

Part 1 Property Rights in Canada

The question often asked in Canada is: *Do we have property rights?* The simple answer is · yes. But before we explore what those rights are and how to determine which ones apply to you, it's essential to understand the origins of the land you own · known legally as *real property*.

To grasp the intent behind property rights in Canada, one must view history as a progression from the past to the present, rather than looking backward from today. This forward-looking perspective helps clarify the Crown's original intentions and avoids confusion.

Over the past decade, Joan Olech, Erika Furney, and I (Anthony Kaluzny) have conducted extensive research into this topic. Our investigation began with the Letters Patent Act of 1573, which laid the foundation for how land could be granted by the Crown. From there, we traced the evolution of land ownership through time · before Canada became a country, before the establishment of a federal government, and before the provinces formed their own legislative bodies.

Through this research, we uncovered a rich heritage · once central to every settler's life, now largely forgotten. A pivotal moment came with the British North America Act of 1867, which marked Canada's

legislative independence under Queen Victoria. This act empowered the new nation · comprising Ontario (Upper Canada), Quebec (Lower Canada), New Brunswick, and Nova Scotia · to create its own laws.

Prior to this, colonial governments relied on the Imperial government of Great Britain to enact legislation, a process that was both lengthy and cumbersome.

Here are a few key facts:

- All land must have a lord. If land were to become *allodial* upon the owner's death · meaning free from any superior claim · it would exist outside the bounds of law and effectively become a

sanctuary. To prevent this, land without heirs *escheats* back to the Crown.

- Canada recognizes only three types of land: **Crown Land**, **Native Land**, and **Patented Land**. If you pay property taxes, you know your land is patented, and here's why. Taxation is one of the grantees' obligations in accepting a grant of land in fee simple.

The other obligations of fee simple are escheat, compulsory purchase and police power, and all of these run with the land regardless of ownership.

For the purpose of this paper, we will proceed with the understanding that Indigenous peoples of what is now Canada surrendered their interest in the land through purchase agreements with the Crown of Great Britain. While this assertion is contested by some, we will not delve into that debate here, as it would distract from the article's primary aim: to explain the principles and legal foundations of transferring land from the Crown to private ownership.

Please note that many terms introduced here could warrant entire paragraphs ~~or~~ even pages ~~of~~ further explanation, evidence, and present references. For clarity and focus, we've chosen to a streamlined overview.

The Origins of Land Ownership in the British Realm

The concept of land ownership in the British Realm was known, but it was limited. Inhabitants of Great Britain typically rented land from one of the King's Barons, and their tenure was restricted to the lifespan of their heirs. To clarify: under the laws of the time, a woman was not considered an heir. So, if a tenant had three daughters and passed away, the land would revert to the Baron's management. Women were not permitted to own property.

With the discovery of the Americas, securing the newly found territories became a priority. Loyal settlers were needed · not only to inhabit the

land but to defend it. But how could the Crown persuade individuals to undertake a perilous voyage across the Atlantic and settle in an untamed wilderness?

The solution was straightforward: the King would grant land to each settler over the age of 18. These grants came with a powerful incentive. Should the settler die, the grant allowed him to sell or bequeath the land to *whomever he wished* · *Heirs and Assigns forever*. This promise of enduring ownership was compelling. It was the immense value of land combined with the hope of a better life · that drove many to leave behind the civilization of Europe for the unknown opportunities of the New World.

Why This History Still Matters

You might be thinking, *This is a fascinating story · but it happened over 200 years ago. How is it relevant today?* The answer lies within reach of every property owner. If you examine your **parcel register**, or if you've owned your land for more than 45 years, you may be fortunate enough to possess a **Deed**.

I encourage you to locate either document and look for the following...

