner association, CAEPLA is especially interested in the performance of energy regulators and the various provincial and federal agencies that define or influence the way energy companies interact with landowners. At the federal level, this would particularly include the National Energy Board. At the provincial level it includes agencies such as the Alberta Surface Rights Board, the Saskatchewan Surface Rights Board, the Alberta Energy Resources Conservation Board (ERCB), the BC Oil and Gas Commission, the Ontario Energy Board, the Alberta Utilities Commission, the New Brunswick Energy and Utilities Board (NBEUB), and others.

Associate membership in CAEPLA is open to all individuals and businesses that support the association's objectives.

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The Stelmach MLAs Are Seeking to Extinguish Landowner Property Rights ■ by Dave Core and CAEPLA Staff



Why the Stelmach MLAs would systematically and deliberately embark upon a legislative agenda that undermines the very people that put them in office, is not rational. Yet they are doing it, and not reluctantly.

Alberta is the one place in Canada where at one time, many had a sense that the adults were in charge. There was something attractive and comforting about it, even for those of us who lived outside Alberta. Ottawa and the other provinces could be as irresponsible as they may, yet the reassuring presence of Alberta's professional, adult-like political administrations, gave every Canadian a sense of stability.

Unfortunately, that's all changed. The adults have moved on.

Now, in the same way that we used to instinctively sense Alberta as a place with a mature, business-like political adminis-

tration, we now understand that the men and women who have taken over are the political equivalent of teenage boys who have been given car keys and whiskey.

In terms of respect for the principles of due process, property rights, and traditional Alberta values, the Progressive Conservative Party of Premier Ed Stelmach is a shadow of the provincial party's former ideals.

What the Stelmach government has done to its own traditional support base is hard to believe.

Why the Stelmach MLAs would systematically and deliberately embark

upon a legislative agenda that undermines the very people that put them in office, is not rational. Yet they are doing it, and not reluctantly. Their passion for centralizing power in the hands of cabinet, as they trample property rights and collude with federal regulators to strip Alberta landowners of longstanding provincially-regulated protections in this regard, is giving new meaning to the word enthusiasm.

The Alberta government spied on people solely because they questioned some of its energy policies related to the development of power line corridors, and the enormous costs that would subsequently be imposed upon all Albertans.

Then, after getting caught spying on citizens, rather than admit the process it was trying to follow was isolating people, Ed Stelmach and his entourage of MLAs decided to pass a series of laws that put the power of a court in the hands of cabinet. And what's more, is that the power these politicians are giving to themselves goes beyond the power of a court. Under the Stelmach government's legislative agenda its decisions cannot be appealed. Politicians can make a backroom decision about what you can and cannot do on your property that is legally binding.

Alberta's Bill 36 (*The Alberta Land Stewardship Act*) establishes an unimpeded highway for cabinet to impose regional plans upon anyone in the province. Through

these "plans," the politicians could specify what your land could or could not be used for. The Act is written in such a way that the decisions of cabinet about your property will trump every other piece of existing provincial legislation, and the courts. These cabinet decisions would apply to crown corporations, municipalities, boards, commissions, and private Alberta citizens.

Bill 36 gives a handful of politicians the ability to amend or extinguish existing rights someone might hold as a result of any existing agreement, licence, or contract, including land titles, mortgages, water licences, leases, well licences, permits, etc. At the same time, it also restricts a landowner's right to appropriate compensation for any damages that result.

Most importantly, under Bill 36, there is no way for anyone to appeal a decision made by cabinet. The Bill blocks a citizen's right to seek judicial review or undertake legal action. Essentially, the Bill stops the courts from having anything to do with what the politicians might want to do to Alberta citizens, and to their property.

The Bill also enables the cabinet minister, at his or her sole discretion, to file a judgment against a landowner without there ever having been a trial or court hearing—and the cabinet minister's judgment would be as binding on the citizen as if it were issued by a real judge in a real court. 🏠



The Stelmach government's Bill gives a handful of politicians in a backroom the ability to amend or extinguish the existing rights someone might hold as a result of any existing agreement, licence, or contract, including land titles, mortgages, water licences, leases, well licences, permits, etc.

By Law, Saskatchewan Crown Corporations Already Trample Your Property Rights ■ by CAEPLA Staff



“We used to move cattle from one end of our place to the other, simply by pointing the herd in the right direction, getting behind and along-side with a horse and a dog, and gently nudging them,” Cliff says. “After the new four lane highway split the place in two, moving cattle turned into a major project. There is no way to move them anymore except to load them up on trucks and drive them across.” (Above photo: A cattle operation in the foothills.)

When Cliff Watkin’s grandfather arrived in western Canada, WWI was the better part of a decade away; Nicholas II was the Tsar of Russia; the Saskatchewan Legislative Building had not been built. Today, the Watkins family has been on the land for four generations.

Unlike the way things were when the family patriarch was around, today there is a four-lane highway that diagonally intersects the family’s entire ranch and farm operation. It splits the place neatly in two.

“We used to move cattle from one end of the farm to the other, simply by point-

ing the herd in the right direction, getting behind and alongside with a horse and a dog, and gently nudging them,” Cliff says.

“After the highway split the place in two, moving cattle turned into a major project. There is no way to move them anymore except to load them up on trucks and drive them across the four lane highway. It’s a huge job. The other big change so far as handling cattle, is that ever since the new highway was built we have to maintain several miles of fence along both sides of the road allowance. That means constant checking, maintenance, and rebuilding when it becomes neces-



SaskTel Offices in Panama City



SaskTel Offices in Botswana



By the same definition that Exxon and Cargill are multinational corporations, so too is SaskTel. All told, SaskTel has worked in more than 30 countries on six continents. As a multinational commercial corporation its projects have included:

- Project management, consulting, installation and commissioning services for telecommunications used within the Channel Tunnel.
- Operated and invested in cable/communications companies in Leicester (United Kingdom), and Wellington, New Zealand.
- Deployed 1,500 kilometres of fiber optics in the South China Sea.
- Developed 550 telecenters in the Philippines.
- A three-year management contract by the Government of Tanzania to manage all aspects of the operations, maintenance and expansion of Tanzania Telecommunications Company Limited. (TTCL)

sary.” Cliff points out that it isn’t just the cost that is burdensome to landowners in such a situation, but the time.

Cliff says that in addition to the acres that the family has had expropriated over the years, they have lost productivity on dozens more.

“What the Saskatchewan Highways Department did when they built the highway was peel layers of clay off the top of our land for the road bed,” Cliff says. “It left more than two dozen places where very little will grow anymore.”

“We call them borrow pits,” Cliff says. “They are anywhere from a third of an acre up to about four or five acres. None of these burns are suitable for much of anything. As a kid, I learned to handle farm equipment by driving between all the borrow pits that dot our land.”

“Our family has always been forward looking, interested in good relations with all, and quick to believe in a bright future for Saskatchewan,” Cliff says. “So we are really happy about progress when we see it. Yet we also recognize that landowners who are affected by fibre optic cables, road construction, hydro corridors, pipelines, and surface leases, have legitimate interests that need to be given due regard. The understanding has to be that when a landowner is being imposed upon by a private company or government crown corporation, there is an ethical obligation to make the landowner whole.”

Cliff says that in 2009, the family was approached by a land agent working for SaskTel. “He showed up one day to say the provincial crown corporation was going to install a fibre optic network cable on our property.”

Definition of “make whole”: To make whole means to pay or award damages to an individual that are sufficient to put the party who has incurred costs or damages, back into the same position he/she would have been without the fault of another. This includes reimbursement for expenses that would otherwise not had to have been paid, as well as compensation for loss of income, loss of quiet enjoyment of property, and payment for any duty of care or ongoing obligation that might be imposed upon one person as a result of the actions of another.

“When I found out the cable was going to connect to a cell tower,” Cliff says, “I realized I wasn’t dealing with a public interest kind of thing where I should be happy about sacrificing for the sake of the community and the province like the way it was in the 1950s. This was a commercial venture being undertaken by a multinational corporation. Although SaskTel is a provincial crown corporation, by the same definition that Cargill and Exxon are multinationals, so too is SaskTel.”

Cliff is quite right. The projects these large crown corporations like SaskTel and SaskPower are doing on private land, are generally not related to necessary infrastructure. These crown companies have become big corporations that use the power of provincial legislation to impose upon landowners in a way, and at a price, that they determine, and that puts the landowner at a disadvantage.

Like many landowners, Cliff knows that on the basis of Saskatchewan law, these big crown companies can walk onto any landowner’s property, completely unannounced if they wish, do whatever they want, and then leave the landowner to pick up the pieces, absorb the costs, and then fight it out after the fact.

Saskatchewan Energy Minister Bill Boyd claims due process of law is something a landowner receives “after” a provincial crown corporation has come in and used a person’s property in whatever way it wants.

In fact, Boyd’s wrong. Due process of law is what needs to occur before the action, rather than after the action. It’s impossible for a landowner to have legitimate grievances aired—including whether a project should ever be undertaken in the first place—if the opportunity to challenge what is being imposed upon him or her isn’t available before something happens as opposed to after it happens.

When summarizing what has happened to him and his family over the years, Cliff said: “Whenever a landowner is imposed upon by a public utility or energy company, the land as well as the owner are compromised in a way that can go on for generations—as it has in the case of our family. The land and the owner are negatively impacted in a perpetual way, and for that ongoing setback, a one-time payment simply isn’t adequate. For the government to assume it is, or for landowners to accept such intrusions as a normal part of living in a free country, is fundamentally wrong.” 🗣️



Due process of law should give landowners advance notice as well as the opportunity to state their case and present their grievances “before” the government takes or uses their land.

Above photo: Without having notified the landowner, a SaskPower crew arrives unannounced and uninvited at the Brian Campbell farm to interrupt a large cattle roundup, and to begin construction of a high capacity power line.

Unfortunately, Saskatchewan Has a Tradition of Discrimination against Private Property Rights



Energy Minister Bill Boyd (in a letter that is reprinted on pages 9 and 10), says it is misinformation on the part of CAEPLA to suggest that Saskatchewan landowners are not entitled to due process of law when their land is taken by a crown corporation such as SaskPower:

Boyd is flat out wrong, and the evidence to prove it is printed below. In Saskatchewan law, Bill Boyd and the provincial government have a similar kind of power over your land as the queen or king in historic England. The only way Boyd can suggest that “due process” occurs is to assume that it happens after the government imposes its wishes on a landowner — which makes no sense because the landowner has never had the opportunity to present his or her grievances or state his or her case.

