THE BRITISH COLUMBIA

LAND COMMISSION ACT -- 1973

by

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Community and Regional Planning

We accept this thesis as conforming to the
required standard

THE UNIVERSITY OF BRITISH COLUMBIA

April, 1974
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Department of Community and Regional Planning

The University of British Columbia
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Date May 1, 1975
ABSTRACT

It is estimated that British Columbia has less than five per cent of its land upon which soil bound agriculture can take place. Over the past twenty-five years, significant amounts of prime farmland have been lost to non-agricultural uses. To assist in stopping this trend, the Land Commission Act, R.S.B.C., 1973, Chapter 46, became law on April 18th, 1973.

While the Act has a number of functions, this study examines only its objective of preserving agricultural land for farm use. The thesis is divided into two sections. Part one provides a review of a number of important reasons for implementing the Land Commission Act. The second part provides a descriptive analysis of the Act's implementation, including an analysis of the controversy and issues that arose from its introduction and the subsequent amendments that led to the Land Commission Act. It also includes an examination of the process of establishing the Agricultural Land Reserves as well as a review of possible future areas of activity of the Land Commission.

The study is directed at the Land Commission's first year of operation. It does not include a
comparative examination of legislation directed
towards the preservation of farmland in other parts
of Canada and the world. Neither does it analyse
the economic impact the Land Commission Act will
have on urban or agricultural land values or on the
economic viability of the agricultural industry.
The thesis more closely resembles a legal-political
examination of a piece of legislation intended to
help keep the Province’s short and long range land
use options open.

When beginning to research this thesis, there was
very little formally written material specifically
concerning the Act. It was necessary, therefore,
to gain information through an examination of the
Act itself, Hansard, newspaper articles, and by
interviewing and corresponding with several persons
knowledgeable of the subject.

Through the research it was found that during
the intensive debate that followed the announcement
of Bill 42, many statements in opposition to the
legislation were erroneous. The primary purpose
in researching and writing this thesis is to hopefully
provide a fuller understanding of the Land Commission
Act.
It was also found that the much publicized amendments of the Act were generally for the purpose of clarification with but two exceptions. The success of the Land Commission Act in its attempt to preserve agricultural land can not be accurately assessed at this time. There remain many reasons to suspect that the Act will fail. The threat of continual urbanization of farmland remains its strongest adversary. There are, however, a number of aspects in the Commission's favour—the most important being the strength of conviction of the Legislators and administrators and the awareness of the general public of the necessity of preserving farmland.
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Because of the nature of this paper my thanks must be sincerely extended to a number of individuals who gave freely of their time to enhance my understanding of the topic. Mr. R.T. Franson and Dr. L.M. Lavkulich provided important insights into their particular areas of interest. Mr. R. Hankin of the G.V.R.D. enriched my understanding of the usefulness of the Official Regional Plan to the Lower Mainland of British Columbia.

To Mr. R.B. Stock, Manager of the B.C. Federation of Agriculture I extend my thanks for not only discussing the subject at length, but for opening the door to a wealth of important material.

I must acknowledge my appreciation for the detailed and useful responses to my correspondence by Mr. D.K. O'Gorman of the Environment and Land Use Secretariat and Mr. R.L. Wilkinson of the Department of Agriculture.

A special thanks must be reserved for Mr. William Lane. He greatly expanded my knowledge of the subject and provided a rather unique insight into an extremely current topic. I will remain indebted to Mr. Lane not only for the hours he spent in discussion with me when time for him was very precious, but also for his unselfish service to the Province.

To my advisors Dr. William Rees and Mr. Brahm Wiesman I will remain forever grateful. The many hours they spent reviewing my work and providing very constructive criticism and instruction will not be forgotten.

As in everything I have ever done the guiding presence of my parents has been felt throughout. Their encouragement and love remains impeccable. I thank a Brother who has been a goal within himself. To my wife, for her unselfishness, understanding and love I thank. Her practical assistance
was matched by her ability to provide a rebound for my thoughts and ideas, which in turn was doubled by her continuous encouragement.

To the late Mr. L. Thornton, a man who captured my continuous respect and unknowingly pointed the way, I humbly dedicated this work.
CHAPTER I

INTRODUCTION

"...the fact remains that as yet the Lower Mainland supplies itself with fresh milk, fresh fruit and a proportion of vegetables. Since we will some day have to supply more than twice our present population it is utter folly to sacrifice our most fertile land on the altar of unproductive residential use when more suitable land is available for that purpose."¹

Lower Mainland Regional Planning Board January 1952.

Despite the significance of the above statement, it took over twenty-one years before the Provincial Government of British Columbia enacted legislation directed towards the preservation of farmland. The Land Commission Act, R.S.B.C., 1973, Chapter 46, became law on April 18th, 1973.

In the last ten years, the Department of Agriculture estimates that British Columbia has lost 78,000 hectares of good farmland to residential development. The greater bulk of this loss has been in the Lower Fraser Valley and the Okanagan Basin - both areas of high agricultural productivity.²

Between 1951 and 1971, an average of seventy-five persons was added to the Lower Mainland's population daily.³ Subsequently the area was losing farmland at a rate of 1,200 hectares each year. (For further reference see Chapter III, footnote 16).

-1-
This study is divided into two parts; the first examining a number of important factors which together, formed significant reasons leading to the adoption of the Land Commission Act. The second is devoted to an analysis of the Act itself. This includes a review of the implementation as well as the controversy that surrounded the introduction of Bill 42 - the Land Commission Act. An examination of the major issues that evolved from the controversy, as well as the subsequent amendments to Bill 42 is also included.

The study includes an analysis of the administrative techniques employed by the Land Commission in the establishment of Agricultural Land Reserves throughout the Province. The conclusion provides a review of those factors which may prove harmful to the Land Commission in its bid to preserve agricultural land, as well as an appraisal of those aspects which will conceivably support the Commission's work.

There are three limitations to the study that must be clearly enunciated at the outset. Firstly, the Lower Fraser Valley (Lower Mainland) is used, within the study, for the purpose of example. While the Land Commission Act is involved with the preservation of farmland throughout the Province, the Fraser Valley affords an extremely good example of the land use conflicts that, in part, revealed the necessity of the Act.
Secondly, while the Act has a number of functions, this study will be substantially directed at the "agricultural" elements of the Act. Section 7(1)(a) of the Land Commission Act states, "It is the object of the Commission to preserve agricultural land for farming use." The importance of this aspect of the Act was also revealed by the Minister of Agriculture the day of Bill 42's introduction. He said on this occasion that the object of the Land Commission Act, is "to make agriculture more economically viable to sustain the family farm."4

A third important limitation exists in the short time period since the adoption of the Act. While part one of the thesis utilizes historical perspectives, the analysis of the Land Commission Act primarily pertains to its first year of operation.

The introduction of Bill 42 created an enormous amount of controversy. Premier David Barrett described the events of this period as the most extreme example of 'knee-jerk' reaction that his young government had to face in its first year and a half of office.5 The consequences of this controversial period were two fold. On the one hand, the awareness of the general public of the problems besetting agriculture in British Columbia increased significantly.6 However, the furor resulted in a multitude of erroneous statements concerning the reasons for, and the powers of the Act. Due only
partially to the Government's poor handling of the introduction of Bill 42, the assertions made during this early period, by a variety of sources, created misconceptions which have had a deleterious effect on the full and reasonable understanding of the Act.

In accurate statements concerning the Land Commission Act have, unfortunately, not completely subsided. In a recent (March 1975) edition of British Columbia New Homes the following recommendation from a Social Credit Party Committee Report on Housing reveals the partial truths concerning the Land Commission Act that continue to prevail.

"...because the real intent of Bill 42, the Land Commission Act, was to exercise control over all land in British Columbia, and not just to preserve agricultural land, Bill 42 should be repealed and replaced by a statute which would be specifically designed to preserve agricultural land." 7

William T. Lane, Chairman of the British Columbia Land Commission has stated that,

"The essential significance of the land Commission Act is that its passage marked the coming of age of agriculture in British Columbia. Food production is now an industry of urgent concern to all citizens of a province whose farm resources must be husbanded as never before." 8

It is the intention of this paper to reveal why the government of the day felt our farm resources must be husbanded and how, through the Land Commission Act, the Provincial Government has attempted to achieve this end.
FOOTNOTES


5. 'I don't know....', *Vancouver Sun*, January 22, 1974.


PART I

REASONS FOR THE ADOPTION OF THE LAND COMMISSION ACT

CHAPTER II

THE IMPORTANCE OF AGRICULTURE

1. THE LAND POOR SITUATION

North America has historically been considered land rich. The result has been a distinct lack of any urgent concern for preserving open space. This has been, however, a dominant objective of planning in many other areas of the world.¹

The myth - spawned by public attitudes - that Canada's 908,800,000 hectares of land is an inexhaustible land resource, dies hard. This vast amount of land area is misleading with regard to its potential agricultural land. From the viewpoint of climate alone, two thirds of Canada is simply too cold for commercial agriculture. Much of the southern third of the country cannot be used for agricultural purposes because of rough terrain, swamps and unsuitable soils. Added to this, many fruit and vegetable crops require specialized environmental conditions found only in a few relatively small areas of Canada.²

British Columbia has a total area of 91,975,424 hectares but only 2,115,435 hectares, or 2.3 per cent of the Province is estimated to be suitable for
agricultural activities. However, only 645,208 hectares, or 30.5 per cent of this potentially arable land is classified as improved land, accounting for only 0.7 per cent of the total land area of British Columbia.

The Fraser Valley (or Lower Mainland) of British Columbia (See Map No. 1) accounts for 413,347 hectares, or only .45 per cent of the Province's total land area. Limited by urban land uses and areas of poor soils and terrain, only 105,722 hectares, or approximately 25 per cent of the Lower Mainland is used as farmland. This in turn accounts for a mere five per cent of the Province's gross agricultural land. Despite this fact the Fraser Valley was responsible, in 1966, for producing over sixty per cent of the total value of farm production in British Columbia.

1) Topography, Climate and Soils

The Lower Mainland is characteristic of most farming areas in the Province. Because of the mountainous terrain in British Columbia, agriculture tends to be concentrated in 'pockets' of lower lying land - especially river and mountain valleys - where there is a favourable interaction of topography, climate and soil.

Topographically, the Fraser Valley is a relatively flat expanse of land with a few upland and mountainous areas as well as river deltas.

The climate of the Fraser Valley may be classified *(B.C. Land Commission has calculated approximately 5% of B.C. suitable for the production of food crops -- "Keeping the Options Open" p. 5).*
as moderate. The mean temperatures in this region are higher than any other agricultural area in Canada, with the exception of Vancouver Island.\textsuperscript{11}

The total annual precipitation in the region is far in excess of agricultural requirements but poorly distributed seasonally. Consequently, the excess precipitation creates drainage problems in the spring which are a limiting factor for some crops. July and August in the Fraser Valley are usually considered to be dry months in which there is a precipitation deficiency\textsuperscript{12} and a period in which most crops would normally benefit from irrigation during some stage in their development.\textsuperscript{13}

The mean frost-free period\textsuperscript{14} in the Fraser Valley is 180 days per year. This compares to 120 to 130 frost-free days per year in both Southern Ontario and Nova Scotia and 100 throughout wide areas of the Prairies.\textsuperscript{15} In summation, the \textit{Regional Farmland Study} notes that, "despite these climatic restrictions, the Fraser Valley still enjoys the best climate for agriculture in the entire Country."\textsuperscript{16}

Under the Agricultural Rehabilitation and Development Act (ARDA), the Canada Land Inventory (C.L.I.) has classified the soils of the Fraser Valley by grouping them into seven classes according to their potentialities and limitations for agricultural use, depending on inherent soil and climate characteristics as well as the possible range of crops.\textsuperscript{17} The C.L.I. classifications
however, reveal very few areas of Class I agricultural land in the Valley, with most of the remaining good land falling between Classes II and IV.\textsuperscript{13}

Despite certain shortcomings, when considering together the three elements of topography, climate and soils, the Fraser Valley is the most productive agricultural area in British Columbia as well as the most suitable agricultural area in Canada.\textsuperscript{19}

2. FOOD PRODUCTION

As stated previously, the Fraser Valley, in 1966, accounted for 63.8 per cent of the total value of farm production in the Province and it was directed to a large extent to the large urban market of Greater Vancouver. Not only does it produce the widest range of crops in the entire country, but it also led the Province in 1966 in the production of many perishable goods including poultry and poultry products (78.8%), vegetables (73.6%) and dairy products (71.7%).\textsuperscript{20}

The dairy industry has historically been the main agricultural enterprise in the Fraser Valley.\textsuperscript{21} In 1965 it was estimated that most of the milk needed to meet the population increases in the Lower Mainland would come through a series of technical advances. However, throughout the next 20 year period, 1965 to 1985, it was felt that the effects of urban sprawl and the lack of regional planning - including the high cost of land
and high taxes, along with other externalities - could drastically change the economic picture of this enterprise.  

Poultry sales ranked second in the amount of agricultural cash income for the Valley in 1966. Vegetable farms in the Fraser Valley are becoming larger, more mechanized and more efficient. Vegetable production however, is falling short of present demand in the Lower Mainland. Although accounting for over four million dollars in retail sales, outside competition as well as the high cost of land, taxes and labour tend to bear heavily on the feasibility of growing these crops. Vegetables from California are generally cheaper than home grown produce and therefore largely govern local prices. However, due to the urbanization of farmland in California, British Columbia must also import vegetable produce from Mexico - and compete with California in doing so.

Besides the items of production mentioned above, the Lower Mainland contributes substantially in many other areas of food production. These include: cattle, greenhouse and nursery products, tree and small fruits, potatoes and others.

3. THE ECONOMIC IMPORTANCE OF AGRICULTURE

The dollar value of producing food at the primary level has lessened the agricultural industry's ability to withstand pressures for land space that can be utilized for purposes which would presently create
higher economic returns. The relatively weak status of agriculture as an economic activity can be explained in part by our misconceptions of the value of agriculture as an economic unit.

1) Agriculture Defined

The gross value of output from primary agriculture in British Columbia in 1969 was only $219,000,000, and therefore ranked far below tourism, forestry, mining and manufacturing in the economic hierarchy of industries. Winter maintains that "agriculture has been virtually defined out of existence in British Columbia." Historically, agriculture was clearly a set of activities centred on the generation and preservation of food fiber for final consumption. On the typical farm a century ago there was some considerable processing of food products. Our perception of agriculture has been difficult to alter even though the agricultural industry has changed dramatically. In concurrence with these changes, the definition of agriculture must also be adjusted in order to more accurately assess agriculture's economic value.

Activities associated with agriculture are today on three levels. (1) Primary agriculture may be defined as those activities taking place on farms which are essentially associated with the production of food and fibre. (2) Agribusiness and trade includes activities taking place off farms, but which are either (a) directed towards
the provision of materials or equipment for use by farmers or (b) directed toward the processing of products from primary agriculture or (c) directed towards the buying and selling of food commodities. (3) Tertiary agriculture generally involves work or service provided in servicing primary and secondary agriculture. Although not readily identifiable as agriculture per se, these activities would disappear were it unnecessary to synthesize food.  

Winter expounds at some length on the value of agriculture to the British Columbia economy. A summary of his findings is included below. It might be speculated that the non-primary aspects of agriculture will have even greater prominence in the Lower Mainland due to the urban concentration in the south-west corner of British Columbia.

ii) Net Value Added by Agriculture

The Gross Provincial Product (GPP) of British Columbia in 1969 was estimated to be 8.64 billion dollars. The GPP is made up of value added in each industry and not value sold. In 1969 the net value added by primary agriculture in British Columbia was 124 million dollars. This represented only 1.44 per cent of the GPP. However, primary agriculture, along with agribusiness, trade and the activities of tertiary agriculture totalled 501 million dollars in value added, and equalled 5.8 per cent of
the Gross Provincial Product.\textsuperscript{31}

iii) Employment

While the labour force involved in primary agriculture is slowly dropping in the Fraser Valley,\textsuperscript{32} the following Provincial figures clearly demonstrate the multiplier effect of this segment of the industry.

\begin{table}[h]
\centering
\begin{tabular}{lrr}
\hline
 & \\
Primary Agriculture & \textendash & 28,000 \\
Food Manufacturing & \textendash & 16,000 \\
Food Wholesaling & \textendash & 3,650 \\
Food Retailing & \textendash & 17,800 \\
Farm Supply Business & \textendash & 2,600 \\
Total & \textendash & 68,050 \\
\hline
\end{tabular}
\caption{Employment in B.C. Agriculture (1969)}
\end{table}

\textit{Source: Winter, p. 10}

Agriculture and food processing accounted for a respectable 9.6 per cent of the entire Provincial labour force in 1969.

iv) Total Impact of Agriculture

The only source of relevant information available to calculate the total impact of agricultural production on the economy at large is that of Canada-wide impact multipliers. These national impact multipliers reveal how much each industry would have to expand or contract if final demand for a particular class of products
TABLE 2-2

TOTAL IMPACT OF THE FOOD INDUSTRIES ON BRITISH COLUMBIA PRODUCTION

<table>
<thead>
<tr>
<th></th>
<th>Value Added</th>
<th>Impact</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Agriculture</td>
<td>124</td>
<td>1.72</td>
<td>214</td>
</tr>
<tr>
<td>Food Manufacturing</td>
<td>215</td>
<td>2.26</td>
<td>486</td>
</tr>
<tr>
<td>Wholesale Trade in Food</td>
<td>24</td>
<td>1.62</td>
<td>39</td>
</tr>
<tr>
<td>Retail Trade in Food</td>
<td>127</td>
<td>1.62</td>
<td>206</td>
</tr>
<tr>
<td>Other Tertiary</td>
<td>11</td>
<td>1.95</td>
<td>21</td>
</tr>
<tr>
<td>Million Dollars Total</td>
<td>501</td>
<td></td>
<td>966</td>
</tr>
</tbody>
</table>


The results are somewhat speculative since the coefficients are national. With this in mind we might estimate that if the agricultural industry came to an end, the total output in British Columbia might be reduced by about 966 million dollars. 34

4. WORLD FOOD SHORTAGES

A further argument against the loss of agricultural land can be found in a more general but vitally important context. The issue of world food shortages, coupled with growing population, has been the subject of many recent investigations. 35 William Lane has also remarked on the absurdity of unnecessarily giving up productive agricultural land in light of the world food supply situation. 36
Supplying a variety of agricultural products to the Greater Vancouver market is a responsibility of the Fraser Valley that cannot be ignored. Although the current prices, and their increases, of food are of great concern to Canadians, these prices do not truly reflect the vast shortages of the world's food supply. If they did we would value what little agricultural land the Province has, as perhaps our most precious resource.

If the predictions of growing food shortages per capita are correct it can be speculated that the bidding for agricultural products throughout the world will intensify. In such a case rows of vegetables will more easily be able to economically withstand the advancing rows of houses. When considering the implications of world food shortages alone the removal of agricultural land from active production in the Fraser Valley or any other area of British Columbia is morally unjustified.

5. THE AESTHETIC AND NON-QUANTIFIABLE IMPORTANCE OF AGRICULTURE

Being multi-dimensional, all aspects of agriculture can not be adequately measured using conventional economic yardsticks. Dr. Jan de Vries, of the Department of Soil Science at the University of British Columbia addresses himself to a number of qualitative aspects which warrant the preservation of existing farmland.
He maintains that there is a very real need for different kinds of open space within close proximity to urban centres; not only the ocean and wild green space in the forested mountains, but also the domestic green space which is provided by the farming countryside. He also feels that it is important to save farmland because such areas are so closely associated with our heritage - our 'roots are in the soil'. The domesticated farmland is also more congenial for the very young and elderly than the wilder green space. 37

The Lower Mainland Regional Planning Board report, *Land For Farming* agrees that farmland can make a significant recreational contribution - "it gives us open space for hunting and stream fishing; space where children can see a cow without having to go to a zoo; and pleasant approaches to our major cities - a matter of some consequence for a tourist centre." 38

Dr. de Vries also feels that with a system of equitable distribution of votes between city and rural people, it is the urban dwellers who, through their votes, will make decisions concerning the fate of the countryside. Therefore it is essential that urbanites have easy access to farmlands in order to appreciate the value of agriculture. Farmland is also viewed as important for its ability to utilize various waste materials for fertilizer in crop production. 40

With regard to a different perspective, Winter
maintains that since agriculture is currently a family-focused activity, it occupies a unique sociological dimension. To destroy agriculture would mean an entire way of life would be nullified.


3. 'Agricultural land' can mean two things: (1) land in gross farm holdings, not necessarily all used; or (2) "improved" land, that is, land in production or used in connection with production. (Land For Farming, p. 5).

4. B.C. Department of Industrial Development, Trade and Commerce; British Columbia Manual of Resources and Development (Queen's Printer, Victoria, May 1971) p. 28.

5. The terms 'Fraser Valley' and 'Lower Mainland' will be used interchangeably throughout.

6. Department of Municipal Affairs, B.C., Statistics Relating to Regional and Municipal Governments in British Columbia (Queen's Printer, Victoria, June 1973) p. 18, 19, 30, 31, 34, 35, 38, 39.

7. The figure of 105,722 gross hectares of farmland in the Lower Mainland is naturally changing as agricultural land is used for urban or other non-farming purposes or as some new areas, previously not considered farmland, are brought into production. This figure, although an approximation, was derived from the total estimated farmland area in B.C. of 2,115,434 hectares. The Lower Mainland accounts for five per cent of this or 105,722 gross hectares.


11. As the result of prevailing westerlies and the warm waters of the Pacific, the main climatic characteristics of the West Coast are the mild winters, warm but not hot summers, and small range of temperature. See The Climate of Canada, Queen's Printer, Ottawa, 1962, for further information.

12. Heavy soils have a water requirement of over five inches per month during the dry months. (Lee, p. 3).

14. The number of days between the mean spring and fall dates of freezing is taken to be the frost-free period.


16. Lee, p. 3.


18. The agricultural classification of the Canada Land Inventory was the basic tool used in designating the Agricultural Land Reserves under the Land Commission Act.

19. This same conclusion is reached by a number of sources including: Land For Farming, Regional Farmland Study and The Transactions of the Ninth British Columbia Natural Resources Conference, (Dept. of Lands, Forests and Mines, B.C., Victoria, 1956).


23. Lee, p. 16.


25. Dr. L.M. Lavkulich, interview, February 8th, 1974.


27. The following section is intended to provide an overview only to the Economic Importance of Agriculture in the Province. For more detailed information see Winter, G.R., The Significance of Agriculture To The Economy of British Columbia (Department of Agricultural Ecomics, U.B.C., Vancouver, February 6th, 1971).

29. Winter, p. 4-6.

30. In calculating the value added Winter utilized two available sources, one from 1968 (Preliminary Bulletin, 1968 Annual Census of Manufacturers, D.B.S., Cat. # 31-201p) and 1969 (Canada Year Book, D.B.S., Chapt. XXI). Although the results are therefore only estimations, they do provide the reader with an understanding of the importance of agriculture in the B.C. economy. Also, since these figures are five or six years old they will be, in absolute terms, different than in 1975. However, since there has been no dramatic effects on the economy the value added by agriculture as a proportion of the British Columbia G.P.P., as demonstrated by Winter are accepted as representative approximations of the 1975 situation.

31. Winter, p. 8-10.


33. Winter, p. 10.


37. de Vries, Jan, 'Role of Agricultural Use of Land In An Urban Society', an address given at the Land Use in the Fraser Valley-Whose Concern conference, October 18, 1972, p. 2.


39. de Vries, p. 3 and 4.

CHAPTER III
THE URBAN PRESENCE

The urbanization of farm land is the greatest nemesis of the agriculture industry in British Columbia. Generally the relatively few pockets of arable land in the Province are also the most suitable areas for the location of urban communities. There are a number of examples of competition between urban and agricultural land uses in the Province. The Fraser Valley, however, exemplifies this conflict better than any other area in British Columbia.

1. THE POPULATION OF THE FRASER VALLEY

According to the census of 1901, Vancouver was the largest city on the west coast with a population of almost 30,000. Since then, the City has never experienced a decline in population, and in fact greatly influenced the rapid growth of adjacent municipalities.

The population of the Lower Mainland of British Columbia in 1971 was 1,172,612. Table 3-1 shows that the Fraser Valley has generally had over 50 per cent of the Province's total population since the 1920's.

The vast majority of urban development is in the Greater Vancouver Regional District in the western portion of the Valley. In 1971 the Greater Vancouver
Regional District had a population of 1,028,334 with the City of Vancouver accounting for 426,256 or over 41 per cent of this figure. The rest of the Valley had a population of 144,278 in the same year.  

**TABLE 3-1**

<table>
<thead>
<tr>
<th>Year</th>
<th>Lower Mainland Share of B.C.'s Total Population (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921</td>
<td>47.5</td>
</tr>
<tr>
<td>1931</td>
<td>53.5</td>
</tr>
<tr>
<td>1941</td>
<td>53.8</td>
</tr>
<tr>
<td>1951</td>
<td>54.6</td>
</tr>
<tr>
<td>1956</td>
<td>53.8</td>
</tr>
<tr>
<td>1961</td>
<td>54.9</td>
</tr>
<tr>
<td>1966</td>
<td>53.7</td>
</tr>
<tr>
<td>1971</td>
<td>53.7</td>
</tr>
</tbody>
</table>


1) Rate of Population Growth

Perhaps more important than actual population figures or the distribution of people in the Valley is the rate of population increase. The natural increase (births minus deaths) and the net migration (in-migration minus out-migration) together contribute to the changes in the population. The Greater Vancouver Regional District commanded almost ninety per cent of the Lower Mainland population. Table 3-2 reveals the balance between natural increase and increases due to net migration into the region.

Net migration is today the most significant factor in population growth in the Greater Vancouver Regional District. It is very difficult to determine
whether this trend will continue unabated. The answer to this question is directly linked to the reasons 'why' people migrate to this region and what policies are enacted in the future to discourage or encourage this trend.

**TABLE 3-2**

<table>
<thead>
<tr>
<th>Population Increase</th>
<th>Natural Increase</th>
<th>% of Increase</th>
<th>Net Migration</th>
<th>% of Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951-1956 103,102</td>
<td>45,494</td>
<td>44.2</td>
<td>57,608</td>
<td>55.8</td>
</tr>
<tr>
<td>1956-1961 125,117</td>
<td>53,125</td>
<td>42.4</td>
<td>72,052</td>
<td>57.6</td>
</tr>
<tr>
<td>1961-1966 102,112</td>
<td>39,058</td>
<td>38.4</td>
<td>63,054</td>
<td>61.6</td>
</tr>
<tr>
<td>1966-1971 135,481</td>
<td>31,889</td>
<td>23.5</td>
<td>103,592</td>
<td>76.5</td>
</tr>
</tbody>
</table>

Source: Compiled from Population Forecast, p. 5 and Census of Canada 1971.

Regardless of the reasons, the population of the Lower Mainland (See Table 3-3) between 1951 and 1971 increased by 533,694 or 13.5 per cent.

The Central Fraser Valley Regional District, in the very heart of the Valley's agricultural land, more than doubled its population between 1951 and 1971 and between 1966 and 1971 realized an average annual population increase of 8.1 per cent. This rate of increase in the Central Fraser Valley more than doubled that of the Greater Vancouver Regional District during this latter five year period.

From 1951 to 1971 the population increased by
### TABLE 3-3

**POPULATION INCREASES - LOWER MAINLAND 1951-1971**

<table>
<thead>
<tr>
<th></th>
<th>Greater Vancouver Regional District</th>
<th>Central Fraser Valley Regional District</th>
<th>Dewdney-Alouette Regional District</th>
<th>Fraser-Cheam Regional District</th>
<th>Total Fraser Valley</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Population 1951</strong></td>
<td>562,462</td>
<td>27,706</td>
<td>20,430</td>
<td>28,320</td>
<td>638,918</td>
</tr>
<tr>
<td><strong>Population 1956</strong></td>
<td>665,564</td>
<td>31,840</td>
<td>23,840</td>
<td>34,383</td>
<td>755,627</td>
</tr>
<tr>
<td><strong>Population Increase 1951-56</strong></td>
<td>103,102</td>
<td>4,134</td>
<td>3,410</td>
<td>6,063</td>
<td>116,709</td>
</tr>
<tr>
<td><strong>% Increase 1951-56</strong></td>
<td>18.3%</td>
<td>14.9%</td>
<td>16.7%</td>
<td>21.4%</td>
<td>18.3%</td>
</tr>
<tr>
<td><strong>Population 1961</strong></td>
<td>790,741</td>
<td>37,601</td>
<td>29,835</td>
<td>38,016</td>
<td>896,193</td>
</tr>
<tr>
<td><strong>Population Increase 1956-61</strong></td>
<td>125,177</td>
<td>5,761</td>
<td>5,995</td>
<td>3,633</td>
<td>140,566</td>
</tr>
<tr>
<td><strong>% Increase 1956-61</strong></td>
<td>18.8%</td>
<td>18.1%</td>
<td>25.1%</td>
<td>10.6%</td>
<td>18.6%</td>
</tr>
<tr>
<td><strong>Population 1966</strong></td>
<td>892,853</td>
<td>41,311</td>
<td>32,616</td>
<td>40,589</td>
<td>1,007,369</td>
</tr>
<tr>
<td><strong>Population Increase 1961-66</strong></td>
<td>102,112</td>
<td>3,710</td>
<td>2,781</td>
<td>2,573</td>
<td>111,176</td>
</tr>
<tr>
<td><strong>% Increase 1961-66</strong></td>
<td>12.9%</td>
<td>9.9%</td>
<td>9.3%</td>
<td>6.8%</td>
<td>12.4%</td>
</tr>
<tr>
<td><strong>Population 1971</strong></td>
<td>1,028,334</td>
<td>58,085</td>
<td>40,096</td>
<td>46,097</td>
<td>1,172,612</td>
</tr>
<tr>
<td><strong>Population Increase 1966-71</strong></td>
<td>135,481</td>
<td>16,774</td>
<td>7,480</td>
<td>5,508</td>
<td>165,243</td>
</tr>
<tr>
<td><strong>% Increase 1966-71</strong></td>
<td>15.2%</td>
<td>40.6%</td>
<td>22.9%</td>
<td>13.6%</td>
<td>16.4%</td>
</tr>
<tr>
<td><strong>Total Population Increase</strong></td>
<td>465,872</td>
<td>30,379</td>
<td>19,666</td>
<td>17,777</td>
<td>533,694</td>
</tr>
<tr>
<td><strong>Total % Increase</strong></td>
<td>82.8%</td>
<td>109.6%</td>
<td>94.9%</td>
<td>62.8%</td>
<td>83.5%</td>
</tr>
</tbody>
</table>

Source: Census of Canada 1971.
seventy-three people each day in the Lower Mainland. More importantly, however, during the last five year census period, 1966 to 1971, the population was increasing by ninety people each day. 8

ii) Population Density

The population density in 1971 of the Lower Mainland can be perceived in the following ways and reveals the contrasting forms of land use throughout the Valley.