The parcel register is a document every conveyancing lawyer accesses when there is a sale, mortgage or other change to title. Note: It says, **SUBJECT TO RESERVATIONS IN CROWN GRANT.**

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

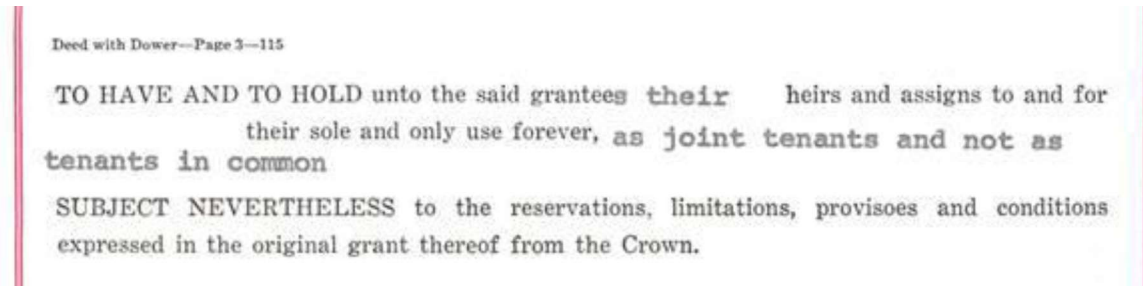
07198-0078 (LT)

RDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

S/T 14839,471203,NU35341,NU35343; CITY OF BURLINGTON

NEVERTHELESS to the this excerpt from my deed:

reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.



The Legal Foundation of Property Rights: Crown Grants and Paramountcy

The root of all **Right, Title, and Interest** in land in Canada originates from the **original Grant from the Crown**. This method of land conveyance is part of the British legal doctrine that governs the transformation of Crown land into private property.

To understand the hierarchy of legal authority, we must introduce the concept of **Paramountcy**. In simple terms, paramountcy refers to a legal pecking order. A helpful analogy is that *a river can never rise above its source* meaning that laws and rights established by the **Imperial Parliament of Great Britain and Ireland** cannot be overridden by

subordinate bodies such as Canada's **Federal Government, Provincial Governments, or municipalities**.

Does the **British North America Act** (BNA Act) explicitly protect the right to property? In a word: **no**. What it does protect, however, are the laws made by the Imperial Government that safeguard property rights laws that were enacted through Colonial Governments on behalf of the Crown before Confederation. These foundational laws remain beyond the reach of alteration by Canada's modern legislative bodies.

If this **sounds** complex, here's a simplified summary:

- The **Imperial Government of Great Britain** granted and patented land to the first settlers, *Heirs and Assigns forever*.
- These grants formed a binding agreements between the settler and the King.
- Upon **Confederation**, the newly formed governments of Canada and its provinces were required to respect the **prerogative of the Crown**, as expressed through the Imperial Government and the Letters Patent so issued.
- Today, the **Government of Canada** and the **Provinces** manage the **Reservations** stated in each original Grant, as well as all **ungranted land** still held by the Crown.
- Therefore, any land described in Imperial **Letters Patent** carries with it the **Right, Title, and Interest** bestowed by the Crown · making it legally yours under the original terms of the Grant.

Part 2: Our History and Heritage

When settlers first arrived in the early British colony · then known as the **Plantation of Quebec** · they entered a territory vastly different from

today's provincial boundaries. This **colonial** claim extended far beyond

modern-day Quebec, encompassing what we now recognize as **Ontario, Quebec, Nova Scotia, New Brunswick, Newfoundland**, and even parts of the **eastern United States down to northern Florida**.

Upon arrival, a settler would submit a **petition (application)** to the colonial administrator for a parcel of land. If approved, the land was granted under specific **conditions of settlement**. These typically required the settler to:

- Reside on the land
- Clear a portion of acreage
- Construct a dwelling no smaller than 18' x 20'
- Cultivate the cleared land

Let's pause to **clarify** a term often used today: **"taking something for granted."** The word *granted* originates from the **prerogative right of the King**. When the King grants something · especially land · it is to be accepted without question. No individual may challenge the King's authority, command, or decision. As **Head of State**, the reigning monarch (King or Queen) is considered the **fountain of all rights and dignities**, a figure who can do no wrong, and whose authority is second only to God.

Whether one agrees with this principle is beside the point · it remains the foundation of our **system of governance within the British Monarchy and the Crown**. For context, only **13% of Canada's landmass** is held in private ownership. The remaining land is still **owned by the Crown**, administered by both **Federal and Provincial Governments** on its behalf.