The Power Corporation Act of Saskatchewan

23(2) [SaskPower] may, without the consent of the owner thereof or any other person interested therein, enter upon, take possession of and use such lands and such rights in or in respect to lands as it deems necessary or advisable.

(3) [These powers...] may be exercised without any prerequisite or preliminary action or proceeding, and without any other sanction or authority than this Act, and shall include the right to take, acquire and possess for such time as the corporation deems proper, under agreement with the owner or without his consent, such lands or such rights in or in respect to lands as the corporation deems

advisable or necessary. [including for the operations of pipelines 23(1)]

16(1) Nothing in this Act shall be taken to require that a vesting order by a judge shall be obtained before or at the time of the entry upon or taking possession of the property

(4) Every person who interrupts, hinders or molests any person while engaged under the authority of the corporation in entering upon or taking possession of any property as authorized by this Act is guilty of an offence.

Saskatchewan Energy Act

30(1) Without the consent of the owner or any interested person, the corporation or TransGas may enter on, take possession

of and use any land or interest in land that the corporation considers necessary...

Saskatchewan Telecommunications Act

12(1) the [Minister] may authorize the corporation, without the consent of the owner or of any person interested therein, to enter upon, take possession of and use any land, buildings, plant, machinery, apparatus or equipment...

14(1) Nothing contained herein shall be taken to require that a vesting order by a judge shall be obtained or a survey made or a plan prepared, before or at the time of the entry upon or taking possession of the property to be expropriated.

Highways and Transportation Act

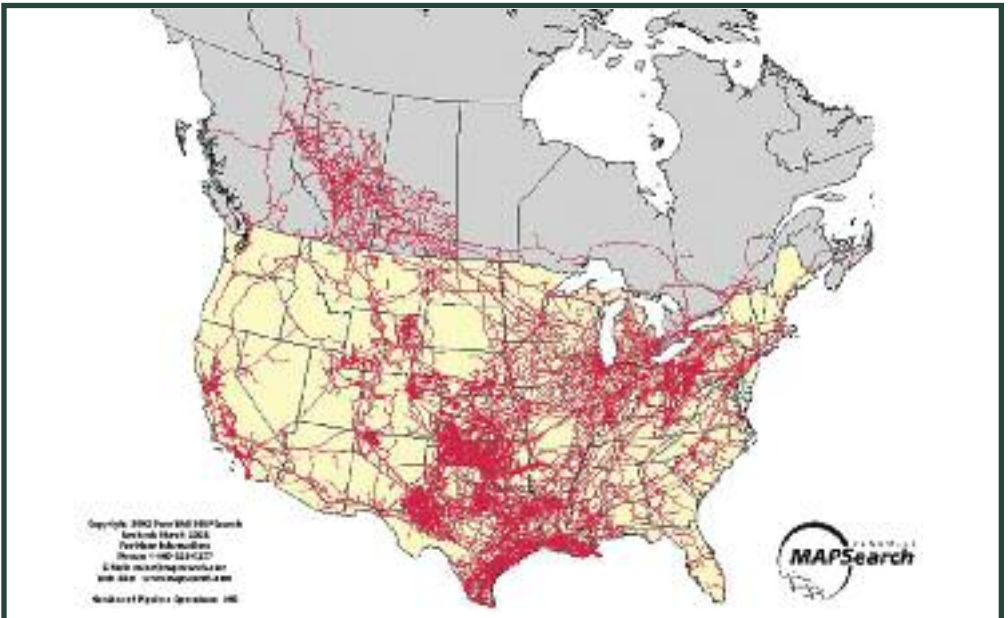
16(1) the minister, without the consent of the owner or any interested person, may do any or all of the following: (a) enter on, take possession of, acquire or expropriate any lands required for the purposes of this Act;

(7) No person is entitled, as of right, to any compensation solely by reason of the designation or use of land as a public highway.

At a CAEPLA Board & Advisory meeting, Saskatchewan farmer and CAEPLA Policy Advisor Miles Vass makes a point with CAEPLA Policy Advisor John Goudy. Goudy is an Ontario farmer and attorney whose law practice focuses on landowner issues.



North American Pipeline Network



Ottawa's National Energy Board (NEB) unilaterally transferred 24,000 km of provincially-regulated pipelines (The NOVA Gas Pipeline System) from the Alberta government over to its own regulatory portfolio. The move stripped thousands of landowners of longstanding property rights and legal protections, even as it allowed the NEB to dramatically expand the size of its own bureaucracy and budget.

Above: North American Pipeline Network map available through mapsearch.com.



[REDACTED]

[REDACTED]

Dear Mr. [REDACTED]

Re: Recent Article in the CAEPLA Landowner Journal

Thank you for your inquiry regarding the recent article in The CAEPLA Landowner Journal by Dave Core titled The Education of Brian Campbell.

A copy of your inquiry was forwarded to my office for a response. The Honourable June Draude, Minister Responsible for Crown Investments Corporation of Saskatchewan and I are pleased to provide the following information.

As a landowner and farmer myself, I appreciate your concerns with respect to landowner's rights and possible avenues to resolve access issues. The article makes the claim that a landowner "doesn't even have the right to due process if the government wants access to his land." This is not an accurate statement. The Public and Private Rights Board is established under *The Expropriation Procedure Act*. The Board assists landowners and expropriating authorities in reaching agreement on the most appropriate route or design of a public improvement, and/or what fair and reasonable compensation should be paid for the required land or easement. If land has been expropriated for a public purpose, the landowner not only has recourse to mediation through the Public and Private Rights Board, but also has the ability to have the Court of Queen's Bench determine issues of compensation.

Additionally, if a landowner feels he has been treated unfairly or has a complaint he/she can seek the assistance of Ombudsman Saskatchewan. The Ombudsman may try to resolve any problem raised in a complaint via negotiation, conciliation, mediation or other non-adversarial approaches.

It is true that Crown utilities in Saskatchewan have broad legislative authority to install infrastructure. This authority needs to be broad in order to ensure that essential infrastructure can be built when needed, and services can be provided to those who require them. We can assure you that this authority is exercised with discretion and only after reviewing other options and alternatives.

The Public and Private Rights Board isn't a board. It's one guy who works for the government that the government calls a "board." And this one guy doesn't have any authority to do anything or change anything.

This is a copy of a letter sent by the Saskatchewan government to a Saskatchewan landowner earlier this year. The landowner had written a letter to his MLA, after reading a recent CAEPLA publication where he learned how SaskPower had mistreated Brian Campbell, a farmer living in the Moosomin region. The article about Brian Campbell that is referred to in this letter, can be seen at: www.landownerassociation.ca/magazines.html. Click on the Spring 2010 Landowner Journal link.

[Redacted]

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The article you reference regarding Mr. Campbell resulted from the installation of an electrical transmission line on an undeveloped road allowance. The road allowance is located on the Saskatchewan-Manitoba border and was cross-fenced by adjoining landowners, making access for construction challenging. Despite instructions from SaskPower to the contrary, the contractor made entry onto Mr. Campbell's land on several occasions without contacting him. For this and other reasons, the contractor was subsequently removed from the job and from SaskPower's bidders list with respect to transmission line construction work.

Yours sincerely,

Bill Boyd
Minister Responsible for SaskPower

June Draude
Minister Responsible for
Crown Investments Corporation

- c: Garner Mitchell, Acting President and Chief Executive Officer, SaskPower
- c: Judith Fox, Manager, Stakeholder Relations, SaskPower

Provincial legislation like the *Highways Act* specifically says that landowners don't have any right to compensation—there's nothing "due process" about that.

How can due process of law occur after the fact as opposed to before a person has a chance to state his or her legitimate grievances? There is no way a landowner can appropriately contest something if he or she can't challenge it until after its already been done.

SaskPower isn't even required to serve notice on landowners. It can enter on private land and do whatever it wants. If the landowner resists, he or she is guilty of a crime, and contrary to what the Minister says in his letter, this power applies not just to the installation of infrastructure, but to anything SaskPower may want to do on private land. There's nothing "due process" about that.

This is not what happened. CAEPLA was directly in touch with SaskPower at the time and was pointedly told that SaskPower has the right to do whatever it wants on private land, whenever it wants. The SaskPower official with whom we spoke at the time laughed openly at the idea that a landowner would ever, under any circumstances, be able to charge SaskPower with trespassing.

Stelmach MLAs Who Don't Understand the Implications of What their Own Government is Doing ■ by Keith Wilson

In a story that appeared in the Morinville Free Press, MLA Jeff Johnson, insists that misinformation is being circulated about the way landowner rights are going to be affected by the Stelmach government's Bills 19, 36, and 50. Johnson is not the only Stelmach MLA making such assertions. Bill 19, is formally known as The Land Assembly Project Area Act; Bill 36, as The Alberta Land Stewardship Act; and Bill 50 as The Electric Statutes Amendment Act.

In response to the newspaper story, Edmonton-area attorney, and a member of CAEPLA's Board of Policy Advisors, Keith Wilson, fired off a letter to the newspaper in which he points out exactly how the Stelmach government has repeatedly rejected the foundational principles of modern parliamentary democracy, the rule of law, due process, and respect for property rights. Wilson then explains how government MLAs in Alberta are quite literally seeking a province that is no different than a third-world country where the leaders can take property away from people without consequence—simply by saying, "We are going to take control of your property." (Keith's original material has been edited slightly for length.)

The most accurate source of information [respecting Bills 19, 36, and 50] is the legal wording of the Bills themselves. These are the words that government officials will utilize to implement the new laws and that the Courts will read.

Bill 19 allows the provincial government to freeze a person's property for decades, while the government ponders whether it should be used for the next highway, ring road, or utility corridor.

Prior to Bill 19, Alberta law required the government to fully compensate a landowner under the fairness principles of *The Expropriation Act*. That Act required the government to follow due process of law and to make the landowner whole. Now, through Bill 19,



MLA Johnson is quoted as saying the new plans will not apply to municipal zoning/land-use powers. Well, Mr. Johnson will be surprised to read Sections 15(1) and 20 of the bill, which say exactly the opposite.

the government can bypass *The Expropriation Act* and leave landowners without certainty for their future and without full compensation.