<table>
<thead>
<tr>
<th>Region</th>
<th>Density (persons/ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fraser Valley</td>
<td>2.5</td>
</tr>
<tr>
<td>City of Vancouver</td>
<td>32.6</td>
</tr>
<tr>
<td>Greater Vancouver Regional District</td>
<td>5.6</td>
</tr>
<tr>
<td>Eastern Three Regions</td>
<td>0.5</td>
</tr>
</tbody>
</table>

Norman Pearson, Executive Assistant of the British Columbia Environment and Land Use Committee, stated in 1972 that approximately one million people are accommodated on 282 square kilometres in the Greater Vancouver Regional District. This is equivalent to over 30 persons per hectare and therefore comparable to the City of Vancouver's density in 1971.

Pearson contends that "if we were to continue to develop at these same densities with mostly single family dwellings, there is enough room in the Lower Mainland for 3.4 million people - about sixty years growth if past trends hold - without touching a blade of agricultural land." 10 Pearson maintains that through
increasing density levels many more persons could be housed within the Valley.  

In 1965 the Lower Mainland Regional Planning Board produced the Official Regional Plan for the Valley. Table 3-4 represents the land designated for urban development in the Official Regional Plan. 

In the mid-1960's 550 square kilometres of vacant developable nonfarm land was available in the Lower Mainland. 

<table>
<thead>
<tr>
<th>&quot;Urban&quot; Land</th>
<th>Greater Vancouver</th>
<th>Fraser Valley</th>
<th>Total Lower Mainland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed</td>
<td>282 sq. km.</td>
<td>39 sq. km.</td>
<td>320 sq. km.</td>
</tr>
<tr>
<td>Vacant</td>
<td>307 sq. km.</td>
<td>243 sq. km.</td>
<td>550 sq. km.</td>
</tr>
<tr>
<td>Total</td>
<td>589 sq. km.</td>
<td>282 sq. km.</td>
<td>870 sq. km.</td>
</tr>
</tbody>
</table>

Source: Pearson, p. 9.

The land-population statistics referred to above tend to indicate three important factors. Firstly, in quantitative terms, land is a fixed resource. In the long run, the land area in British Columbia suitable for urban and agricultural development is severely limited by the physiography of the Province. Secondly, the population of the Lower Mainland is increasing rapidly. Thirdly, there remains in the Fraser Valley enough nonfarm land to house, at moderate densities (slightly greater than that of single-family units) nearly three times the present population.
Considere these factors, the necessity of sound land use planning would seem in evidence. At the present time there is no justification for the loss of 1,200 gross hectares of farmland each year in the Fraser Valley.\textsuperscript{13}

2. THE CONSEQUENCES OF URBANIZATION UPON FARMING\textsuperscript{14}

Increased technology in the agricultural industry has been demanded by the need to feed the growing urban populations of Canada. The full impact of this technological change in the industry has been felt by the farmer and his family during the last twenty-five years. The fact that less than twenty per cent of all farmers now have the capability to produce eighty per cent of the food grown in Canada is indicative of the necessary reliance upon technology as well as acknowledging the technological revolution of farming practices which have occurred.\textsuperscript{15}

i) The Family Farm

Aided by growing urbanization and the many cause and effect relationships associated with this process, the original homestead and sales policies in Western Canada supported the established tenure norm and in some respects has proven poorly suited to economically efficient farming. Increasing farm size and greater mechanization have, in themselves, failed to overcome the low income problems which continue to plague a large sector of the agricultural industry.\textsuperscript{16}
Many aspects of farming are being placed in a new context. Throughout this transformation, the farmer and his family are faced with increasing difficulties in solving their problems of farmland stewardship. Their security as farm families, their healthy and sound family life, are threatened. For those unwilling to give up their farms as urbanization gradually engulfs them, this threat is greatly intensified.

Lanctot suggests that there is now ample evidence in Canada that the small family farm is passé, and that the large mechanized farm is here to stay. Although the trend towards increased mechanization may never change in commercial farming, on a more optimistic note, Lanctot feels that the larger farm - given adequate capital and sound management - may still be a family farm. 17

Warnock relates that one of the major themes of the 1969 Federal Task Force on Agriculture, was the desirability of ending farming by the individual family and to shift to capitalist farming. Capitalist farming exists where there is a primary reliance on wage labour, and where farming must include the cost of labour as a necessary cost of production. Warnock maintains that this is the American model of farming which reaches its quintessence in California. In
this State the largest single direct owner of farm land is the Bank of America. Under this system, farmland comes under the ownership of huge agribusiness corporations and financial institutions.18 19

If the family farm dies - both as an economic activity and consequently as a way of life - it will not go without a struggle. A C.B.C. television show on March 3, 1974 brought together a panel of four faculty members from the Department of Agriculture of the University of British Columbia to discuss various aspects of farming in British Columbia. The panel expressed many concerns for the family farm. However, despite these problems, the panel generally expressed a reverence of the family farm. They saw the family farm not only performing a necessary economic function, but also being very important sociologically and providing a necessary link between the somewhat artificial urban world and nature.20

ii) Farming Communities

Farm service towns on the urban fringe are quickly changing to dormitory settlements as waves of purely urban-oriented immigrants settle in these communities. Conflicts of interest often arise between these new residents and farmers over certain by-products of farm operations such as odor and noise. This leads to a further strain on the 'farming way of life'.

The agricultural area formerly served by the farm town no longer has a separate centre catering to its needs or dependent upon its trade. The added convenience of new stores and new services which bring the activities of the central city further out into the countryside only partly compensates for the loss of the former rural community of interests.

Other farm service towns are being cut off by improvements to highways and other communication facilities. As increasing incomes are realized and the farmers' desire for 'city' goods is increased through the efforts of modern communication, an atrophy of many farm towns results. Such towns decline in population and become mere supply points for daily necessities or retirement towns for older farmers, as many of the former functions of the town disappear.  

iii) Urban Sprawl

The Lower Mainland Regional Planning Board released a report in April of 1956 entitled *Urban Sprawl*. It mentioned that "sprawl is a bigger and more serious matter than you think," and that it is "a wanton destroyer of land." The growth of urban centres is not a new phenomenon nor is its encroachment on agricultural land. Today, however, the rate of urban expansion is in a stage of tremendous acceleration. Prior to the *Land Commission Act*, the 'unfocused'
sprawl of the developing land use pattern, caused serious problems to farming in the adjacent areas and was the most prominent feature of the mushrooming city.\textsuperscript{25}

The subdivision-sprawl process has long been associated with land development in the Lower Mainland.\textsuperscript{26} The scattered or 'leapfrog' form of urban development can be caused in a number of ways but the end result has very often been to the demise of agriculture as the attributes of the Valley bottom for residential development are utilized. Throughout the Lower Mainland, the floodplain generally coincides with farmland. It is a dual concern, therefore, that since the floodplain was defined in 1963, approximately eight square miles of it have been urbanized.\textsuperscript{27}

iv) Property Tax Increases

The impact of the detached residential community located at the periphery of agricultural land is not confined solely to the area of farmland upon which the new community is located.\textsuperscript{28} With the spillover of urban population into rural areas, farmers feel they are being forced to subsidize, through property taxes on farmlands, the additional public services demanded by new urban oriented residents.\textsuperscript{29}

Regardless of a farmer's desire to continue farming, assessed valuations of land may increase to a point where farmland can be said to be 'confiscated' for urban purposes.\textsuperscript{30}
Since the introduction of the Assessment Equalization Act of 1955, along with the Public Schools Act and the Municipal Act in British Columbia, the problems associated with high taxes upon farmland have, to a degree, been recognized. Generally the Assessment Equalization Act requires farmlands to be assessed at their use value, without regard to their potential or market value for other uses.

v) Discouragement of Long Term Investment

When irreplaceable farmland is taken out of production through the process of premature subdivision the whole pyramid of economic activities based on agriculture is threatened. Fearing that agriculture has had its day, many farmers stop thinking of farming as a long term enterprise. They, therefore, hesitate to commit themselves to capital improvements in case they may not be farming long enough to pay for their cost.

Dr. L.M. Lavkulich of the Soils Science Department of the University of British Columbia, has pointed out that a free market farmer may continue to increase production through intensification on even less land. If managed properly, this can be a sound practice. However, quite often a farmer tends to be a poor conservationist as he mines the soil rather then utilizing it as a renewable resource. Urbanization makes an important contribution to this short-term time horizon.
vi) Land Costs

In the Fraser Valley, the high cost of land is the most serious problem facing farmers who have plans to further develop their existing units. There are four basic reasons for the ever increasing price of farmland:

1. Urban Sprawl, not only uses farm acreage, but also sets up a radiation of non-farm use values—real or speculative—for some distance into farming areas;

2. The living conditions expected by some owners of larger country estates and other types of small farms or acreages;

3. Farmers in local area attempting to expand their holdings and increase their efficiency; and

4. Purchasing of farms by relocating farmers from other areas who have sold their farms at high prices and have the means to pay above the farm use value for a larger holding in a lower price area. (This relocated farmer usually would have gained his means through urban pressures on his former holdings).

In British Columbia, farmland value has been increasing abreast with the national trends in the past twenty years. Since 1966, however, the rate of increase in British Columbia has been much higher than the national average. From 1966 to 1970, the value of farmland in British Columbia increased by thirty per cent while the value of farmland in the country as a whole increased by only fifteen per cent. 37

In 1954 the average value of farmland in the Fraser Valley was $825 per hectare. 38 In 1972 a typical dairy farm in the Valley was selling at $5,000 per hectare, 39 a
price considered to be beyond the reach of most farmers. In January 1974 the Land Commission purchased their first two farms, located in Delta, at a price of $8,000 per hectare.\(^4\)

The rise in absolute value of farmland is inducement in itself to a farmer to sell to developers since there is always a substantial difference between selling land to another farmer and to a developer.\(^4\) Prior to 1961 the size of farms in the Fraser Valley tended to become larger. In recent years the rising cost of farmland has largely contributed towards the stabilizing of farm sizes.\(^4\)

vii) Enlarging or Commencing Farm Operations

High farming costs, of which land values and taxation are important elements, have not been a major threat to the established and efficient Fraser Valley farmers. However, for the farmer with a small holding wishing to expand or the new farmer who wishes to establish a bona fide farm in the Valley, the cost of land is discouraging.\(^4\)

Non-farm economic activities exert tremendous pressure upon the farm sector. British Columbia has one of the highest industrial wage rates in Canada. Not only is it difficult for the farming sector to compete in the labour market, but the
younger and better educated farmers who are not realizing what they feel is a reasonable return from their labour and management in farming will tend to move. The consequence is an increase in the average age of the remaining farm population.

With the rising cost of land, wages and other necessary capital investments, the corporate farm or the existing large farm is in a much more favourable position to enlarge their facilities. What might be regarded as unfair competition, results in further discouragement for the existing small farmer to expand or new farmer to commence operation.

viii) Conclusion

As population grows and the ratio between urbanized and agrarian citizens draws further apart pressure is placed on fewer agriculturalists to produce larger quantities of food products. The result has threatened the economic existence of the family farm. The urbanizing of farm communities has not only withdrawn land from productive agricultural use, but the communities have gradually lost their functional importance as a supplier of farm needs. Besides the tremendous loss of farmland through urban sprawl, the property taxes and land costs have risen on
farmland which in turn have often discouraged long
term investments and harmed the possibility of enlarging
farm units or commencing farm operations.

Urbanization has also resulted in a regular
pattern of agricultural displacement. Specialized
and perishable farm products, formerly associated
with the immediate fringe of major central cities, are
pushed farther from their central city market. Fertile,
high-value, intensively utilized truck farms are usually
the first to disappear. Next go the dairy farms, the
orchards and other specialized urban oriented agricult-
ural uses.\footnote{45}

It is very difficult to conceive of a situation
in which many hectares of urbanized land would revert
(if it were biologically possible)\footnote{46} to agricultural
uses. The alternative, therefore, is to save all
existing and potential land suitable for soil bound
agriculture through the comprehensive regulation of
land uses.
FOOTNOTES

1. In a Brief to the Executive Council of the Government of B.C., entitled Proposals for Improving the B.C. Agricultural Industry, December 18, 1972, the following statement headed a list of points submitted by the British Columbia Federation of Agriculture:

"preservation of farmland is an important if not critically deciding factor in the future of the industry."

2. The population statistics utilized in this section were basically derived from the 1971 Census of Canada as well as various reports of the Lower Mainland Regional Planning Board and the Greater Vancouver Regional District. Although these sources are accepted as being accurate at the time of computation, the figures are not intended to be used as 'hard data' since in 1975 the most recent population statistics available are at least four years old. Since this is not a demographic study, the statistics are only intended to assist the reader in gaining an 'impression' of the population-land situation in the Fraser Valley.


4. This figure was compiled by establishing the municipalities and districts within the Lower Mainland from the Statistics Relating to Regional and Municipal Governments in British Columbia (Dept. of Municipal Affairs) and then employing the population figure for each individual area from; Statistics Canada, Population 1971 Census of Canada No: 92-702, Vol. 1, Part 1 (Information Canada, Queen's Printer, Ottawa, July 1973).


10. Pearson, Norman, 'Fraser Valley - Rape It or Preserve It'? an address given at the Land Use In The Fraser Valley - Whose Concern, conference held on October 18, 1972, p. 9.


13. The Regional Farmland Study stipulates that "gross farm acreage was at it peak in 1941 and has been losing ground ever since. The rate of loss between 1941 and 1966 was at 3,000 acres (1,200 hectares) per year, this taking place mainly at the western end of the Valley." (p. 7). Discussing this figure with Mr. A.C. Jamieson, a Planning Assistant with Central Fraser Valley Regional District, he stated that the 3,000 acre figure is referring to gross acres and the definition of farm land used by the Regional Farmland Study was adopted from the 1971 Census of Canada which is very broad. (March 1974).


Gary Runka, Manager of the B.C' Land Commission, agrees that the figure of 3,000 acres (1,200 hectares) approximately represents the loss of farm land in the Fraser Valley. He adds that this figure includes the uses of hobby farms and rural residential small holdings which effectively are not economically viable commercial farms.

14. A number of facets of the urbanization process are briefly mentioned throughout the following pages. This aspect of the discussion has been consciously kept as simplified as possible. Therefore, this is not, nor is it intended to be, a full description of the urbanization process. This section does, however, provide an overview of many of the consequences that urbanization has had upon agriculture as an economic activity and a way of life.


16. Brown, Jacob A., and Robert J. Bens; Farm Tenure in Saskatchewan (Department of Agricultural Economics, University of Saskatchewan, Saskatoon, June 1971). p. 3.


22. This particular report, Urban Sprawl, defined 'sprawl areas' as areas of scattered mixed development; density from 1.2 to 7.9 persons per hectare. This type of area usually contains some bona fide small holdings from 1.2 to 4.8 hectares in size which are farmed on a full time basis. (p. 4).


29. Lee, p. 43.


31. For a more detailed explanation of the preferential treatment in assessment and taxation on farmland in British Columbia, as well as a discussion of a number of shortcomings in this system, see Lee, p. 43-46.

32. Lee, p. 43 and 44.

33. Ibid, p. 34.
34. Dr. L.M. Lavkulich, interview, February 8th, 1974.

35. The Regional Farmland Study (Lee, p. 28) supports Lavkulich's contention in this regard.

36. Lavkulich, interview, February 8th, 1974


39. This same figure was also quoted by Dr. Jan de Vries of the Department of Soil Science University of British Columbia in an address to the "Land Use in the Fraser Valley - Whose Concern" conference. He stated that "land in the urban-rural fringe area of the Lower Mainland that is worth $5,000 or more per hectare is too expensive to be used for farming." (p. 1). In discussion with Mr. W. Lane, on February 6th, 1974, he stated that people holding land as hobby farms, country estates or for recreational purposes have not generally lowered their selling price of about $7,000 per hectare since being designated as agricultural land by the Land Freeze in December 1972. Dr. Lavkulich feels that land speculators (which can come in a variety of forms) are continuing to hold on to land, hoping that (a) the Land Commission Act will be thrown out or, (b) they can appeal their designation through the normal channels. He felt that eventually these same 'speculators' will realize that their land can not be rezoned for urban purposes and will sell in an attempt to gain something for their investment. (Interview, February 8th, 1974).

40. 'B.C. buys two farms...', The Province, January 23rd, 1974.

41. Lee, p. 42.

42. Ibid, p. 29.

43. Ibid, p. 24, 26, 29, and 42.

44. Ibid, p. 49.

45. Modern Land Policy, p. 159.

46. See Lavkulich, L.M., 'Physical Environment of the Lower Fraser Valley', address given at the Land Use in the Fraser Valley - Whose Concern conference, Delta, October 18, 1972, p. 4.
CHAPTER IV
REGULATING THE USE OF LAND

An appreciation of the geographic and demographic circumstances in British Columbia, the importance of agriculture to the Provincial economy, especially when related to global food shortages, and the consequential effects of urbanization upon farmland are significant elements necessary for an understanding of the reasons why the Land Commission Act was implemented. These were, however, not the only aspects which encouraged the Provincial Government to enact legislation which centralized the 'practical' power of controlling the use of agricultural land in the hands of the Province. The application of land use controls prior to the adoption of the Land Commission Act was also an important reason for the Act's inception.

1. LAND USE CONTROL -- WHOSE RESPONSIBILITY?

i) The British North America Act

    In compliance with Section 146 of the British North America Act (B.N.A. Act) British Columbia was admitted into the Union by an Imperial Order in Council on May 16th, 1871. Section 10 of the Order stated that:
"The provisions of the British North America Act shall be applicable to British Columbia in the same way and to the like extent as they apply to other provinces in the Dominion as if British Columbia had been an original province in the Union."1

Ultimately, the entity which truly controls real property is that body which maintains the alodial rights (absolute ownership of land). Section 92(13) of the B.N.A. Act distributes to the Provinces of Canada the legislative powers to make laws with regard to property and civil rights.2 Section 92(5) gives the Provinces the further power to make laws concerning the management and sale of the public lands belonging to the Province and of the timber and wood thereon.3 Also, Section 109 of the B.N.A. Act establishes that:

"all Lands, Mines, Minerals and Royalties belonging to the Provinces of Canada, Nova Scotia and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties shall belong to the several Provinces......" 4

11) Land Ownership

The basis of the states' (provinces') ownership of land in Canada is based on English history and land law. After the Norman Conquest, William I evolved a plan in which land ownership played an important role. He knew he could not treat England as his own private possession. Instead he gave to
his followers and supporters segments of the domain in return for certain services - usually military. William I did not ignore, however, the fact that England was his by the universally admitted right of conquest. His plan may be summarized as follows:

1. he imposed an immensely strong central government.

2. every man, noble or simple alike, should hold his land as a pledge of good behaviour.

3. if he failed in his duties he would be turned out of his home to starve.

The services that various land holders had to perform for the Crown became standardized through time and each set of services represented a specific form of tenure which demonstrated how the land was held. Generally the length of tenure was for life (as long as the tenant lived), in tail (for as long as the tenant or any of his descendants lived), or in fee simple (for as long as the tenant or any of his heirs, whether descendants or not, were alive). Each of these lengths of tenancy was known as an estate. Thus the Crown may grant an estate in fee simple, but the ownership of the land itself remains with the Crown. Therefore a man owns an estate in land but never the land itself.

Property has two meanings which are closely related. Firstly, property is recognized as 'everything which is the subject of ownership...everything
that has exchangeable value or which goes to make up wealth'. The lesser-known meaning of property is not the 'thing' itself but rather the legal interest in the 'thing' -- the right or rights in the 'thing' which the law will recognize and protect. Property in this sense has been called 'the highest right a man can have to anything...', and 'ownership, the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it'. With reference to 'real property', the word "real" historically referred to the 'real action' a party could get in court when his property rights were interfered with. This meaning has changed, however, to associate 'real' with the tangible aspects of land. Land is obviously important but the rights by which its utility is defined contribute heavily to its value.

The fee simple estate in land has, through time, come to resemble ownership in land itself, but it is technically true to say that the whole of the land in England is owned by the Crown. This same basis of land tenure is equally applicable in Canada as well. The privately held estates in land can be attained by the Province through purchase on the open market or it can be acquired by the state through expropriation (the paying of compensation) rather than appropriation (the taking of land without compensation).
Even though compensation is paid, expropriation is normally not a popular measure either for those being expropriated or for government. It is surprising, however, to find that the British Columbia Law Reform Commission of 1971 reported that there were over 30,000 bodies or persons who, in theory, have expropriation powers in British Columbia.\(^{11}\)

The balance between an individual's property rights obtained through the fee simple acquisition of an estate in land and the social means of government regulation, legislation and the like has long been a matter of debate. That 'a man has a right to do what he wants on his own land' is a familiar statement uttered by those who have felt the restrictive hand of government wrenching some function of land-ownership from a person holding a fee simple estate in land.

J.H. Beuscher contends that generations of lawyers have graduated from property courses convinced that the following absolutes of Blackstone are fundamentally true.

"So great, moreover, is the regard of the law for private property, that it will not authorize the least violation of it, no, not even for the general good of the whole community."

I Commentaries 139 (1782)

Beuscher contends that this statement is not true and it never has been. He supports his contention by
referring to ten statutes, spanning six centuries (1285 to 1858), of English and American experience. These statutes are generally concerned with building regulations and locational limitations of various land uses. They emphasize the fact that use limitations on rural and urban land have been the subject of legislative enterprise for centuries.\textsuperscript{12}

Ironically, and despite Beuscher's statement concerning the attitudes of lawyers toward private property rights, it has been the lawyers, rather than the planners, who have shouldered the intellectual burden of developing a theory of land use control in America.\textsuperscript{13} Beuscher, however, contended that judge-made laws have not been crucial in accomplishing private or public land use planning goals. The built-in weaknesses of the judicial process as a whole come to bear. The case law process is essentially haphazard. Judges do not initiate law but rather adjudicate upon cases that happen to come before them.\textsuperscript{14} Delafons believes that controls established by the courts can not be extended or adapted to meet the needs or policies of government.\textsuperscript{15}

2. TECHNIQUES OF LAND USE CONTROL

The bundle of rights that generally accompanies the individual's ownership of an estate in land - of possession, use and dispossession - is always less
than allodial. There are many means other than expropriation by which these rights can be taken or given away. These restrictive elements often run with the land rather than the current holder of the estate. Such incumberances on land may include licenses charged against the owner rather than the title, leasehold - designating a specific period of time rather than the infinite or indefinite time of a freehold, easements - special purpose right over another's land, options to purchase, agreements for sale, tax sales, injunctions, income liens and mechanics liens.

A further constraint on a 'landowner's' rights is the restrictive covenant. In this case an individual can place a covenant on, and running with, the land which will restrict a future owner in his possible use of the land. Restrictive covenants have been used in residential areas to regulate the use to which land may be put. Generally the importance of restrictive covenants have been reduced by the advent of a public system of planning control. This usually takes the form of municipal regulations of zoning, subdivision control and building by-laws.

i) Land Use Controls in British Columbia

-- The Municipal Act

With the exception of the City of Vancouver, municipal land use regulations are generally found
in the Municipal Act of British Columbia. There is a variety of devices which have varying degrees of influence on land use. The official community plan, (Section 695), as a statement of policy, is intended to assist in the guidance of a community's future growth. While Council cannot act in contravention to the plan, the private holder of an estate in land must only act in accordance to zoning regulations regardless of whether they comply to the official community plan. In fact, very few communities in British Columbia have adopted an official plan.

Section 711 of the Municipal Act delegates the power to subdivide land to Council. Subdivision regulations control the preliminary stages of development - the layout of streets and lots and the provision of necessary services. They lie somewhere between the building code and the zoning ordinance in nature. When subdividing, Council may prescribe different standards and regulations for servicing of different uses for different zones. The unnecessary and often haphazard subdivision of land has been a concern to planners at the regional level in the Lower Mainland for a number of years.

In 1950 the Lower Mainland Regional Planning Board issued a Memorandum on Municipal Control of Land Subdivision. It stated in part that a section of
public opinion was opposed to granting the municipalities any increased control over subdivisions because some municipalities exercise a very casual and possibly political approach to approval. The report complained that in 1950, statutory control of subdivisions was not uniform in application and that the regulations apply to survey plan subdivisions but approving officers had no control over subdivisions without a survey. Also, approvals were largely based on the suitability of highway accommodations.

In 1954 *A Model By-Law To Regulate The Subdivision of Land* was produced by the Lower Mainland Regional Planning Board as a guide for Lower Mainland municipalities. A number of years later the same body produced the *Standard Subdivision Control By-Law* for the same purpose. Despite a degree of concern, the subdivision process utilized by many municipalities on the urban fringe during the past twenty years has created sprawl conditions which were devastating to agricultural land.

The regulations for the *replotting* of existing parcels of land is provided for in the *Municipal Act*. Section 825 emphasizes the savings which may result in the expenditure of the municipality for highways and municipal utilities and the increased taxation which may be derived by the municipality from the
increased value of real property after adapting a reploting scheme. This, however, is a rather narrow accentuation of the improvements that may be gained. Awkward subdivision schemes may be rectified and back acreage utilized to its full potential. Lane feels that 'infilling' must occur in many municipalities within the Lower Mainland and the advent of the Land Commission Act will encourage this process.\(^27\) Employing the provisions for reploting will greatly assist in accomplishing these ends.

11) Municipal Zoning

Despite the above land use control methods, the power of a municipality to zone land within its jurisdiction, specifying the uses that may be permitted on that land, remains as the most important device for controlling land use.\(^28\) With regard to the Land Commission Act, the practice of zoning is important for two reasons. Firstly, the principal form of public control over the use of agricultural land in British Columbia prior to the enactment of the Land Commission Act was through municipal zoning and, as in the case of the Lower Mainland, land use designations in the Official Regional Plan. Secondly, the Land Commission Act in itself is a form of zoning - although wide in geographical scope.

The zoning regulations of Section 702 of the Municipal Act are classic in nature. The Council is
given optional power to divide the whole, or a portion of, the municipality into zones. Within each zone the use and the structures can be regulated. Section 702(2a) of the Municipal Act states that Council, when zoning, must have due regard for:

"The promotion of health, safety, convenience and welfare of the public."

The zoning regulations of the Municipal Act are strongly linked with zoning practices in the United States.

In many respects, zoning is a statement of negation. Although the prohibitive nature of zoning may lead to its eventual inappropriateness as a municipal land use tool, it is exactly this negative aspect and ease of understanding that is apparently underlying its popular support. Within Section 702(b) of the Municipal Act it is clearly stated that the power to regulate includes the power to prohibit.

3. THE LAND COMMISSION ACT AS A ZONING DEVICE

The Land Commission Act is one of the newest instruments of land use control in British Columbia. Essentially, it is a piece of zoning legislation in so far as the designation of Agricultural Land Reserves are concerned. The Act, however, swings abruptly away from the growing trend towards greater flexibility in land use control. The Land Commission's primary purpose is to preserve agricultural land. It is not
compelled to encourage a 'better' way to develop land (although it inadvertently will do so within existing urban areas) but is intended in part to stop urban development on land which is suitable for agricultural purposes. As a means to save agricultural land, zoning is appealing because of its relative inflexibility, its exclusionary aspects, its emphasis on use rather than development, and its ability to influence land values.

The very reasons for which zoning has been considered the growing 'problem child' of land use control techniques will be the important strengths of the Land Commission.\textsuperscript{33} The relative simplicity of the way in which the designation of the Agricultural Land Reserves has taken place, (although based on a scientific and certainly far from simplistic technique), an inherent characteristic of zoning, should lead to a greater understanding of the Land Commission's activities and the Act's intentions by technicians and politicians as well as the general public. This will in turn enhance the acceptability of this law.

Prior to the passage of the Land Commission Act, re-zoning farmland from farm to non-farm uses could be obtained relatively easily upon application to the municipality or regional district in which the land was situated. Franson states that after a municipality has zoned an area it may grant exceptions to that zoning scheme in the form of amendments to the zone, variances
and land use contracts. He feels that "we should not protect the right of landowners to earn a speculative profit. However, in practice, that theory simply won't work in Canadian society because no governmental agency can be counted on to be firm and hard-hearted when the time comes to decide whether another section of farming land should be rezoned."  

Although hard-hearted is perhaps too strong a term, surely the challenge before the Land Commission is to be 'firm' in their efforts to 'hold the line' of urban growth onto agricultural land. Franson describes what he calls a typical sort of case prior to the Land Commission Act in which a farmer, nearing retirement, has received a good offer for his land from a developer. He is no longer able to make an economic living because of higher taxes and possibly the effects of pollution on crop production due to his close proximity to an existing urban area. Franson asks the question; "what politician can hold out against this kind of case, particularly if the press publicizes it?" Normally an exception is made and the influence of urbanization spreads. This has been the history of zoning throughout North America.  

Mr. Richard Hankin, planner with the Greater Vancouver Regional District, states, however, that the urbanization of farmland was taking place in highly 'visible' areas, some of which were already slated for
urban uses. This he feels caused undue concern among many factions and a general public awareness which caused the Provincial Government to over-react to a situation that could have been controlled at the local level.37

However, since the introduction of the Land Commission Act, the Greater Vancouver Regional District has published a report entitled Viability of Farming Study: Phase 1. The study subjectively examined the operations of sixty Delta farms. The results substantiate many of the effects of urbanization upon farming referred to in Chapter III. Besides the loss of farmland in absolute terms and problems associated with lower standards of living, farmers in Delta have experienced a number of further problems caused by the urban presence. These included: (a) many difficulties associated with the area's transportation facilities; (b) a feeling of isolation and 'urban' neighbourhood hostility; (c) various drainage problems; (d) 53 per cent of the land in Delta is owned by government or absentee 'landowners' (many of this latter group presumably holding the land for speculative, rather than farming purposes); (e) agriculture service facilities are migrating 'up' the Valley due to a feeling of the inevitability of Delta's eventual urbanization; and (f) difficulties associated with power transmission lines.38 Taken collectively, the feelings of uncertainty, bitterness and doubt have
resulted in an attitude among farmers that their operations are short-run endeavours.\(^{39}\)

In its land use control capacity, the *Land Commission Act* has, in part, been created to supersede much of the local and regional functions of agricultural land use control - and to thwart 'the typical case' described above. Informally, Lane has mentioned that it is hoped that the Provincially inspired Land Commission will not be as open to 'whim' as have been past attempts to control land use at the municipal level. Although not a universally accepted statement and perhaps overly harsh, the fact remains that agricultural land in the Fraser Valley - as in many other parts of the Province - was being devoured, directly or indirectly, at an increasing rate by urbanization. However, inaction in combating the problem prior to the *Land Commission Act* rather belies the awareness and knowledge of the problem over the past twenty years.