After residing on the granted land for **three years**, a settler could apply to have the land **patented**. The term *patent* here is similar to a patent for an invention, with one major distinction: the land patent is granted **to the settler, their heirs, and assigns forever**. This creates a **sealed**

agreement between the **Patentee (settler)** and the **Grantor (Crown)**. From that moment forward, the land patent becomes a private agreement between the Crown and whoever holds the deed to that land.

What Rights Were Granted?

So, what rights were given to the first settler? The answer lies in the **patent issued for the parcel of land**. It reflects what the Crown chose to grant · and what it chose to **retain or reserve** · for itself, its heirs, and successors.

Your **deed or parcel register** will reference these **reservations** as expressed in the original Crown Grant. For example, on my own deed, it is stated that the land is for my **sole and only use**, subject to the **reservations, limitations, provisos, and conditions** outlined in the original grant.

In my case, the patent granted **two 100-acre lots**, described by **metes and bounds**, along with **all woods and waters** lying within the property.

The Crown reserved:

- **All mines of gold and silver**
- **All white pine trees** that were or may be growing on the land

That was the extent of the government's reservation. It did room for subordinate governments to interfere with the land ~~not leave~~

rights or to reclaim what had already been **given and granted**.

You may be wondering: *Surely a 200-year-old document has been voided or superseded by now?* That's a fair question. While one document alone may seem like a thin argument, there are **modern statutes** that continue to **protect these Imperial Grants and Patents**.

I'll explain those next.

Part 3: Governance in Canada

It's striking how many Canadians lack a clear understanding of our system of governance. So let's take a moment to revisit the structure that defines our nation.

Canada is a **Constitutional Monarchy**, with the **King or Queen of Great Britain** serving as our **Head of State**. This is not a ceremonial title · it is foundational to our legal and political framework.

Following the monarch is the **Governor General**, who acts as **His or Her Majesty's representative** in Canada.

The hierarchy continues as follows:

- The **Senate of Canada**
- The **Parliament of Canada**
- The **Provincial Legislatures**
- The **Municipal Governments**

This structure operates under the principle of **paramountcy** · each level of government holds authority over the levels beneath it.

Confederation and Constitutional Foundations

In the lead-up to Confederation, the colonial governments of **Upper and Lower Canada, Nova Scotia, and New Brunswick** met to discuss forming a unified government. These early talks failed, largely due to disagreement over a **single-house system** to govern all four regions.

It's worth noting that the **United Kingdom of Great Britain** operates under a **single parliamentary house**, with the monarch as an **integral part of Parliament**. In Britain, laws passed by Parliament are inherently constitutional because they are approved by the Head of State. Their constitution is **unwritten and evolving**, unlike Canada's more codified structure.

The Senate Debate

Occasionally, public discourse in Canada calls for the **abolition of the Senate**. However, the Senate holds **paramountcy over Parliament**, and any constitutional change of this magnitude would require:

- Approval from **all provinces**
- Consent from the **Senate**
- Endorsement by the **Governor General**

In short, abolishing the Senate is **not feasible**. While it may serve as a popular political talking point, it lacks the constitutional viability to move forward. The entire governance structure would need to be reimagined.

Land Grants and the Role of the Crown

Let us not forget: the **Imperial Government of Great Britain** granted and patented land to the first settlers, **to their heirs and assigns forever**. As negotiations for Confederation progressed, it was agreed that:

- A **Federal Government** would be established under **Section 91 of the British North America Act (BNA)** for national matters
- Each province would have its own **independent government** under **Section 92 of the BNA**

This allowed the new provinces to legislate independently, no longer requiring approval from the **Imperial Parliament**. However, both federal and provincial governments continued to **administer lands held by the Crown**. It's crucial to remember: **there is only one Crown**, but its lands are administered jointly by federal and provincial authorities under Sections 91 and 92.

Municipal Governance and Property Rights

In **1849**, the first **Municipal Corporations Act** – also known as the

Baldwin Act was enacted. It contained **35 by-law sections**, none of

which pertained to the **restriction of private property use**. Municipalities were established to manage **public property** within towns, townships, and counties. Their foundation was, and remains, **common law**.