Bill 36 contains unprecedented legal language with respect to new government authority to affect private rights. Section 11 states that Cabinet's "regional plan may... amend or extinguish statutory consents."

Section 1 defines "statutory consent" as any "permit, licence, registration, approval, authorization, disposition, certificate, allocation, agreement or instrument issued under or authorized by an enactment." *The Land Titles Act* issues "instruments" which it defines as "a grant, certificate of title, conveyance, assurance, deed, will...mortgage or encumbrance."



Bill 19 allows the provincial government to freeze a person's property for decades, while the government ponders whether it should be used for the next highway, ring road, or utility corridor.

Hence, Bill 36 says Cabinet may, through a regional plan, “extinguish” any form of approval held by an Alberta business and Albertans’ land titles.

Unfortunately, Bill 36’s assault on landowner rights does not stop there. Section 19 says that “No person has a right to compensation by reason of this Act, a regulation under this Act, a regional plan or anything done in or under a regional plan.” Finally, sections 15(3) and (4) state that no person can use the Courts to bring any lawsuit or claim against the government for damages or losses caused by a regional plan.

One final point: MLA Jeff Johnson is quoted in *The Free Press* as saying that the new provincial regional plans will not apply to municipal zoning/land-use powers. Well, Mr. Johnson will be sur-

prised to read Sections 15(1) and 20 which say the opposite. Bill 36 is binding against all local municipalities and, from now on, whatever the Cabinet says goes.

The legal reality is that the Bills MLA Johnson [and other Stelmach MLAs] voted for, offend the foundational principles of a modern parliamentary democracy and a market economy. They offend the rule of law, due process, and respect for property rights.

Legislatively, Alberta is now no different than a third-world country where the leaders of the day can take people’s property without consequence. 🇨🇦

A complete legal analysis of the Alberta Bills can be found at:
www.caepla.org/WilsonCritique

Landowner Liability: Amendments May Be Coming to Crossing Laws on Federally-Regulated Pipelines

■ by CAEPLA Staff



According to the NEB draft, to avoid legal and financial liability pipeline landowners will be required to contact the pipeline company or the NEB for permission to cross pipelines, every time they use farm equipment that the NEB refers to as “large harvesters” and “large grain transports.”

As this publication goes to print, because CAEPLA has drawn the attention of so many landowners and elected officials to the National Energy Board’s (NEB) absurd policy of holding landowners liable every time they drive farm equipment over a pipeline easement without permission, there has been an announcement from Calgary that the NEB is considering passing an amendment this winter that will exempt certain low risk crossing activities—spraying, fertilizing, baling, seeding, etc., so long as the equipment involved is not leaving any ruts in the ground, its tire pressure and load is within manufacturers specs, and a couple of other things.

Nevertheless, the NEB also issued a statement saying that pipeline companies will still be able to require the landowner to notify the company and obtain permis-

sion for all crossing activities over a pipeline, even if the landowner meets all of the NEB’s new conditions.

According to the NEB draft, to avoid legal and financial liability, pipeline landowners will be required to contact the pipeline company or the NEB for permission to cross pipelines, every time they use farm equipment that the NEB refers to as “large harvesters” and “large grain transports.” (For the purpose of enforcing the new rules or determining legal liability, the NEB has yet to define exactly what the word “large” means in its rules, or how landowners will know if the equipment they’re operating qualifies as “large.”)

According to the NEB, the pipeline company or the NEB will review the crossing request and provide a verbal or email

response to the landowner within one business day—meaning if the landowner calls the NEB on Friday for permission to drive his or her truck across a field, the government or the company may respond by the following Monday. From CAEPLA’s perspective, the notion that a landowner should accept verbal permission over the phone—in a two-person conversation—as the basis of absolving him- or her-self of legal liability is crazy. Can you imagine a landowner in court standing before a judge insisting he was told over the phone that it was okay to drive across the easement?

The NEB also says that whenever a landowner asks permission to cross an easement, if the pipeline company decides that it wants to come to the farm and actually look at the easement first, landowners “should” not have to wait longer than two days. The key word here is how long these bureaucrats think landowners “should” have to wait.

If you are a landowner with a federally-regulated pipeline easement on your farm, and you are scratching your head right now wondering what in the world is going on, you have a good reason to do so. The fact is that the NEB bureaucrats have made an absolute mess out of what should have been a relatively simple process. These bureaucrats have had decades to set up a pipeline regulatory system in Canada that would not impose duty of care, risk, or liability upon landowners.

As an agency of government, the NEB is a bureaucratic mess and has been for decades. It is just that now, how incompetent this agency has truly been is coming to light. For decades, the NEB has repeatedly shunned opportunities to consult with informed landowners and landowner associations before it implemented policy. Instead, its head bureaucrats hunkered down in secret backrooms with the energy companies it kept pub-

licly referring to as its “partners,” taking its marching orders from the partners.

This is the reason that today, the NEB refuses to answer very specific questions submitted under the provisions of the *Access to Information Act* about who was in the backroom when it implemented these crossing restrictions in the first place.

Also, keep in mind that when the NEB claims it really is consulting with landowners, it often seeks a non-representative sampling and then passes off what’s been said as informed dialogue. It has consistently refused to ensure that the playing field is level when it comes to addressing issues that directly affect landowners.

Think about what these NEB bureaucrats have done and are doing:



There isn't a heavily weighted vehicle—truck or transport—driving around the city of Calgary, Edmonton, Winnipeg, or anywhere else in Canada, that has to be mindful of a law that says the driver needs to phone the sewer department or water department before he or she can drive across a street, over a bridge, or down an alley.

There isn't a heavily weighted vehicle—truck or transport—driving around the city of Calgary, Edmonton, Winnipeg, or anywhere else in Canada, in which the driver has to be mindful of a law that says he or she needs to phone the sewer department or water department before it is permissible to drive across a street, over a bridge, or down an alley.

Why? Because the people who design infrastructure for the city aren't dumb. They know that in order for sewer lines and pressure water lines to be safe, they have to be buried at a depth where they will be unaffected by trucks and traffic. This is the same reason the State of Iowa demanded that Alliance Pipelines lay its pipeline five feet deep when it built through the heart of its agricultural regions.

There will be more about the NEB and this crossing issue in an upcoming CAEPLA publication, but for now, here's something else to think about:

It is evident today to anyone who examines the facts, that during the debate over regulatory jurisdiction of the NOVA Gas Pipeline System in Alberta, the pipeline industry and the NEB misled landowners about liability and duty of care when crossing pipelines. That debate culminated with the NEB knowingly and quite deliberately stripping thousands of Alberta landowners of longstanding provincial regulatory protections that they had enjoyed for decades.

There are several other areas where the NEB bureaucrats have demonstrated incompetence, selective listening, or have knowingly imposed risk and liability upon landowners without so much as consulting them. In the coming days, CAEPLA will be undertaking to make growing numbers of landowners aware of just how far reaching this situation truly is. 🏡



“Private property creates for the individual a sphere in which he is free from the state. It sets limits to the operation of the authoritarian will [of government and politicians]. It allows other forces to arise side by side with and in opposition to political power.”



One of the most notable economists and social philosophers of the 20th century, Ludwig von Mises developed an integrated science of economics based on the idea that individual human beings act deliberately in order to achieve desired goals. His explanation of economics as a science is an eloquent and articulate voice of reason. His early book, called, *Socialism*, explained that if socialists wanted to make all property communal—in essence controlled by the government—this would lead to no competition for goods and services, no market prices, and no profit and loss system. And that would result in massive economic waste, bad investments, production bottlenecks, surpluses of some things and shortages of others. He argued that without property rights and private ownership there could be no rational allocation of economic resources within a society.



Why Some Western Canadian Landowners have Mineral Rights While Most Do Not

Most Monday evenings, CAEPLA staff, directors, and a few others meet via conference call and Internet video conferencing to discuss issues that are important to landowners and to the work of CAEPLA. These sessions are led by practicing attorneys, university professors, journalists, or association executives. Alberta's Keith Wilson, a well-known Edmonton area attorney, has led two such sessions. At Keith's most recent session, some of the participants took notes for their own use. The following article is taken from those notes. The audio track of the actual session the notes are taken from will be available online at www.CAEPLA.org.

Back in the 1880s, the federal government started to recognize that there were significant mineral reserves in western Canada that it didn't want to transfer to homesteaders, even though every person who had filed a homestead prior to that date received ownership of both surface rights and mineral rights when a title was granted.

Prior to the late 1880s, there were instances where a property owner would sell the land and keep the mineral rights. Whenever this happened, the courts tended to stay out of any dispute between the surface owner and the mineral owner because of something they called "the implied consent doctrine."

As far as the courts were concerned, when the buyer and the seller first negotiated a selling price, they both must have anticipated that the owner of the minerals would at some point come back on the land to mine for minerals or dig for them. This being true, the actual selling price to which they both will-



After 1887, when Ottawa separated mineral rights from surface rights, the law recognized that western Canadians had never agreed to anything regarding access to their property by the owner of the mineral rights. Above photo: Manitoba Archives

ingly agreed must have been based on that consideration.

As far as the law was concerned, when the seller and buyer made the original deal there would have been an "implied consent" for the mineral owner to enter the property at a later date. As a result, the general rule was that the surface owner wasn't entitled to any compensation or consideration when the mineral owner did show up to start digging.



BC's Gordon Campbell, Saskatchewan's Brad Wall, and Alberta's Ed Stelmach. Regulatory regimes in BC and Saskatchewan that appropriately protect landowner property rights are yet to be established, while Ed Stelmach is diligently listening to those who would destroy Alberta's integrity in this regard.

Photo Credit: Government of Alberta

Implied Consent No Longer Applies

Then, in 1887, the federal government said, “Wait a second here, we’re actively granting homesteads across western Canada, plus we want to develop an extensive railway network and railroads always need coal.”

Ottawa knew there was plenty of coal in the west, so it decided to keep that coal for itself, to do with it as it would. That’s why on October 31st, 1887, an Order in Council was passed declaring that from that point forward, when a title was issued for homestead land, all mines and minerals would be reserved “unto Her Majesty the Queen.”