4. LAND USE CONTROL AT THE REGIONAL LEVEL

Throughout most of British Columbia, Regional Districts overlie the whole structure of local government. The idea of planning at the regional level in the Lower Mainland began in 1936. By the mid-1940's the concept had gained considerable strength and with encouragement from the British Columbia Division of the Community Planning Association of Canada and the Lower
Mainland municipalities, the Lower Mainland Regional Planning Board was established and the planning area gazetted, on June 21st, 1949.

At the time there was a strong conviction that while many development problems are best solved locally, others do not cease at municipal boundaries and each individual, through his Council, has a stake in the growth and development of the Region as a whole. In 1957, the provisions for Community and Regional Planning were brought under the Municipal Act along with those governing the Lower Mainland Regional Planning Board (L.M.R.P.B.). The Board consisted of representatives from Lower Mainland municipalities, Unorganized Territory, and the Provincial Government. It was financed by its member municipalities (usually about 28 members and one Provincial representative) and the Provincial Government.

1) A Growing Awareness

From its conception, the L.M.R.P.B.'s primary function was that of planning. Therefore in its twenty years of existence, the awareness, attitude and actions of the L.M.R.P.B., directed toward the saving of agricultural land, is of basic importance to this study. Approximately forty Regional research reports and an Official Regional Plan were produced during this period.
The first major report, *The Lower Mainland Looks Ahead*, was written in 1952 and offers a number of insights into the L.M.R.P.B.'s concern for agricultural land. Firstly, the report displays a concern for the future encroachment on farmland by urban growth and is quite aware of the 'haphazard growth' of urban areas. It also states that 'it is rarely necessary to encroach on our limited arable land—a fact that is still fundamentally true today. Agricultural land values are also mentioned but only with reference to the effects of bidding for land by differing agricultural uses—not by urban uses.'

A very strong case is made within the report for comprehensive rural zoning to stop haphazard growth which 'creates the problems of the future'. There is no mention made, however, that random growth is a visible effect and not a cause. The casual factors are more closely associated with population increases, the spatial arrangement of our economic functions demanding urban concentration, our past, and probably continuing, growth ethic as well as our land tenure system which perpetuates speculation—greed if you like. Its concern with the problems of inflexibility which have plagued zoning is interesting. The report states, "it should be remembered that zoning is not a matter of rigid and final restrictions. Good zoning is revised as often as changing conditions make it necessary."
And further, "In any case, the individual is protected against arbitrary or harsh applications of zoning by the right to appeal to Appeal Boards."^2

Certainly the L.M.R.P.B. was bending over backwards to ensure the public that their individual property rights were not going to be trampled on at will. Further evidence that, in 1952, rural zoning was a rather sensitive topic is revealed in the final statement of this part of the report; "...rural zoning laws already exist by statute, and need only understanding and skill for proper application and political courage for its use."^3

Regardless of the statements this early report makes concerning the saving of farmland from urban sprawl, its convictions appear somewhat less than adamant. Included within its statement of 'Principles of Regional Development' with respect to agricultural land is the following, "In allocating areas for residential use, we must try to keep away from our best agricultural land."^4 Importantly then, it does not state that we must, but rather that we must try to save our agricultural land.

In speaking of the powers of the Regional Board and the municipalities to influence growth there is no evidence that developers are going to be asked to dance to a tune that the government bodies wish to play. On the contrary, the report emphasizes that public facilities
should be planned for and controlled but this is not "true of private developments, such as the establishment of industries and the growth of towns, over which we have no positive control." 45

When the Land Commission Act was introduced, a number of supporters - politicians as well as members of the general public - stated that the Act was twenty years too late. Despite the L.M.R.P.B.'s apparent awareness of the growing conflicts between rural and urban land uses, there is little evidence in 1952 that this child of the Province was going to be the guiding light to effectuate land use controls which would halt urban sprawl over the agricultural landscape.

ii) Other Lower Mainland Regional Planning Board Reports

Of the many reports produced by the L.M.R.P.B. a number of these offer further insight into the Board's awareness of the loss of farmland and its attitude towards the degree of public control over land use. The L.M.R.P.B.'s Memorandum on Municipal Control of Land Subdivision of 1950 discusses the administrative problems of land subdivision of that day. A case is made for the complete public control of land subdivision by competent municipal authority. More importantly, the Memorandum disagrees with the long established practice of allowing an 'owner' to do as he pleases with his land, irrespective of the effect
upon the community. 46

In 1956 a report entitled Urban Sprawl was released. While reiterating on the effects of sprawl and what can be done about this phenomenon, the report specifically condemns sprawl as a 'wanton destroyer of farmland'. 47

The report also states that citizens and governments are blissfully unaware of the existence of sprawl as a major problem and if it is recognized, it is accepted with concern as a natural and inevitable occurrence. Zoning, based on a five year residential growth period, and the alleviation of unfair taxes on farmlands are two of a number of recommendations made. The authors of this report fail to see small country holdings, held as part-time farms or country estates on agricultural land as a problem. 48

Land for Farming was the L.M.R.P.B.'s only major report on agriculture. Released in 1962, it develops three scenerios concerned with the outlook for farmlands. Firstly, if a policy of 'no control' over urban expansion was adopted, all the farmland in the Lower Mainland would be lost by 1980. Secondly, if 'no areal expansion of our metropolitan communities' was allowed there would be enough land zoned for urban use in Richmond, Delta and Surrey to accommodate one million people (unfortunately the number of hectares of land zoned for urban uses but farmed, or suitable for farming, at this time is not mentioned). Thirdly,
however, the report suggests that neither of the above are realistic and that we must choose a middle course which will inevitably lead to a loss of farms on good soils.49

Fighting this 'middle course' rationale appears to be precisely the intention of the Land Commission Act. The report fails to suggest any practical techniques that might encourage - or demand - the use of only urban land for urban purposes. In defense of the theory that the areal expansion of urban areas cannot be halted, it is stated that since a considerable amount of vacant land would be required to allow the land market to operate freely, the loss of farmland seems predictable.

Of all the contentious issues that rose to the surface when Bill 42 was introduced, none were more basic than the arguments surrounding the topic of 'what is the best way to save farming'. The British Columbia Federation of Agriculture firmly believed that the solution lay in 'saving the farmer'. The Land Commission Act, as a single statement of agricultural policy, is committed, at least initially, to 'saving the farm'. Land For Farming supports the former. In the report's concluding remarks it is maintained that, "the Region's interest in conserving agriculture must be sought mainly by trying to keep farming both economic and profitable." The removal of the tax penalty
on farmland is called for and the report suggests that urban development should be directed onto areas of low soil fertility and away from floodplains as far as possible.50

Once again, an aura of inevitability in the loss of farmland is punctuated by its 'as far as possible' statement - which is not unlike the attitude voiced ten years earlier in The Lower Mainland Looks Ahead. In its state­of policies however, the Land For Farming report emphasizes the need for agricultural zoning to 'set our house in order' and stop agriculture's atmosphere of uncertainty.51

During 1963, a series of reports was produced by the L.M.R.P.B. - three of which are of interest in this discussion in that they pertain to topics which would eventually influence agricultural policy. The first - Dynamics of Residential Land Settlement - was released in June. The report dealt with (a) the supply of residential land (non-farm), and concluded that forty-five per cent of the available residential land in the present G.V.R.D. was vacant, (b) an analysis of the settlement patterns, and (c) an analysis of the land value pattern.52

In the same month, Land For Living was completed. The report was generally concerned with regional growth and, in particular, with the fact that only half of the total residential land in the metropolitan area was being used and that the wastage of urban
land was most extreme on the urban fringe. It estimated that only half of the available residential land in the Valley would be used up in the next forty years 'if' compact development with no waste of land occurred. However, the typical residential development throughout the Region was not taking place in a very compact way. The report warned emphatically that all the suitable and available land in the Region - other than prime farmland - would be urbanized by the end of the century if development continued in the same way. It further stated that speculative subdivision and urban sprawl were taking irreplaceable land out of production and the entire agricultural base was being undermined.  

iii) Chance and Challenge

Chance and Challenge, completed in December 1963, offered a proposed regional plan for the Lower Mainland. As the forerunner of the actual Official Regional Plan, this report is of special significance. Once again, urban sprawl is condemned and described as "a dangerous growth with all the consequences of fire". The discussion of farmland is given but a single page within the report, although agriculture is noted as directly or indirectly supporting 20 per cent of the jobs in the Region. The rhetoric of concerned awareness is continued - "to build cities on fertile soils when unproductive land is equally available
is cannibalism-in-the-family."\(^55\)

The objective of the Regional Plan as outlined in *Chance and Challenge* was to produce an overall strategy for development which would weld the various activities into a pattern that is functionally efficient, livable and economical.\(^56\) The regional concept that was introduced was for the development of a number of Valley Cities of limited size, surrounded by belts of farmland and linked together by a regional freeway. The basic principles of development were based on the conservation principle of 'conserving existing community values' (value of investment) and that there should be no subdivision without services.\(^57\)

The proposed regional plan as presented within *Chance and Challenge* was not a zoning map as such, although districting was proposed in the form of five broad categories of land use - Urban, Industrial, Rural, Restricted and Park. The belts of farmland coincided with actual floodplains and fertile soils, while the Valley Cities occupied infertile uplands. In many areas, as portrayed by the proposed plan, cities were not surrounded by farmland belts; rather, pockets of farmland were surrounded by cities.

The 1973 *Viability of Farmland Study: Phase 1* portrays Delta as a 'dying' farming area. In contrast Delta, according to *Chance and Challenge*, would be one of the
larger expanses of farmland in the Fraser Valley when the plan drew to its predicted conclusion.

The proposed plan was consciously not detailed in order to allow local interpretations of local conditions. It was hoped that each municipality would incorporate within the Board's guidelines its individual subdivision and zoning by-laws and, preferably, also in its Official Community Plan. With reference to the adoption of land use controls which would stop the encroachment of urbanization upon farmland, the proposed regional plan had at least three shortcomings. Firstly, the report offers no sound administrative tools which would facilitate the implementation of the proposed plans. Even a rudimentary outline of the administrative organization would have clarified the force of the plan, the power structure in terms of re-establishing 'use category' boundaries, and so forth.

Secondly the proposed plan primarily pertains to the development of the Valley - not the preservation of farmland. Despite the many statements of concern and obvious awareness of the plight of farmland described in the reports reviewed above, the rhetoric did not produce firm action. The policy of saving farmland 'as far as possible', so prevalent in previous reports once again rings very clear in the proposed plan. Regardless of the L.M.R.P.B.'s limited statutory powers,
there was no technique proposed or even encouraged which could be directed at the problem of procuring farmland for future generations.

Thirdly, and perhaps most importantly, the proposed plan was clearly introduced as a development directive rather than an attempt to publicly control development. One must conclude that the rather weak control procedures lacked, to a large degree, any strength of conviction. The development areas and policies in the plan were not proposed in a restrictive spirit. Considering the above discussion of zoning in the urban context, it appears that the proposed plan's emphasis on development (rather than use) and its non-restrictive attitude, is somewhat in tune with the changing complexion of land use controls towards greater flexibility. The situation is somewhat different in the case of agricultural land. If it is going to be saved, the walls must be secured and the gate shut tight. This is especially true in light of the vacant urban land being at least figuratively sat upon with the expectations of ever higher speculative profits than can be secured today.

5. THE OFFICIAL REGIONAL PLAN

The work of the L.M.R.P.B. culminated in the Provincial Government's enactment of Order-in-Council 2595 which, on August 29th, 1966, formally adopted the Official Regional Plan for the Lower Mainland. The
first draft of the Plan - Chance and Challenge - was discussed and revised from its presentation in late 1963 until July of 1966. Essentially the Plan had not changed in its basic principles and concepts since its first draft. It remained as a framework for the guidance of local development. Each Development Area classification was more clearly defined; schedules were included depicting the Current Stage and Long Range Plans; the relationships between the Official Regional Plan and the municipalities were outlined, and the procedures for Plan Amendment and Appeals were all included within the final and adopted Official Regional Plan.

The Rural Areas of the Official Regional Plan encompassed the floodplain and rural uplands that were not anticipated as being needed for future expansion of the Regional Towns. There were no policy statements within the Plan that directly indicated the Board's philosophy if and when this 'anticipation of need' changed. However, plan amendment procedures did offer one course of action.

1) Plan Amendment Procedures

The established plans could be amended if the amendment complied with the Area Modification Policies, the Regional Objectives, and the General Policies within the Official Regional Plan. If further studies
indicated that an area was wrongly classified, or that the development area policies, general provisions or administrative policies were inadequate, the Plan could be amended in so far as the amendments retained the intent of the Regional Objectives.

The Plan Amendment Procedures had to comply with the provisions of the Municipal Act as well as the following. An application for Plan Amendment must be submitted to the Secretary of the Board. The Board members had to be notified of the application and a report written after the facts in the case were clarified. An application for amendment was adopted only after approval was given by two-thirds of the member municipalities, as well as by the Lieutenant-Governor in Council. An application that was refused could generally not be reviewed for twelve months. Significantly an individual property 'owner' was not given the opportunity to launch the amendment procedures without the Official Regional Plan provisions or under Section 798E of the Municipal Act which pertains to appeals. The regulations concerning appeals of plan amendment decisions by member municipalities were heard by three arbitrators. Their decision was final and conclusive.
Rural Area Designations

The rural areas within the Official Regional Plan formed three classification types. (1) Acreage Rural Areas (RRL-1) were designated as such because of: (a) the predominance of small holdings (2 hectares or larger), (b) poor soil, (c) some potential for, or location adjacent to, future urban development, and (d) assured freedom from flooding. This Area could be extended if intensive agriculture or small holding development was clearly warranted. The Area could be redesignated as an Existing Urban Area (URB-1) through Plan Amendment Procedures and in accordance with the established urban area modification policy.

(2) Upland Rural Areas (RRL-2) were established because of: (a) the predominance of large holdings (4 hectares or larger), (b) arability, or isolation from urban development, and (c) freedom from flooding. Upland Rural Areas could not be extended but it was possible to subdivide the large holdings into smaller ones by redesignating the land as Acreage Rural Areas.

(3) Lowland Rural Areas (RRL-3) were so designated because of: (a) location in a floodplain, (b) predominance of large holdings (8 hectares or larger), and (c) arability, or isolation from urban development. The Lowland Rural Areas could not be extended but they could be redesignated if an Existing Urban Area was in a floodplain and was committed to further
urban development. 63

It must be remembered that the Official Regional Plan of the L.M.R.P.B. was approaching the problems of development from a regional perspective. While a few individual municipalities might 'go astray', the L.M.R.P.B. functioned as a form of municipal conscience while welding the Region together as a unit. The principles established by the L.M.R.P.B. in the area of farmland preservation were therefore extremely important.

In each of the three rural area categories the use policy emphatically states that the areas may be used only for rural uses. Rural uses, by the Plan's definition, includes much more than intensive and extensive agriculture. Small holdings as well as public and semi-public institutional and public recreational uses were allowed. Golf courses and similar extensive commercial recreational as well as local commercial uses were also allowed. 64 The re-designation of Acreage Rural Areas as an Established Urban Area must comply to the modification policy of the Established Urban Area. This policy, however, does not consider the problems associated with urban growth onto farmland.

iii) Was Farmland Safe?

After the areas designated as urban are developed
the Plan implies that Acreage Rural Areas would be the first to fall to the next wave of urbanization. The fact that the area was already in small holdings, thus jeopardizing the effectiveness of the area for many agricultural uses, will tend to assist this process. There was no encouragement or provision to consolidate smaller units and reclassify the larger holdings as Upland Rural Areas. 65

The second rural category - Upland Rural Areas - could not be redesignated as an urban area directly. However, an Upland Rural Area could be redesignated to an Acreage Rural Area and, of course, Acreage Rural Areas could become an urban area if the proper procedures were followed and urban pressures were apparent.

The Lowland Rural Areas could be redesignated as an urban area if an Existing Urban Area was located in, or surrounded by, the floodplain and pressures to develop were apparent. In practical terms, this meant the possible urbanization of all the many hectares of floodplain land in Richmond, Delta, Surrey, Pitt Meadows and Chilliwack.

In summation it could be said that the regional 'hand' which could have saved agricultural land was not a heavy one. Theoretically all farmland in the Fraser Valley that was technologically developable could eventually be urbanized within the established procedures of the Official Regional Plan. The timing
would of course depend on the pressures of urbanization and upon the strength of the Board's conviction to save farmland — a credo which was punctuated by the phrase 'as far as possible'.

This attitude is at least understandable when one considers the growth ethic which existed without question during the 1950's and 1960's. This obvious concern for growth is in evidence in the 1957 report, *A Plan For Langley*, which states, in part, that economic decline need not happen"if the City takes advantage of its 'head start' and takes measures to maintain its position through the improvement of the services it provides and by making itself attractive both to industry and to house builders".66 This attitude certainly is not dead. In the January 9th, 1974 edition of the *Abbotsford, Sumas and Matsqui News*, a front page article refers to "record growth in Matsqui municipality" in 1973. In a more melancholy tone the article goes on to explain that, "Abbotsford did not have such a 'glorious' year."67

These communities are of course not located in the burgeoning Greater Vancouver Regional District but are in the Central Fraser Valley Regional District — in the heart of the Lower Mainland's farmland. With the existence of such attitudes, and their continued prevalence, one must strongly suspect that a body of municipal representatives could not be fully counted...
upon, in the long run, to establish a strong policy directed towards saving farmland if continued urban development was going to be harmed.

While this analysis only examines the policies associated with agricultural land, the Official Regional Plan deals with many other aspects. In all fairness, the Plan was the first major initiative of the L.M.R.P.B., and its authors saw the Plan as only an initial step upon which future policy could evolve. In light of the political situation in which a Plan was adopted by a Board made up of many diverse municipalities, the Plan was a significant accomplishment. However, it can be at least speculated, that if the Lower Mainland Regional Planning Board had taken a firmer stand to ensure the retention of all farmland in 1966 there would have been little need for the Land Commission Act in 1973.

6. THE REGIONAL PLAN UNDER FOUR DISTRICTS

Today the Lower Mainland Regional Planning Board is defunct. During 1967 and 1968, the new regional district legislation took shape in the Lower Mainland in the form of four regional districts - Greater Vancouver Regional District, Dewdney-Alouette Regional District, Central Fraser Valley Regional District and Fraser-Cheam Regional District. The transfer policy was implemented by Provincial Order-in Council 4116.
on December 31, 1968. This provided for the orderly dissolution of the Lower Mainland Regional Planning Board and the transfer of the Board's duties and responsibilities to the four regional districts.\(^70\)

The Provincial Government *Letters Patent* of December 31st, 1968 to the G.V.R.D. particularly required the four new regions to continue the planning programmes that were currently underway. The regions had to undertake regional planning pursuant to Sections 795 to 798D of the *Municipal Act* (dealing with regional plans, official regional plans and the Technical Planning Committee) and any other provisions within the *Letters Patent*. On April 1st, 1969 each of the four regions were required to adopt that portion of the L.M.R.P.B.'s *Official Regional Plan* that was applicable.\(^71\)

1) The Review Panel and Planning

The L.M.R.P.B. was concerned that the regional perspective that had been maintained would be lost with the development of four regions. It felt that the overview role was the essence of the *Official Regional Plan*.\(^72\) To overcome this problem, the Provincial Government required each of the four Regional Boards to appoint its Chairman and one other Director to the Lower Mainland Planning Review Panel. The purpose of the Review Panel was to evaluate, review, and report on the effects of proposed amendments
and alterations to the Official Regional Plan in terms of the whole Lower Mainland area. The L.M.R.P.B. complained that the Review Panel was a device for control, and hence the negative aspects of development control had unfortunately been given prominence in the legislation.

The reorganization of regionalism in the Lower Mainland had not significantly altered the planning function. The Official Regional Plan remained intact, as had the expressed attitude of the L.M.R.P.B. towards the preservation of farmland. Despite the L.M.R.P.B.'s concern over the 'control' element of the Review Panel, the Provincial Government failed to encourage a 'harder line' for the preservation of farmland.

The Official Regional Plan continues not to be a zoning by-law. After having adopted the Plan, neither the regional district board nor a municipality may "enact any provisions or initiate any works" which would impair or impede the ultimate realization of the objectives" of the Plan. The municipality in fact is not required to enact a zoning by-law to implement the Plan, but if it dies, that by-law must be consistent with the Plan. Franson describes 'un-zoned development' as taking place "willy-nilly", but only one municipality - the District of Langley.
has failed to enact a zoning by-law which could implement the Official Regional Plan. (as of 1973). Despite the powers of the Regional District to control development by the adoption of the Official Regional Plan and its implementation by the enactment of zoning at the municipal level, it is possible to develop land contrary to the Plan. Franson's evaluation of the process points out the vulnerability of the politician at the local level.

A developer must first convince some municipal councillor, and through him the municipal council, that his development should be undertaken. Then the municipality would have to apply to the Regional Board for an amendment to the Plan. The application for amendment is reviewed by the Technical Planning Committee and the Review Panel but their advice can be ignored by the Regional District. This process tends to support the L.M.R.P.B.'s claim that the advantage of an 'overview' position has been lost within the Plan's amendment procedure of the new Regional Districts of the Lower Mainland.

The next step in the process is to amend the Official Regional Plan by a two-thirds vote of the Regional District Board. If successful, the municipality
is free to rezone the area in question accordingly after holding the necessary public hearing. Franson sums up his comments with two significant points. Firstly, a formal opportunity for public debate and comment on the development occurs at a very late stage in the process, and only after the *Official Regional Plan* has been amended. More importantly, however, Franson maintains that most people in the Lower Mainland area are unaware of the existence of the Regional Districts. Therefore it is difficult for the electorate to hold the indirectly elected representatives on the regional boards responsible for their actions taken at the regional level.79

ii) The Performance

Hankin has much more faith in the ability of the *Official Regional Plan* to stop development on farmland. He insists that, "the Regional Plan was, and still is, tough to amend." Hankin admits that the allowable uses on agricultural land as outlined in the Official Regional Plan were perhaps too broad. However, he feels that if the Province has "supported and strengthened local zoning at the municipal level, there would have been no need to 'lock' farmland into the Land Commission's Agricultural Land Reserves and thereby control the use of farmland by what amounts to three levels of zoning (municipal, regional and the Land"
In 1967, the Provincial Government paid little attention to the Official Regional Plan. In that year, plans began for the development of the Roberts Bank Superport. Subsequently the Government expropriated 1,600 hectares of rich alluvial floodplain farms in Delta for industrial backup land and the railway facilities which were to supply the port. The Board members as well as L.M.R.P.B. staff were opposed to this first major alienation of designated farmland - as well as what was functionally a major revision to the Official Regional Plan. The Province proceeded with its plans. In so doing, the Government not only ignored the intention and objectives of the Official Regional Plan, but harmed its credibility and integrity, making it more difficult to administer and increased the pressure for amendments to the Plan to permit municipal re-zoning.

Adams, writing in the Vancouver Sun, feels that the disintegration of the L.M.R.P.B. was a key reason for the poor performance of at least two of the four regional districts to save farmland from urban expansion. The first breach came in 1969 when the Delta Municipal Council pushed through an amendment of the Official Regional Plan that was approved by the Greater Vancouver Regional District and subsequently resulted in the re-zoning of the 28 hectare Hayward farm near
Ladner for a 301-house subdivision.

The following year Richmond gained approval to use 48 hectares of farmland for an 'industrial estate'. In 1972 Richmond received approval for another 130 hectares of farmland to be used for an industrial park. In total the Greater Vancouver Regional District amended its part of the Official Regional Plan twenty eight times in three years. Meanwhile the Central Fraser Valley Regional District had changed the Plan twenty six times. In nine cases this particular Regional District redesignated land in the Long Range Plan from rural to urban or industrial uses. Many of these took place in the westerly District of Langley. Adams sums up the reasons for the many amendments as an un-regional approach by municipal politicians, and development-prone Councils. Eugene Lee, the former planner for the Central Fraser Valley Regional District, said that when proposals to amend the Official Regional Plan came to his office he used to comment on them before passing them on to local politicians. Often he would recommend that the Plan be upheld, and farmland preserved. This got some of the Directors angry....

"They would say the Plan is 15 years out of date and needs to be 'updated'. I felt it was 50 years ahead of its time when it was passed." 83

Certainly the Official Regional Plan stifled the rampant re-zoning of farmland to urban uses which conceivably may have occurred if the Plan had not existed.
However, as has been shown, the **Official Regional Plan** could not secure farmland in perpetuity. The present Provincial Government knew of, and was concerned with the performance of the municipalities and regions in their efforts to effectively control development. In a background paper on **Bill 42** the Department of Agriculture expounded on the situation in this way:

"We cannot reject the principle of local responsibility or discount the benefit of their contribution to better planning of the land resource. However, we must make improvements in the decision making process where experience dictates improvement is both urgent and necessary. Many local jurisdictions have not been able to withstand pressure to change zoning and it is at this point that almost all known land preservation schemes have failed."84

Coupled with the 'land poor' situation in the Province, the devastating effects (directly and indirectly) of the urban presence upon farmland, and the importance of agriculture to the economy and as a food source of the Province, the local performance directed toward preserving farmland formed another **major** reason for the enactment of the **Land Commission Act**.

Replying to a question pertaining to the handling of land use controls at the municipal and regional levels, Mr. R.L. Wilkinson of the Department of Agriculture states that:

"Regional Districts and Municipalities have been given substantial powers for planning and zoning and have had these powers for some time. Unfortunately there had been
varying degrees of success throughout the province and generally speaking, local governments had had great difficulty in withstanding local pressures to develop on the most easily accessible farm lands. The Land Commission Act simply provided a blanket or overall provincially inspired agricultural zone which can be used as a basis or framework around which to design all other regional zone plans.85

2. The British North America Act 1867 to 1965, a consolidation of (prepared by the Department of Justice, Ottawa, 1967) Section 92, ss. 13, p. 28.

3. Ibid, Sec. 92(5).

4. Ibid, Sec. 109.


10. In 1972 land in British Columbia was distributed in the following way:

<table>
<thead>
<tr>
<th>Type of Tenure</th>
<th>Sq. Km.</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private tenure</td>
<td>53,189</td>
<td>5.7</td>
</tr>
<tr>
<td>Federally Owned</td>
<td>8,863</td>
<td>1.0</td>
</tr>
<tr>
<td>Provincially Owned</td>
<td>875,564</td>
<td>93.3</td>
</tr>
<tr>
<td>Total</td>
<td>937,616</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Adapted from: Ministry of Industry, Commerce & Trade, Canada Year Book 72 (Information Canada, Ottawa, 1973) p. 56.


15. Delafons, p. 93.


22. Delafons, p. 60.


28. Franson, R.T., 'The Legal and Institutional Structure For Planning in the Fraser Valley' an address given at the *Land Use In the Fraser Valley - Whose Concern?* conference on October 18th, 1972, p. 1.

29. *Municipal Act*, Sec. 702(1a, b, and c).

30. Zoning passed the test of constitutionality in the United States when it was upheld in 1926 by the Supreme Court in the landmark case of *Village of Euclid v. Ambler Realty Co.* Mr. Justice Sutherland, in delivering the opinion of the Court, coined the classic phrase, "A nuisance may be merely the right thing in the wrong place, - like a pig in the parlor instead of the barnyard." He concluded that zoning was not
arbitrary or unreasonable and was substantially related to the public health, safety, morals and general welfare. Since that time the Supreme Court of the United States has never questioned the constitutionality of zoning except for one instance in 1928. (Delafons p. 24 - 25)


32. See Porter for an intensive examination of the growing flexibility in land use controls.

33. The following sources outline various problems with zoning as a land use control device:


35. Franson, p. 1 and 6 and 7.


42. Ibid, p. 59.

43. Ibid, p. 59.

44. Ibid, p. 59.
45. Ibid, p. 41.
46. Memorandum... on ...Subdivision, p. 1.
50. Ibid, summary.
51. Ibid, p. 23.
52. Lower Mainland Regional Planning Board, Dynamics of Residential Land Settlement (New Westminster, June 1963) p. 9.
55. Ibid, p. 10.
56. Ibid, p. 5.
59. An interesting aspect of the amendment procedure, and one that can be questioned, is the attitude of a body of municipalities towards disallowing another municipality the opportunity to extend its urban boundaries. One would suspect that the Board would not be inclined to set a trend in which urban development was halted, even if it protruded onto farmland.
61. The fact that an individual cannot amend the Official Regional Plan is in contrast to the Land Commission Act that allows an individual to make application to appeal for exclusion, subdivision, or for a non-farm use in the Agricultural Land Reserve.
63. Ibid, P. 8.
64. Ibid, p. 13.
65. Ibid, p. 7 and 8.
68. Hankin, interview, April 10, 1974.
70. Ibid, p. 2.
72. Duties Assigned to Board, p. 4.
74. Duties Assigned to Board, p. 6.
75. Municipal Act, Sec. 797(1 and 2).
76. Ibid, Sec. 702(1).
77. Franson, p. 3.
78. Ibid, p. 4-5.
79. Ibid, p. 2 and 5. (The election process of Directors to the Regional Board has been altered. Members or possible members of municipal councils wishing to become a Regional Director are elected at large with the prerequisite of being on Council remaining intact).
81. Paton, Smith and Gram Ltd., p. 61.


CHAPTER V

SOCIALISM AND THE LAND COMMISSION ACT

The New Democratic Party of British Columbia gained a majority in the Provincial Legislature in the election of August 1972. This, along with the various circumstances outlined above, was a further and important causal factor in the establishment of the Land Commission Act.

The Department of Agriculture maintains that full credit for the creation of the Act should be accorded to the government of the day and their public servants. The agricultural policy of the New Democratic Party (N.D.P.) not only provided inspiration but also the broad policy guidelines of the Land Commission Act.¹ The following brief review of the philosophical base of the N.D.P. and the growth of socialism in Canada is essential to the full understanding of the development of the Land Commission Act.