As Confederation approached and was ultimately passed, the **British North America Act** enshrined protections for **property rights** granted by the Crown. Had there been any intent to strip away those rights, it would have triggered a **massive public uprising** against Confederation.

Key Constitutional Sections

Section 109 of the BNA Act states:

All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union... shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick... subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

This confirms that provinces were entrusted with **ungranted lands and reservations on patents**, subject to existing **trusts**. A **Grant or Patent** was a trust established by the Crown · **independent of colonial or provincial formation**.

Section 129 is particularly significant. It states:

...all Laws in force... and all Courts... and all legal Commissions, Powers, and Authorities... shall continue... as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland)...

This means that laws and patents enacted by the **Imperial Parliament** · such as those issued in **Southern Ontario** · **cannot be repealed, abolished, or altered** by Canadian or provincial legislatures. These **Imperial Grants and Patents** remain protected and unamendable.

Part 4: Statutory Protections for Letters Patent and Crown Grants

The enduring strength of Crown land grants is not just historical · it is enshrined in current Ontario legislation. Several statutes confirm that **Letters Patent**, once issued under the authority of the Crown, retain full legal force and effect today.

Evidence Act, R.S.O. 1990, c. E.23

Section 24 – Letters Patent

Letters patent under the Great Seal of the United Kingdom, or of any other of His Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof... and such exemplification has the like force and effect for all purposes as the letters patent thereby exemplified or enrolled, as well against His Majesty as against all other persons whomsoever.

This provision makes it clear: a **copy (exemplification) or record (enrolment)** of a Letter Patent carries the **same legal weight** as the original document. It is valid against **His Majesty and all other persons** · with no exceptions. The implication is profound: **no certified copy is required, and no authority may question its legitimacy**. The only entity not named is **God**.

Legislation Act, 2006, S.O. 2006, c. 21, Sched. F

Section 71 – Crown Not Bound

No Act or regulation binds the Crown or affects the Crown's rights or prerogatives unless it expressly states an intention to do so.

This confirms that **properly enacted legislation must explicitly state** its intent to bind the Crown. Otherwise, it **cannot override** the Crown's prerogatives including those exercised through Letters Patent. Grants issued to settlers and their **heirs and assigns forever** remain protected unless a statute **clearly and directly revokes** that protection.

Section 72 – Succession

A change of reigning sovereign does not affect anything done or begun under the previous reigning sovereign...

This means that a **patent granted in 1818 by King George III** remains **as valid today** as it was on the day it was issued. Succession does not diminish the legal force of Crown

Public Lands Act, R.S.O. 1990, c. P.43 **58 Property in trees vested in patentee**

Idem

(3) A reservation of all timber and trees or any class or kind of tree contained in letters patent dated on or before the 1st day of April, 1869 and granting public lands disposed of under this or any other Act is void. R.S.O. 1990, c. P.43, s. 58 (3).

This section of the Act explains that if the land was patented prior to April 1st 1869 that a reservation, by the Crown under this act or any other act is void. Clearly since my land was patented in 1818 it would qualify under this voidance, in the simplest terms, NO act can make effect to the owner of the trees.

Property and Civil Rights Act, R.S.O. 1990, c. P.29

Property and Civil Rights Act

R.S.O. 1990, CHAPTER P.29

Consolidation period: December 31, 1990 - e-Laws currency date (August 13, 2025)

No amendments

Rule of decision

[1.](#) In all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario. R.S.O. 1990, c. P.29, s. 1.

The intent of the Crown is Clear, should there be controversy, we must revert back to the laws of October 1st 1792. Bluntly, there were no conservation authorities, or by-laws that took away the rights of private property at that time.



Letters Patent Act 1571

1571 CHAPTER 6 13 Eliz 1

AN ACTE that the Constathes and Exemplifications of Letters Patentes shalbe as good and avayleable as the Letters Patentes themselves.