The new policy meant the government would still transfer ownership of the land to the homesteader, but would reserve the coal (mines, minerals, oil and gas) for itself. Back then when the idea of mineral rights was tossed around, few people

thought of oil and gas. The commodity they mostly thought of was coal.

From that day forward, when the mineral owner wanted access to the surface to mine or drill, the implied consent doctrine no longer applied. The surface owner had never been part of a negotiation in which he or she gave consent to have anyone else come on their land.

To deal with the situation, in the latter part of the 1800s and then in the early 1900s, right of entry laws were established. This was legislation that sought to define the relationship between the rights of the surface owner and the rights of the mineral owner, keeping in mind that it would be the obligation of the mineral owner to make the surface owner “whole,” if and when surface access was needed for mining or drilling.

As early as the 1890s, Canada established very forceful language in law that said just because you own the mineral

rights on a piece of property, doesn't mean you can walk in, or walk over, the rights of the surface owner. In law, the mineral owner is obligated to ensure that the surface owner is reimbursed and "made whole."

Energy Companies are Takers—In Law, That is a Significant Distinction

Interestingly, Alberta courts have ruled that when mineral owners come onto your land with an entry order, they are deemed at law to be "takers," just like a government agency when it expropriates property for a highway or a dam project. The principle of expropriation says that whenever this happens the landowner is to be made whole, which means not dis-

advantaged in any way because his or her property is being used by someone else, or taken.

As an example of this "being made whole" principle, the *Alberta Surface Rights Act* says that the costs borne by a landowner are to be paid by the company that is doing the taking. That means the landowner's cost to hire a land agent and the cost to go to court (if necessary) are to be paid by the energy company that is doing the taking.

The idea is that if the energy company hadn't shown up at the landowners door in the first place, and thereby imposed a burden and duty of care (obligation) upon the landowner, the landowner would have no costs.



The courts have ruled that when mineral owners come onto a person's land with an entry order, they are deemed at law to be "takers", just like a government agency when it expropriates property for a highway, dam project, or something similar. As a result, the mineral owner has a legal obligation to make the landowner "whole."

(Making a landowner whole by ensuring that his or her costs are covered, whether it is the cost of a court hearing or a land agent fee, is one provision of Alberta law that has been in place for many decades.)

The Industry Challenges the Law and Loses

In the late 1980s, the provision that compels energy companies to reimburse Alberta landowners for their costs was challenged in the courts.

The energy company that launched the challenge lost. The court said that when the owner of the minerals is compelled to reimburse the surface owner, it is not a violation of the charter, as the company had argued. The decision was appealed to the Supreme Court of Canada, and the Supreme Court denied the appeal – so this has the same effect as though this was a Supreme Court of Canada decision.

The courts upheld the provisions of Alberta law that treat the entry by an energy company as an expropriation. The principle in expropriation is that the mineral owner has a legal obligation to make the surface owner “whole.” This was a significant court ruling because some energy companies want to pretend that they have some kind of superior right to access the surface of your land. They don’t.

Additionally, in the “Lemay court case,” which was heard in Drumheller before Alberta’s Justice Mason, it was affirmed by the court that even in the rental review procedure for surface leases, landowners are entitled to compensation for their time. (At the time, Justice Mason was the most senior justice of the Alberta Court of Queen’s Bench.) 🇨🇦



“So great moreover is the regard of the law for private property, that it will not authorize the least violation of it...”



Sir William Blackstone (1723-1780) was an English judge, jurist, and professor who produced the historical and analytic treatise on the common law. Entitled *Commentaries on the Laws of England*, it was first published in four volumes between 1765 and 1769. Blackstone won election as a Member of Parliament and received a patent of precedence at the bar (equivalent to King’s Counsel). He was knighted in 1770 and appointed a justice of the Court of Common Pleas.



When Ottawa Stopped Granting Mineral Rights to Western Canadians ■ by CAEPLA Staff

Beginning in 1887, across western Canada, Ottawa reserved mines and minerals for the government. Titles issued before this time immediately passed mineral rights to the landowner. After 1887, titles reflected the words “minerals in the Crown.” In 1905, Ottawa divided the North-West Territories into the provinces of Alberta and Saskatchewan. In 1930, with what was called the *Natural Resources Transfer Act*, the federal government released control of these mineral rights to the governments of Saskatchewan and Alberta in their respective provinces.

What landowners should understand is that being denied the ownership rights to minerals is quite unique to western Canada. Even in Manitoba, which was settled much earlier than Alberta or Saskatchewan, large numbers of landowners own their mineral rights. Many landowners from Ontario and elsewhere, when first presented with the idea that the government owns what’s under the ground while the landowner owns just the surface, respond in a rather perplexed fashion. They find it a confusing concept. This explains why the notion of surface rights laws and landowner grievances about surface rights in the three western provinces, are largely unknown elsewhere in Canada, or misunderstood.



Calgary in 1884—three years before Ottawa stopped granting mineral rights to homesteaders in western Canada; population of 506 people.

Interestingly, when the decision was made to suspend mineral rights for those citizens who were yet to become western Canadians, there were 201 MPs in the House of Commons, only four of which were from the North West Territories (NWT). At the time, there were 35,000 voters in tiny PEI, and it had three federal constituencies. Each constituency was empowered to send two MPs to Ottawa. That means PEI had six MPs in the House of Commons to decide on the fate of western Canada, while the NWT itself had only four. With five MPs each in Manitoba and BC, PEI had more representation than any western province or region. New Brunswick, with 15 MPs, had more MPs in the House of Commons at the time than all of western Canada combined. 🇨🇦



Three of the four 1887 MPs from the NWT who were in office when all mineral rights for western Canadian landowners were suspended.

(L to R) Nicholas Flood Davin (Assiniboia West); William Dell Perley (Assiniboia East); Donald Watson Davis (Alberta Provisional District).

The Stelmach Government's Evil Twins: Bill 36 & Bill 50 ■ by CAEPLA Staff

Most people find talk about government regulators boring—a bit like eating oatmeal that has no salt, no cinnamon, or seasoning. You know the oatmeal is good for you and that it will reduce your cholesterol, but every time you take a bite, you can't help but think about the fact that it isn't bacon and eggs.



The Stelmach government's twin bills are designed to surgically remove property rights from both rural and urban landowners.

Like oatmeal, regulators can be a good thing. When working properly they keep things flowing in a way that is practical and useful. If the water faucet in your kitchen didn't have a regulator attached to it—the regulator being the tap that controls water flow—there'd be a heck of a mess. If it weren't for the tap, rather than the faucet being a friend that makes things easier and more convenient, the flow of water would become a nuisance and an enemy.

Government energy regulators are supposed to be like that tap on the kitchen sink. One such regulator is the Alberta Utilities Commission (AUC). The AUC has four primary responsibilities regarding electrical transmission lines and hydroelectricity:

1. To decide if any proposed new lines and facilities are needed.
2. To determine how much consumers and taxpayers will pay for any new infra-

structure, and to ensure that the cost is justified and in the public interest.

3. To determine which company or group of companies can best carry out the project.
4. To determine location by evaluating options and considering where any new hydro corridors or facilities be placed.

To have an electrical utility regulator determine these four things sounds perfectly reasonable to most people.

Essentially, the idea is that you can better serve society by setting up a system where men and women who know more than most people about electricity and transmitting electricity, are made responsible for evaluating the need for major power lines and new electrical projects, then acting in the public interest based on that assessment.

Smart people are always hiring people who know more about something than they do: lawyers get hired because they know more about the law; accountants because they know more about tax planning; engineers, architects, and financial planners all for similar reasons. Each has expertise in a particular area that is beyond what most people possess in themselves. We hire diesel mechanics, plumbers and electricians for the same reason.

Normal people would never dream of going to the provincial justice minister to ask for legal advice about a real estate contract. No one calls the finance minister to ask for help with tax planning. And few of us—if any—know of someone who has called their MLA to ask for help with engineering designs, water well testing, or the sort of thing someone might talk to a soil scientist about. The minister of highways never gets called for mechanical advice on a Cummins diesel engine. We call the mechanic in town because we know that he knows more.

All these things being true, and reasonable, ask yourself why the MLAs who make up the government of Ed Stelmach think they know more about electrical generation and power projects than the accumulated expertise of all the people who work at the AUC.

The Stelmach MLAs, with their new legislation—known as Bill 50 or *The Electric Statutes Amendment Act*—have taken the first three areas of responsibility away from the AUC, and handed them to a poker table-sized group of politicians in a



Bill 36 and Bill 50—suspending property rights and empowering politicians.

backroom at the legislature. By passing Bill 50, the Stelmach MLAs are assuming that a handful of politicians are better positioned to evaluate the province's electrical requirements than all the professional engineers and systems analysts at the AUC.

To add to the absurdity of the situation, the electrical capacity expansion the Stelmach MLAs now want individual Albertans to pay for through jacked up utility rates, is so massive it would be the equivalent of changing Highway 2 between Calgary and Edmonton from a 4-lane freeway into a 32-lane monstrosity.

(The infrastructure for transmission lines in Alberta is currently valued at \$2 billion.

The proposed infrastructure cost that the Stelmach government wants to add to every Albertan's utility bill is valued at \$16 billion. For every family of four in the province, on every street in the province, in every city and town in the province, it is equal to more than \$21,000! This would be over and above the electrical utility bills we pay now—sort of like every family in Alberta having a payment for a new car folded into existing electrical bills, without ever seeing the new car.)

Everyone in the province will be affected because the cost of electrical infrastructure is passed on to consumers through higher utility bills.

It's a ridiculous situation, not only because the Stelmach MLAs think they know more about electrical transmission than the combined experience of all the

people who work at the AUC, but because this unbelievably massive expenditure will dramatically drive up the cost of doing business in Alberta. Electrical rates will be so high that commercial and industrial users will have good reason to build elsewhere or move elsewhere.

Arguably, the real issue behind all this is that those who want to build the expanded electrical infrastructure know they will have an easier time persuading politicians to approve the project than they will the regulator. So they lobbied the Stelmach MLAs to get Bill 50 passed. That's the Bill that strips the AUC of its rightful role when it comes to assessing and approving projects, and puts the power to approve them directly in the hands of a few politicians. The Stelmach government's Bill 36 (*The Alberta Land Stewardship Act*), which is a kind of cousin to Bill 50 (*The Electric Statutes Amendment Act*), then gives these same politicians the ability to impose their plans upon anyone in the province.