1. THE PRINCIPLES AND OBJECTIVES OF SOCIALISM
   -- an overview

i) A Variety of Forms

Socialism evolved in a number of different forms. The N.D.P. have not adopted a rigid scheme of total public ownership advocated by philosophical socialism. It is perhaps possible to link socialism in Canada to the school of thought advocated by the followers of Ferdinand Lassalle in Germany who, rather than destroy the state, demanded universal and direct suffrage to give the workers control
of the state and make it serve them. There is also perhaps a minor association of N.D.P. philosophy with the 'revisionists' -- heirs of Marx himself. This western stream of Marxism gradually turned away from revolution to the ballot box for the achievement of the classless society. This modified brand of Marxism stands with the champions of liberal democracy against both the totalitarian extremism of the Right, and the new Moscow-dominated Marxist (communist) parties of the Left.

Socialism in British Columbia however more closely resembles the pragmatic, adaptive and democratic socialism of Britain and Scandinavia. The 'cooperativists' -- heirs of Owen -- and the Fabians, have set out to remodel society step-by-step by combining a humane concern for the working man with a patronizing and at times puritan desire to improve him.  

This obsession with furthering the workers' cause has long been a rallying point for socialists. In Canada the N.D.P. are commonly referred to as 'the party of the working man'. It is rather consistent then that the N.D.P. government in British Columbia has directed a large degree of its legislative thrust, including the Land Commission Act, towards assuring the viability of farming -- a work role which often demands a dawn-to-dusk seven day work week.
11) Basic Objectives

There are three prominent objectives common to all branches of socialism: (1) The social control, not necessarily ownership, of economic power, including the physical means of production - land and capital - is basic. Socialism's objection to private economic power rests not only on the possibility of its abuse against workers, but also on its tendency to direct production away from socially desirable ends. Social costs are not considered as part of the cost of production charged to the private owner, and it harms democracy by giving undue political influence to its possessors, destroying the political equality on which democracy depends.

(2) The drive for substantial social equality is at the heart of socialist philosophy but has been difficult to attain. The redistribution of income and the suppression of extraordinary gains have not generally occurred through public ownership. Rather, a combination of taxation policies, welfare programmes and business regulations have been utilized to meet this elusive end.

(3) The third general goal of socialism is for a cooperative and harmonious society. Unlike capitalism, which looks for an harmonious result to emerge from the operation of the competitive market, socialism establishes harmony and cooperativeness as explicit goals in themselves. Depending upon the kindlier aspects
of man's nature to evolve to greater heights perhaps is even more elusive than social equality. Interestingly, however, Mr. Hankin of the Greater Vancouver Regional District emphasized that the farmers' problems could be solved and the farmland in this particular region could be saved - but only through cooperation and co-ordination at all levels.

Socialism arose as a humanitarian response to the oppressive and degrading conditions of European life in the nineteenth century. The socialist is determined that no one shall enjoy an undue and unearned advantage in the use of resources; private individuals must be stripped of the powers that control the lives and economic welfare of others.

It is consistent then that socialists are particularly sensitive to the use of a rather quantitatively static resource such as land by speculators for the purpose of profiteering to maximize personal gain rather than the well being of society. This would be the case even if the manipulation of the land market had a neutral effect on society. It is of even greater significance however, when irreplaceable farmland is being unnecessarily destroyed, when that part of the economy based on the primary agriculture enterprise is being harmed, and quite possibly such efforts are involved in the inflation of the price of urban housing.
Boyce Richardson in *The Future of Canadian Cities*, relates that "in Vancouver (Greater Vancouver), 2,760 hectares of the 3,200 hectares needed for housing by 1981 are held by .... six big developers." He estimates that Vancouver is plunging towards the sort of land crisis that is now afflicting Toronto's citizens. Richardson makes a strong case for public intervention into land management. He illustrates that a publicly owned land supply, bought ten years in advance -- as is already the practice in Holland, Sweden and for that matter in Saskatoon -- is the key to housing low-income people.

It is no accident that it is a Saskatchewan city that has pioneered in the public ownership of land by a municipality in North America. Richardson maintains that Saskatchewan has had a long history of socialist thinking and action, and its people have been educated to understand the issue and support the solutions. Richardson, writing in 1972, prior to the N.D.P. forming the government in British Columbia, states that it is a matter of national concern that people of Vancouver do not seem to appreciate the challenge facing them in proper management of their scarce land resource. Vancouver's economic health is essential to all of western Canada. Even though the pressure on land in the Lower Mainland could become almost as intense as in Holland, most of the people in Vancouver do not seem to care. Half of them were born outside of the province, and have moved
there in search of jobs, money and the good life. They carry with them the expansive frontier hope that everything is possible; they have consistently voted for the Social Credit government of W.A.C. Bennett - a government of businessmen - whose main policy is to maximize profits and to buy and sell shrewdly, whether it be land or any other natural resource. 6

Regardless of the electorates' reasons, the socialist New Democratic Party led by David Barrett replaced the Social Credit Party as the government of British Columbia in the Fall of 1972. For the N.D.P. to strongly assert their policies in the areas of land use and housing should have been a surprise to no one.

Socialism relies heavily on the electoral process as the means of restraining the arbitrary use of power, both political and economic. In Britain, Norway and Sweden, socialism has strongly adhered to the customs of consultation and compromise. 7 Although criticized in some circles, the amendments to Bill 42 prior to the passing of the Land Commission Act serve as but one example of the British Columbia government's willingness to compromise. In hindsight, it could perhaps be concluded that the N.D.P. government should have had much more consultation with agricultural interests prior to the introduction of Bill 42. The British Columbia Federation of Agriculture did, however, present a brief to the government on December 18th, 1972 concerning proposals for improving
the British Columbia agricultural industry. This report stated in part that the, "preservation of farmland and subsequent responsibilities is the most important issue our industry has faced," and "our members view the issue as being the critically deciding factor in their future." 9

The Minister of Agriculture did meet with the president and manager of the British Columbia Federation of Agriculture within a few days after the introduction of Bill 42 to discuss the legislation in detail and clarify key points. 10 The Federation of Agriculture presented a brief, and a supplement to this same brief, entitled Alternative Proposals Pursuant To Bill 42 on March 15th, 1973. The supplement was released on April 5th, 1973. The brief was essentially aimed at influencing the government's amendments to the Act.

The government's willingness to consult with farmers was also demonstrated in this excerpt from a Fotheringham article. The Premier asked Charles Bernhardt, then president of the Federation of Agriculture, to

"Hire the best economist you can find, the best agronomist, I don't care. I don't even want to know who he is. We'll pay for him. You hire him and you come back here with your recommendations as to how we can best help the farmers to stay on the land. We're prepared to discuss a new form of taxation, even pensions for farmers. We want ideas. Come back and we'll listen to you." 11

The Federation did return with their ideas; a brief entitled New Policies For British Columbia Agriculture
was released on August 13th, 1973 and a second brief, Pursuant to Proposals for the Betterment of Agriculture in British Columbia was presented on December 17th, 1974.

Socialists traditionally do not depend on pure economic efficiency to achieve social ends; they have established an independent standard - social value - as a counter to the market standard of value that directs the allocation of resources to production under capitalism. The difference between the two standards of value is essentially the difference between wants and needs. Socialists believe that the personal decisions of individual buyers concerning the goods and services they want are incompatible with the objectives of the cooperative and harmonious society discussed above. People enter the market as buyers with varying amounts of wealth. This gives a wealthy man a larger 'vote' in allocating production than a poor man. This problem is intensified in a limited resource situation. The market choice is generally made on a purely individual and often selfish basis. The broader societal considerations are relegated to a minor priority in the capitalist format.

The 'balancing act' between economic and social values is very apparent in the allocation of the farm land resource. As a market commodity, agricultural land, especially on the urban fringe, has difficulty competing with urban uses on the basis of pure economics.
As architect-planner Warnett Kennedy states, "Urbanization always wins because it pays off and the rows of vegetables have no votes to offset those of the people in the subdivisions." Hankin complains that most studies that are done concerning farming deal exclusively with the economic aspects and fail to acknowledge the fact that farming is much more than a business operation - it is a way of life.

The aesthetic and non-quantifiable reasons to support a continuation of agriculture in the Lower Mainland, as discussed in Chapter III, also defy strict economic interpretation. Lane has questioned the possibility of maintaining food prices at a reasonable level, as well as assuring the viability of farming, if we refuse to consider the possibility of removing the price of land as a necessary capital investment, and subsequently an added cost of production in the farming operation. Such a decision would rely heavily upon social values dictating that the short term gains of a few would not supplant the long term benefits of the community. Growing world food shortages offer further evidence of the need for current 'economic efficiency' to be restrained in order to protect British Columbia farmland and assure future food supplies.

The government's agricultural land use policy is an important element in the total schema of socialist policy. Town and
country planning has consistently been among the policies favored by the Fabians in England and practiced by socialist governments in both Britain and Scandinavia. British socialists are justifiably proud of the New Towns and other beginnings of comprehensive land-use planning that were enacted under the Town and Country Planning Acts of their first post-war government. This aspect of policy is directly related to the idea of an harmonious and orderly society, and represents an area that socialists, as reformers by nature, are likely to promote more strongly the nearer they come to achieving their objectives in other fields. Land use policy also serves to equalize advantages of rich and poor, thereby contributing to two of the major positive objectives of the socialist movement. 16

Socialism in Canada cannot be judged strictly against the philosophical model. Preston maintains, however, that despite the very short time in which socialism has been practiced (world wide), it seems evident that democratic, pragmatic socialism is "working." Nationalized industries have been operated at least as successfully as they were under private ownership. Considerable enlargement of social services has occurred without bankrupting the economy.

While achieving a large measure of political direction over the economic order, socialist governments have not seriously curtailed individual or political liberties of free expression. 17 Although ardent leaders
and followers of the right wing parties in British Columbia would quickly disagree with the above statement. 2,500 people on the lawns of the legislative buildings in Victoria protesting Bill 42 on March 15th, 1973 certainly did not have any restrictions placed on their freedom of expression.

The N.D.P. in British Columbia are not classic socialists but have refined their approach, objectives and principles to adapt to the capitalist environment within which they find themselves. Land is regarded as being a basic element to the economy. Its control is, therefore, also basic to ensure the welfare of the people. Land is important to socialists for other reasons. The handling of this natural element as a commodity rather than a resource is appalling as is the intense competition in the land market - a business operation that shirks social values and dispells cooperative attitudes. Essentially the land dealer - real estate agent - operates in a business which encourages (often unnecessarily) the selling of property and its subsequent purchase. The motivation is primarily a percentage of the selling price of that property. Therefore it is in the best interest of the real estate agent to sell as many pieces of property as possible and for the highest price that the market will bear. Competition in this phase of the land business must be intense. Tom Boyle, 1973 president of the Greater Vancouver Real Estate Board, said that
"there are now 3,000 real estate salesmen in Greater Vancouver, whereas 1,000 could easily do the job."

The process is inflationary. It is not only putting the wealthy in an advantageous position in the market, and thereby increasing their economic power, but it is also encouraging greater social inequality.

Although a specified power, Wilkinson does not consider the purchase of farmland to be a major role of the Land Commission. It can be concluded that the nationalization (provincialization) of land is not on the agenda of the democratic pragmatists in Victoria. Control by society does not necessarily mean state ownership. The Land Commission Act is one such example of the social control of land and its uses without state ownership.

2. AGRICULTURAL POLICY AND THE REGINA MANIFESTO

The New Democratic Party evolved from its predecessor, the Cooperative Commonwealth Federation (C.C.F.). From the backdrop of socialist theory, and in the midst of a depression, the Cooperative Commonwealth Federation held its first national convention in Regina on July 19th, 1933. It began as a federation of existing parties. Gradually the various parties voted themselves out of existence or out of politics as separate entities, and merged with the all-inclusive party. In 1943 David Lewis and Frank Scott observed that from its beginning the C.C.F. strove for "an imaginative political programme based
on a correct social philosophy and fearless economic analysis.21 The agricultural industry, especially in western Canada, was significant in both the birth and growth of the C.C.F.

The Regina Manifesto was based not only on socialist theory but was also a reaction to conditions of the depression of the 1930's. In 1932 the farmers were at least equal partners with labour in the creation of the C.C.F. The farmers had a strong historical base of discontent. They still formed the cornerstone of the Canadian economy but the depression had made a bad situation worse. In fact, the farmers, as a group, were harder hit by the depression than any other group in the country.22 The farmers' lot had been bad before the depression and three decades of agrarian revolt (with limited success) prior to 1929 formed a valuable base upon which the C.C.F. was to build.

In British Columbia the C.C.F., and later the N.D.P., did not have as strong a farming base or agrarian tradition as did their counterparts in the other three Western Provinces. Although socialist orientation in British Columbia was, as it still is today, oriented towards the labour unions, the agricultural policy outlined by the Regina Manifesto was adopted by C.C.F.ers in British Columbia as it was in other parts of Canada.23 The agricultural policies of the Regina Manifesto can therefore be readily compared with the present agricultural policy of the
N.D.P.

Section 4 of the *Regina Manifesto* (see Appendix A) deals with the C.C.F.'s agricultural policy. Primarily the document is concerned with ensuring the viability of agriculture as an economic activity. This is not unlike the British Columbia Minister of Agriculture's statement in 1973 explaining that the purpose of *Bill 42* was to make agriculture more economically viable to sustain the family farm. 

'Generally' then, the main thrust of socialist (C.C.F. - N.D.P.) policy with regard to agriculture essentially has not changed in some forty years. The average farmer was relatively poor in 1933 and he still is today.

Socialists within the pre-C.C.F. farmers' movements were strongly advocating the nationalization of farmland. Perhaps in the 1930's the time was ripe for such action in light of the economic situation, the much despised (among farmers) banking and credit system, and the apparent land ownership - tenancy trends. The *Regina Manifesto*, however, refrained from any mention of the social ownership of land. Instead it demanded "the security of tenure for the farmer upon his farm which is imperilled by the present disastrous situation of the whole industry." 

In 1944 T.C. Douglas, then Premier of Saskatchewan, explained the reasons for this stance which many socialists might regard as unnecessary policy
inertness. He stated that "there has been a great deal of nonsense talked about the C.C.F. socializing land." The sole purpose of socialization he felt was restoration. Whenever the means of production have been alienated from the people it is necessary to socialize them in order to restore them to the people. Douglas emphasized that if a few hundred families owned all the property, socialization of land might be necessary. In Canada, however, where most of the farms are still owned by the families who operate them, it is not necessary to socialize the land in order to restore to the people something which they still have. Douglas concluded that "the object of a C.C.F. government is to see that these farms continue to be property of the families who operate them, rather than having those families become mere tenants of banks and mortgage companies." 27

The decision by the fledgling C.C.F. not to nationalize land was probably made for political as well as other reasons. The C.C.F. did not want to disturb the traditional values of landownership and chance losing perhaps a majority of their support in Western Canada.

3. AGRICULTURAL POLICY AND THE BRITISH COLUMBIA N.D.P.

The current N.D.P. agricultural policy in British Columbia (see Appendix G), like the Regina Manifesto, is concerned with the security of the family farm and
has chosen to control land through regulation, rather than by 'ownership'. The election platform of the N.D.P. in August of 1972 specifically condemned the powerful corporations that were tightening their grip on the land and dominating agriculture. The agricultural land use policy advocated by the then opposition N.D.P. was a central aspect in their programme of agricultural revitalization.

Land Use:

- Establish a land-zoning programme to set aside areas for agricultural production and to prevent such land being subdivided for industrial and residential areas.

- Establish a land bank to purchase existing and re-zoned agricultural land for lease to farmers on a long term basis.

- Recognize individually-operated farm units, rather than large corporate farms, as the basis of B.C. agricultural production.

- Legislate to preserve open space for cattle grazing and to improve range land in cooperation with wildlife authorities.

In less than a year, these broad policy statements were refined into the most comprehensive agricultural land use legislation in the country, and quite possibly the continent. The essence of the Land Commission Act was embodied in these four policy statements. The creation of the Act itself and the form which the Land Commission Act took grew out of agricultural circumstances found in British Columbia today. Its roots can also be directly linked to socialist theory as well as the agrarian reform movements of the first part of this century in Western Canada which aided the birth of the
C.C.F. and from which the N.D.P. grew.

Looking at the Land Commission Act out of its historical context William Lane, Chairman of the Land Commission, feels that the Act is neither socialist nor capitalist in form. The Act, he feels, is basically a regulatory land management device aimed at planning for the use of a scarce resource. He refers to the example of a spatially well managed department store and queries -- "is this socialism?"\(^9\)

Others, however saw Bill 42 as a very socialist measure. In the furor of Bill 42's introduction, Frank Richter, then house leader of the Social Credit Party, commented that, "the day of the private ownership of land in British Columbia was destroyed this afternoon."\(^{30}\) Harvey Schroeder, Social Credit M.L.A. for Chilliwack referred to Bill 42 as "...a devastating, vicious and socialistic piece of legislation."\(^{31}\) An editorial by Jim Hume on radio station CFAX in referring to the 'farmers protest march on Victoria' stated, "But even if they (the farmers) didn't make yards in persuading the government to change its most alarming left wing legislation to date, they certainly must have impressed the community."\(^{32}\)

Opinion is diverse, but the ardent right wing elements too quickly associate the N.D.P. with communism in the U.S.S.R. and the People's Republic of China.\(^{33}\) The C.C.F. - N.D.P. have never advocated the pure socialism of Marx. The links, however, between the
philosophy underlying the Land Commission Act and pragmatic, adaptive, democratic socialism are strong.

The Land Commission Act is the first of a series of legislative moves to assure the viability of farming and assist in the realization of social equality. The N.D.P. firmly denounces the corporate agricultural entities that have been invading British Columbia in much the same way as California experienced a number of years ago. This, along with encouraging the family farm, should facilitate, or be in the direction of a greater social control of economic power, by keeping the control of land out of the hands of a few individuals or corporations. The Land Commission Act is not blanket nationalization of land. This same attitude towards land was adhered to by the C.C.F., and socialists in general are increasingly accepting state control over essential entrepreneurial decisions as a substitute for ownership. 34

In many respects the Land Commission Act is an example of functional socialism prescribed by Professor Adler-Karlsson. Osten Unden, former Swedish minister of foreign affairs and law professor, stressed that the concept of ownership is not an indivisible concept but, quite the contrary, a concept embodying different ownership functions, which can easily be separated from each other. Adler-Karlsson maintains that it is not a
question of principle whether any of the functions of ownership should be brought under public control. A great many already are. The only question is which functions of ownership should be under public control. The functions to be encouraged are those which are social, rather than the unsocial use of ownership.35

In 1972-73 the N.D.P. in British Columbia made an important decision. It decided that assuring the future of a food source, and saving an economic activity and the family farm as a way of life had social purpose. Conversely the destruction (primarily through land speculation and the unnecessary urban development of farmlands) of these same elements was an unsocial use of land ownership.
FOOTNOTES


3. Ibid, p. 100-103.


5. Preston, p. 135 & 139.


7. Preston, p. 135 & 139.


10. 'Farm Owners threaten to march...', Vancouver Sun, February 23, 1974.


15. Lane, W., Chairman, British Columbia Land Commission, interview, March 16, 1974.


17. Ibid, p. 131.

18. An advertisement placed in the March 30th, 1974 edition of the Vancouver Sun and The Province by organizer J.W. Merks entitled 'Endangered Species?' dramatically summarizes the capitalists' fear (or the fear that they are encouraging) of restrictions on individual behavior and rights of appeal by the N.D.P. government. The advertisement was asking for donations to the B.C. Disaster Prevention Fund.


26. Lewis, p. 201.


29. Lane, lecture, February 20, 1974.


33. 'Endangered Species', Vancouver Sun, March 30, 1974.

34. Preston, p. 106.

PART II

THE LAND COMMISSION ACT

CHAPTER VI

THE FARM LAND FREEZE and BILL 42

1. THE FARM LAND FREEZE

On December 21st, 1972 Order-in Council 4483 was approved by the Cabinet and prohibited the subdivision of farmland. The Order said in part:

"...pursuant to section 6 of the Environment and Land Use Act, all subdivision of farm land, including all lands deemed by the Committee (Environment and Land Use Committee) to be suitable for cultivation of agricultural crops, until further order or provision by statute to the contrary, be prohibited." 1

This relatively short order was to set off perhaps the most hotly contested issue both inside and outside the legislature that the Province has experienced. The following day the Department of Agriculture stated that the moratorium on the subdivision of farmland was necessary pending the farmland preservation policy which would include a positive approach to providing sufficient land for agriculture today and in the future. The Department also said that farmland preservation was a burden that must be shared by all people to help ensure a more viable British Columbia agricultural industry. 2

The opposition parties in the legislature were to later question why the freeze had been imposed with
such haste and without prior consultation with concerned parties. The Minister of Agriculture, David Stupich, explained that the Government was forced to act because of a rush of re-zoning and subdivision applications that came in the wake of a speech he gave on November 30, 1972 outlining the Government's intentions to place controls on farmland. The speech was given before a meeting of the British Columbia Federation of Agriculture (B.C.F.A.) and in it Stupich said, "I would not advise anyone to invest in farmland with any intention to develop it for industrial or residential purposes." During the next few weeks the rush of subdivision applications was noted as being "extremely alarming."³

1) B.C. Federation of Agriculture's Reaction

Receiving the speech by the Minister of Agriculture with reserve, the farmers, through the B.C.F.A., quickly began to enunciate their point of view. Their arguments generally remained consistent throughout the debate during the months ahead. Essentially the B.C.F.A. felt that it was initially more important to save the farmer rather than the farm. Richard Stock, general manager of the Federation, stated that steps should be taken to see that the farmer get a fair and profitable return from his farming operation. "That's the real problem of our industry. The need to assure the farmer of a fair profit for the work and investment he puts into it. If these farms were made profitable we wouldn't
have to worry about them being sold for other uses. The farmer wouldn't want to sell his land."

Punctuating the Government's emerging policy to save farmland James Lorimer, Minister of Municipal Affairs, sent a letter to all mayors of municipalities and all chairmen of regional districts throughout British Columbia on December 11, 1972. This directive noted that any requests by municipalities for approval of land use by-laws which would involve the loss of farmland to urban uses would be very closely examined in light of the Government's policy to preserve farmland.5

By December 18th, 1972 and prior to the announcement of Order-in-Council 4483, the B.C.F.A. met with Cabinet. A Brief was presented which formalized the farmers' position regarding proposals for the improvement of the British Columbia agricultural industry. The Brief emphasized that 82 per cent of the farmers of British Columbia receive less than federal unemployment insurance benefits, while a substantial number of farm families make 'do on income below current welfare rates. With respect to farmland preservation, the Brief made the following points:

- preservation of farmland is an important if not critically deciding factor in the future of the industry.

- no justification for 'locking-in' the industry now, in the hope of finding solutions later, thus locking thousands of farm families into poverty.

- no justification for permanently maintaining the status quo for an industry to go broke.
- unclouded ownership is the very basis for carrying on in agriculture for many farm families.

- cannot expect people to continue working for sub-standard incomes if all other avenues of providing a retirement income are withdrawn.

- the general public must also accept their responsibilities for the preservation of farmland.

- farmland zoning must be accompanied by a reasonable compensatory factor for the produce of the land, and for the development rights thereof.

Immediately after the release of Order-in-Council 4483 the B.C.F.A. released a two part position statement pursuant to fair compensation for losses due to the land freeze. It declared that (a) the government must lift the farmland freeze unless the land is being sold for non-farm use, in which case the Provincial Government would have the first right of refusal and could purchase the land at a fair market value; and (b) the government must pass policies to make the farmers' lot better so he can recapture the costs of production.

On January 10th, 1973, the B.C.F.A. once again met with the Government. Although the two bodies agreed on some basic points, the Federation was not satisfied with the Government’s commitment to agriculture and felt that the 'biggest land confiscation in Canada's history must be stopped.'

By January 15th, 1973, Stupich announced that the 'Farmland Preservation Bill' was in fourth draft.
In defense of the upcoming legislation, and in response to the federation's proposals, Stupich told the Fruit Growers' Association that the B.C.F.A. had been urging the Government to halt the subdivision of farmland for 12 years. Now that something was being done about the problem the farmers were worried about the possible loss of profits accrued from the sale of their land. Stupich said that it was not practical to pay compensation to the farmers for the possible devaluation of their land through 'zoning' - it would simply cost too much.11

11) Order-in-Council 157

Order-in-Council 4483 established, as defined in section 2 of the Taxation Act, that the subdivision of farmland, including all lands suitable for cultivation of agricultural crops, was prohibited.12

Section 2 of the Taxation Act defines farmland as any area of land two or more acres (.8 hectares or greater) classified as such by the Assessor. The classification depends on the following factors: a) the land is actually under cultivation or used for agricultural, horticultural, poultry-raising, or stock-raising purposes; b) the time devoted to the land's cultivation; and c) the value of the crops or livestock produced.13

Order-in-Council 157, (see Appendix B) approved on January 18th, 1973, clarified many points which had surfaced from its predecessor, Order-in-Council 4483.
It clearly established that nonagricultural development - including site development, a change in land use, and the construction of a building other than one which is necessary for the operation of a farm - was prohibited. Added to the Taxation definition of farmland referred to above, farmland included land situated in a municipality and classified as farmland under Section 332 of the Municipal Act, or land designated as Class 1, 2, 3, or 4 of the classification of soil capability for agriculture, developed as part of the Canada Land Inventory (C.L.I.). Within the Order it was also stated that:

- no approving officer shall approve a subdivision of farmland.

- no person shall issue a building permit for the construction of a new building on farmland.

- no municipality, regional district, or the City of Vancouver, shall pass a zoning by-law or enter into a land use contract allowing farmland to be used for nonagricultural use.

- no Registrar under the Land Registry Act shall accept a plan of subdivision pursuant to the Strata Titles Act respecting farmland.

iii) Appeals Under the Land Freeze

The Order did allow any developments, subdivisions, or land use contracts that had substantially commenced on or before December 21st, 1972 to be approved. A person having farmland who felt aggrieved by an action taken under the authority of Order 157 was also allowed
to appeal his case to the Environment and Land Use Committee. Despite the possibility of appeal, one could conclude that the Provincial Government had securely put the lid on the future subdivision of farmland.

On February 16th, 1973, a letter was sent to all municipalities and regions from the Department of Agriculture on behalf of the Environment and Land Use Committee (E.L.U.C.) to clarify the administrative procedures for allowing 'substantially commenced' developments on farmland to continue and for the appeals pursuant to Order-in-Council 157. In the case of developments which had started prior to December 21st, 1972, the issuance of a certificate from the appropriate officer in each municipality or regional district was mandatory. The applicant had to clearly demonstrate to the officer's satisfaction (based on specific criteria) that the development had indeed commenced substantially prior to the above mentioned date.

The letter also stated that in all cases of refusal of an application for a subdivision or permit of any kind because of the Orders-in-Council, the denying authority must notify the applicant in writing fully stating the reasons. If a subdivision would have been refused by a municipality regardless of the Orders-in-Council, the Approving Officer was advised to explain every reason for rejection so as not to give undue stress to the Orders-in-Council.
For those appealing to the E.L.U.C. pursuant to actions taken in compliance with Orders-in-Council 4483 and 157, the appeals were not specifically against being designated in the farmland freeze. Rather, the appeal was against a decision by some agency of the government (land registry, municipality, and etcetera) for not allowing an individual to develop his land in contravention to the Orders-in-Council. The written statement of refusal referred to above was significant because in hearing an appeal, the following pieces of information were required of the applicant by the E.L.U.C.:

1. a letter of refusal from a body or agency of the government;
2. the legal description of the subject property;
3. an outline of the proposal which was refused at the local level; and importantly
4. the applicant must demonstrate to the E.L.U.C. why the development (e.g. exemption from the land freeze) is necessary.16

When making a decision regarding an appeal, the Committee could respond in one of the following ways:

1. approve unconditionally;
2. approve, but not release the land from the freeze (requested development or subdivision could take place, but no such further activity could occur);
3. deny outright; or
4. deny pending the establishment of the Agricultural Land Reserve boundaries.17

By April 1974, approximately 1,700 appeals had been processed. Lane estimates that one-third of the appeals were
approved either conditionally or unconditionally, one third were denied pending the designation of the Agricultural Land Reserves, and the remainder were refused.\textsuperscript{18}

iv) Opposition in the Legislature

While the B.C.F.A. was expounding the farmers' point of view, the opposition parties in the Legislature were also challenging the Government's farmland freeze policy. On February 2nd, 1973, the Social Credit party forwarded a non-confidence motion based on the view that the Cabinet-ordered freeze on farmland was in violation of the Canadian Bill of Rights which guarantees the fundamental right to the "enjoyment of property." Don Phillips (S.C. - South Peace River) who moved the motion, declared that, "The Cabinet's orders, which imposed the freeze on the sale of farmland, violate this Bill of Rights guarantee, and will place in doubt all private land ownership in the Province."\textsuperscript{19}

This issue of land management was of course being highly politicized by the opposition. With the possible exception of the above statement being made during the heat of debate in the political arena, one must question the basis of Phillips' statement. Firstly, the two Orders-in-Council did not affect ownership per se (although a function of ownership was suspended). Secondly, the orders affected only farmland, and such land was clearly defined and therefore did not pertain to all privately held land. Most importantly, however, and a misconception...
which would unfortunately plague future discussions of Bill 42 and the Land Commission Act and a view that conceivably may still be widely held by members of the public, the Orders-in-Council prohibited the nonfarm development and subdivision of farmland but said nothing that prohibited the sale of one's property.

There are of course many controls on subdivision covering a wide variety of circumstances. If there was any legitimate basis for attacking the Orders-in-Council on the grounds that they violated the Bill of Rights it would mean that all refusals of subdivision applications could quite possibly be contested on the same grounds. If successful, this would require the amendment of many of the functions of the Land Registry office and there would be little necessity in maintaining municipal approving officers since any decision made against an application to subdivide land could be overturned on the grounds that it harmed one's "enjoyment of property."

The opposition contested the Government's action on three other grounds. They claimed that the Government failed to mention the possibility of a 'Farmland Preservation Bill' in the speech from the throne. Stupich, however, claimed otherwise. In defense of the Government, he said that there was clear reference to the issue in the throne speech in the passages asserting the Government's determination
to devise policies, "...so that we may live in harmony with our environment."\(^{20}\) The statement, needless to say, is rather sweeping.

The opposition parties also took up the farmers' cause for policies directed towards saving the farmer rather than the farm. Liberal Allan Williams, quoting from a report of the Select Committee on Agriculture, emphasized that, "means must be found to upward adjust farm income."\(^{21}\) Although undoubtedly an area needing a great deal of attention, the opposition appear to have visualized the prohibition of farmland subdivision and development as the 'end-all' in Government agricultural policy - which time has proven it is not.