Annotations:

Modifications etc. (not altering text)

- C1 Short title "The Letters Patent Act 1571" given by [Statute Law Revision Act 1948 \(c. 62\)](#), [Sch. 2](#)
- C2 Preamble omitted under authority of [Statute Law Revision Act 1948 \(c. 62\)](#)
- C3 Words of enactment repealed by [Statute Law Revision Act 1948 \(c. 62\)](#)

Persons claiming Lands, &c. under Letters Patent from the Crown, may make Title by Exemplification or Constat of the Inrolment of the Patent, if the same is then remaining in force, &c.

all and everye Patentee and Patentees, theyr Heyres Successors
Executors and Assignes, and all and everie other person and persons
havyng, by or from them or any of them or under theyr Title, any Estate
or Interest of in or to any Landes Tenements or Heredytaments or any
other Thyng whatsoever, to suche Patentee or Patentees heretofore
graunted by any Letters Patentes, either of the moste famos Prynces
Kyng Henry Theight, Kynge Edward the Syxt, Queene Mary, Kyng
Phillip and Queene Marye, or by any of them, or by the Queenes most
excellent Majesty that now is, at any tyme sythence the Fourth Day of
February in the xxvij yere of the Raigne of our said late Kynge Henry
the Eight, or els by the Queenes Majesty that now is, her Heyres or
Successors, at any tyme hereafter to be graunted, shall and maye at all
tymes hereafter, in any of the Queenes Hyghnesse Courtes, her Heryes
or Successours, and elsewhere by thauctoritie of this present Acte, make
and convey and be alowed and suffered to make and convey, to and for
hym them and every of themselves, such Claim or Title by way of
Declaration Playnt Avowrye Barr Replication or other Pleadinge
whatsoever, aswell agaynste the Queenes Hyghnesse, her Heyres &
Successours and every of them, as agaynst all and every other person
and persons whatsoever, for or concerning the Landes Tenements
Hereditamentes or other Thynges whatsoever specified or contayned in
any suche Letters Patentes, or of for or concerninge any parte or parcell
thereof, by shewing foorth an Exemplification or Constat, under the
Greate Seale of England, of the Inrolment of the same lettres Patentes,
or of so muche thereof as shall and may serve to or for suche Title
Clayme or Matter; the same lettres Patentes then being and remayninge
in force, not lawfully surrendred nor canceled, for or concerninge so
much and suche parte and parcell of suche Landes Tenements
Hereditamentes or other Thyng whereunto suche Tytle or Clayme
shalbe made, as yf the same Letters Patentes selfe weare pleaded and
shewed forth; Any Lawe Usage or other Thing whatsoever to the
contrary notwithstandinge.

Letters Patent Act 1571 (c. 6) Document Generated: 2017-07-28 Changes to legislation: There are currently no known outstanding effects for the Letters Patent Act 1571. (See end of Document for details)

The Letters Patent Act of 1571 brings clarity to the intent and importance of a Patent issued by the Imperial Government of Great Britain.

Although it may appear to be composed by a six year old child in attempt to write English, it should be noted that the English language is ever evolving and changing. Words change their meaning over time and some are altogether eliminated. As always the reader must consider the era of when the law was written and the context being captured at that time.

A Very Brief Overview

As I and others watched an ever-creeping authority encroach upon the right to private property, we decided to challenge the Niagara Region's Woodland Tree By-law. Looking at the statutes set out in Part 4 of this writing, it appeared that the by-law violated existing Ontario statutes protecting a property owner's right to trees. With that understanding, a challenge was launched against the by-law and the Niagara Region.

I should note that several years earlier I had also challenged the Town of Grimsby's Consolidated Zoning By-law, though unsuccessfully. Perhaps later I will expand on that attempt. Nevertheless, that experience became an inspiration – one that led to extensive reading on our history and heritage, the laws of the colonies, and the efforts to promote immigration from Europe's "civilized world" to the wilderness of North America.

The Search for Legal Support

One of the greatest challenges was finding a lawyer who was not only well-versed in history and heritage but also in the laws cited in Part 4. We were unsuccessful at first. From my perspective, lawyers can be a peculiar group: some are very closed-minded, while others dismiss this subject as nothing more than “Freeman of the Land” arguments. Our challenge had no such basis.