It also gives the politicians the power to suspend due process of law for private citizens and extinguish their property rights, including the dissolution of existing legal contracts.

"Why are they doing this," someone might again ask: Keep in mind that if you are an energy company that wants to export electricity to the U.S., the best way to have your cake and eat it too would be to get a bunch of politicians to approve the massive and expensive infrastructure you want by kicking the regulator out of the way, and then by having a government-run cost recovery system in place that transfers the cost of your needed infrastructure away from the company's shareholders and onto the monthly bills of electrical consumers.



The Stelmach Bill blocks a citizen's right to seek judicial review or even initiate a legal action. The Bill also restricts a landowner's right to appropriate compensation for any damages that result.

That way the company and its shareholders can cash in on profits from the export of electricity, while Alberta taxpayers and consumers quietly pay the cost of the multi-billion dollar infrastructure needed to facilitate it all.

Incredibly, and to show just how arrogant the Stelmach MLAs have become, under Bill 36 there is no way for any Albertan to appeal a decision made by the politicians about what can and cannot be done on private land. The Stelmach Bill blocks a citizen's right to seek judicial review or even initiate a legal action. The Bill also restricts a landowner's right to appropriate compensation for any damages that result.

In effect, the Stelmach government's Bill 36 enables a system that will let politicians impose central planning on anyone in the province.

The Bill says that a small group of politicians can declare exactly what your land could or could not be used for, and their decision will trump every other piece of existing provincial legislation, and even the courts.

The Stelmach agenda enables the cabinet minister in charge, on his or her initiative, and apart from any judicial process whatsoever, to file a judgment against a landowner without a trial or court hearing—and the cabinet minister’s judgment would be as binding on that citizen as if it were issued by a real judge in a real court.

The agenda of the Stelmach MLAs in this regard is awful—absolutely awful. This isn’t just bad policy we are seeing in Edmonton, it’s bad government. 🇩🇪



The Stelmach agenda enables the cabinet minister in charge, on his or her initiative, and apart from any judicial process whatsoever, to file a judgment against a landowner without a trial or court hearing—and the cabinet minister’s judgment would be as binding on that citizen as if it were issued by a real judge in a real court.



“The power a multi-millionaire might have over me and over my property, whether he is my neighbour or my employer, is much less than what’s held by the smallest government bureaucrat or agent, who wields the coercive power of the state, and upon whose discretion it depends whether and how I am able to live, work, or make decisions.” (paraphrase)



Friedrich A. Hayek is undoubtedly the most eminent of the modern Austrian economists. He was a protégé and colleague of Ludwig von Mises, and the foremost representative of an outstanding generation of economic theorists. Hayek’s work was recognized when he received the 1974 Nobel Memorial Prize in Economic Science.



Standard Procedure at BC's Oil & Gas Commission

Regulatory Secrecy and Excluding Landowners from Processes that Should be Public ■ by Dave Core



The BC Oil and Gas Commission (building pictured above), has deliberately shut the public out of review processes. It denies landowners access to review and evaluation procedures that directly affect them, and keeps certain documents secret that should be readily available to the public.

Many of us go through life thinking that things are the way they are supposed to be—the way they should be. We don't question too many things, instead believing that others more important than us, or better educated than us, are looking after the store.

Landowners in the beautiful Peace River region of British Columbia, when they saw the first gas and oil rigs pull into the area, expected that in the midst of development their provincial government and its regulatory bodies would protect the public interest and their own. When that didn't happen, many thought something had been overlooked. Today a growing number of landowners understand that their interests weren't overlooked, rather, the regulatory system was never designed to consider their interests.

When the province's current regulatory system was set up, publicly accessible processes including the appropriate recognition and resolution of legitimate landowner grievances were not priorities for the BC government. Instead, the government had a singular focus on the rapid expansion of the energy sector. To better facilitate that process, the BC government got together with the Canadian Association of Petroleum Producers (CAPP) to create what they call a "regulatory system." In fact, the system they created is not so much an impartial regulatory process as it is an extension of a partnership that puts money in both of their pockets.

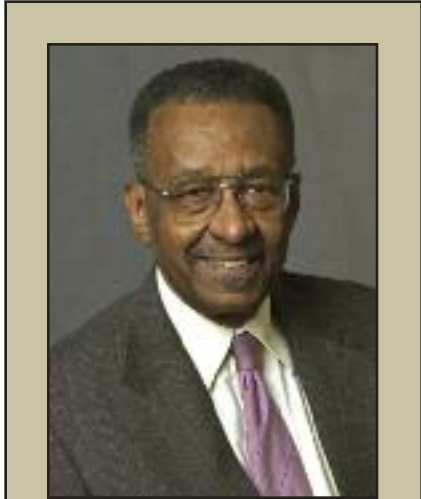
Together, they created the BC Oil and Gas Commission (OGC), which unfortunately is an agency that has effectively robbed landowners of the means to pro-

tect their property. For example, the OGC has deliberately shut landowners out of review processes that should be public. It denies landowners access to information about review and evaluation processes that directly affect them. To date it has refused to answer important questions landowners have asked regarding how its internal approval and review processes function.

When an energy company applies to the federal regulator for a license—say for a pipeline—the actual application is posted for public viewing along with the environmental assessment. Anyone can see it and review it. In BC, the OGC, will not even reveal the details of an application to affected landowners. 🇩🇪



Above image: Screenshot of a federal pipeline license application posted on the Internet. While the federal government posts these applications online for all to see, the OGC in British Columbia keeps these documents secret, even from the landowners a pipeline project will affect.



“If we buy into the notion that somehow property rights are less important, or are in conflict with, human or civil rights, we create false distinctions and play into the hands of those who seek to control our lives.”
(Paraphrase)

Walter Edward Williams (1936 -) holds a B.A. from California State College, as well as an M.A. and Ph.D. from the University of California at Los Angeles. He is a Distinguished Professor of Economics. He is the author of numerous books and articles on economic and sociological issues.



Carnduff Letter...

After I read the story in the CAEPLA Landowner Journal about Brian Campbell, (*The Education of Brian Campbell—CAEPLA Landowner Journal Spring 2010*) and learned about the way he was treated by SaskPower, I have thought a lot about surface rights and land ownership in our province. One sentence in the article clearly stood out for me:

“Today, we understand what separates modern democracy from primitive society is due process of the law and the recognition of civil rights.”

I could not help but think of my own community and how it has developed. In 1992, my family celebrated 100 years in this community. I have read our regional history book many times. It explains how the community was established; how people in the community built a school, a church, and then struggled to keep the school funded. The children and the teachers made sacrifices to keep the school going. Many times the teachers worked for very little pay. In 1908, people in our area set up a rural telephone company. It ran successfully until Sask-Tel took it over in 1977. In 1955, the power was brought to our farm.

The pioneers around our province understood the need for cooperation and sacrifice in order to establish power and telephone networks—necessary infrastructure. In many instances they outright gave the land that was needed to make the system work.

That was then. Today, for the most part, the days of expecting people to make

sacrifices to help with the growth of the province are over. Unions have formed to promote the interests of government workers. Minimum wage laws, safety standards, and labour enforcement laws are all on the books and enforced. There are new or recent laws in place to protect all kinds of people. In fact, almost everybody in the province seems protected. Yet the rules governing land use by crown corporations and the oil industry, related to the acquisition of land from landowners, are stuck in days past.

As I read about Brian Campbell and what SaskPower did to him, I could not help but think of how Canada has been a peacekeeper, and about how our country is today engaged in a war that is attempting to bring peace to other people and regions. Our national objective in that regard is the liberty of people.

After the Olympics earlier this year, I saw an interview with Donald Sutherland. When speaking of the Canadian people he used the words, “kindness and generosity.” I have to wonder if those



words come to mind for anyone when they learn how Brian Campbell was being pushed around and abused by a government crown corporation.

The *Western Producer* has a legal section written by Rick Danyliuk. Earlier this year, Danyliuk wrote a piece about the search and seizure of property by police. The case he described went to the Supreme Court of Canada.

In its ruling, the Supreme Court emphasized that every person living in a free and democratic society has the right to be protected against unreasonable search and seizure. This being true, I would have to ask why any Saskatchewan landowner should not expect a similar kind of respect when it comes to the operation of provincial crown corporations and situations where there are entry or expropriation orders onto private land by energy companies. The manner in which SaskPower dealt with Brian Campbell is simply not reasonable.

So many times, in order to justify the expropriation and taking of land for power lines, pipelines, oil and gas installations, landowners hear the words, “in the public interest,” or “for the public good.”

Well, the public good can still be served while adhering to a fair and equitable process that respects landowners, which is why both the *SaskPower Act* and the *Saskatchewan Surface Rights Act* need to be rewritten. By law, SaskPower can walk in and take land—from anyone—without any due process. It doesn't even have to



Miles Vass farms in the Carnduff area. He is a member of CAE-PLA's Board of Policy Advisors.

serve notice on the landowner. Plus the landowner can be arrested if he or she so much as “interferes” with what the government is doing on their land. (In the Brian Campbell story, SaskPower officials openly laughed at the idea that they could ever be charged with trespassing.)

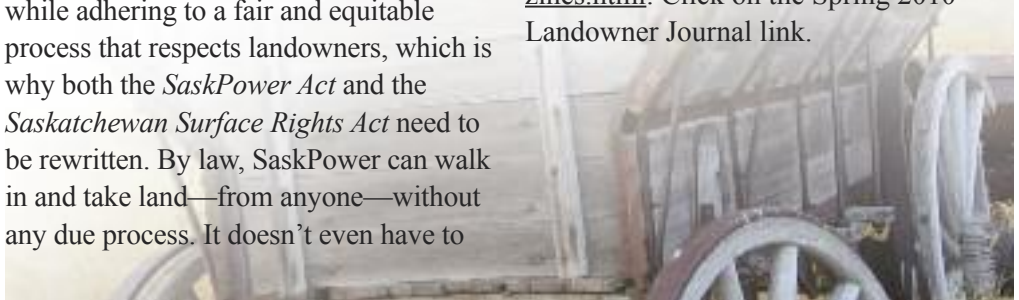
The provincial *Surface Rights Act* as it exists

deals only with the rights of the mineral owner rather than striking a balance between the rights of the surface owner and the rights of the mineral owner.