Finally, the opposition was upset by the means used to initiate the Government's policy. Both Orders were approved under Section 6 of the \textit{Environment and Land Use Act} which states in part that:

"The Lieutenant - Governor in Council, on the recommendation of the committee, may make such orders respecting the environment, or land use, as he may consider necessary or advisable...\(^{22}\)

Social Credit house leader Frank Richter, in referring to the above section, declared that, "the \textit{Environment and Land Use Act} - which was used by the government to order the freeze on 'farm sale' - was included in the act by the Socreds to underscore the catastrophic situations that might require immediate action" and not "... to be used as a day-to-day
administrative tool to by-pass either the Legislature itself or the public at large."

Premier Barrett replied that the Government had agonized over this means and agreed that such use of the order-in-council was not a healthy pattern. The Government, however, felt that because of the rapid increase in subdivision applications since Stupich's November 30th, 1972 speech, there was a need for immediate action which could only be gained through the use of the orders-in-council.

In summation, the Government had clearly demonstrated its desire to thwart the unnecessary subdivision of farmland. The Government, however, and by their own admittance, had to a large degree, been forced into taking action and consequently had to hurry the creation of their legislation to preserve agricultural land. More importantly though, the opposition against the orders-in-council foreshadowed events to come.

2. BILL 42

The Government's 'farmland preservation bill' was introduced in the Legislature on February 22nd, 1973 by the Minister of Agriculture as Bill 42 - Land Commission Act. Although containing a number of other provisions, the main emphasis of the Bill was to preserve agricultural land for farm use. Bill 42
was not only an elaboration of Order-in-Council 157 but adhered substantially to the New Democratic Party agricultural policy as expounded upon prior to the election of the previous summer. In announcing Bill 42, Stupich declared that the purpose of the legislation, "is to make agriculture more economically viable to sustain the family farm." In hindsight, the legislation can be more accurately described as an important first step required to achieve the ends Stupich depicted.

In preparing Bill 42 the Government discussed with officials and studied the land programmes of Britain, The Netherlands and Sweden. It was found that the following characteristics applied to all:

1. Planning and zoning is much more detailed and of greater permanent effect than found in North American jurisdictions.

2. All three countries have had long experience in land use planning; however, they do not claim to have solved the problem of the loss of agricultural land.

3. In all countries, losses continue but at a carefully controlled rate. Agricultural land is not available for conversion to non-farm uses except as may be essential in the public interest and no other practical alternative exists.

4. Changes in land use zoning must be approved by land commissions of the senior government.

5. All three countries have land rationalization programmes whereby farmers are assisted to increase the size of their holdings. Subdivision of prime farmland is therefore discouraged.

R.L. Wilkinson, of the Department of Agriculture and a member of the Technical Committee of the E.L.U.C.,
confirmed that reports, legislation, and other material from other parts of the world were examined, "but essentially the existing Land Commission Act was compiled from inputs by agrologists, legal advisors and land use planners."

1) Bill 42 -- A General Description

Bill 42 provided the means to establish a Provincial Land Commission (Sec. 2 ss. 1). The Commission would be an agent of the crown and it could hold in its own name any land or other real or personal property and could dispose of the same (Sec. 4, ss. 1 & 2). The Commission could also make such by-laws and pass resolutions which were necessary to conduct its affairs. This was essentially a housekeeping measure and the time and place of calling and holding meetings and the procedures to be followed at the meetings were given as an example of the use of such powers (Sec 6).

The four major objectives of the Bill were as follows. Firstly, to preserve agricultural land for farm use (Sec 7a), and encourage the establishment and maintenance of family farms and land in an agricultural reserve and to preserve the same (sec. 7b). The second objective of the Bill was to preserve green belt land in and around urban areas and to encourage the establishment and maintenance of land in a green belt land reserve (Sec. 7c & d). Thirdly, the Bill was aimed at preserving land bank land for urban or industrial development.
and to restrict subdivision there on, and to encourage the establishment and maintenance of land in a land bank land reserve (Sec. 7e & f). Lastly, the Bill was to preserve park land for recreational use and once again encourage the establishment and maintenance of land in a park land reserve (Sec. 7g & h).

The Commission was to have the power to purchase or otherwise acquire land, on such terms and conditions as the Commission may consider advisable, and hold and dispose of the same (Sec. 7i & j). Gifts of land could also be accepted or the Commission could be authorized by another Act to purchase or otherwise acquire, hold, administer, and dispose of land, including Crown land (Sec. 7k & m). The Commission could also acquire and hold personal property and dispose of the same (Sec. 7l).

Section 8 allowed for the designation, and thereby the establishment of an agricultural land reserve, a green belt land reserve, a land bank land reserve and a park land reserve. Only the agricultural land required the approval of the Lieutenant-Governor in Council before designation; all of the reserves could include Crown land and were subject to this Act and the regulations. The Lieutenant-Governor in Council could exclude any land from the reserves established under Section 8 (Sec. 9).

Section 10, subsection 1 stipulates that:

"No person shall occupy or use agricultural land designated as an agricultural land reserve pursuant to section 8 for any purpose other than farm use, except as permitted by this Act or the
regulations or by order of the commission upon such terms and conditions as the commission may impose."

The remainder of Section 10 elaborates on and clarifies the restrictions pursuant to the above subsection and establishes the requirements of the municipal approving officers, the land registry office, and other bodies and persons under the Act. These requirements were quite similar to those established under Order-in-Council 157.

Neglecting Section 11 for the moment, Section 12 established the additional powers of the Commission with respect to agricultural land designated as an agricultural land reserve. The powers generally were related to the Commission's activities with regard to the encouragement of farm viability and the handling of land acquired by the Commission. It is very important to note that these powers and regulations dealt only with land in agricultural land reserves and did not pertain to the land designated in any of the other three reserves.

Any agricultural land was to be exempted from the agricultural land reserve if, on December 21st, 1972, the holding was less than two acres (.8 hectares) in area (Sec. 11, ss. 1). If a legal non-farm use existed six months prior to this same date, it was exempted from Section 10 until there was a change in use, a future 'law' prohibited such use, the regulation that
allowed such a non-farming use is withdrawn or expires or if the agricultural land is disposed of (sold, leased and etc.) (Sec. 11, ss. 2 & 3). The Commission would also accept applications for permission to use agricultural land for a non-farm purpose and allow, refuse, or establish conditions with respect to the application. The Commission's decision was final. An appeal could only be launched on a question of law or excess of jurisdiction (Sec. 11, ss. 4 & 5).

The Commission could make capital improvements on its land (Sec. 13), could pay a grant in lieu of taxes to the appropriate agency on commission land (Sec. 14), and establish, with the approval of the Lieutenant-Governor in Council, a schedule of fees for various services (Sec. 15). Section 16 clearly established that no compensation would be paid with respect to the establishment of any of the four reserves.

For the purposes of the Act, agreements with other bodies could be entered into by the minister, subject to the approval of the Lieutenant-Governor in Council (Sec. 17), annual reports must be submitted (Sec. 18) and the Lieutenant-Governor in Council could make various regulations for carrying out the purpose of the Act (Sec. 19). The Act would only be subject to three other pieces of statutory legislation (Sec. 12, ss. 1), and the Act did not harm the validity of municipal or regional by-laws except when they conflicted with
the provisions of the Act, and in that case the by-law is suspended and of no effect (Sec. 20, ss. 4 & 5). Any of the provisions of the Companies Act may apply to the Commission as declared by the Lieutenant-Governor in Council (Sec 20, ss. 8).

For the purpose of establishing agricultural reserves, the Commission was appropriated twenty-five million dollars (Sec. 21, ss. 1). Funds for acquiring land for the other reserves could appropriately be obtained from the Green Belt Protection Fund Act, the Accelerated Park Development Fund Act or any other Act. (Sec. 21, ss. 2).

11) Proposed Accomplishments

In defense of Bill 42 the Department of Agriculture listed the following accomplishments that would be achieved if Bill 42 was passed.32

1. Greatly curtail further loss of prime farm land throughout British Columbia.

2. Stabilize the agricultural land base so that improvement programs designed to improve farm income are not frittered away to housing and other non-agricultural uses. These include irrigation systems, farm development loans, dyking and drainage systems to mention but a few.

3. Guarantee the people of British Columbia that we will not be helplessly dependent on others for our food supply. The cheapest source of food capable of production in British Columbia, will usually be derived from local sources.

4. Reinforce the efforts of those citizens serving on Municipal Councils, Regional...
Boards, Planning Committees who share our serious concern for the preservation of farm land in this province.

5. Improve opportunities for young people to enter farming. This will occur through being able to lease Crown owned farms and in some situations, depending on experience, able to carry through with purchase of a farm.

6. Protect the quality of the environment by creation of green belt reserves - some will be comprised of farm lands.

7. Park land reserve and Land Bank reserve are included and are self-explanatory.

3. THE CONTROVERSY

It is probably quite safe to say that generally there was a high degree of unanimity throughout the Province and among most people with the basic principles of Bill 42. The necessity of preserving farmland from urban sprawl was readily accepted. In fact, three parties in the 1972 Provincial election had policies directly related to the preservation of farmland; the fourth party, the incumbent Social Credit Party, campaigned primarily on the basis of a continuance of its past performance.

Farmland preservation was proposed by the Liberal Party through the establishment of an "Agricultural Lands Trust" which would purchase the development rights of farmland from farmers to "preserve farm lands from ill-considered speculation and land speculation and development." The
Progressive Conservative Party's proposal centered on the use of "long range and systematic planning ... so that the best agricultural land is in fact used for agriculture, and is not wasted on other purposes through the lack of planning". As was referred to in Chapter V, and a factor which stimulated Bill 42, the New Democratic Party advanced a 'land zoning programme' aimed at the preservation of farmland for agricultural purposes.

Lane feels that the government believed that they were acting relatively innocuously in introducing Bill 42 - with the possible exception of the issue of compensation. Here the government expected criticism - but not nearly as much as did occur nor on the variety of topics. In referring to the evolving controversy, Fotheringham reports that he "detected a certain socialist impatience with detail, the old 'trust-us-because-our-hearts-are-pure' assumption, because surely we must get on with the task of saving the world."

Both those opposed to, and those supporting the Bill agree that the N.D.P. did not sufficiently prepare the people of British Columbia for Bill 42 and that its introduction was poorly handled. With reference to the inauguration of the government's land act, and shortly after the March 15, 1973 protest
march on the Legislature, the Premier was quoted as saying:

"Sure, we're going to have to stand back and take a look for a bit. It's been bad p.r. Lousy p.r. We didn't explain things. That's obvious. We know that now. Lousy p.r. We just figured that all those people out there - he mentions names on opposition benches - who've been on municipal councils knew exactly what we were trying to do with the land bill. They know - but they're not speaking up. That's OK, I guess. That's politics. We were naive. We didn't prepare the public for what we were trying to do." 39

1) 'A Tidal Wave of Fear'

After the N.D.P. took office in the Fall of 1972, a 'mini-session' of the Legislature was held. The 1973 Spring-session, in which Bill 42 was introduced, was the first full sitting since the election. Although defying objective analysis, fear appears to have been of significant importance in stimulating the tremendous outcry of criticism which emerged after the introduction of the government's land act. The controversy arose not only because this somewhat ambiguous Bill dealt with land (an inherently sensitive subject) but, Lane suggests, also because the legislation was introduced by a new government with a different ideology than the previous Social Credit government and as a result, was met with a tidal wave of fear. This fear - mainly of the possibility of expropriation and the effect and extent of the designated reserves - had a fantastic effect on a great many people. The press -
from its position as generalists - did little to thwart the fear that arose.

For those people who felt affected or concerned with the Bill and wanted an unbiased opinion of its contents, the logical source would be the knowledgeable technicians - the lawyers. Yet, Lane points out, at the annual meeting of British Columbia lawyers dealing with municipal and real estate law, there usually is no more than twenty people at the meetings and the minutes only reach another 200 lawyers. In fact, Lane speculates, there are probably only about six lawyers in the Province that could be referred to as specialists in land law.40

It will probably never be clearly established whether the emotional statements made by opposition M.L.A.'s and various other individuals were provoked by a real fear of socialism or if they were conjured up because of purely political reasons. After reviewing the legislative debates in Hansard and the opposition remarks which choked the press from late February to mid-April of 1973, one must either gain a great respect for the cultural value of landownership (and feelings for land in general) which are instilled in people, or the opposition was using the issue as a stage upon which to launch an anti-socialist attack on the New Democratic Party Government.

The 'mini-session' in the Fall of 1972 dealt mainly with an increase in old age pensions and minimum wage
regulations. These were hardly the issues upon which the parties of the right could assault N.D.P. policy and expect to gain public support for their efforts. The Land Commission Act was, however, precisely the material upon which the opposition parties could initiate an offensive against the Government. The Department of Agriculture felt that some of the statements made during this period were based on an actual study of the Bill and were therefore considered informed and of a constructive nature. They rather politely concluded that other opinion was based on mis-information, misinterpretation and was sometimes deliberately misleading.  

ii) The Reaction

The day after Bill 42 was introduced on February 23rd, 1973, Social Credit house leader Frank Richter sent a telegram to Prime Minister Trudeau explaining that the Bill was "in total an unprecedented example of provincial legislation denying in every respect the principles involved in the Canadian Bill of Rights."

The arguments were not unlike those that surfaced during the Socreds non-confidence motion of February 2nd, 1973. On the same day, the president of the newly formed B.C. Landowners' Association threatened that people he had talked to were "almost at the point of revolutionary tactics right now" and that "violence isn't far away." The past president of the B.C. Fruit
Growers' Association also felt that "outraged farmers are ready to resort to militant action to show the depth of their anger."  

Derril Warren, Leader of the Progressive Conservatives, launched his attack on the Bill with a rather elaborate newspaper advertisement entitled 'This land is (NOT) your land'. Warren also went on an over 4,800 kilometre, 30 meeting province-wide campaign denouncing Bill 42 as "abusive legislation in that it....has the power to expropriate any land in the province." Warren, who was not a member of the legislative assembly also challenged Agricultural Minister Dave Stupich to resign his Nanaimo seat and run against him in a by-election on the issue of Bill 42. Stupich 'respectfully' declined the offer.

From Ottawa, John Diefenbaker also joined in the opposition of the Bill. He called on Justice Minister Otto Lang to use the power of reserving royal assent to the legislation, so that even if passed by the British Columbia Legislature it would not take effect. Liberal leader David Anderson called the Land Commission Act 'dictatorial' and added that "this government's record is such that we cannot trust them, and this Bill shows why." W.A.C. Benett flew home on March 2nd, 1973 from South Africa, cutting short a 2½ month vacation. He immediately proclaimed that "Socialism is now in full flood in B.C." and demanded that a provincial election
be called forthwith. He warned that "no house is safe, no business is safe" because if you "are going to attack freedom, you always attack land". 48

During the second reading of the Bill, Don Phillips (S.C. - South Peace River) held the floor of the Legislature for over 12 hours as the Socreds successfully extended the debate in the house until after the protest march on March 15th. 49 The march, organized primarily by the B.C.F.A., expected to have between 2,000 and 4,000 farmers plus 3,000 marchers mobilized by the B.C. Landowners' Association. The marchers were also to be joined by members of the newly formed Stamp Out Socialism (S.O.S.) group. 50 The non-violent march drew approximately 2,500 people to Victoria to protest the Government's land act.

A final example of the emotional fervour that erupted during the debate on the Bill is a telegram sent to the Queen at Buckingham Palace, asking her to withhold royal assent from the Bill. A similar telegram was sent to the Lieutenant-Governor of British Columbia and the Governor-General of Canada from 15 'prominent' Langley area citizens, including the Mayor of Langley District and former Langley M.L.A. Hunter Vogel. 51

From February 24th 1973, two days after Bill 42 was introduced, until April 24th, a total of 64 'letters-to-the-editor' were received by the Vancouver
Sun and The Province concerning Bill 42. With only 50 publishing days during this two month period, the Vancouver dailies averaged more than one letter each day. The middle two weeks of March were the most active. In total, four letters can be described as being neutral, 20 were definitely against the Bill (31.25%), and 40 (62.5%) of the letters were in favour of the Government's land policy. The volume of letters on this one issue in itself reveals the importance given the matter. Although this source is a rather crude indication of public reaction to the Bill, it does tend to show a definite trend of public opinion.

iii) Sources of Controversy

The most visible group opposing the Bill, as indicated from the reaction above, was the opposition politicians including a number of quite vocal former M.L.A's who had lost the election six months before. Like the politicians, the B.C.F.A., which represents the vast majority of commercial farmers, also used the issue as a stage in order to enunciate their views and emphasize the problems of farming. In recognition of the plight of the agricultural industry and more importantly the farmer himself, one could hardly blame the B.C.F.A. for taking such a stance. Unlike most other groups, the farming community would be directly affected and therefore had much more to lose
through poor legislation and much more to gain if
good legislation was passed. As a pressure group the
B.C.F.A. was extremely credible.

Despite the 'march on the Legislature', the
B.C.F.A., through its Briefs, generally confined its
attack to the legislation itself and did not expand
its energies on a fight against the purported 'evils
of socialism'. Although some of the issues the B.C.F.A.
raised were in hindsight unwarranted (i.e. expropriation),
their main thrust was against section 16 of the Bill
which did not recognize any harmful effects to land
through designation and therefore refused the right
of compensation.

The following resolution, passed at the 36th
annual convention of the B.C.F.A. in December of
1969, reveals a very close resemblance between the
feelings of the province's commercial farmers and
the reasoning behind and goals of Bill 42. The follow­
ing points were made by the B.C. Fruit Growers'
Association in support of the resolution:

-it is very difficult to preserve land for
agricultural purposes on the fringes of urban
development.

-farmers find it difficult -frequently impossible -
to sell their farms as economic units for
economic purposes.

-all available agricultural land should be
retained for food production and the preservation
of green belts.

-preservation of such agricultural land is
beyond the means of local governments.
The resolution, number 20, read as follows:

"It is Resolved that - The provincial government be requested to establish an Agricultural Land Commission which would be responsible for the acquisition of any agriculturally zoned farmland at existing market levels in the areas concerned where a farm owner is unable to or does not desire to continue farming and is unable to sell his farm as an economic unit for farm purposes, and lease such land for farm purposes."52

Within this resolution the demand for compensation at market value is quite clear and is consistent with the B.C.F.A.'s most forceful argument against Bill 42.

Despite the concern within the agricultural community, the Government felt the main source of opposition came from persons or companies holding land for speculative purposes on the urban fringe in both the Lower Mainland and in the Okanagan. This was not the opinion of the opposition parties which gave the impression, through the press, that the 'farmers were up in arms' over Bill 42.

Harold Steves, New Democrat MLA from Richmond, argued in the Legislature that this was not the case. Steves said that nearly all the farmers who came from Richmond on March 15th to demonstrate on the Legislature steps against Bill 42 were major land owners who had been trying to get their agricultural land rezoned. He also stated that after checking the postal meter registrations, he found that many of the "Stop Bill 42" postcards he received were mailed by people working for
development, real estate and building supply companies. Steves added that twenty-two postcards came from David Dawson Agencies Ltd. alone which he claimed controls 25 per cent of all development in Richmond, and yet, of the several hundred letters and postcards he received objecting to the legislation, only three were from bona fide farmers.

Don Lewis, a farmer and N.D.P. backbencher, supported Steves' claim and said that farmers in his riding of Shuswap were 4 to 1 in favour of the Bill. Stupich also felt the impression that the vast numbers of B.C. farmers opposed the land act was deceptive. 

"If you use the definition that a farmer is anyone with an acre of land who produces $50 worth of saleable produce a year, there are 18,000 farmers in British Columbia. Only half that number however, produce more than $2,500 worth of saleable produce. In other words, the other 9,000 are people who own farmland but obviously make their living in other ways. A lot of the opposition has come from these people."

Wilkinson upheld the Government's view and firmly stated that, "the commercial farmer was not the main force against the Act. The strong attack on the legislation was principally prompted by persons holding land close to urban expansion areas for speculative reasons, followed by firms and individuals obtaining their livelihood from land development."
Infuriated by the Bill's opposition, Highways Minister Bob Strachan, while speaking to a group of insurance agents, remarked that opposition to the land act "is primarily the result of the hysteria whipped up by some hotline bigmouths who are getting hysterical about their ratings, and some politicians who are still mad they didn't win the last election."^58

Despite the differences of opinion concerning the source of opposition to Bill 42, the farmers through the B.C.F.A. have not continued their opposition which the right wing parties felt was so apparent during February and March of 1973. In two briefs from the B.C.F.A. concerned with proposals for the betterment of agriculture, one presented in August and the other released in December of 1973, there was not one condescending word against the Land Commission Act.

A number of groups voiced their support and opposition towards the Bill during the early two months of debate (see Appendix D). Generally, environmental, labour and two farm organizations supported the Bill while opposition came from real estate interests, agriculture organizations and anti-socialist groups.

The controversy surrounding this single piece of legislation was intense. The Government, for its rather poor efforts in preparing the public for the Bill, can be held initially responsible for the unrest which the legislation caused. The New Democratic Party
members would however, be quick to point out that once the debate began to evolve, it was the opposition members in the Legislature and other key figures and groups that encouraged discontentment, often - in the N.D.P. opinion - unnecessarily. On March 26, 1973 the Premier spoke in the Legislature in defense of the Bill. The press referred to his speech as a "slashing attack on the opposition parties for failing to propose positive amendments." (to Bill 42) In particular, Barrett accused opposition leader W.A.C. Bennett of "preaching anarchy" and singled out Derril Warren for "rabble-rousing....the lowest form of politics I've witnessed."59

Viewing the controversy from a much less emotional stance, and after almost a year, the Chairman of the Land Commission made the following remarks; "Ironically, the great furor which arose on the occasion of the introduction of Bill 42 has served a very valuable role of making the public aware of a situation which had been countenanced almost unnoticed for decades. The fact that these measures coincided with a national and world food shortage together with a renewed concern for unplanned population growth has served agriculture very well."60
FOOTNOTES

1. B.C. Regulation 4/73.


4. 'Farmers want higher prices....', Vancouver Sun, December 8, 1972.


7. The B.C.F.A. have, in their Victoria office, a large 'scrapbook' with various reports, briefs, press releases and newspaper clippings dealing with the Land Commission Act. When reference is made to this source it will be cited as - B.C. Federation of Agriculture.

8. B.C. Federation of Agriculture, p. 5.


12. B.C. Regulation, 4/73

13. Taxation Act, Chapter 376, R.S.B.C. 1960, Sec. 2.

14. B.C. Regulation, 19/73.

15. Stupich, David D., Minister of Agriculture, Farm Land Preservation (a letter to Municipalities and Regional Districts, February 16, 1973) p. 3-4.

16. Lane, interview, April 6, 1974.


18. Lane, interview, April 6, 1974.


22. Environment and Land Use Act, Chapter 17, R.S.B.C. 1971, Sec. 6.


25. The original version of the Land Commission Act will be consistently referred to as Bill 42 or simply the Bill. The final draft of the Act which is now law will be noted as the Land Commission Act or the Act. Reference to other legislation will be alluded to by its full description.


27. 'Farmers must wait....', Vancouver Sun, February 23, 1973.


30. Wilkinson, correspondence, March 15, 1974


32. Background Paper, p. 5-6.

33. Arcus, p. 2.


37. Lane, interview, April 6, 1974.


40. Lane, interview, April 6, 1974.

41. Background Paper, p. 5.


43. 'This land is (NOT) your land', Vancouver Sun, March 3, 1973.

44. 'Warren opens B.C. crusade', Vancouver Sun, March 5, 1973.


47. 'Anderson tells bull....', Vancouver Sun, March 14, 1973.


59. 'Bennett preaches anarchy....', Vancouver Sun, March 27, 1973.

60. Lane, W.T., The Land Commission and Its Significance To British Columbia Agriculture (Speech to the B.C. Department of Agriculture, December 5, 1973) p. 4.
CHAPTER VII
THE ISSUES AND AMENDMENTS

1. THE ISSUES

Bill 42 was attacked on many fronts. The following will be a brief review of what could be termed 'general or minor issues' advanced during the public (legislative) and private debates concerning the 'land act'. Following this will be a list of the major issues which arose. The source or sources will not generally be specified but the 'issue list' was compiled through an examination of various speeches, press clippings, Hansard, reports, briefs, correspondence and personal interviews. The major issues will be further expanded upon and analysed through an examination of the Land Commission Act, its amendments, and through the opinions of 'informed' individuals.

1) General Issues Arising From Bill 42's Introduction

Initially, as discussed previously, the Bill was noted as being contrary to the BILL OF RIGHTS. To withdraw Bill 42 on these grounds would place in jeopardy all zoning and subdivision control by-laws in the Province. With the exception of John Diefenbaker's appeal to Otto Lang, this issue was significantly not maintained throughout the debates and after receiving headlines on the front page of the Vancouver Sun on
February 23rd, 1973, the issue 'dropped from sight'.

A number of general arguments were levelled at the Bill which demonstrated the degree to which the issues themselves were politicized. The Bill was denounced as being DICTATORIAL, AUTOCRATIC and FRIGHTENING. These comments were aroused through a feeling, among those opposed to the Bill, that PERSONAL FREEDOMS AND DEMOCRACY itself would be destroyed through the enactment of the Government's land policies. These rather vague issues were associated with the much more specific questions pertaining to appeal procedures and the extent of the Commission's power. Attacking the Bill on the grounds that it demonstrated the 'undemocratic nature' of the New Democratic Party can be linked to more general criticism which opposition parties (or party supporters) have fostered that condemn the N.D.P. as being fascist and/or communist.¹

Bill 42 was also attacked on the grounds that it was DOCTRINAIRE SOCIALISM. Out of context the legislation can be viewed simply as a land management tool - not unlike zoning ordinances in many respects. At the same time the Bill does not contradict socialist theory adhered to by the former C.C.F and present New Democratic Party. It can be strongly speculated that without this philosophical foundation upon which the N.D.P. is based, a land act displaying the strength
of conviction that the *Land Commission Act* does, would not have been enacted by any other political party in British Columbia in 1973. (See Chapter V).

Attempting to denounce the Bill by an aggressive condemnation of socialism probably weakened the opposition's arguments and resulted in a reaction by N.D.P. supporters, coming to the defense of their maligned party and its policies through a firm endorsement of Bill 42. This in part explains the volume of letters to the editors of the two Vancouver dailies on the subject and the over 2 to 1 support for, rather than against the Bill. This reaction tended to further politicize the issues unnecessarily.

It was also felt that Bill 42 would effectively DESTROY the Green Belt Protection Fund and the Accelerated Park Development Fund. After the Commission's first year of operation this has certainly not been the case. The Commission's activities will probably support and enhance, through better coordination, both of these funds. It was argued, especially by the Liberal party, that FURTHER STUDIES - perhaps even a Royal Commission - should be established to examine the agricultural industry in total and that we should have a 'land inventory'.\(^2\) It was the N.D.P.'s impression that the Social Credit government had studied without action for twenty years and that the Canada Land Inventory provided at least a base from which designation
plans could be established. The Government never envisaged the Bill as an end-all to agricultural policy - but only as an important beginning.

With reference to Section 14 of Bill 42 local governments expressed concern that the Commission was permitted, but not required, to make grants to municipalities in lieu of TAXES on property it might own. This issue was not clarified by the amendments and at the time of this writing, the Commission's regulations concerning this matter had not been finalized. However, in the case of Commission land which is leased back to a farmer, the lease arrangement would probably include the payment of taxes by the lessee. In the case of land owned, but not leased, the Commission will fulfill its obligation as the registered owner and through the grant-in-lieu formula, remit payment to the appropriate body.

11) Major Issues Arising From Bill 42's Introduction

Hopefully, the valid issues that arose did not find their source in misleading statements. Rather, they were basic problems which deserve the scrutiny of a concerned public. Not only was the public poorly prepared for the Government's 'land act' but Bill 42 was in some instances ambiguous and thereby open to misinterpretation. The following is a list of major misunderstandings and issues that were central in the controversy.
of Bill 42.

1. The Government was going to TAKE OR AFFECT ALL LAND. This included the arguments that a farmer could not sell his property, private land ownership was dead, and public freedom was harmed.

2. COMPENSATION should be paid for the devaluation of property placed in a reserve.

3. APPEAL procedures must be clarified and enhanced.

4. The MUNICIPAL FUNCTIONS of zoning and planning were being destroyed. Related to this was the criticism of government centralization and the lack of public involvement.

5. EXPROPRIATION was included in the powers of the Commission. This was closely allied with issue #1 and this belief encouraged the fear that the Commission could take all land either outright or through designation.

6. The POWERS OF THE COMMISSION were strongly attacked and the Bill was noted as government by regulation. There was vast misinterpretation of the Commission's regulatory powers. The term of office, removal of Commission members, development of further bureaucracy and the possibility of party patronage were all listed as specific complaints of the Commission.

7. URBAN HOUSING and LAND VALUES WOULD INCREASE. This included a belief that there would be very little land left to develop for urban purposes after designation and that the development industry would consequently be left immobilized.

2. AMENDMENTS

As Bill 42 had previously been, the amendments to the Bill were controversial in their own right. The amendments clarified a number of the major issues but to many people they came up short. For the B.C.F.A.
only eight of their eighteen requested changes were included. For still others, the amendments, in their opinion, weakened the legislation to a point of being unworkable and what would have been a 'one-stop' government agency for land use matters was not.

By March 7th, 1973, and two days before the second reading of Bill 42 was to begin, the Government gave firm indication that it was going to make major amendments to the Bill. This, at least was the impression gained by executives of the B.C.F.A. who met with the Premier and Agricultural Minister on that date. There was speculation, which was enunciated by the opposition, that several of the N.D.P. backbenchers were expressing reservations about the land act. Others, however, insisted that there was no need for changing the Bill.

Being a product of the political arena, the motivating force behind the N.D.P.'s decision to alter Bill 42 may never be fully realized. Having been 'forced', because of a rash of subdivision applications, to effectuate the farmland freeze and subsequently hurrying to produce the Land Commission Act, the Government may have fully realized that their initial efforts would be faulty and would have to be amended in due course. The day Bill 42 was introduced Stupich said that the legislation could be viewed by the public during the summer and that, "Any possible amendments...."
could be introduced at the next session."

Through the controversy, and often absurd statements, the Government may have had their eyes genuinely opened to some errors in the legislation. However, the Government's decision to amend the Bill may quite possibly have been more politically motivated than a striving for statutory perfection.

The Land Commission Act was news from coast to coast. For the first time the spotlight had controv­ersially fallen on British Columbia's new Government. The right wing, anti-socialist elements, within the Province, were battering away at the Government and its land act at every conceivable opportunity.