Eventually, after much searching, we found a lawyer who was somewhat open-minded and willing to learn the position and direction we were pursuing. Educating a lawyer is expensive, however. Even with a discounted rate, the hours accumulated quickly · \$40,000 was spent in little time. We met about every other week until Covid, when our meetings shifted to weekly Zoom calls.

The education process felt like a roller coaster. Information would be tabled and considered one week, dismissed the next, then revisited after more research and rebuttal. This cycle went on for over a year. The problem, as I see it, is that when teaching Canada’s early history, people naturally view it through the lens of today’s laws and values. This makes it immensely difficult to grasp the past on its own terms. To understand the will and intent of earlier times, one must start at the beginning and move forward, rather than forcing modern interpretations onto historical simplicity.

The First Hearing

As research progressed, it became clear that none of us non-lawyers knew much about procedural law or the complexities of challenging a by-law. To me, the law seemed straightforward: a patent and deed

should have strengthened our position. How could the case go beyond discovery?

But the first round in Ontario's Superior Court quickly taught us otherwise. From my perspective, court proceedings are flawed in such a way that decisions can be manipulated to avoid reflecting the actual arguments. The bulk of material is presented to the court and the respondent in a factum, yet the judgment rarely mirrors that content. Instead, the court digresses, reporting only what the judge feels is relevant to the decision he intends to make. After our decision was released, I even asked my lawyer, "Were we even there?"

In the initial hearing, the judge appeared upset and closed-minded. We broke for lunch, during which he asked a question, expecting an answer afterward. The hearing, held by Zoom, allowed us to regroup. After lunch we presented section 58(3) of the Public Lands Act. For a brief moment, the judge seemed to understand our argument. He acknowledged the amount of research involved, remarking that it both made his job easier and harder, and said he would deliver a decision in 14 days.

Six weeks later, the court asked my lawyer to prove standing at a cost of over \$10,000. Our action had been funded by myself and others, and the court demanded details of who these supporters were. We provided the information, along with a statement from Judge Parayeski in my earlier challenge against the Town of Grimsby's Comprehensive Zoning By-law.

Here is what Judge Parayeski stated in his June 19, 2015, decision:

"While I certainly agree that there is general interest and public importance in there being a determination of what I have called the 'Crown patent issue' as described above, that, as I have said repeatedly, is not the genuine question of law before me. Accordingly, in my view, granting leave to the Divisional Court would be improper with respect to the motion to dismiss. That would only compound the problem created

by the Kaluznys having raised the Crown patent issue in the wrong forum in first instance by bringing it before the OMB. The proper forum, in my view, is the Superior Court of Justice on notice to, at the very least, the province. I agree that what is really being raised by the Kaluznys is indeed a constitutional issue.”

Two months later, we returned to court, only to hear Judge Nightingale state that he had not read our motion for standing and that the respondent was not opposed. (Then why ask for it? I have my opinions, but will withhold them here.) He concluded that a Crown Patent does not immunize against other laws, and that under the Municipal Act the Region had the authority to regulate land use through by-laws.

His decision made no reference to the statutes cited in Part 4 of this writing. At that point, we decided to appeal to the Ontario Court of Appeal. Although the application judge had seemed to grasp our position at the first hearing, something changed, and we felt a higher court would better appreciate the arguments regarding the honour of the Crown, its prerogative, and its patents.

The Ontario Court of Appeal

An appeal was filed with the Ontario Court of Appeal. Factums were exchanged, and the Region of Niagara’s lawyer took the position that the law itself should be changed. In seven separate passages, he warned the court that following the law would open the floodgates to litigation. He further argued that enforcing the law would greatly limit municipalities’ ability to control land use in Ontario.

When our case was heard, three very hostile judges presided. From the outset, they were inhospitable to our lawyer. They pressed him relentlessly, to the point where it seemed they were trying to get him to concede that the litigation was pointless and that the Region of Niagara had unquestionable authority over my trees.

After a recess, our lawyer returned visibly shaken. He admitted that in all his years of practice, he had never experienced such a hostile bench. We had an hour to present, and by the end of it, the judges informed opposing counsel that they did not need to hear from him.