In Saskatchewan, variations of Brian Campbell's story can be found in the oil-field, up and down the pipelines, and in other areas of our province including highway and road construction projects. Alberta, British Columbia, and other regions are also experiencing situations where landowner rights are being trampled. Canadians deserve better than this—not just Canadian landowners, but Canada as a country deserves better than this.

— Miles Vass

The article about Brian Campbell that is referred to in this letter, can be seen at: www.landownerassociation.ca/magazines.html. Click on the Spring 2010 Landowner Journal link.



A Paradigm Shift for Regulators & Industry

■ by CAEPLA Staff

A paradigm (pair-ah-dime) is a way of looking at things. The dictionary says it is a “pattern, example, or model by which we evaluate what we see.” In simpler terms, a paradigm is the shape and color of the window through which we see the world.

The quickest and easiest way to explain a paradigm is to think about Swiss watchmakers. Back in the 1960s, Switzerland was to the watchmaking business what Microsoft is to today’s software business. Everybody knew about Swiss timing and Swiss watches.

Switzerland had more than 65 percent of unit sales in the world market for wristwatches, and took home more than 80 percent of the industry’s profit. Swiss watchmaking executives were confident about the future, the role they would play in that future, and their ability to make sound decisions about the watch business. Their perception was based on every lesson they had ever learned about the manufacture, distribution, and marketing of watches—which was the window through which they saw the industry and its future. (Their paradigm.)

At the time, wristwatches were the same size as they are today, but the inner



In the same way that a paradigm shift occurred in the watchmaking industry that completely redefined the basis upon which success and forward momentum were to be measured, so it is that a paradigm shift is occurring in the way regulators and energy companies are going to have to deal with landowners.

workings were quite different. Watches were tiny machines manufactured and assembled by skilled craftsmen who used meticulous care and precision parts. Components included miniature steel springs, carefully engineered little gears, and manual winding devices. The beginning of the end of Switzerland’s dominance of the industry occurred in the late 1960s when researchers met with a group of Swiss executives to demonstrate the world’s first quartz watch. It was the first watch that ran on a microchip. The executives examined it, held it in their hands,



listened to hear if it ticked, thought about it, and then based on everything they understood to be true about the watch business, rejected an invitation to utilize the microchip in their manufacturing process. The Swiss executives didn't understand that the basis for evaluating everything about their industry, including capital investment, labour, retail marketing, and even their own careers, would be changed by the design of that watch.

Unlike the Swiss, executives at the Seiko Corporation didn't view the future of the watch business through the prism of the past. The result was that when Seiko executives were presented with the new technology, they quickly embraced the new design, and from that day forward the paradigm for the profitable mass production and marketing of wristwatches has been based on the microchip. The Swiss industry never recovered, and today there are very few people under the age of 40 who have heard of "Swiss timing." Ironically, this first quartz watch was developed at a research institute in Neuchatel, Switzerland.

A Paradigm Shift at the Grassroots

In the same way that a paradigm shift occurred in the watchmaking industry that completely redefined the basis upon which success and forward momentum were to be measured, a paradigm shift is occurring in the way regulators and energy companies are going to have to deal with landowners. As part of this para-

digm shift, the land agent business will be changing too.*

The paradigm shift—this new way of looking at things—will demand greater landowner consideration from regulators and industry, recognition of landowners as equal partners in key decision making processes, and transparent procedures that up until now have often gone on behind closed doors, sometimes in secret.

The Nature of Power

The great thinker and Harvard professor, John Kenneth Galbraith, in his truly marvellous book, *The Anatomy of Power*, explains what power is and how power is expressed within society. One of the considerations he addresses is how each time power becomes inordinate or disproportionate, a countervailing (balancing) power source will naturally emerge. In some cases the countervailing force may be driven by anger or a quest for reprisal. In other instances, the leaders of the countervailing force will better understand what is unfolding, and demand a solution that recognizes the legitimacy of the new movement and the interests it represents.

At such a time, if those who represent the old paradigm resist the new paradigm, preferring to entrench, and then dig in and fight, a knock down drag out brawl will result. But even so, in the end, the new paradigm always prevails. 🍀

* See article on next page



FOOTNOTE FROM “A PARADIGM SHIFT”

Up until recently, the paradigm of the energy industry and the land agent business has generally been to assume that the landowner will not have any professional or trained representation when a negotiation occurs.

If you compare this situation to the real estate business, imagine how Canadians would react if when it came to buying and selling houses or land, things were set up in such a way that only buyers had professional representation, while sellers were left to accept as gospel what they were told by buyers’ agents. The idea is preposterous, yet this is how the relationship between the energy sector and landowners has worked for years. Think about it:

A land agent acting on the buyer’s behalf (the energy or pipeline company) shows up at the farmer’s door, wanting an interest in land—either an easement

or surface lease. The landowner is without representation, and in many instances, without a basis to measure what he or she is being told. The land agent might tell the landowner that a neighbour is receiving “X” amount of money for a similar project. But even that doesn’t hold any water because every landowner in the entire area might be receiving 30%, 40%, or 60% less than he or she should be.

In one situation CAEPLA was involved in, a land agent talked numerous landowners into signing easement agreements along a proposed pipeline route. After CAEPLA got involved, these landowners came to understand that they had signed off for as little as one-tenth, or in some cases nearly one-twentieth, of what they should have been paid. At the same time, these landowners also came to understand that there were regulatory issues and possible liability issues they knew nothing about, and had never been told. That such a system is defended by many energy companies and land agents as being equitable, is highly inappropriate.



“Government has no other end but the preservation of property.”

- John Locke

John Locke was an English philosopher and physician, regarded as one of the most influential of all English thinkers. Locke argued that property is a natural right and that property is derived from labour. In addition, he taught that property precedes government, and that government cannot confiscate or dispose of the property of its subjects in an arbitrary fashion.

Surface Leases and Easements; When the Landman Comes Calling ■ by Dave Core with notes from CAEPLA staff

A farmer from south Saskatchewan called our office recently. He owns land along the route of a proposed new federally-regulated pipeline. One end of the pipeline will be at Empress, Alberta. From there it will pass right across southern Saskatchewan, then turn south to end near Tioga, North Dakota.

The man had heard me speak at a CAEPLA landowner meeting, where I strongly suggested that when a land agent shows up at the door, landowners should think long and hard about signing anything unless they know exactly what the implications might be.

It's not a matter of being anti-land agent or anti-development. CAEPLA as a landowner association is very much in favour of development. My point at the meeting was that every landowner should know the full implications of his or her signature on something before he or she puts pen to paper. A landowner's signature is property, the same way a quarter section, a house, or a pickup truck are property.

"Don't give your signature away too easily," is some of the best advice we can give landowners.

Easement Agreements

If it is a pipeline easement agreement that a land agent wants you to sign, the list of things to consider before you ink a deal includes:

What will happen at the point of abandonment? Will the pipe be removed? Who will pay when it is removed? Upon abandonment, if the pipe will not be taken out by the company, why not, and how will leaving it in the ground affect your property values over the long term? If it is a large diameter pipe and the company wants to leave it in the ground after it is decommissioned or abandoned, who will be responsible when at some point it finally collapses and leaves a depression?

What about crossing rights and liabilities? If the easement is federally regulated, will the pipeline company, in writing, grant you blanket crossing permission under Section 112 of the NEB

Act? What about the thickness of the pipe and depth at which it will be buried?

Think about possible contamination liabilities: Will the company, in writing, fully release you even after the pipeline has been officially decommissioned or abandoned from all costs related to contamination? If it is not in the contract that it will, don't assume that you are without obligation.

What will the implications be if the company goes out of business and you end up with contamination on your property? Does the contract compel the pipeline company—under financial penalty—to tell you if and when there is a spill or contamination on your land? If it doesn't, what makes you think the company will tell you if there is a spill? Make sure there is a timeline for being informed too, such as 24 hours. And remember, if there is no penalty in the contract for the company not informing you about a con-



The man had heard me speak at a CAEPLA landowner meeting, where I strongly suggested that when a land agent shows up at the door, landowners should think long and hard about signing anything unless they know exactly what the implications might be.

tamination or spill, as well as a penalty that keeps climbing the longer it delays telling you, what makes you think it will tell you?

Will there be annual fees paid to the landowner, or a linear payment? How



Does the contract compel the pipeline company—under financial penalty—to tell you if and when there is a spill or contamination on your land? If it doesn't, what makes you think the company will tell you if there is a spill? Make sure there is a timeline for being informed too, such as 24 hours.

about the cleanliness of the equipment to be used during construction to protect against noxious weeds? Do you want to specify in the contract that equipment has to be sterilized to protect against noxious weeds, clubroot, etc.?

Any number of these above issues can easily affect the value of your land.

Additionally, whatever the land agent agrees to at the kitchen table, make sure you get it in writing. If it is not in writing, what the land agent tells you or what you think the land agent tells you, is of zero value—absolutely none.

And don't think the way you walk through this contract evaluation and signing process doesn't matter. At some point it will matter—a lot; if not to you then to your kids or grandkids. If you have ever bought something—a car, a truck, a piece of equipment—where you signed too fast and the next day you knew you had made a mistake, then you

know what I am talking about.

Remember, a land agent is a salesman! When he or she is talking with you, telling you all about what the company is going to do for you, or how much it will pay you, don't forget that.

Surface Leases

If it's a surface lease the land agent is asking you to sign, think about land stewardship and your responsibilities in this regard. What will the impact of the lease and the well or wells be on soil structure including your top soil; will there be bare dirt erosion—water and wind over bare dirt will have an impact, including on any roads that might be built; if there is native range involved remember that it can never be replaced; depending on the circumstances, a berm on a surface lease might be necessary and justified (hold back salt water and other contaminants).

If you are dealing with multiple wells on a pad site the traffic will be much higher than on a single well; also, expect that some of the traffic may go off site; if you need the well site fenced, make sure it says so in the contract.

Know where the well is to be located and its proximity to roads and other important factors on your land; if the well is to be on the home quarter, you will want to know the proximity of the site in relation to your house and any water wells or natural springs; be sure to get a water test done on



At the energy company's expense, be sure to get a water test done on every well and spring prior to any drilling occurring; in the contract, demand a clause that ensures water quality monitoring for at least two years after the drilling, and for two more years after every time the well is fracked.

every well and spring before anything happens and prior to any drilling occurring; in the contract, make sure you include a clause that ensures water quality monitoring for at least two years after the drilling, and for two more years after every time the well is fracked.