The methods were being tested. If the Bill's basic principle - of preserving farmland - had not been so admirable, the Government may have, if one could conceive of it, met with an even more vocal hue-and-cry. Basically the amendments to the Bill were an exercise in clarification. (With two exceptions). Realizing this, one suspects that the Government was willing to make amendments rather than appear stubborn, as long as the fundamental objectives of the Bill were not harmed.

The Bill underwent forty-five hours and forty minutes of debate during its second reading. Four hours after approval in principle was given to the Bill, the Government's amendments were introduced on March 28th, 1973. The Government was accused of
deliberately polarizing opinions while withholding its amendments. Stupich denied this, saying that it would be unreasonable to introduce amendments before the Government had given the opposition an opportunity to discuss the Bill.

1) The Significant Changes

Ten of the twenty-two sections of Bill 42 were altered in some way. Only Section 8 and Section 9 were substantially changed. In both of these cases there was a complete remodelling done, but for the most part, the numerous other alterations were for the purpose of clarifying sections of the Bill that had been consistently misinterpreted, due partially, at least, to the Bill's own ambiguity.

The former marginal notes of Section 8 of Bill 42 stated "Designation of reserves" and the same note in the amended Act read "Agricultural land reserves" and in themselves sum up the changes to this Section. Rather than simply stating that the Commission had the power to designate and thereby establish any of the four reserves as had been the case in Bill 42, the Act specifically defines the way in which agricultural land reserves will be created. By doing so the regional boards and municipal councils were given a substantial role in creating the agricultural reserve plans. The regional board was required by by-law to adopt an
agricultural land reserve plan and before doing so had to hold a public hearing in accordance to Section 703 of the Municipal Act (Sec. 8, ss. 2 & 3).

Although the regional districts of the Lower Mainland had their official plans established, it was thought that requiring local participation could mean a boon to those regional districts that already had drafted regional plans but were being held up in adopting them because of pressure from those not wanting restrictive zoning.

The newly drafted and enlarged Section 9 established appeal procedures within the Act. In summary an owner of land aggrieved by a designation could apply to have his land excluded from the agricultural land reserves (Sec. 9, ss. 2).

Both of these revised sections will be more fully discussed in the following section of the paper which examines the major issues previously outlined. Quite often the amendment itself quelled the controversy. Where this was not the case the validity of the issue will be discussed forthwith.

ii) The Major Issues

Issue #1 - Take or Affect All Land:

The argument that arose concerning the Government's apparent intentions to take or affect all land was directly linked to the Commission's power to designate land into
the specified land reserves. The perpetuation of this point can be seen in the following excerpt from a Vancouver Sun article referring to the pre-amended Bill, "Under the land act a five member commission would be given the authority to designate the use of any land in the province in one of four types of reserves." ¹⁰

Notation should be made of the phrase "designate the use of any land in the province." This 'use' aspect is clearly, but wrongly, stated.

The original version of Section 8 allowed the Commission to designate and thereby establish reserves but importantly, such reserves, "shall be subject to this Act and the regulations." (Sec. 8). Significantly, the Commission was only given the power (through Sections 10 and 12) to regulate the use of land in agricultural land reserves. Any other powers dealt strictly with housekeeping matters and the purchase and disposition of property. The problem of misinterpretation of this function was clearly one of poor drafting of the Bill and not one of devious intentions by the Government. ¹¹

The problem in drafting occurred because the word designation had two quite different applications.

In the case of the agricultural land reserves, private and crown land could be selected (by an established method) by the Commission and placed in a reserve and, in effect, regulated in a similar fashion to zoning. But the green belt, park land,
and land bank land reserves, when established would
in fact only consist of 'lines on a map'. There were
no private rights affected. Although land could be
placed in one of these three reserves the procedure
had no effect on the use - local zoning regulations
would still apply. The Commission's role would be to
co-ordinate the various landowners in a reserve, and
in some cases acquire private property in order to hold
the land in its appropriate reserve. Recognizing that
less than 7 per cent of British Columbia's land area
is privately held, one would suspect - especially in
areas removed from the highly urbanized sections of
the Province - that the Commission would be more often
co-ordinating the actions of a number of Governmental
agencies. (e.g. Lands Branch and B.C. Hydro on same land).
The opposition was probably technically correct
in saying that the Bill allowed the Commission to place
all land into one of the four reserves. Stupich admit­
ted that "the wording of the section (Sec. 8) setting
out four kinds of land reserves in the province was
confusing" (in Bill 42) but he added, "It's not the
intention to carve up the province into four reserves." The
preservation of each of the four different
types of land use (Sec. 7) is the basic objective of
the Land Commission Act. The powers of designation is
the instrument through which these ends can be achieved.
Lane, better than any other source, clearly explains
the regulatory powers associated with designation.

"It should be noted, however, that only in the case of agricultural land is the Commission given any zoning or regulatory powers. In other words, only in the case of land actually designated as Agricultural Land Reserve are there any restrictions on the private use of private lands for purposes incompatible with farming or agriculture.

This regulatory power is to be found in section 10 subsection (1) of the Land Commission Act.

It is important to note that there is no similar provision with respect to greenbelt land, land bank land or park land reserves. Indeed, while the agricultural lands become part of the agriculture land reserve after designation, greenbelt, land bank, and park lands become part of a reserve only after the Land Commission has acquired the property either from the Crown or by purchase or gift from private citizens. There is no regulatory power involved in so far as the latter three reserves are concerned. This was the thought behind even the original version of Bill 42. Because of the understandable but groundless concern expressed in some quarters on the introduction of the legislation, an erroneous belief grew in the minds of many people (and is still held by a few) that the Land Commission can "zone" private property for greenbelt, land bank or park land purposes. I want to make it quite clear that this never was nor presently is the case."14

Section 7 subsection (2) of the Act was added in total to the amended version of the Bill. It required the Commission to purchase or acquire - not by expropriation - any land prior to placing it in a greenbelt, park land or land bank reserve. Functionally this was not an alteration to the Bill and it did not, as Lane maintains, change the intent of the Act but was only a point of clarification.
The contention by those opposed to the land act that the Government's intentions were to nationalize land and that the designation of land reserves, regardless of reference to Bill 42 or the Act, was the means of securing this end, were unequivocally false. Not only can this be supported through an analysis of the legislation but historically the C.C.F.-N.D.P. have been opposed to the nationalization of private property of an individual. Furthermore, this principle grew from a concern for the maintenance of the family farm in private hands.

Issue #2 - Compensation:

The question of compensation being paid to land owners for the possible devaluation of their land through the designation process was the central theme of the B.C.F.A.'s criticism of the Bill. Section 16 of Bill 42 stated:

"Land shall be deemed not to be taken or injuriously affected by reason of the designation by the commission of that land as an agricultural land reserve, green belt land reserve, land bank land reserve, or park land reserve."

Since Section 7(2) of the Act established that the latter three types of reserves had to be purchased or acquired before designation, the Commission would of course not be worried about the possible devaluation of its own land and therefore Section 16 of the
Land Commission Act was as follows:

"Land shall be deemed not to be taken or injuriously affected by reason of the designation by the commission of that land as an agricultural land reserve."

In effect the Government stood firm on the question of compensation throughout the controversy.

The issue of compensation is of course closely related to the question of unearned increment. Although there may be a growing tendency to condemn - at least morally - one's right to acquire that amount of the inflation in land values which resulted from public decisions and subsequent action, the farmer, as the B.C.F.A. will point out, is thought to have a special case.

The right of a farmer to sell his property to the highest bidder in order to secure a retirement fund has been regarded as justifiable in light of the farmers' long years of hard work which are often rewarded with sub-standard earnings.

The problem is of course not that simple. In areas within reasonable proximity to the urban fringe the 'highest bidder' invariably will be a land speculator-developer with little intention of utilizing the land for long term agricultural purposes.

Establishing a formula for equitably paying compensation is a consideration which would hinder such a scheme. There appeared to be, in some quarters, a general assumption throughout the debate that paying
compensation would in fact universally assist all farmers. This, however, was not the case in the market prior to the Act and most certainly would not be true if compensation was paid by the Government under the Act. Those farmers located close to the urban fringe would quite probably realize substantial profits while others would not. Clearly the paying of compensation on the basis of the market value of land is a very unequitable means of agricultural assistance - 'if' this is what its advocates saw as the role of compensatory payment. Wilkinson points out that a transaction has to occur before it is known if land has actually devaluated. "The danger is that transactions could have been made to occur which leads to the possibility that all apparently aggrieved landowners could not be treated alike."¹⁵

In 1972 D.G. Taylor, Mayor of Matsqui, relying on his belief that a farmer was entitled to compensation, strongly advocated the purchasing of the development rights of the farmers' property. This he felt could be done, "by negotiating with the farmer and purchasing the development rights from him and a covenant be placed on the land title in the name of the three levels of government....in perpetuity." Taylor's theory was based on two assumptions - that land is a commodity and that the development rights must be negotiated from the farmer "who now holds them."¹⁶
Realizing the importance of land - especially agricultural land - it is being increasingly questioned whether society can allow land to have the status of a commodity. Taylor also failed to recognize that the 'development rights' of land are clearly held by the Crown and administered through its agencies - not by any individual holding an estate in land.

Harold Steves, (N.D.P. - Richmond) a student of farm economics, questions the feasibility of purchasing development rights. He stated that it would cost $200 billion to $300 billion to carry out such a scheme Provincially, and, "In the Lower Mainland area alone, where there is particular pressure to subdivide, it would cost $80 - $100 billion to purchase farmland development rights."17

Even if a reasonable method of compensation could be devised, its beneficial effect on the farming industry would last for only a single generation and would not solve the more fundamental problems the industry is facing. Ensuring adequate income levels and developing a more universally applicable pension programme are but two types of programmes that must be implemented to achieve a high degree of security for future generations of our farm population.18

The legal aspects of the compensation issue was the crux upon which the Government based its policy.

The Provincial Council of the Canadian Bar Association
narrowly passed a resolution asking the Government to either expropriate land outright or to give a fair price for land devalued by the law. M.L.A. and lawyer Gary Lauk (N.D.P. - Vancouver Centre) accused the council of political partisanship and said that "every lawyer knows that the principle of no compensation of downzoning is well established in law and that the resolution of the council was counter to legal precedent."\(^{19}\)

In support of Lauk's claim, the Vancouver Charter section 569(1) and the Municipal Act section 706(1) both lend themselves as evidence that "property shall be deemed not to be taken or injuriously affected by reason of the adoption of a zoning by-law........"\(^{20}\)

Despite the lengthy debate over this issue, farmland as referred to above, has not conclusively been devalued by the implementation of the Act. Wilkinson relates that "Agricultural land values have remained high in spite of the legislation, thus disproving the assumption they would be devalued. The thought is now being expressed that agricultural land values may even accelerate faster than non-agricultural lands now that the short supply is clearly known and understood."\(^{21}\)

Issue #3 - Appeal Procedures:

Critics of Bill 42 were concerned that the
legislation did not allow a landowner sufficient opportunity to appeal the decisions of the Commission. This, coupled with the Commission's power to designate and regulate agricultural reserves was sufficient reason for the Government's opposition to proclaim the Bill dictatorial. Within section 11 of the Bill, a landowner could only apply to the Commission for exemption on the grounds of a non-conforming use or on a question of law.

The amendments to Section 9 established the procedures for appeals for exclusion from agricultural land reserves. A municipality, regional district, the Commission, as well as the Cabinet itself, may request the Lieutenant-Governor in Council to exclude land from the Agricultural Reserve.22 (Sec. 9, ss.1) Essentially an individual landowner aggrieved by a designation by the Commission of his land may apply to the Commission to have his land excluded from the agricultural land reserve. If however the land was zoned for agricultural uses under a by-law of a municipality or regional district immediately prior to December 21, 1972, the owner is not entitled to apply directly to the Commission, but must first be authorized by a resolution of the municipality or regional district to do so. (Sec. 9, ss.5).

(Procedurally an application to appeal under the Land Commission Act is first received and processed by the
If the aggrieved owner appeals to the Land Commission and is not satisfied with the decision of the Commission with respect to the proposed exclusion of land from an Agricultural Reserve, the owner may further appeal to the Environment and Land Use Committee of Cabinet. The landowner may do this only however, if the municipality or regional district in question has authorized the further appeal and if given leave to appeal by at least two members of the Land Commission. (Sec. 11, ss. 7). Lane, Chairman of the Commission concludes that, "It is not expected such 'leave' would be denied a person if there was any merit in the application."^{23}

While the amendments pertaining to appeals generally satisfied the opposition, others felt the Act had been substantially weakened with regard to the land use regulatory function of the Commission. The question can be viewed in two different contexts. Firstly, by affording an individual the opportunity to appeal the Commission's designation decisions, and possibly carry the appeal to the Environment and Land Use Committee, the Commission would come under more direct pressure to change the Agricultural Land Reserve plans under the Act than under the original version of Bill 42.

Secondly, however, the Commission's capacity to preserve land for agricultural purposes continues to
be many times greater than the ability of the regional districts operating under a regional plan. The single most important function of the Commission is to save farmland for agricultural purposes. The municipalities and regions however, have a multiplicity of functions to deal with - often in a competitive fashion.

Through the Official Regional Plan there were, prior to the Land Commission Act, large areas of the Lower Mainland designated for agricultural purposes. Land that was zoned for agricultural or farm use under a by-law of a municipality or regional district prior to December 21st, 1972, was automatically within the agricultural land reserve (Sec. 8, ss. 11). This subsection was added to the Bill in the form of an amendment and formed a third criteria, along with farmland as defined in section 2 of the Taxation Act and classifications 1, 2, 3, amd 4 of the agricultural section of the Canada Land Inventory, for establishing the agricultural reserves. By doing this, the appeal procedure, in many cases, has to go through a three tier process.

If a farm was not zoned for an agricultural use prior to December 21st, 1972 but designated as farmland by the Commission, the 'landowner' could apply for exclusion from the Agricultural Land Reserve without a resolution from the appropriate municipality or
regional district. If the applicant is successful at this level but the municipal zoning and/or Official Regional Plan designation do not suit the applicant's proposed land use, amendments to both of these documents would be necessary before proceeding further. At either of these two levels, the 're-zoning' could be opposed.

If consistency is achieved in future years between Municipal zoning, the official regional plans and the agricultural land reserves - as Hankin feels will be the case - this three tier process will be the normal course a 'landowner' will have to take when requesting exclusion from an agricultural land reserve. 24

Through all this, there remains of course the possibility of the E.L.U. Committee excluding land from the agricultural reserves upon appeal (Sec. 9, ss. 7). At present, this has not been tested but one would suspect that the case would have to be of extraordinary validity for the Cabinet to overturn the decision of the Commission, and possibly that of the municipal and regional bodies. Despite the appeal procedures, it should be significantly difficult to exclude land from the Agricultural Land Reserves.
Issue #4 - Municipal Hole:

The lack of public, municipal or regional district involvement in the establishment of the reserves was considered to be a significant omission in the Bill. There was also a concern that through the establishment of land bank land reserves, all lands suitable for future urban development would be under Provincial rather than local control.25

To the latter question the municipalities need not have worried about having their powers suspended through the designation of land bank reserves, since the power to designate did not include the power to regulate. However, section 7, subsection 2 of the Act, which stipulates that the Commission must purchase or acquire all lands for any of the non-agricultural reserves, clarified any misinterpretation this aspect may have caused.

Section 8 of the Act, in its amended version, allows the regional board of each regional district, in cooperation with its member municipalities, to prepare the agricultural land reserve plans. These plans, created by the regions, would be forwarded to the Cabinet, through the Commission, for approval. The Commission, however, reserves the right to offer amendments to the agricultural land reserve plans. Mandatory to the creation of the reserve plans is the holding of a public hearing at the local level. (Sec. 8, ss. 3)
These amendments generally satisfied the criticisms of the Union of B.C. Municipalities, as well as the reservations held by the Sierra Club in this regard.

In the case of a Region failing to submit an agricultural land reserve plan, the Land Commission would assume responsibility for its creation. (Sec. 8, ss.7). The powers of the Commission are altered but not harmed to a degree that would make its objectives unattainable. The rights of the Commission to amend the carrying out of the intent and purpose of the Act (Sec. 8, ss. 5) is all important. Naturally if a regional board disapproved of the Commission's amendments, an appeal could be launched to the Lieutenant-Governor in Council under Section 9, subsection 1 of the Act. Instances such as this have not yet occurred but one must assume that the opinion of the Land Commission would receive a great deal of consideration by Cabinet - especially if a decision against the Commission could harm its credibility.

Issue #5 - Expropriation:

The power to expropriate was not given to the Land Commission within the original version of Bill 42. The right of the Land Commission to expropriate was wrongly assumed by many factions of the community because of a misinterpretation of Section 7(i) of Bill 42 which stated that the Commission had the power
to 'purchase or otherwise acquire land, on such terms and conditions as the commission may consider advisable...'.

The following opinion on this controversial issue was advanced by A.R. Lucas and R.T. Franson - both Professors of Law at the University of British Columbia. This view is considered correct by William Lane and upheld by the Law Reform Commission report of 1971.

"...the bill (Bill 42) is not an expropriation statute and does not give the government the right or power to take an individual's land or personal property by compulsory process. Those who argue otherwise apparently base their argument on the power of the Commission under s. 7(i)...." "The language is not sufficient to give the government the right to expropriate land. Powers to expropriate may be conferred only by clear and explicit statutory language. The word 'otherwise' in the bill merely allows the commission to negotiate acquisition of property by means other than sale, (for example, by leasing it)."

Section 504(1) of the Municipal Act stipulates that, "The Council may by by-law, acquire, by purchase, lease or otherwise, ....real or personal property." But Section 504(3) specifically states that, "The Council of a city or district municipality may expropriate real or personal property...." Within the Vancouver Charter Section 190(a) specifies that the Council may provide "for acquiring such real property...as may be required." Quite distinctly however, Part XXVI of the Charter, being Sections 531 to 557 inclusively, set forth the City of Vancouver's power to expropriate. Both of these examples clearly support the opinion of Lucus and Franson.
Lane strongly contends that Bill 42 had no powers to expropriate within it, and "if such a case appeared in court it would be thrown out in fifteen minutes." To clarify this issue the words "except by expropriation" were included in the Act where appropriate. This of course had no effect on the Commission's powers. Lane felt that not only was the inclusion of this statement not necessary, but by stipulating the expropriation clause as it is in the Land Commission Act all other Acts with a "may purchase or otherwise acquire" statement should technically be amended to conform.

Issue #6 - Powers of the Commission:

Various aspects of the Commission and its powers were in themselves points of controversy as they were presented in Bill 42. Section 4(2) of the Bill allowed the Commission to,

"hold in its own name any land or other real or personal property...."

Stupich referred to the concerns expressed about the phrase 'personal property' as being "ridiculous." An N.D.P. bulletin stated that this particular Section refers only to the offices, equipment, and land that the Commission owns outright.

Section 7(1) of the Bill gives the Commission the power to "acquire and hold personal property and dispose of the same." The same bulletin of the N.D.P.
maintains that this section simply refers to equipment and stock on a farm that has been sold to the Commission by a farmer. Since it is usual to include the farm equipment when selling a farm, this Section was required in the Bill to allow the Commission to deal with such equipment.\textsuperscript{33} Lucas and Franson however, interpret Section 7(1) as referring to the Commission's ability to buy office furniture, typewriters, and the like.\textsuperscript{34} This of course complies with the N.D.P.'s view of Section 4(2). The difference of opinion is really not important - both concluded the same thing - the Commission was not going to take the 'shirt off of anyone's back', as the opposition was proclaiming.\textsuperscript{35}

These sections are not socialistic in nature or an infringement on individual rights. Nearly all corporations in Canada have this power.\textsuperscript{36} Both of these sections were, incidently, not amended.

The Commission, by Section 7(1) was given the additional powers to purchase or otherwise acquire land. This section was clarified by adding the phrase "except by expropriation" as stated above.

Of great importance to \textbf{Bill 42} was the power to designate various land reserves. (Sec. 7). Within the Act these powers were altered and clarified, but not weakened, by requiring the Commission to purchase any land prior to designating it as either green belt reserve, park reserve, or land bank reserve. With
reference to the primary function of the Act - to preserve agricultural land - the power to regulate the use of agricultural land, as stipulated in Sections 10 and 12, is by far the most important feature of the Act. Although the process of designation was significantly changed, the regulatory powers pertaining to agricultural reserves in Section 10 were only slightly amended by allowing "residences of an owner of agricultural land" to be erected according to regulation (Section 10(4iii)). Section 12 of the Bill was not altered at all.

The final regulatory powers contained in the Bill are found in Section 19 and were only slightly changed to conform with the amendment to Section 10(4iii) previously described. Lucas and Franson maintain that Bill 42 (and the same can equally be said of the Act) is not, as has been charged, government by regulation. The general power to make regulations by application of Section 19 is included in virtually every statute enacted in this Province in the past 20 or more years. "In fact, section 19 contains nine sub-parts that are quite specific in nature and appear, if anything, to constitute an attempt on the part of the legislative draftsmen to confine the powers of the Commission. In that, the bill is a step away from the government by regulation that we have been used to in the past. 37

The more general concerns, pertaining to the
Commission members' terms of office and their renewal as set out in Section 2(1) were not changed. The possibility of party patronage entering into the selection of the Commission members was a grave concern of the opposition. Section 2 stated that the Commission members - no less than five - would be appointed by the Lieutenant-Governor in Council.
The five appointees, acknowledged publicly on May 17, 1973, were Mr. William Lane (Chairman), a lawyer and previous municipal solicitor for Richmond; Dr. V. C. Brink, a professor of plant science at the University of British Columbia; Mr. Arthur Garrish, an Oliver orchardist and former President of the B.C. Fruit Growers Association; Ms. Mary Rawson, a town planner and specialist in land use economics; and Mr. Ted Barsby, a Nanaimo businessman, former Nanaimo alderman and former President of the B.C. Wildlife Federation. The appointments were formally introduced by Order-in-Council 1662 and approved on May 18, 1973.38
The reaction to the appointments was only positive. Charles Bernhardt, president of the B.C.F.A. was pleased with the selection as was Derril Warren of the Conservative Party. Of the five, only one was noted as being an N.D.P. supporter.39
A last general complaint of the Commission was that it is 'just another level of bureaucracy' adding to the complexities of dealing with land use problems.40
In response to this, Lane simply states that "...yes, this is another level, but to do the job that lies ahead with the given circumstances, this was unavoidable. Every attempt will be made, however, to ensure that the Commission functions as efficiently as possible." 41

Issue #7 - Increase in Property Values:

When Bill 42 was introduced, real estate experts warned that some rural building lots had increased 25 to 30 per cent since the December 21st, 1972 land freeze on farmland subdivision, and they expected a further 25 per cent increase over the next few months. They said prices on both building lots and resale properties would be squeezed up because of the Land Commission Act. It was further emphasized that while the land designations are sorted out "...development has stopped, and the supply of lots is drying up. It's all a matter of supply and demand." 42

Eight months later the Real Estate Trends report stated that although the housing price increase is a nationwide phenomenon, the supply function was not primarily responsible for the increased cost of housing. Rather, the rapid and somewhat unexpected increase in demand, combined with the availability of funds (mortgage) at relatively low cost and the lack of alternative rental accommodations, have been the
major factors behind the recent price increase for homes.$^{43}$

A 1973 report by the G.V.R.D. maintained that "there seems to be sufficient land already designated for urban purposes within the Official Regional Plan to meet the demands of the next decade. In fact, there is sufficient land already designated for urban purposes for about 25 years of development.$^{44}$

The farmland freeze and subsequent Land Commission Act 'did' have a contributive effect on increased housing and land values. It did not however, have any physical effect on the amount of developable land required to meet the housing needs. Rather, it was the fear that there would be a shortage of such land, generally advocated by those in various segments of the 'land industry', that assisted in the inflation of land values. The Trends report substantiates this point of view.

The recent (1973) rapid increase of lot prices was related more to the value of land in itself than to cost of servicing. Although some people may have a contradictory opinion, the land freeze has not seriously affected the short term supply of land. But, although the long term impact is not yet known, it is very likely that fear of a future shortage in the supply of land has had a psychological effect on the market.$^{45}$ Wilkinson comments that those who make
their livelihood from land development overlooked the fact that they should direct their attention to planned development elsewhere than on the heretofore easily accessible, cheaply developed farmlands. 46

iii) Concluding Remarks

Not all of the issues that arose in the controversy over Bill 42 were satisfied by the Bill's amendments. It must be remembered, however, that many of the problems that were cited were in fact non-issues. The amendments, although numerous, primarily served a clarification function. The two exceptions are the role of the regions and municipalities in producing the agricultural land reserve plans and the 'beefing up' of the appeal procedures.

Since the introduction of Bill 42 it has not perpetuated as a significant political issue. Premier Barrett, appearing on a radio 'talk show' on March 16, 1973, repeatedly stated that by the time of the next election, people would be so satisfied with the Land Commission Act that no politician in the Province will campaign on the issue of removing the Commission and expect to be elected. Since the Act gained Royal Assent on April 18, 1973, it was significantly not an issue of importance in either of the two Provincial by-elections held since that date.

Lane, through his travels throughout the Province
in connection with his commission duties, has found people readily accepting the objectives of the Act but despite the amendments, they are still questioning the Act's methods — especially in the area of compensation. The Act, in Lane's opinion, is generally accepted by the municipal decision makers — politicians, as it is by the regional and municipal technicians. Those who continue to oppose the Act — although few in number — are those people who own farmland close to the urban fringe and had their plans of acquiring substantial speculative gains rather dramatically destroyed.

The full understanding by the general public of the Act's objectives and methods remains highly questionable. The public was initially poorly prepared by the Government for the Act and the issues of controversy — valid or not — have not been easily erased in the public's mind. The following excerpt from a March 1974 letter to the editor of The Province referring to the Act reveals the degree of misunderstanding that is probably still quite widespread throughout the Province.

"The farmers and ranchers who bought land and paid the taxes on it for many years before the birth of the N.D.P. are now told if they can sell their land and to whom, (both of these assumptions are incorrect) for what purposes they can use it, and in some cases, whether or not they can build a residence on it."
the amendments did not harm the Commission's ability to achieve its primary objective - which is to preserve agricultural land for farm purposes.

Referring to the long term situation, Peter Arcus of the U.B.C. Department of Agricultural Economics, feels that the Commission will probably be called upon to rezone some farmland out of the Agricultural Land Reserve into other uses. Therefore, it is probably reasonable to expect that the Land Commission and the control of land use by the Provincial Cabinet will, at best, achieve only a more orderly development of urban areas in the encroachment upon farmlands rather than a once and for all freeze on farmland.  

This rather pessimistic view of the Commission's (Government's) ability to withstand urban encroachment onto agricultural land will be further discussed along with the Commission's administrative techniques employed in its first year of operation.
FOOTNOTES

1. This point can be illustrated many times in the press before and after the Bill 42 controversy but was specifically raised at a meeting of over 1,000 people in Ladner on March 11, 1973. At this meeting the right-wing 'Canadian League of Rights' circulated a leaflet emblazoned with a swastika and entitled "Mussolini, Hitler.... and Dave Barrett. (Vancouver Sun, March 12, 1973).


5. (a) Baxter, p. 20; (b) 'Land act changes....', Vancouver Sun, March 8, 1973; and (c) Franson, interview, February 25, 1974.


11. Also it may have been a case of the opposition realizing this distinction but they did not want to admit or believe it.

12. Lane, interview, April 6, 1974.


14. Lane, speech, December 5, 1974.


20. Municipal Act, R.S.B.C. 1960 Chapter 255, Sec. 706, ss. 1.
22. Lane, speech, December 5, 1974, p. 3.
30. Lane interview, March 16, 1974.
33. Ibid, p. 4.
37. Ibid.
38. B.C. Regulation 122/73.
41. Lane, interview, March 30, 1974.
42. '50 percent land hike....', Vancouver Sun, February 23, 1973.
47. Lane, lecture, February 20, 1974.
48. Lane, interview, February 6, 1974.
49. 'Tell us, Mr. Barrett....', The Province, March 7, 1974.
50. Arcus, p. 6.
CHAPTER VIII
ADMINISTRATION OF THE LAND COMMISSION ACT

There are two important points the reader must bear in mind throughout the following review of the administration of the Land Commission Act. Firstly, there are certain areas of administration which are well advanced but others have not been conclusively developed. Secondly, this particular analysis is primarily concerned with the Commission's work in establishing the Agricultural Land Reserves.

In its first year, the Commission's activities were predominantly associated with its duties and powers affecting agricultural land. As previously stated, the Land Commission Act is but a single, but important, aspect in the Government's agricultural policy. In the same way, the Commission plays a significant role in the Government's overall strategy of land-resource management.

1. ENVIRONMENT AND LAND USE

The Environment and Land Use Act, being one of only two statutes to which the Land Commission Act is subject,\(^1\) established the "Environment and Land Use Committee" of Cabinet.\(^2\) The Committee is responsible for broad environmental and land use policy. Significantly,
the E.L.U. Act overrides other development and environmental legislation. The E.L.U. Act is general in nature and although the Land Commission Act is very comprehensive, it is more specific and appropriately subjected to the E.L.U. Act for that reason.

While the Land Commission Act has centralized certain aspects of land use control, the Government justifies this direction because of a "clear need for meaningful Provincial leadership in sorting out the broad land management questions plaguing this province." Williams condemns the past Social Credit Government by saying that, "In the past, the regional districts have tried their best to work out meaningful plans, but they were stymied by the lack of clear policies by the previous Government. Our resources are too valuable to leave this past piecemeal process, and the experience and insight of the Municipalities and Regional Districts are too valuable to leave in their present frustrations."