This struck me as odd—or perhaps telling. The Region’s lawyer had already argued in his factum that the law should not be followed, if the warning of “doom and gloom” court upheld it. In effect, he had admitted the strength of our position. Nevertheless, after a short adjournment, the three justices rendered their decision: they agreed with the lower court’s ruling.

Toward the Supreme Court
After court was dismissed, our lawyer turned to me and said: “I’m done. anymore.” He suggested that I represent myself before the

I can’t do this
Supreme Court of Canada, with only minimal guidance from him. Joan and Erika kindly agreed to assist me in preparing the case.

At first, this sounded like a workable plan. But there were problems. Supreme Court rules allow self-representation only if the litigant had personally represented themselves in the lower courts, without a lawyer. Court, addition, the s filing procedures are highly technical. When we asked our lawyer about it, he explained that we would need to hire an agent to communicate with the Court. Agents are rare · and only found in Ottawa.

Joan spent considerable time contacting law offices in Ottawa, and only one agreed to consider filing our case. Our first objective was to present a motion to the Court allowing me to self-represent despite having had a lawyer in the lower courts. The agent conducted a search and found that never in Canadian history had a litigant dismissed their lawyer after the lower courts and then sought to self-represent before the Supreme Court.

Nevertheless, a motion was filed along with our application. In December 2023, the motion was granted · I could represent myself

before the Supreme Court of Canada. This was a moment of real encouragement. If the Court had wanted to be rid of us, it could simply have denied the motion. By granting it, we felt the judiciary was showing fairness and consideration. We now awaited review of our application with genuine hope of being heard.

That hope was short-lived. On March 7, 2024, we were notified that Leave was not granted. The Court gave no reason, as is standard, but the effect was clear: municipalities were deemed to have rights over my trees that superseded both statute law and the prerogative of the Crown.

From my perspective, this outcome revealed that our judicial system is not merely flawed, but corruptan illusion designed to reassure the public, while in reality, the “greater good” is used to justify outcomes contrary to law.

Joan later looked up the historical meaning of the “greater good” and found a quote by William Blackstone that deserves repeating:

“The public good is in nothing more essentially interested, than in the protection of every individual’s private rights.”
Somehow, that principle has been lost.

Part 5: Where to Go Next?

One observation I have made about municipal governance is during the swearing-in of a new town council. At this ceremony, elected officials place their right hand on a Holy Bible and affirm their allegiance to the Crown with the following oath:

“I swear (or solemnly affirm) that I will be **faithful** and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being), her heirs and successors according to law.
God so help me ”

Every public servant must swear or affirm the Oath of Office, and most must also swear the Oath of Allegiance. This framework is set out in the Public Service of Ontario Act, 2006 (PSOA).

The intent of this oath is clear: loyalty to the reigning sovereign and obedience to the laws of Canada. Yet when presented with the law, many councillors evade the question, forgetting their sworn duty to uphold it.

The reality is that councillors are expected to review and understand the law. In practice, however, the legal framework is complex and often overwhelming. To manage this, councils typically consult outside legal counsel · who may not be well-versed in either historical law or its present-day application. Too often, these outside lawyers simply support the position council already wants to take. When challenged, the court standard response from council is: “Take us to ”

This creates a serious problem. Councillors may rely on outside advice, but they remain personally responsible for their actions. No system exists to police the integrity of elected officials when they betray their oath. If you ask what the charge would be for violating a sworn oath to the sovereign, the answer is clear: treason.

As outlined in earlier parts of this writing, land ownership is a private agreement between the Crown and the first settler, heirs, and assigns forever. Yet local authorities have been misled into believing they have absolute authority over private property. The simplest way to test this supposed authority is to ask whether the Crown is bound by a given act. In most cases, the answer is no.

Section 71 of the Legislation Act makes this explicit:
“No Act or regulation binds the Crown or affects the prerogatives unless it expressly states an intention to Crown’s rights or do so.”