Write into the contract that the cost of water monitoring is to be paid by the company—your objective here is to test for migrant gas—even though the company might be drilling for oil, assume that natural gas is going to be present.

You would be surprised how many people there are who get bubbly water or can light their well water on fire after there has been fracking nearby. Realize that many wells nowadays are going to be fracked over and over. You will likely want to write into the contract that if and when the company fracks a well, that you have to be notified. And be sure that there is an escalating penalty if you are not informed.

Remember, a provision in a contract where there is no consequence for non-compliance is not a provision. It's nothing more than sentimentality. If you want to know what kind of chemicals the company will use under your land when it is doing a fracking job you can ask that too. You may want to know if they are pushing diesel fuel or other toxic products under your place. The fact is there are some chemicals these companies are



When companies sell gas stations in town where underground fuel tanks have been, the site has to be clean and without contamination. Some sites cost \$30,000, \$50,000, \$100,000 or more to clean up. If you have an underground pipeline on your land that will be moving petroleum products for several decades under high pressure, don't think the possibility of contamination and future cost for clean-up will automatically be zero.

using, including many that are toxic, that they will not disclose.

When you are pondering compensation, think about the impact of added traffic on your roads; the control of weeds on the lease needs to be considered—most landowners won't want to look after weeds on the company's well site at their own expense; if the company expects you to control its weeds be sure to charge an appropriate amount—don't do it for free and don't under value your time.

Think about how a well or multiple wells will affect your farming. For example, if you end up with a 400-or 500-metre road across your land leading to a well or pad site, you are going to be bumping against that road a whole lot in the coming years—every time you seed, spray, harvest, etc. How many extra turns are you

going to make on that field over a period of 30 years, and how much extra diesel are you going to burn doing it? Why should you pay for that added cost, however small or large you think it might be?

Some landowners end up with unbelievably difficult angles they have to farm around because of the way a site has been located. If the site is fenced it may be even more awkward. If you are dealing with difficult situations like this be sure that you demand appropriate compensation. The oil company is in business to make money—and makes lots of it. Your arrangement with them is a business arrangement, so think like a businessman, including how you value your time.

Increasingly, landowners are demanding that the energy company pay them for

their time during the negotiation process. The land agent doesn't work for free, neither does the land agent's boss or the president of the oil company. You have more money invested and are a bigger businessman than the land agent who is coming to see you, likely even more than the owner of the land agent company he works for. (Huge numbers of land agents don't work for the energy companies they seemingly represent. They work for independent land agent companies that contract their services to energy companies.)

When it comes to compensation, ask yourself how the project will affect your property value. The minute you get a pump jack on your land, in one fell swoop your property has gone from pristine agricultural land to industrial land. And don't think that can't cost you money over the long haul. In many parts

of the prairies there are European investors coming in who want to buy pristine farmland—no pumps, no pipelines, and no hydro corridors. And they will pay for it. When it comes to land that is closer to urban areas, there are numerous stories out there of landowners whose property values plummeted after a pipeline or a few pump jacks appeared, or because a pipeline or well was on the land.

The Effect on Land Values

If you are a developer and you can buy one of two pieces of land that are side by side near a city, and one has buried pipelines or a couple of abandoned wells, while the other is pristine, which one would you buy? If the developer buys the pristine land there is no risk of liability or additional cost. If the developer buys the land with the pipes and wells, it could



What these reeves fail to consider are the restrictions and liabilities associated with the 200-foot control zone (in addition to the actual easement) which would automatically include activities on the entire roadway and neighbouring private frontages, including any and all fences and fence lines on private property.

mean an obligation related to remediation and any possible contamination discovered at a later date.

When companies sell gas stations in town where underground fuel tanks have been, the site has to be clean and without contamination. Seepage in underground tanks at these sites is common. Some sites cost \$30,000, \$50,000, \$100,000 or more to clean up. If you have an underground pipeline on your land that will be moving petroleum products for several decades under high pressure, don't think the possibility of contamination and future cost for clean-up will automatically be zero.

The issues you will have to address at some point will include abandonment and possible contamination.

Tax Hungry Municipal Councillors

The landowner who called me also mentioned that the reeve of his local RM (Rural Municipality), was telling everyone to just sign everything the pipeline company wants because none of it will matter in the long run. He says they will all be dead by the time any of the issues become a problem.

The situation the landowner described is that the pipeline company is proposing to build part of the line along municipal roads in many areas.

Some local officials, without even thinking it through, are quickly saying yes. What these Reeves and councils might want to consider are the restrictions and implications of liability on the 200-foot control zone (in addition to the actual easement) which would automatically include the entire roadway and neighbouring private frontages, including any and all fences and fence lines. Under federal law, no landowner or municipal worker would be able to dig deeper than 11.8

inches anywhere within that 260-foot control zone (assuming a 60-foot easement) and no municipal worker would be able to do certain grading jobs, dig a hole, or even drill a place for a road sign without first getting written permission from the pipeline company.

On top of all that, these municipal officials should realize that Section 112 of the *National Energy Board Act* says every time someone drives on or across a federally-regulated pipeline, which includes the movement of all farm equipment, grain trucks, graders, and snow ploughs, written permission must first be obtained from the pipeline company. If permission is not obtained, the driver of the equipment or vehicle is legally and financially liable. As pipelines age, this could become an acute problem. (As indicated on page thirteen, there are proposed changes in this area, but the water is muddy at this point and the way unclear.)

Putting federally-regulated pipelines along municipal roads, means every landowner in the municipality who enters a field with heavy equipment off of that road, holds legal and financial liability for the integrity of the pipeline. Why would any elected official or reeve want to put all the landowners in his or her district in that kind of a situation?

Any reeve who does such a foolish thing, may want to think about buying a whole lot of liability insurance to cover his or her backside, because in the event of an accident—and accidents do unfortunately happen—you can bet there will be a lawsuit against anyone whose fingerprints are on a decision that foisted liability onto individual landowners without consulting them, informing them, or without fully understanding the implications of what they agreed to on behalf of the municipality and the landowners who live within it. 🗑️

A 1966 Saskatchewan Royal Commission Called for Annual Payments to Landowners for Pipelines and Powerlines ■ by Kevin Avram



Due to the ongoing impact of pipeline easements on landowners and their property, a Saskatchewan Royal Commission “strongly urged” that annual payments to landowners be required not just for oil and gas surface leases, but also for all power lines, pipelines, flow lines, and gathering lines.

In preparation for a winter project CAEPLA will be working on, I have been looking at the history of property rights and surface rights in Saskatchewan. It’s a rather grim history.

Ottawa passed control of mineral rights to Alberta and Saskatchewan in 1930. A year later, Saskatchewan passed its first piece of legislation that was designed to address the conflict between the rights of the surface owner and the interests of the mineral owner. These laws are usually called “surface rights laws.”

Interestingly, not only in Saskatchewan but in other provinces too, the term “surface rights” doesn’t mean what a lot of landowners think it means. Most farmers think “surface rights” is a reference to the rights they possess to the surface of the earth. Actually, in law the words “surface rights” refer to the sup-

posed right a mineral owner has to the surface of the land, which clearly belongs to the farmer.

If we are going to be truthful about it, the fact is that any legislation defining how a mineral owner gains access to a farmer’s land, should be called a “*Surface Access Act*” not a “*Surface Rights Act*.” Mineral owners don’t own any surface rights. They have mineral rights.

Saskatchewan’s 1931 legislation was amended during the War, in 1940, and then again in 1943.

There were a number of small changes to the legislation after 1943. But by the 1960s, there were so many problems between energy companies and landowners that a Royal Commission had to be established to look into everything. The Commission was overseen by Judge J. E.



Photo (top): Ross Thatcher.
Saskatchewan Archives Board S-B5014

Photo (right): Dick Colver. Saskatchewan
Archives Board S-SP-A10969-42



The year the existing *Saskatchewan Surface Rights Act* was passed into law, Alan Blakeney was re-elected as Premier. He had defeated the Liberal government of Ross Thatcher (left) earlier in the decade. Dick Colver was the Leader of the Opposition (PC Party).

Friesen, and its report was released in November of 1966.

Royal Commission Calls for Annual Payments to Landowners for Pipelines and Powerlines

By and large, key recommendations made by the Royal Commission were never acted upon. For example, chapter 11 of the Royal Commission starts out by saying:

“It is strongly urged...that the principle of payment of annual rent for land acquired for a well site or roadway, should also be applied to land required for pipelines in all its classifications, including flow lines, gathering lines, service lines, and tank and tank batteries and surface reservoirs, and also to power lines.”

Saskatchewan’s Surface Rights Law is Worn Out and Outdated

Today the heart and guts of Saskatchewan’s *Surface Rights Act* are the same as they were in 1978, when the Act as it is now was first passed. It is an outdated piece of legislation that even when it was created, failed to appropriately consider legitimate landowner interests. The NDP

government that enacted it, ignored key findings of the province’s own Royal Commission.

To get a snapshot of how outdated Saskatchewan’s current Act is, think about what was going on when it was first established. Alan Blakeney who had defeated the Liberal government of Ross Thatcher in an election earlier in the decade, was re-elected as Premier. Dick Colver was the Leader of the Opposition (PC Party). René Lévesque was the Premier of Quebec; Jimmy Carter was president of the United States; the compact disc player, camcorder, and Sony Walkman had not yet been invented.

The world has moved on since 1978, which is why Saskatchewan landowners today deserve a complete updating of every provincial law that pertains to landowner rights. Quite clearly, the updating process should begin with a new Saskatchewan Surface Access Act that defines the rights of the landowner and the mineral owner as opposed to just the rights of the mineral owner. 🇩🇪

—————
We’ll have more to say about this in future editions of the CAEPLA Landowner Journal.

Landowner Legacy

In parts of western Canada, over the past several months CAEPLA Landowner Legacy radio ads have been airing the message of landowner property rights. There have been a half-dozen different ads airing, three of which are reprinted below and on the following two pages.

When people know that their right to own and control property is secure, they invest their time, labour, and money, in a way that will improve their lives. They know the reward for their effort belongs to them. They make wise decisions, which in turn, brings about a more prosperous society for everyone.