Regardless of what the environment-resource problems are and what caused them, the new Provincial Government clearly intends to apply a much heavier hand to the land use activities of the lower levels of government. However, this is not an unusual stance for the Province to maintain. Historically, Lane points out, and in contrast to the American counterparts, Canadian
municipalities normally have had "a fair amount of guidance from the Provincial level." While the municipalities have generally policed their land use activities, the Province usually sets standards to which the local level must adhere.\footnote{6}

i) The Environment and Land Use Secretariat

To tackle the resource allocation problems, the Government rejected the idea of assigning the task to an existing Department or hiring large numbers of consultants. Instead, a small Secretariat was formed to act as a catalyst in drawing together the various Departmental staffs and Regional Districts when appropriate.\footnote{7} The Environment and Land Use Committee performs a coordinating function. Under this Committee, a Technical Committee chaired by A. Crerar, Director of the Secretariat, works towards high level functional coordination of studies and programs. The Secretariat itself is the staff arm of the Environment and Land Use Committee working under its direction to achieve coordinated development. The activities of the Secretariat will be enhanced in the regions through the establishment of Inter-Sector Committees to achieve technical coordination.\footnote{8}

The staff of the Secretariat itself is drawn from a variety of disciplines and has initially formed three groups - an inventory group, a regional planning group, and a special projects group. The regional planning
unit will focus on broad land allocation and resource management questions, including agriculture.\textsuperscript{9}

It is within this framework that the \textit{Land Commission Act} has been closely drawn. The strongly emphasized coordinating functions of the E.L.U. Committee, through the work of the Secretariat, are enhanced and extended to the Land Commission. The fact that the \textit{Land Commission Act} is comprehensive and overrides all but two other pieces of legislation, unless otherwise specified, in itself confers a coordinating function on the Commission. This will be more closely shown below in a review of anticipated activities of the Commission. Williams has emphasized that the Secretariat staff will work closely with the Land Commission.\textsuperscript{10}

This has occurred through the procedures established for processing agricultural reserve plans. This has also been the case in hearing appeals under Orders-in-Council 4483 and 157. (the farmland freeze). A function formerly handled by the E.L.U. Committee, it was given to the Commission under Order-in-Council 3539 which was approved on October 25, 1973. This additional responsibility of the Commission will of course cease to exist once all of the agricultural land reserves are established.\textsuperscript{11}

Because of the functional basis and activities thus far, it is safe to assume that the Secretariat and the Land Commission will continue to work closely together
to coordinate efforts within their jurisdictions to establish the broad allocation of land and resources, viewed by the Government as being a critical concern throughout the Province. In many respects, the Land Commission can be viewed as an 'arm' of the E.L.U. Committee not unlike the Secretariat, although the latter has a much broader role. A letter from the E.L.U. Committee to the Regional Districts emphasizes the close ties between these two agencies in stating that, "The enactment of the Land Commission Act in conjunction with the establishment of a Secretariat... is intended to tackle the problem (of land and resource allocation) as quickly and effectively as possible."12

A function in which the Secretariat has already become involved and one in which the Land Commission will be increasingly concerned as the land reserves are established is what Williams describes as a much needed policy framework for reinforcing Regional District and Municipal planning, as well as for Provincial Government decision making.13 In view of the Government's general concerns in these areas and with regard to the conflicts between agricultural land policy and past municipal zoning practices, one would suspect that this forms a crux of the Commission's role as its activities unfold.
2. ESTABLISHING THE AGRICULTURAL LAND RESERVES

Lane estimates that 85 per cent of the Commission's time and energy in its first year were spent creating the agricultural land reserves, and hearing appeals pursuant to the original farmland freeze. This not only reflects the importance that agriculture has and will be given by the Commission, but was due to a desire to lift the farmland freeze as quickly as possible. Lane feels that the agricultural reserves would have been the Commission's primary concern at any rate, but under the circumstances they were somewhat forced into this course of action.\textsuperscript{14}

i) Thawing the Freeze

The Government was eminently concerned with 'thawing' out the freeze on farmland subdivision where it was justified, while strongly maintaining its goal of preserving agricultural land for farm use. To provide for the orderly transition from the provisions of Orders-in-Council 4483/72 and 157/73 to the \textit{Land Commission Act}, the E.L.U. Committee, the Land Commission, and the Department of Agriculture developed a three-phase process which included:

\begin{enumerate}
  \item Phase 1. Individual appeals to the E.L.U. Committee (to the Land Commission after October 25, 1973).
  \item Phase 2. Block appeals by Municipalities or Regional Districts.
  \item Phase 3. Establishment of the Agricultural Land Reserves under the \textit{Land Commission Act}.
\end{enumerate}
The purpose of the process was to avoid artificial shortages of land for housing in the short term while still preserving agricultural land for the long term. Demonstrating expedience in this process would also tend to stabilize a situation that was somewhat confusing to many people, as was evident from the controversy over Bill 42.

Phase 1 involved hearing individual appeals from aggrieved landowners as was discussed above in Chapter VI under 'Appeals under the Land Freeze'. Phase 2 also involved the consideration of appeals by the E.L.U. Committee, but on a broader basis for larger areas. Such appeals were not on a lot-by-lot basis but included agricultural land surrounded by development, sewered, or clearly needed for urban development in the near future. These appeals were initiated by the municipalities or regions and the areas considered were logically focused in and around urban areas. This was the quickest way of ensuring that an artificial shortage of land, causing inflated housing prices, did not occur.

This phase was utilized very early in the process. On March 28, 1973, the day the amendments to Bill 42 were introduced, Resources Minister Bob Williams told the legislature that the farmland freeze had been lifted in six cases to allow projects to proceed. The decisions made by the E.L.U. Committee all resulted
from requests from regional districts or municipalities that had community plans. The Established and Developing Urban Areas designated in the Official Regional Plan for the Lower Mainland (URB - 1 and URB - 2) before March 1, 1973, were also exempted from the agricultural designation.

The freeze was also loosened to a small degree by Order-in-Council 1891 approved on June 4, 1973. This Order amended Order-in-Council 157 by allowing the construction of buildings for agricultural purposes, and for not more than one owner-occupied residence per lot.

The third phase in this process was the formal designation of the Agricultural Land Reserves themselves under the Land Commission Act. This final phase can be broken into three sections; (a) the events prior to the regional districts' adoption by by-law of the reserve plan and filing it with the Commission, or 'Input prior to the Regional Role'; (b) the creation of the 'Regional Reserve Plans'; and (c) the 'Post Regional Activities' required to designate the various agricultural reserve plans throughout the Province.

3. INPUT PRIOR TO THE REGIONAL ROLE

1) The Canada Land Inventory

The Canada Land Inventory (C.L.I.) is the cornerstone of the designation of agricultural land reserves.
The Inventory is a comprehensive survey of land capability and use designed to provide a partial base for resource and land use planning. It was undertaken as a co-operative federal-provincial programme and is administered under the Agricultural Rehabilitation and Development Act (ARDA). Competition for land for alternative uses, and increased government economic and social planning in rural areas, made apparent the need for improved knowledge of the productive capability of Canada's lands, their location and extent.  

In August of 1958 the 'Special Committee of the Senate on Land Use In Canada' recognized the need for a "systematic land use survey." It was not, however, until after the 'Resources for Tomorrow' Conference of 1961 that the Federal Government officially approved undertaking this comprehensive land resource inventory. It is somewhat ironic that the following proposal was embodied in the agricultural policies of the Regina Manifesto of 1933:

"(3) the adoption of a planned system of agricultural development based upon scientific soil surveys directed towards better land utilization, and a scientific policy of agricultural development for the whole of Canada." 

Besides the farm holdings classified under the Taxation Act and municipal and regionally 'zoned' agricultural land pursuant to Section 8(11) of the Land Commission Act, the reserves are based on the first four soil capability classifications for
agriculture of the C.L.I.; these are as follows:

Class 1 - Soils in this class have no significant limitations in use for crops.

Class 2 - Soils in this class have moderate limitations that restrict the range of crops or require moderate conservation practices.

Class 3 - Soils in this class have moderately severe limitations that restrict the range of crops or require special conservation practices.

Class 4 - Soils in this class have severe limitations that restrict the range of crops or require special conservation practices or both. 23

ii) Problems with the Inventory

There are a number of inherent problems with these classifications which had to be considered when employing them as an aid to the creation of the Agricultural Land Reserves. Many agricultural activities are not soil bound - one of the key classification factors. Hopefully, shortcomings due to this problem have been solved by the other two aspects facilitating designation, Also the C.L.I. classifications do not take into account social and economic factors of production. The classifications are also based substantially on crop range and not productivity. 24 Some land, however, may be very productive for only one crop, yet be poorly classified by the C.L.I. 25

The C.L.I. is a Canada wide standard. The unique climate and soil combinations of British Columbia demanded modifications of the national guidelines in order to have uniform application within the Province. 26
The classification 'boundary lines' were usually curved or otherwise irregular and this problem had to be reckoned with by 'legalizing' the lines of designations before the reserves could be completed. Relying heavily upon air photographs and sampling, Lane believes that there is little doubt the C.L.I. based agricultural land reserves will be 'somewhat off' in some cases. Realizing this factor, appeal procedures, if not abused, will probably facilitate a correcting process for initial designation mistakes.

Despite these problems, Lavkulich maintains that the C.L.I. is a very sound method of scientifically classifying agricultural land. Lane feels that the Commission is very fortunate to have the C.L.I. and that there is probably no other classification quite like it in North America. By using the C.L.I., the agricultural land reserves can be designated on a scientific basis since the classifications afford a factual relationship between conditions and use. Importantly, the designation of the reserves is removed from the arbitrary zoning practices so often associated with urban land use.

iii) Preparation by the Commission

By early July 1973 the Commission had visited over half of the regional districts; before the reserve plans were filed, the Commission had visited every region
- some as many as three times. Lane feels that the 'superhuman' effort of the Commission in communicating personally with nearly every area of the Province paid off in dividends. The Commission gained the respect of the technicians and decision makers at the local levels. They came to regard the Act as not just a 'big experiment' and the regions were truly being consulted through their role in the creation of the reserve plans. Generally the effect was to lighten the heavy hand which the Provincial Government had placed over the use of agricultural land, and it afforded the Commission the opportunity to advise the regions regarding procedures and presentation of their reserve plans in an effort to standardize and speed up the process.

A number of other points were clarified during this period. Any land previously exempted from the farmland freeze by the E.L.U. Committee was automatically left out of the reserves after designation. Lane also emphasizes that, despite the appeals procedure, an individual or municipality could not test the designation of agricultural land in court except on a question of law. (Sec. 11, ss. 5 of the Act). This was significant because a plans approving officer, who is in some roles a direct delegate of the Province, has in some cases had his decisions overturned by the courts. The Land Commission Act overrides this problem statutorily.

The Department of Agriculture was also prepared
for the regional role in designating the reserves. To assist the regions, a suggested first draft reserve plan was produced by the Department of Agriculture for each Regional Board. These plans were primarily based on the Canada Land Inventory. The Commission was committed to aid these regions (Sec. 8, ss. 2 of Act) and in partial discharge of this obligation a second draft of the original suggested reserve plans was prepared. These plans were drawn with reference to legal boundaries rather than the irregular plotting of the C.L.I. classifications. Both of these 'tools' were utilized to increase efficiency and give the regions a series of guidelines from which to work. With the Province 'playing its hand' from the start, the regions realized how extensive the reserve plans were 'expected' to be. Knowing this probably avoided a number of possible conflicts between the regions and the Commission which might have arisen at a later date.

The local levels were not given a totally 'free' hand even at this initial stage and since the Land Commission could suggest amendments to the regions' plans before they were sent to the E.L.U. Committee, the Province retained a strong grip on the situation. Through this process, one can speculate that the reserve plans produced by the regions because of the amendments to Bill 42 would in fact not be significantly
different than if the Commission itself had developed the plans. In fact, an advantage of this process to the Commission was that the regions did a great deal of the initial 'leg work', allowing the Commission to play a stronger organizational and coordinating role - which, at this early stage, was vital.

Despite this, Lane maintains that the agricultural land reserves were Provincially inspired but drawn up by the local technicians and approved by the local decisions-makers.34

4. REGIONAL AGRICULTURAL RESERVE PLANS

The Regional Districts began to prepare their reserve plans on June 9th, 1973,35 although it was not until July 2, 1973 that sections 8 - 12 and 16 of the Act were proclaimed.36 The regions were given 90 days to complete their plans (Sec. 8, ss. 2 of the Act); only one succeeded in reaching this deadline although reserve plans from 16 of the 28 regional districts had been received by the Commission by the end of 1973.37

Order-in-Council 3919, pursuant to the Land Commission Act and approved on November 29th, 1973, formalized and standardized the method by which the regions would present their reserve plans. The regions were required to submit a base plan showing the whole of the agricultural land reserve to a scale of 1 inch to 50,000 feet, and "constituent plans" at a larger
scale where necessary for the purpose of clarification.  

1) Commission Advice and Clarification

A memorandum from the Commission to the Regional Boards and Municipal Councils of July 11, 1973 more clearly outlined the procedures to be taken in the preparation of the reserve plans. The memorandum clarified a number of important points. It was the Commission's opinion that the Land Commission Act created a statutory priority of land use in favor of agricultural land. The Commission felt that there was no justification for holding up the agricultural land reserve plans while Regional Plans were being prepared. For those districts that did not have their regional plans in order, their initial responsibility was to adopt the reserve plans in conjunction with the C.L.I. agricultural classifications. After this was done and the Regional Plans had been prepared, the Boards of each region could apply for exclusion under section 9(1) of the Act where a lack of other options makes such a step necessary to accommodate urban uses.

Although a supplementary memorandum advised the regions to, 'if possible', only show one type of reserve - namely the Agricultural Land Reserve - on the maps submitted to the Commission, the Greater Vancouver Regional District submitted their base map indicating two reserves.
The primary reserve was, in the G.V.R.D.'s opinion, land suitable for long term agricultural uses. The secondary reserve encompassed lands where farm viability questions were especially serious and lands which had good soils but also important potential for industrial, urban or other purposes. It can be anticipated that the G.V.R.D. will, in future years, be applying for the exclusion of lands from the secondary reserves as the need arises.

The suggested Agricultural Reserve Plans prepared by the Department of Agriculture indicated areas for urban expansion. In many cases these expansion areas were equivalent to the present built up areas and the Commission strongly advised that future urban growth should be planned for these locations. However, in cases where a community had little alternative but to expand onto agricultural land, or because of the existence of substantial, partially used, public works designed to serve vacant areas, an administrative decision was made by the Commission to allow the agricultural reserves to express the land required for the next five years of predicted urban growth by excluding it from the reserve plans. Although such a decision was contrary to the intent of the Act, Lane feels that if the Land Commission was going to survive it could not enforce the reserves to the 'letter'. The Act had to be liberally
applied with a degree of flexibility. Consistent with the reasons for wanting to 'thaw' the farmland freeze as quickly as possible, the five year breathing space would not lock a community in tightly, and therefore owners of existing vacant urban land would hopefully not reap the windfall profits that may have otherwise occurred. The five year time period was set initially because, in the Commission's opinion, this would give the Provincial Government time to further sort out their land management priorities and make some of the important and necessary decisions pertaining to a growth strategy.43

iii) Public Hearings

The Commission also advised the Regions on the requirements of a published notice of the public hearings held pursuant to the establishment of the reserve plans, as well as the nature and conduct of the hearing itself. Although the Commission in some instances was hard pressed to convince the administrators at the local levels, the hearings were not to be conducted precisely as re-zoning hearings are under the Municipal Act in which it is questioned whether the zoning change ought to be adopted at all. Section 8(2) of the Land Commission Act stipulates that, "the regional board of every regional district 'shall' adopt a land reserve plan." Therefore it was unnecessary
to spend time at public hearings discussing whether the plan should be adopted or not. What was relevant was whether or not an individual's land was "suitable for farm use." Suitability was judged in terms of the soil and climate conditions, not on short-range economics or desirability of non-farm uses.\textsuperscript{44}

This procedure reveals two important themes of the Land Commission that were most likely inspired by the Provincial Government. Firstly, as mentioned above, emphasis was placed on the speed and efficiency with which the reserve plans could be adopted. The Commission recommended that, "It is generally desirable for a Board to make up its mind as soon as possible after a hearing. This reduces the possibility of Board members acquiring, by inadventure, further "evidence" which those who attended the hearing may not have had a chance to question."\textsuperscript{45}

Secondly, Lane points out that;

".....the objects of the Act are to protect the agricultural resource in the long haul, hence, short-term economic or technological consideration must be given relatively little weight in evaluating whether a given parcel of land should be included or excluded from the Agricultural Land Reserve," and ".soil qualities and certain climatic conditions.....must be kept in mind rather than the short term economic possibilities which may arise from time to time in connection with the land. This is particularly so in regard to its location near urban areas."\textsuperscript{46}

Further evidence of this 'long haul' approach is revealed by the fact that it is estimated that less
than half of the agricultural land reserves, as they are now being established, are actually utilized for agricultural purposes. Some of these are still being logged and others are wildlife areas - they could well remain in that use for a relatively long length of time. These areas are, however, legally in the reserves and in many cases, will be opened up for farm use as technology allows.47

With regard to the public hearings, Franson feels that they were poorly covered by the press and suspects that there may have been a conscious attempt to 'play down' the hearings, especially in light of the previous controversy over Bill 42.48 Lane, however, emphatically denies this claim. Although there was a very definite attempt to explain to the regions what their role was in conjunction with the public hearings, there was never any suggestion to 'play them down'. Lane further explains that the Regional Boards are made up of mayors and senior aldermen, many of whom are not sympathetic to the N.D.P. Therefore they could have "stacked the meetings with people wildly opposed to the Act in order to raise hell - but this was not the case." The decision-makers at the local levels generally realized something had to be done to save agricultural land, and hence agreed with the ends although questioned the means. In fact, many local administrators (politicians) thought the Act
was 20 years too late and were asking for a fifth classification - an ecological reserve. The press was also not asked to constrain from reporting on the public hearings held during the late summer and early fall of 1973. Lane feels that the press also appreciated the importance of the Act and were generally sympathetic to the Government's policies in this regard. 49

With respect to local zoning, the Agricultural Reserves, when finally adopted, supercede any local zoning which may have been in effect, except for provisions which are more stringent than, but not repugnant to, the Act. This is consistent with Section 20 subsections 5 and 6 of the Act.

For the purpose of summarizing the above points the following list illustrates the considerations of the G.V.R.D. in drafting their agricultural reserve plans.

iii) Guidelines for Drafting Reserve Proposals -- G.V.R.D.

a. "the Department of Agriculture proposed reserves are a starting point - deletions from their boundaries should be documented.

b. land with good soil is to be excluded from the reserves only where needed for industrial and urban purposes in the next five years.

c. include lands physically suited to agriculture; it is not essential that they are farmed at this time or that they can be economically farmed - further provincial actions are intended to deal with these questions.
d. ownership is ignored, e.g. Indian Reserves.

e, acknowledge exemptions already granted by the Environment and Land Use Committee.

f. include marginal Class 4 and 5 soils where bordered only by agricultural lands and existing agricultural operations on poorer soils.

g. observe current development patterns.

h. exclude areas that are sewered or where bylaws funds are allocated for sewers.

i. for reasons of equity parcel size and the type of development of the land should be as important as current zoning.

j. Official Regional Plan INDUSTRIAL AREAS and URBAN AREAS in large holdings and with 'good' soil will be placed in the secondary reserve, as with all LOWLAND RURAL AREAS (RRL-3) which are not designated.

k. property exempt from the 'freeze' due to initiation of development prior to December 21, 1973, is excluded.50

iv) By-law Adoption

Once the reserve plans were prepared, and a public hearing held, the Regional Board was required by section 8(2) of the Act to adopt by by-law the land reserve plan. The by-law is, however, not an operational document to be administered and revised as is the case with most local by-laws. Rather, it is a formal statement of the Region's suggestions for agricultural reserves, to be considered by the Land Commission and the Cabinet before designation of Reserves by the Commission.51
5. POST REGIONAL ACTIVITIES

Once the Regional Districts' by-laws were adopted, proposed reserve plans were submitted to the Land Commission. The Commission then checked the plans to make certain they adhered to the spirit of the Act and possibly to suggest changes. The review by the Commission had a definite agricultural bias which is consistent with the Act's purpose.

1) Routing of Agricultural Land Reserve Plans

Formally, the next stage of the process was to send the plans to Cabinet for their approval which would facilitate the passing of an order-in-council. More practically, the plans were first sent to the Secretariat of the E.L.U. Committee as Chart #1 indicates. From this vantage point, the plans were assessed by various line departments of the Government through the Cabinet review process. The plan proposals and the various suggested amendments that may have surfaced were further reviewed by the Regional Inter-Sector Committee before going to the Headquarters Committee.

The process in itself demonstrates the close links between the Land Commission and the E.L.U. Committee. It also illustrates the comprehensive nature of the review, rather than having the reserve plans develop in a partial vacuum utilizing only the informal
CHART # 1
ROUTING OF AGRICULTURAL LAND RESERVE PLANS

LEGEND

- NORMAL ROUTE
- "PROBLEM" ROUTE

March 11, 1974
E.L.U.C.
Sekretariat
"jungle grapevine" network of communications built up by each department for its own purposes. The process gives the ultimate authority for resolving conflicts in resource use to the Environment and Land Use Committee. In this way, problems, when foreseen, could be solved at this stage rather than attempting to adjust the plans because of defaults once the reserves were designated.

If there are no significant conflicts, the plans pass from the Headquarters Committee back to the Land Commission for a final review in light of any further suggested changes. The plans then go back to the Secretariat for analysis and technical work and then to the E.L.U. Committee for its final decision. It is only after this process is completed that the Cabinet grants approval for the designation which is formally carried out by the Commission after the technical work of plan preparation is completed by the Surveys and Mapping Branch of the Department of Lands, Forests and Water Resources. Copies of the plans are finally filed with the Commission, the Regional District and the Land Registry Office.

11) Designation Progress

In its first year, the 'record' of the Land Commission's work is primarily found in its efforts to designate the agricultural land reserves. Because
of the numerous stages in the process described above, the designation has generally been slowed down. Importantly though, the Commission has had to 'gear up' an entirely new agent of the crown while assisting the development of reserve plans and steering them to completion. The Commission's efforts in this one area alone have in fact been admirable. Table 8-1 illustrates the dates within which each of the various stages in the designation process were completed.

Although the designations required a great deal of work by the Regions, Lane feels that overall, the Land Commission was not necessarily disruptive. For those areas which had their 'planning houses in order' this was especially true; for others, with little or no planning, the demands placed upon them by the Commission did cause concern.53

Lane agreed with Hankin's suggestion that once the regions and municipalities bring their zoning boundaries into line with the agricultural reserve plans, the Commission could maintain an overseeing role and, along with the Department of Agriculture, have veto power over the municipalities and Regions in terms of agricultural land use control. This is essentially what is now taking place. As the designations are completed, the 'zoning' role of the Commission will become of little significance.54 The Commission's overseeing duties will, however, take the form of
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Source: British Columbia Land Commission.
dealing with non-conforming uses and applications for exclusions from the agricultural reserves.

6. EXCLUSIONS AND NON-CONFORMING USES

Administering the agricultural land reserves will generally involve applications for exclusion from the reserves under section 9(1) and (2) of the Land Commission Act, and dealing with applications to carry on non-farm uses in the reserves under section 8(11), 11(2) and 11(4) of the Act. While there is very little practical experience to draw upon at the time of this writing, the administrative procedures set forth in Order-in-Council 353i, approved on January 31, 1974, and a Land Commission memorandum of March 21, 1974, do offer a basis of review.

1) Exclusion from Agricultural Land Reserves

The handling of applications for exclusion from a municipality, Regional District, the Commission or the Cabinet itself will be done openly with each of the other parties being notified and able to make representation. However, these procedures are somewhat of an 'in house' activity, with no opportunity for the public to enter into the debate.

This, however, is not the case with appeals by individuals pursuant to section 9(2) of the Act. However, unlike zoning 'hearings', when an application
for exclusion from an agricultural reserve is being processed, public information meetings may be held if deemed necessary by the Regional District. At the request of the Regional Districts, the newly created procedures including those for exclusion, are firmly based at the local level. Applications and appeals are not filed directly with the Land Commission office but with the Regional Districts. After the regional staff has ascertained certain information, the Board can comment on the application and may then hold an information meeting. The Commission advises that such meetings would normally be necessary where major decisions were involved. Regardless, the Regional District Board in all cases will have the opportunity to comment on the applicant's proposal prior to the Commission acting upon the application. 56

The many administrative details concerning appeals and applications are important but will not be outlined here. Rather, the Commission's 'attitude', or criteria for allowing exclusions and non-conforming uses are more relevant in this discussion. Obtaining exclusion from agricultural reserves will be exceedingly difficult. The process itself is demanding and will be extremely time consuming. 57 Applied to municipal re-zoning in a development context, this process would most likely be thoroughly condemned, but it does have merit when
considering that the main objective of the Land
Commission Act is to protect agricultural land from
the encroachment of non-farm uses.

The attitude the Commission will maintain with
regard to exclusions is revealed in the following excerpt
outlining the considerations an applicant should make
upon requesting exclusion.

"If the Agricultural Land Reserve is to be
maintained in the long-haul, it is obvious
that it cannot be endlessly eroded. This
is in contrast with measures to control
land under local agricultural and rural
zoning by-laws which were effective only so
long as there wasn't a routine request to
use more farmland for urban purposes.
The principles involved in evaluating an
application for exclusion from the Agr­
cultural Reserve thus must differ from those
employed in weighing re-zoning requests. The
criteria for judging exclusions will, by
necessity, be more conservation oriented
than are those used to weigh traditional re­
zoning applications."

"A second point to consider is that
provision has already been made, if no reasonable
alternative exists for expansion onto less
productive areas, for the exclusion from
the Agricultural Reserve of farmland necessary
for up to five years predicted growth around
our urban centres. In addition, many com­
unities have a large amount of unused land
within their developing neighbourhoods."58

In the Commission's opinion, requests for exclusion
of land located in areas remote from towns and villages
cannot be justified on the grounds of urban expansion.
If a specific site did have some peculiarity and its
exclusion could be considered a "public necessity,"
the application may be favourably considered. The
major basis for which exclusions will be considered
will be founded on significant errors in soil classification.\textsuperscript{59}

11) Allowing Non-Conforming Uses

In contrast, the Act - short of full exclusion - does allow an extensive amount of flexibility through regulations and orders tailored to specific problems. There are a series of ways in which non-farm uses may be allowed within an agricultural reserve.

Soon to be announced B.C. Regulations will outline a number of non-farm uses which are nevertheless compatible with long-term use of land for agriculture. These regulations will include both conditional and unconditional uses. Also, the Commission under section 10(1) and (4) may allow private non-farm uses which are not compatible to the long-term agricultural use if there is no available land outside of the reserve and the proposed use is to serve some element of the community's well-being.

A present non-conforming use that was established six months prior to December 21, 1972 may also continue until such time as the use is changed or the premises is sold or leased. In such a case, permission must be obtained from the Commission in order to continue the non-farm use (Sec. 11, ss. 2 of Act). If a person has received a "release" under an Environment and Land Use Act Order-in-Council but is
within an Agricultural Land Reserve, the non-conforming use may continue.

A further non-conforming use status arises by the granting of an exemption by the Land Commission under section 8(11) of the Act. In this case, a general order pertaining to all Regional Districts or a site specific order may allow an applicant to use the premises as provided for in the order.60

In summary, the applications for exclusion will not only be difficult to obtain, but the Commission, backed by the Government’s policy directives, is determined not to allow agricultural land to be urbanized as in the past. The applications for non-conforming uses, while being flexible, continue to maintain the land in the Agricultural Land Reserves. (Refer to Sec. 10(4) of the Act for enforcement techniques).

7. OTHER ACTIVITIES

The Commission’s lack of activity within its first year in many of its areas of responsibility can be attributed directly to the enormity of the task of designating the Agricultural Land Reserves. While this single function has demanded 85 per cent of the Commission’s time,* Lane estimates that its involvement in aspects related to greenbelt land has accounted for 10 per cent of the Commission’s energies. Greenbelts are normally thought of as buffer zones between urban * (e.g. first year of operation)
and rural land uses but "in-town" greenbelt areas are also being analyzed. In such cases, servicing and design suggestions are also being requested. In contrast, many people quite removed from urban areas are offering their land for sale to the Commission. These applications are now beginning to be processed as possible greenbelt reserves. Fifty properties, acquired under the Greenbelt Fund, have also been turned over to the Commission.

Five per cent of the Commission's time is spent considering the problems of land bank land. Generally the E.L.U. Committee will be concentrating on banking land for short term use while the Commission will hold land in reserve for long-term needs. At present, the Commission is least involved in park land although it is attempting to establish its relationship with the Parks Branch. Most likely the future park land reserves will involve acquisition of scenic areas.61

As does the E.L.U. Secretariat, the Land Commission also hopes to assist the Government to develop a growth strategy for the Province. As a beginning, the Commission is in charge of developing a 'habitable land map'. Essentially the existing and possible urban areas and the agricultural reserves will be illustrated, with the oceans and mountains being the same colour to demonstrate their uninhabitable nature.62

While, at the time of this writing, the Land
Commission had not developed any by-laws under section 6 of the Act, an immediate concern, as the designations of agricultural reserves are completed, is the necessity of subdivision controls which may vary from region to region. In order to prevent large farms being subdivided into hobby farms, the minimum lot size will in most cases, be well above current minimums (2 to 8 hectares). However, small holdings under intensive cultivation will not be 'regulated' out of business.

1) Future Concerns

In discussion with Mr. Lane, mention was made of a number of future concerns of the Commission. At present, both the federal and provincial governments have been passing legislation intended to assist the agricultural industry. In B. C. these have included the Farm Income Insurance Act, the Agricultural Credit Act, the Farm Products Industry Improvement Act and many others passed during the fall sitting of the Legislature of 1973. Once both the senior levels of Government have clearly established their agricultural policies, it is hoped that the effects of their efforts can be assessed and the Commission can help in some areas possibly overlooked.

Tax incentives may be used in some cases to encourage the long-term agricultural use of land, but
Lane does not see this as an urgent need considering the Commission's present work load and in light of the current adjustments of tax assessment on agricultural land. Another possible function will be to devise and control a method of allowing elderly farmers to remain on the farm as their sons take over the operation. Procedures may be established whereby a second home can be built on a farm without jeopardizing the subdivision regulations.65

Despite Wilkinson's comments to the contrary, Lane feels that the acquisition of farmland will eventually become a very important aspect of the Commission's activities. A number of people have requested that the Commission purchase their farms. The first two farms purchased by the Commission were bought in January 1974. The properties included 78 hectares of land and more than 1.6 kilometres of waterfront along Boundary Bay. Not only are the holdings good farmland, but the land has significant conservation value.66 Due to the prohibitive cost of land (in this case $625,000) the Commission will necessarily be very selective in their purchases and this dual value aspect may well be the normal practice of the Commission.