This means that unless legislation explicitly states it overrides the

Crown's prerogative, it has no force or effect against private property granted by the Crown. Nevertheless, legislation is often crafted in a way that creates the illusion that all acts apply equally to private property. This illusion misleads councils, lawyers, and even courts · an error so deeply entrenched that few are willing to revisit the true intent of the law.

This brings me back to where my personal challenge began. In 2014, the Town of Grimsby introduced its 300-page Comprehensive Zoning By-law. My property's southern boundary is 40 Mile Creek. Under the by-law, the Town claimed a hazard overlay area and prohibited any development within 120 metres of the creek.

My land is held in fee simple · a grant from the Crown to the first settler, heirs, and assigns forever. By imposing this restriction, the Town placed an encumbrance on my property. So long as I agreed to it, the restriction would stand. I did not agree, and therefore I challenged it.

One of the most disheartening aspects of dealing with municipal councils is their adversarial attitude. If you are not with them, you are against them. There is little room for discussion or genuine consideration of alternative viewpoints. Their standard response remains: "If you don't like it, take us to court."

That is exactly what I did. But the process is weighted against individuals. Once in court, the opposing side quickly stops listening, falling back on procedure and technicalities. In my 2014 challenge, despite thinking I was well-prepared, I fell short of what I now know. Challenges are not conducted without bias, regardless of what is claimed.

At the time, I believed that presenting an Imperial Crown Patent asserting my right to the property would resolve the matter. It did not. Knowledge of paramountcy and the sovereign prerogative has faded with time. Land · the very commodity for which men fought and died ·

has been reduced in importance to that of a ten-year-old used car. Our history and heritage, once built on hardship and sacrifice, are now obscured by a fog of forgetfulness, replaced by control exercised by elected officials at the lowest rungs of governance.

The challenge went before the Ontario Municipal Board (OMB), which held that the Town had followed proper procedure in enacting the by-law. But that was not the question being asked. We appealed to Divisional Court. My lawyer, disabled and accompanied by an assistant, travelled from Ottawa by train. After paying for accommodations and fees, the judge postponed the hearing, saying he had no time to hear it. That brief appearance cost me \$5,000. Months later, the same thing happened again before we finally had our day in court.

In the end, Judge Parayeski ruled:

“I have called the ‘Crown patent issue’ as described above, that, as I have said repeatedly, is not the genuine question of law before me. Accordingly, in my view, granting leave to the Divisional Court would be improper with respect to the motion to dismiss. That would only compound the problem created by the Kaluznys having raised the Crown patent issue in the wrong forum in first instance by bringing it before the OMB. The proper forum, in my view, is the Superior Court of Justice on

notice to, at the very least, the province.”

This decision was deeply disheartening. The judge had been given a clear opportunity to address the paramountcy of an Imperial Crown Patent over subordinate law, yet avoided it. Had we followed his advice and gone directly to the Superior Court, we would likely have been told the opposite – that we should have taken it to the OMB first. This circular reasoning leaves the Crown Patent issue deliberately unresolved, hidden behind smoke and mirrors.

I was ordered to pay \$22,000 in costs. My lawyer asked if I wanted to appeal. After such a financial blow, it is difficult to say yes – especially with only 30 days to decide.

The conclusion was simple: while the Town and the OMB followed the procedural requirements to enact a by-law, they never addressed whether that by-law conflicted with the Crown Patent. At the time, neither my lawyer nor I were aware of Section 71 of the Legislation Act. Yet ignorance of the law is no excuse · for anyone, including the courts.

Instead, courts hide behind their privilege of authority, hoping individuals like me will give up rather than force them to answer the real question.

Looking back, it is clear that pursuing these challenges quietly through limited court proceedings was a mistake. During this time, I also watched Indigenous peoples in Canada begin a form of rebellion. Their claims are now widely known, even if true reconciliation has been minimal. Their efforts, at least, have forced acknowledgment from public officials and created some public sympathy.

The issue of private property rights affects every Canadian, yet our governments have chosen to betray their oaths. Why? Perhaps outside influences such as the World Economic Forum, though I cannot say for certain. What I do know is that loyalty to Canada · its history, heritage, and Crown · has been eroded. The true losers in this process are the people of Canada.

The only way forward is education.

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