The Great Philosopher John Locke

1

The great English philosopher, John Locke, argued that the foundation of a free and prosperous society is the right to own and control property.

And when he spoke of property, he didn't mean just real estate or farmland.

Your property includes the contents of your house, your bank account, and your investments. It also includes all the experience, knowledge, and expertise you possess that you can offer your boss or a prospective employer. If you write a book or invent some handy gadget that makes life easier for everyone, they'll be your property too.

When people know that their right to own and control property is secure, they invest their time, labour, and money, in a way that will improve their lives. They know the reward for their effort belongs to them. They make wise decisions, which in turn, brings about a more prosperous society for everyone.

In order to have a free and prosperous society then, the right to own and control property has to be respected, and protected by law. It's a simple, basic, foundational principle.

Politicians and Property # 2

Your money is your property, and property is one of the single most significant factors that shapes human behaviour. Property affects how we live; why we work; how we spend.

If the money we spend to buy something is our own money—our own property—we will be careful to get the value we want at the best price. It's why we haggle over car prices and pay attention to where the sales might be when we go shopping.

If we are spending someone else's money to buy things—money that is the property of another person—value and cost won't affect us in the same way as when we spend our own money. This is the reason politicians easily invest your tax dollars in businesses they'd never buy shares in with their own money, and why most people would have little trouble going on a more expensive vacation if the boss said the company you work for will pay for your next holiday.

For every one of us, the principle of property shapes our actions and behaviour.



Politicians easily invest your tax dollars in businesses they'd never buy shares in with their own money, because it is your property they are spending rather than their own.



“Upon the sacredness of property civilization itself depends.”

- Andrew Carnegie



Born in Scotland in 1835, and relocated to the U.S. at a young age with his parents, Andrew Carnegie literally went from “rags to riches.” At the age of 13, he began his working career as a bobbin boy in a cotton factory, earning just over \$1 per week.

Many years later, Carnegie retired from business life as the richest man in the United States. He had made his fortune in the steel industry. By the time of his death in 1919, Carnegie had also given away most of his massive fortune (more than \$400 million), by personally providing support for 2,500 free public libraries throughout the world. Here in Canada, early in the 20th century (prior to WWI), Carnegie provided money to facilitate more than 100 public libraries. His gifts included \$80,000 to Calgary, \$75,000 to Edmonton, \$50,000 to Regina, and \$100,000 to both Hamilton and Ottawa.



Everything that is different on the prairies between the 1880s and today, is different because of the way property shapes human behaviour.

Property Shapes Human Behaviour

3

One hundred and thirty years ago, in 1880, airplanes didn't exist. But if we could have flown over Western Canada back then at 5,000 feet to look around, and then done so again this week in order to compare the difference, it would be startling.

One hundred and thirty years ago the towns and cities we know today; the productive farms and ranches, didn't exist.

Everything that is different on the prairies between 1880 and today, is different because of the way property shapes human behaviour. Property and the development of property, is what

motivated the men and women who settled the prairies. It's what motivates us today.

The word property not only refers to "things" like farmland, houses, and cars, it also refers to the claim we each have to that which is our own. For example, your name is your property. It's yours. No one can take it away from you.

Similarly, the word property and the concept of property, refers not just to the things we own, but to the rightful claim we each have to retain the ownership of these things.

You Can Listen to these Landowner Legacy Commentaries
 Online at: www.CAEPLA.org



CAEPLA is Working With Landowners and For Landowners...



(left) A CAEPLA landowner meeting in southern Saskatchewan.



(right) Senator Tommy Banks presents information related to National Energy Board secrecy, provided by CAEPLA to the Senate Energy Committee.



(above) Dave Core and Kevin Avram of CAEPLA, being interviewed by Susan Amerongen of CTV.



(above) Taping a CAEPLA Connections radio program.



(above) A CAEPLA landowner committee meeting near Hudson Hope, British Columbia.



(above) CAEPLA board/advisory meeting (left to right): Ken Habermehl, Jerry Burns, Annette Schinborn, John Goudy, Miles Vass, Rick Kraayenbrink, Ian Goudy, Marg Vance (standing).

Letter to Landowners...

Dear Fellow Landowner:

I am writing to you today about the way landowners are being treated—and in some cases ill-treated—by provincial and federal energy regulators. As you can see on almost every page of this newsletter, landowner rights are under attack.

Energy regulators are the guys who define the rules that the energy companies play by, including the rules that affect landowners when an energy company comes on someone's land to dig a well or build a pipeline. Regulators are like referees in a hockey game. And like referees, they're supposed to be neutral and unbiased.

If the Oilers were playing the Blackhawks in a series, and the refs kept deliberately making calls that favoured one team over another, they'd be throwing the game. But if no one ever said anything about it, or did anything about it, chances are it could go on for a long time. That's why it's important for CAEPLA to be speaking out.

Drawing peoples' attention to unfair officiating, and unfair legislation, is CAEPLA's job. It's the reason we printed the newsletter you have in your hand.

In Alberta, with Bills 19, 36, and 50, the Stelmach government has literally declared war on landowner property rights. You can read about these Bills in this Special Edition of the Landowner Journal.

In Saskatchewan, due process of law doesn't even exist for landowners. The province's laws are such that the En-

ergy Minister can do whatever he or she wants on anyone's property, even without serving notice on the landowner.

(See page seven.) And if the landowner so much as locks a gate in order to "impede" what the uninvited crown corporation wants to do on his or her property, the landowner can be arrested.

An attorney who graduated from the University of Calgary with a Master's Degree in Environmental and Energy Law, after studying the way Saskatchewan's regulatory structure is set up, told CAEPLA that the only other situation he knows of that sort of parallels the province's complete lack of an independent regulatory system would be in Nigeria.

Back in 1966, a Royal Commission in Saskatchewan studied landowner rights. That Royal Commission Report is still sitting on a shelf in the provincial legislature, collecting dust. It's key proposals have never been acted upon.

The opening paragraph of Chapter 11 in that Report starts out by saying:

It is strongly urged... that the principle of payment of annual rent for land acquired for a well site or roadway, should also be applied to land required for pipelines in all its classifications,



including flow lines, gathering lines, service lines, and tank and tank batteries and surface reservoirs, and also to power lines.

At the federal level, Ottawa's National Energy Board (NEB) has made a practice of stomping on landowner rights. It especially trampled Alberta landowners when it unilaterally transferred control of the Nova Gas Pipeline System from Alberta to itself, and then afterward referred to its own decision to do so as "priceless."

The NEB's decision on the issue dramatically expanded the size of its bureaucracy and budget. It also stripped thousands of Alberta landowners of the right to recover legal costs in the event of a dispute with the energy company; it changed the rules on the abandonment of pipelines to better favour the pipeline company; it dramatically expanded the area the pipeline company controls on a farmer's land along an easement; and in the event that any future pipeline would ever be built in the same easement, the change erased a landowner's ability to obtain an annual payment clause in future easement agreements.

For years, the NEB openly referred to itself as being in a partnership with the oil and gas companies it is supposed to impartially monitor, and where necessary, reprimand or discipline. In addition, the NEB takes tens of millions of dollars from these companies every year in order to run the office tower it keeps in downtown Calgary.

Today CAEPLA knows of several situations where the NEB met in secret with energy industry representatives and lobbyists, and then on the basis of what it was told, implemented policies

that negatively affected farmers and ranchers and their families.

In BC, the situation landowners face is that the provincial regulator is so close to the energy industry that it sees itself as a sort of big sister to energy companies. Like the NEB, it keeps information about aspects of its relationship with the industry secret, and consistently makes decisions that favour energy companies over the legitimate interests of landowners. Like other government regulators, the BC regulator takes millions of dollars every year from the very companies it is supposed to impartially judge and monitor.

Don't misunderstand what I am saying: CAEPLA is a pro-development landowner association. We heartily support the development and expansion of the energy sector. We like development. But at the same time, we also support a regulatory system that is fair, transparent, and that appropriately recognizes landowner interests. What CAEPLA wants are referees who won't keep throwing the game.

If you are a landowner who also wants referees who won't keep throwing the game, then I invite you to become an associate member of CAEPLA by filling out and sending in the coupon on the following page. By doing so, you will be putting your shoulder to the wheel with us, helping to push forward the landowner rights agenda.

We'll stay in touch and keep you posted.

Yours Sincerely,

Dave Core

Stand up for landowners and landowner rights today!

Dear CAEPLA,

I want to stand up for property rights and support the legitimate interests of landowners.

Name: _____

Email: _____

Farm/Business Name: _____

Address: _____

City/Town: _____ Province: _____

Postal Code: _____ Phone: _____

Check **one** or **both** boxes:

Count me in as an associate member. I enclose my annual associate membership fee of \$150.00 (plus \$7.50 GST. Total: \$157.50).

Ontario, Newfoundland and New Brunswick residents, please add 13% HST (\$150.00 + \$19.50 = \$169.50)
BC residents, please add 12% HST (\$150.00 + \$18.00 = \$168.00); Nova Scotia residents, please add 15% HST (\$150.00 + \$22.50 = \$172.50)

I enclose/also enclose a one-time contribution of \$ _____ to help with the cost of this and other newsletters, landowner campaigns, and the important work of the Landowners Association.

Total Amount Enclosed: \$ _____

Make cheques payable to CAEPLA, and mail to the following address:

CAEPLA Administration Office
#257-918 Albert Street
Regina, Saskatchewan S4R 2P7

CAEPLA is a federally incorporated non-profit association. (GST #86584 9830 RT0001)

**Become an associate
member online!**

www.CAEPLA.org

**Safe, secure & encrypted
online access**

Thank You!



The Canadian Association of Energy and Pipeline Landowner Associations (CAEPLA) is Canada's foremost and leading association of landowners who have a direct and ongoing interest in energy-related issues. Our members are the men, women, and farm families whose lives are affected by surface leases, hydro corridors, pipeline easements, and all the activities related to these types of projects.



By becoming an associate member today, you will join with thousands of other landowners who are working to promote and protect the rightful interests of landowners.

CAEPLA
Working with landowners...
and for landowners

To become an associate member online, visit CAEPLA on the web at:

http://www

www.LandownerAssociation.ca
Safe, secure, & encrypted online access