In conjunction with the purchase of farms, the Commission hopes to develop an innovative form of land leasing. The scheme may include 40 year leases which could pass
to a farmer's son and the improvements could be sold back to the farmer as equity. The emphasis of the program would be to give the farmer all the security and amenities of ownership while not requiring a disproportionate amount of his capital for the purchase of land. In return, the Commission would hope the lessee would regard the farm operation as a long-term activity.67

Interestingly, the convention of the National Farmers Union (N.F.U.) in December 1973 "approved a strongly-worded policy statement aimed at protecting farmland from urban encroachments." Included in the statement, but referred back to the N.F.U. locals for discussion, was a section calling for a system of 'guaranteed tenure' over farmland as opposed to outright ownership. The tenure conditions described by the N.F.U. were in substance not unlike those advanced by Lane.68

Through the statutory mandate which the Government has given the Commission, and its coordinative functions along with the E.L.U. Committee, many policies and stimuli to the agricultural industry which are unforeseen today will most likely evolve. Due to its rather prestigious position, the Act affords the Commission strong persuasive powers in dealing with line departments of Government in related matters which the Commission cannot regulate. Regardless of new directions which the Commission may take in the future, an emphasis must be placed on 'team work' and cooperation between the
farmer and Government to achieve the Act's objectives. Lane admits this may be idealistic but it may be striven for, and this may well be the essence of the Commission's success.
FOOTNOTES


2. Environment and Land Use Act, R.S.B.C. Chapter 17, 1971, Section 2(1).


4. Lane, interview, April 6, 1974.


11. B.C. Regulation 391/73.

12. Environment and Land Use Committee; Re: Agricultural Land Reserves (a letter to the Secretary-Treasurers of all Regional Districts, May 29, 1973) p. 3.


18. B.C. Regulation 147/73.


22. Lewis, p. 214.


27. Lane, lecture, February 20, 1974.


29. Lane, lecture, February 20, 1974.

30. Lane, interviews, February 6, 1974 and March 16, 1974.

31. Lane, Interview, April 6, 1974.

32. Lane, lecture, February 20, 1974.


34. Lane, lecture, February 20, 1974.


38. B.C. Regulation 445/73.


43. Lane, interview, March 16, 1974.


45. Ibid, p. 3.
46. Lane, speech, December 5, 1974.
47. Lane, lecture, February 20, 1973.
49. Lane, interview, March 30, 1974.
51. Ibid, Item 4, p. 2-3.
53. Lane, interview, March 16, 1974.
54. Lane, interview, March 30, 1974.
55. B.C. Regulation 60/74.
59. Ibid, p. 3.
60. Ibid, p. 2.
61. Lane, interview, March 16, 1974.
62. Lane, interview, March 16, 1974.
64. Baxter, p. 28.
65. Lane, interview, April 6, 1974.
67. Lane, interview, March 16, 1974.
68. 'Farmland 'tenure'....', Vancouver Sun, December 10, 1973.
69. Lane, interview, March 16, 1974.
Man has required sanctions on his actions and activities in order to attain efficiency and harmony in life. These controls have developed through time, are based upon culture, and ensured through various legal apparatus. They come in many forms -- from traffic lights to Land Commission Acts.

As an instrument to facilitate the social control of land use, the Land Commission Act is indebted to the historical development of regulatory devices that have supplanted the will of the individual for the welfare of the community. Besides this general basis, there are three distinguishable elements which were of significance to the origin of this particular statute. The physical circumstances, along with the time frame within which the Act was conceived, and the philosophy of its creators, were all important to the development of the Land Commission Act.

The Act has been devised to assist in the preserving of agricultural land for the sake of ensuring the viability of the Province's fourth largest industry, to ensure a local source of food supply in a world with growing shortages, and to save a way of life. To do so, the legislation was designed to deal with a habitable land poor Province in which a rapid population increase was
causing the unnecessary urbanization of agricultural land -- a process that for the most part was progressing unchecked by the established political and planning authorities.

The Act was encouraged not only by these evolving circumstances, but also because of a growing awareness of their effects. Despite the controversy involving Bill 42's introduction, there has been, in recent years, a significant shift in people's attitude towards land-resource relationships, spurning the past growth ethic. In its place, the 'quiet revolution in land control' of Bosselman and Callies has begun to be heard.

Significantly, British Columbia found at its political helm in the Fall of 1972, a group of legislators with a philosophical shift from that of the previous Government in terms of its social and economic perspectives. This in itself demanded an increased control of resources by society as a whole -- especially non-renewable resources. Not only was the New Democratic Party's sensitivity to the rapid erosion of farmland and its causes important in the development and form of the Land Commission Act, but this may also be a determining factor to the success of the legislation in meeting the ends it has set to achieve.

Depending upon one's point of view, there are perhaps three distinct but general approaches that could be employed in dealing with agricultural land.
(1) At one end of the spectrum, it may be advocated that resource allocations should primarily be made within the market place, essentially free of governmental controls.

(2) A more moderate stance would include an emphasis on the management of growth to achieve orderly development but with no guarantee that agricultural land would be saved in perpetuity.

(3) Finally, land use controls over agricultural areas could be rigid, supported with a philosophy that 'urban growth must go up -- rather than out' when all available urban land is utilized.

Judging from the performance of past land use control methods, the disposition of agricultural land by regions and municipalities fell somewhere between strategy one and two, while perhaps being more closely allied to number one. The Land Commission Act, although analysis is somewhat speculative, falls between the principles of two and three. The outlook towards land use control has therefore dramatically changed. Through its administration, the Act, while being stimulated by the management philosophy of the E.L.U. Secretariat, does, however, have the statutory power despite exclusions and appeals, to lock agricultural land into a reserve and to regulate its use.

Regardless of what encouraged the Government to amend Bill 42, its changes primarily clarified a number of misinterpreted sections. There were only two significant alterations. First, the Act allowed the municipalities and regions the opportunity to be a party in the creation of the Agricultural Land Reserves.
In light of the stringent and comprehensive 'plans approval' procedure it is doubtful, however, that the Preserve Plans would have been very different if handled by the Provincial Government without local consultation.

Basically, the Government delegated power to the Land Commission. The use and objectives of this power are quite explicit. Yet, it was the power of the Commission that was perhaps the most controversial area of objection to those opposed to the passing of the Act. Bill 42 did, however, allow an individual to make application to carry on a non-conforming use within an agricultural reserve.

The second major amendment to Bill 42 gave rise to a procedure whereby Regional Districts, Municipalities, the Land Commission, as well as individuals, could apply for complete exclusion from an agricultural land reserve. If the individual's application for exclusion was rejected, an appeal to the E.L.U. Committee was also possible. Formerly, under Section 9 of Bill 42, only the Lieutenant-Governor in Council could authorize land to be deleted from an established reserve.

For those concerned that the Act gave the Land Commission an excess of power over agricultural land-use, the inclusion of these amendments was welcomed and considered necessary. On the other hand, the exclusion procedures may well prove to be the soft under-belly of the Agricultural Land Reserves.
It is impossible at this time to evaluate whether the Land Commission Act will achieve its major objective of preserving farmland or not. The Commission has been in full operation for only one and a half years at the time of this writing. The uncertainties of the future impair any sound analysis in this regard. However, there are indicators which may be examined to more clearly illustrate (a) possible reasons why the Commission may fail in its bid to save farmland, and (b) factors that will assist the Commission in reaching its objectives.

1. FACTORS POSSIBLY HARMFUL TO THE COMMISSION

As is the case with most 'use-zoned' areas, there are exceptions which are caught up and allowed to continue contrary to the regulations of the by-law. Recognizing this, the Act gives the Commission, through a number of means, the power to allow non-conforming uses to exist. The Commission has noted that this is one example of flexibility within the Act. Although the land remains within the reserve, the degree of flexibility may harm the intent of the Act. This is especially so if the non-conforming use has a very negative effect on farm viability.

The ability of individuals to apply for exclusions will, in itself, place pressures upon the Commission to alter designations - a pressure that may otherwise
not have existed. For those advocating very rigid controls over farmland use, this amendment may seem as a diminishing of the Commission's powers. Although it is apparent that, at present, exclusions will only be allowed for very justifiable reasons, there is no guarantee that this policy will not change in the future, especially as urban pressures become more intense. Exclusion through this means is also left to the discretion of the Commission and does not require Cabinet approval. (Sec. 9, ss. 2) Regardless of these possible deficiencies, the exclusion process does allow the opportunity to correct poorly designated reserves.

The appeals to the E.L.U. Committee, because of a Commission's decision not to allow exclusion, have not at present been tested. Therefore it is not possible to ascertain whether the E.L.U. Committee will normally uphold the Commission's ruling or if it will act in the contrary. All three of the above features of the Act may technically be regarded as elements which may weaken the Commission. How much they will harm the objectives of the Act will primarily depend on how they are administered. One positive aspect of these procedures is that, by allowing the public to question the designations by application and appeals, the Act has gained a greater degree of
acceptability - a necessary ingredient to the success of the Act as well as facilitating a greater ease of administration.

Initially the Act did not allow the Commission the opportunity to make additions to established agricultural reserves after designation. Although this support mechanism was overlooked, the situation was rectified by Order-in-Council 2412, approved on July 19, 1974.²

The Commission made an administrative decision to allow each municipality that had no alternative, to exclude from the agricultural reserves that amount of land which would be required for five years of urban growth. This decision closely resembles the second approach of land use management rather than an absolute control of land use. While the Commission's reasons for doing so are well founded and such actions will once again increase public acceptance, it can also be viewed as an action which was contrary to the strict application of the Act.

As can be expected, urbanization will remain as the most potent force acting upon the Commission in a negative manner. Due to the possibility of urban 'infill', existing but excess urban zoning, and the five year 'growth space' allowed by the Commission, most regions - including the G.V.R.D. - have sufficient urban land to satisfy their needs for at least the
next quarter century. If growth rates continue unchecked past this period, Arcus' view (that over the long-term the Land Commission will be required to continuously exclude more and more land from the agricultural reserves, and at best its achievements will be a more orderly development of urban areas in their encroachment upon farmlands) may be proven to be correct. This single element is crucial and will remain as the most significant problem with which the Commission must deal.

In its first year of operation, the Commission has had its credibility harmed on one important occasion. The incident involved the announcement that 300 hectare Tilbury Island in the G.V.R.D. was purchased by the Government for an industrial park. The island is notably prime farmland and because of the growth that the development will stimulate, it is conceivable that the development will jeopardize much more farmland than the island itself. For the Sierra Club, this was in "apparent conflict with the underlying philosophy of the Land Commission." Indeed it was, but Norman Pearson, Executive Assistant to the E.L.U. Committee explained that besides the land being prime farmland, it also had above average capability for industrial development for a number of reasons. It appears to be an example of the classic trade-off so apparent
in the process of urbanization.

Lane further explained that the land involved can be viewed as "an 'exchange' for the larger holdings (560 hectares) of the B.C. Harbour Board in the heart of Delta. The latter were concurrently 'released' (for the most part) from the uncertainty of possible industrial development." Also, Lane felt that these actions were not unlike giving a municipality a five year growth area because the regulations were as applicable to the Province as to a municipality. It was, however, not established whether or not there were any alternatives for industry, instead of Tilbury Island, that could have been utilized. One expects that the attractiveness of the site for industry was such that it could not be ignored.

Regardless of the reasons, Tilbury did tend to harm the Commission's efforts. More importantly than the loss of 300 hectares of farmland, the action was taken by the Government and in many ways resembled the first major breach in the Official Regional Plan concerning the Roberts Bank backup land which harmed the credibility of the Plan.

A factor which may harm the activities of the Commission, and one that Government actions or Commission regulations will not solve, is that the Land Commission Act was a product of the political arena.
Although two by-elections, in which the Act was not an issue, do not support this speculation, the Legislature can amend this Act or even terminate it completely. If the Commission works well and maintains the high degree of respect it appears to have thus far achieved, the possibility of its work being significantly undone by succeeding governments will be lessened.

In the same vein, the present five person Commission will, over the years, be altered. The attitude and subsequent actions of the new members could harm, just as easily as they could enhance, the work of the Commission. This factor, along with the political considerations, are of course entrenched deeply in the realm of the unknown.

2. FACTORS WHICH MAY ASSIST THE COMMISSION

On the strength of the farmland freeze and the subsequent Land Commission Act, the subdivision and development of agricultural land for urban purposes throughout the Province has essentially been halted for over two years. The statutory powers given the Commission to designate and subsequently regulate the use of agricultural land reserves is the basic support mechanism upon which the Commission can rely to carry out the intent of the Act.
Being subject to only two other pieces of legislation (the Environment and Land Use Act and the Pollution Control Act 1967) places the Commission in a prestigious position from which it can assert a great deal of persuasive power and facilitate a high degree of coordination upon the actions of line departments and other government agencies which may otherwise be detrimental to agricultural land.

While the activities of the Commission are currently focussed on agricultural problems, there is reason to believe the Commission, through its very presence as well as directives, will encourage a superior management of urban growth than has heretofore been the case. Wilkinson sees the success of the Commission in achieving its primary objective closely linked to the future development of sound urban planning policies. "It is reasonable to expect the Act will work in preserving farmland once it is recognized there is plenty of opportunity for urban and industrial expansion on non-agricultural lands if we plan and act accordingly." It is somewhat ironic to realize that the sound management of agricultural land could have a significant effect on urban land use policies. Just over two years ago, the reverse - urban expansion affecting agricultural land - was very much in evidence.
The procedure for obtaining exclusion from an Agricultural Land Reserve is rather inhibitive and if administered strictly will ally itself to the third -- restrictive control strategy -- discussed above. There exists, however, a number of avenues through which non-conforming uses will be permitted and, along with the five year growth 'breathing space', the Commission has displayed a degree of flexibility which will encourage its acceptability by local officials.

Another possibility which may assist the Land Commission in its goal to save farmland is the possibility of the increased viability of farming. This argument is not unlike that advanced by the B.C. Federation of Agriculture which maintains that if farming is a paying proposition, rather than an industry of the working poor, then the farmer will not want to sell his land to urban developers. Current agricultural policy of the B.C. Department of Agriculture is focussed directly upon the problem of farm viability. The success of these efforts will undoubtedly decrease the pressure from the farming community for the exclusion of land from the agricultural land reserves.

In as much as the Land Commission Act is one of a number of statutes directed at the viability of farming, Lane envisages the Act as the beginning of a new and improved era for the agricultural industry.
"Growing out of the courageous steps to protect our agricultural lands...is the morale-building aspect of the Legislation."

"...the government and people of British Columbia have at long last accorded agriculture a significant status among the varied and important resources of the Province. For this reason it strikes me that the Land Commission Act is the most important piece of agricultural legislation in a lengthy history of the industry in this part of Canada. I say this, because the law now makes it quite clear that agriculture is no longer expected to 'make do' on whatever is left after every conceivable urban or industrial use has satisfied its demands at the expense of farmland."\(^9\)

Indications from the Government itself support the opinion that significant steps may be taken to apply pressure to slow down population growth in specific areas of the Province. Williams, Pearson and Lane (all directly linked to land management at the Provincial level) have questioned, (lectures, interviews and speeches at various times 1973-74) rather strongly, the desirability of growth, especially growth achieved through in-migration. The development of the E.L.U. Secretariat in itself is an indication of the Government's concern for proper resource management -- a topic which necessarily includes the discussion of growth strategies.

Premier Barrett, upon recently viewing the effects of urbanization in Japan, commented that the displaced buildings popping up all over the place, cars and pollution everywhere had further convinced him that "growth in B.C. has to be stopped."\(^{10}\) It goes almost
without saying that policies along these lines would serve the Land Commission very well by easing the pressure of urbanization on prime farmlands of the Lower Mainland and other areas of the Province.

Besides the power to designate and regulate agricultural reserves, the Commission has the power to purchase farmland. Although funding is of basic importance, this power not only allows the Commission to implement its land lease program, which should assist the viability of farming, but the Commission can buy land in an effort to discourage an individual or municipality from applying for exclusion from a reserve. In terms of land use control devices, none are stronger than the fee simple ownership of land being in the hands of the Government.

Besides the importance of a growing awareness by the public of the land management problems associated with the preservation of agricultural land, the determination of the Commission and more importantly the Government, to ensure that it meets its objectives, is a vital factor which could be the key to the Land Commission's success. There still, however, remains a degree of doubt as to the determination with which the Act will be applied in its attempt to preserve farmland.

Throughout this investigation there have been many
examples of statements of determination from the Minister of Agriculture, the Chairman of the Land Commission, and others who have said in fact, and despite the flexibility of the administration, that farmland must be saved and that this is the primary objective of the Act. However, Gary Lauk, Minister of Industrial Development, Trade and Commerce, has stated that "...the Land Commission Act was not intended to preserve every square inch of farmland in perpetuity, but was designed to stem the tremendous tide of development." Although not totally incongruous with the attitude that farmland must be saved, it does shift the emphasis of the Commission to the second, or management approach to agricultural land preservation alluded to previously, rather than towards that of rigid controls. While few would regard the Commission's role as that of attempting to save 'every square inch of farmland', Lauk's point of view is in fact not unlike the 'save if possible' attitude of the Lower Mainland Regional Planning Board - a posture that failed to halt the advance of urbanization onto agricultural land.

This point must be clarified. The degree of flexibility which the Commission has utilized in administering the Act thus far has probably significantly aided rather than harmed the intent of the Act. With
reference to total excusion however, the Commission must stand firm. The Land Commission, through its Act, has the power to preserve farmland. It must be encouraged to use that power now and in the future - when the pressures of urbanization are sure to increase.

Despite the enormity of the problems faced by its Land Commission, the Government has displayed a strength of conviction that must be reassuring for those who believe in the principles of the Land Commission Act. Influenced by the Japanese scene, Premier Barrett was moved to comment that,

"Coming here has further convinced me that we should take a harder stand on legislation. The land bills, the resources bill, I'm convinced more than ever now, are good policies, and now I think we should go harder on them."12

Japan's land poor situation is not unlike that experienced in mountainous British Columbia....except that Japan has approximately 100 million more people.
FOOTNOTES


2. Order-in-Council 2412, approved on July 19, 1974 rectified this problem by allowing owners of land to apply to have their land included in the Agricultural Land Reserve (Sec. 33). Section 37 allows a municipality, regional district and the Land Commission to also apply, under the proper procedures, to include land in the Agriculture Land Reserve.


6. William Lane, a letter to Mr. R.T. Franson, Chairman of the Sierra Club, February 13, 1974.


9. Lane, speech, December 5, 1974.


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INTERVIEWS

Mr. R.T. Franson, Professor, Faculty of Law, University of British Columbia.

Mr. R. Hankin, Planner, Greater Vancouver Regional District Planning Department.

Mr. William Lane, Chairman, British Columbia Land Commission and part-time lecturer, School of Community and Regional Planning, U.B.C.

Dr. L.M. Lavkulich, Professor, Department of Soil Science, University of British Columbia.

Mr. James Platnikoff, Staff, British Columbia Land Commission.
Mr. Gary Runka, Manager, British Columbia Land Commission.

Mr. R.B. Stock, Manager, British Columbia Federation of Agriculture.
APPENDIX A

CO-OPERATIVE COMMONWEALTH FEDERATION PROGRAMME

-- AGRICULTURAL POLICY --
Co-operative Commonwealth
Federation Programme

Adopted at First National Convention
Held at Regina, Sask., July, 1933

The CCF is a federation of organizations whose purpose is the establishment in Canada of a Co-operative Commonwealth in which the principle regulating production, distribution and exchange will be the supplying of human needs and not the making of profits.

We aim to replace the present capitalist system, with its inherent injustice and inhumanity, by a social order from which the domination and exploitation of one class by another will be eliminated, in which economic planning will supersede unregulated private enterprise and competition, and in which genuine democratic self-government, based upon economic equality will be possible. The present order is marked by glaring inequalities of wealth and opportunity, by chaotic waste and instability; and in an age of plenty it condemns the great mass of the people to poverty and insecurity. Power has become more and more concentrated into the hands of a small irresponsible minority of financiers and industrialists and to their predatory interests the majority are habitually sacrificed. When private profit is the main stimulus to economic effort, our society oscillates between periods of feverish prosperity in which the main benefits go to speculators and profiteers, and of catastrophic depression, in which the common man's normal state of insecurity and hardship is accentuated. We believe that these evils can be removed only in a planned and socialized economy in which our natural resources and the principal means of production and distribution are owned, controlled and operated by the people.

The new social order at which we aim is not one in which individuality will be crushed out by a system of regimentation. Nor shall we interfere with cultural rights of racial or religious minorities. What we seek is a proper collective organization of our economic resources such as will make possible a much greater degree of leisure and a much richer individual life for every citizen.

This social and economic transformation can be brought about by political action, through the election of a government inspired by the ideal of a Co-operative Commonwealth and supported by a majority of the people. We do not believe in change by violence. We consider that both the old parties in Canada are the instruments of capitalist interests and cannot serve as agents of social reconstruction, and that whatever the superficial difference between them, they are bound to carry on government in accordance with the dictates of the big business interests who finance them. The CCF aims at political power in order to put an end to this capitalist domination of our political life. It is a democratic movement, a federation of farmer, labour and socialist organizations, financed by its own members and seeking to achieve its ends solely by constitutional methods. It appeals for support to all who believe that the time has come for a far-reaching reconstruction of our economic and political institutions and who are willing to work together for the carrying out of the following policies: 
4. AGRICULTURE

Security of tenure for the farmer upon his farm on conditions to be laid down by individual provinces; insurance against unavoidable crop failure; removal of the tariff burden from the operations of agriculture; encouragement of producers' and consumers' co-operatives; the restoration and maintenance of an equitable relationship between prices of agricultural products and those of other commodities and services; and improving the efficiency of export trade in farm products.

The security of tenure for the farmer upon his farm which is imperilled by the present disastrous situation of the whole industry, together with adequate social insurance, ought to be guaranteed under equitable conditions.

The prosperity of agriculture, the greatest Canadian industry, depends upon a rising volume of purchasing power of the masses in Canada for all farm goods consumed at home, and upon the maintenance of large scale exports of the stable commodities at satisfactory prices or equitable commodity exchange.

The intense depression in agriculture today is a consequence of the general world crisis caused by the normal workings of the capitalistic system resulting in: (1) Economic nationalism expressing itself in tariff barriers and other restrictions of world trade; (2) The decreased purchasing power of unemployed and under-employed workers and of the Canadian people in general; (3) The exploitation of both primary producers and consumers by monopolistic corporations who absorb a great proportion of the selling price of farm products. (This last is true, for example, of the distribution of milk and dairy products, the packing industry, and milling.)

The immediate cause of agricultural depression is the catastrophic fall in the world prices of foodstuffs as compared with other prices, this fall being due in large measure to the deflation of currency and credit. To counteract the worst effect of this, the internal price level should be raised so that the farmers' purchasing power may be restored.

We propose therefore:

(1) The improvement of the position of the farmer by the increase of purchasing power made possible by the social control of the financial system. This control must be directed towards the increase of employment as laid down elsewhere and towards raising the prices of farm commodities by appropriate credit and foreign policies.

(2) Whilst the family farm is the accepted basis for agricultural production in Canada the position of the farmer may be much improved by:

(a) The extension of consumers' co-operatives for the purchase of farm supplies and domestic requirements; and

(b) The extension of co-operative institutions for the processing and marketing of farm products.

Both of the foregoing to have suitable State encouragement and assistance.

(3) The adoption of a planned system of agricultural development based upon scientific soil surveys directed towards better land utilization, and a scientific policy of agricultural development for the whole of Canada.

(4) The substitution for the present system of foreign trade, of a system of import and export boards to improve the efficiency of overseas marketing, to control prices, and to integrate the foreign trade policy with the requirements of the national economic plan.
APPENDIX B

ORDERS IN COUNCIL 4483 AND 157

PROHIBITING SUBDIVISION OF

FARM LAND
ENVIRONMENT AND LAND USE ACT

ORDER IN COUNCIL 4483, APPROVED DECEMBER 21, 1972, PROHIBITING
SUBDIVISION OF FARM LAND

That section 6 of the Environment and Land Use Act, being chapter 17 of the
Statutes of British Columbia, 1971, provides that, on the recommendation of the
Committee, the Lieutenant-Governor in Council may make such orders respecting
the environment, or land use, as he may consider necessary or advisable:
And that the Committee has recommended that from December 11, 1972, and
henceforth until further order or further provision by statute to the contrary, all sub­
divisions of farm land (as defined in section 2 of the Taxation Act, being chapter
376 of the Revised Statutes of British Columbia, 1960, and amendments thereto),
including all lands deemed by the Committee to be suitable for cultivation of agri­
cultural crops, be prohibited:
And that, pursuant to section 6 of the Environment and Land Use Act, all
subdivisions of farm land, including all lands deemed by the Committee to be suit­
able for cultivation of agricultural crops, until further order or provision by statute
to the contrary, be prohibited.

B.C. Reg. 19/73

ENVIRONMENT AND LAND USE ACT

ORDER IN COUNCIL 157, APPROVED JANUARY 18, 1973, EXTENDING APPLICATION
OF B.C. REG. 4/73—SUBDIVISION OF FARM LAND

That section 6 of the Environment and Land Use Act provides that, on the
recommendation of the Committee, the Lieutenant-Governor in Council may make
such orders respecting the environment, or land use, as he may consider necessary
or advisable:
And that, pursuant to section 6, Order in Council 4483/72 was made:
And that it is considered necessary and advisable to further define the intent and extend further the application of Order in Council 4483/72:

And that, pursuant to section 6, no nonagricultural development, which shall include developing a site, changing a land use, and constructing a building, except a building that is necessary for the operation of a farm or a residence for persons engaged in the operation of a farm, shall be carried out on, or respecting, farm land.

For the purposes of this Order and Order in Council 4483/72, "farm land" means any land of 2 acres or more that is

(a) situated in unorganized territory and classified as farm land, as that expression is defined in section 2 of the Taxation Act; or

(b) situated in a municipality and classified as farm land under section 332 of the Municipal Act; or

(c) designated as Class 1, 2, 3, or 4 of the classification of soil capability for agriculture developed as part of the Canada Land Inventory under the Agricultural and Rural Development Act (ARDA) (Canada).

No approving officer shall, pursuant to the Land Registry Act, approve a subdivision of farm land unless authorized to do so by an order of the Lieutenant-Governor in Council or by the provision of any other Act.

No person shall issue or cause to be issued a building permit authorizing the construction of a new building on farm land.

No municipality, regional district, or the City of Vancouver shall pass a zoning by-law, or enter into a land use contract, authorizing farm land to be used for non-agricultural use.

No Registrar under the Land Registry Act shall accept an application for deposit of a plan of subdivision pursuant to the Strata Titles Act respecting farm land.

Notwithstanding the above prohibitions, when an applicant, by sworn statement, provides sufficient proof to the satisfaction of the Approving Officer or official charged with issuance of building permits that the development was substantially commenced on or before the 21st day of December 1972, the Approving Officer or such other official may give a certificate to the effect he believes the development to have substantially commenced before the 21st day of December 1972, and a subdivision may then be approved; a building permit may then be issued; a zoning by-law may then be enacted; a land use contract may then be approved; and a Strata Titles Act subdivision may then be accepted for deposit.

This Order shall not apply to developments, subdivisions, rezonings, building permits, land use contracts, and strata title subdivisions where the purpose of the proposed development is for agricultural use.

Where a person having any interest in farm land is aggrieved by an action taken under authority of this Order, he may appeal to the Environment and Land Use Committee, who may hear the appeal and vary, amend, rescind, or confirm the action.
BILL

Land Commission Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1. In this Act, unless the context otherwise requires,
   "agricultural land" means land designated under section 8;
   "commission" means the commission established under section 2;
   "commission land" means land acquired by the commission for the purposes of this Act;
   "farm use" means an occupation or use of land for bona fide farm purposes, including, without limiting the generality of the foregoing, husbandry of the land and the plants, and animals thereon, and any other similar activity designated as farm use by the Lieutenant-Governor in Council;
   "green belt land" means land designated under section 8;
   "land" includes any estate or interest in land;
   "land bank land" means land designated under section 8;
   "minister" means that member of the Executive Council charged by Order of the Lieutenant-Governor in Council with the administration of this Act;
   "park land" means land designated under section 8;
   "regulation" means a regulation or order of the Lieutenant-Governor in Council made under this Act;
   "reserve" means a reserve of land established under section 8 of this Act.

2. (1) There is hereby established a commission to be known as the Provincial Land Commission (hereafter referred to as the "commission") consisting of not less than five members appointed by the Lieutenant-Governor in Council, to hold office during pleasure, and upon their appointment the members constitute a corporation and shall be the directors thereof.
   (2) Each member shall be reimbursed for any reasonable travelling or out-of-pocket expenses necessarily incurred by him in discharging his duties, and in addition may be paid such remuneration for his services as a member of the commission as the Lieutenant-Governor in Council may determine.
   (3) A majority of the members present at any meeting of the commission constitutes a quorum.

3. The Lieutenant-Governor in Council shall designate one of the members as chairman and one other member as vice-chairman.

4. (1) The commission is for all purposes an agent of the Crown.
   (2) The commission may, on behalf of the Crown, carry out its powers and duties under this Act in its own name without specific reference to Her
Majesty and may hold in its own name any land or other real or personal property, and likewise may dispose of, mortgage, hypothecate, pledge, and assign any such property.

5. (1) The commission may, pursuant to the Civil Service Act, appoint such officers and employees as it considers necessary for the purpose of this Act, and may determine their duties.

(2) The Lieutenant-Governor in Council may appoint a general manager of the commission, to be appointed during pleasure, and may fix his remuneration and may declare that the Civil Service Act applies to him.

(3) The Lieutenant-Governor in Council may declare that the Civil Service Superannuation Act applies to the members of the commission and to the general manager.

(4) The commission may, with the approval of the minister, engage and retain such experts, consultants, or specialists as it considers advisable and fix their remuneration.

6. The commission may make such by-laws and pass such resolutions, not contrary to law or this Act, as it considers necessary or advisable for the conduct of the affairs of the commission and, without limiting the generality of the foregoing, may make by-laws and pass resolutions with respect to the time and place of calling and holding meetings, the procedure to be followed at the meetings, and generally with respect to the conduct, in all respects, of the affairs of the commission; and may repeal, amend, or re-enact them.

7. It is the object of the commission to
   (a) preserve agricultural land for farm use;
   (b) encourage the establishment and maintenance of family farms, and land in an agricultural land reserve, for a use compatible with the preservation of family farms and farm use of the land;
   (c) preserve green belt land in and around urban areas;
   (d) encourage the establishment and maintenance of land in a green belt land reserve for a use compatible with the preservation of a green belt;
   (e) preserve land bank land having desirable qualities for urban or industrial development and restrict subdivision or use of the land for other purposes;
   (f) encourage the establishment and maintenance of land in a land bank land reserve for a use compatible with an ultimate use for industrial and urban development;
   (g) preserve park land for recreational use; and
   (h) encourage the establishment and maintenance of land in a park land reserve for a use compatible with an ultimate use for recreation;

and, for these objects, it has the power and capacity, by itself, or in co-operation with the Government of Canada, or any of its agencies or
corporations, or with any other department of Government, or with a municipality or regional district to

(i) purchase or otherwise acquire land, on such terms and conditions as the commission may consider advisable, and hold such land for the purposes of this Act;

(j) dispose of, by sale, lease, or otherwise, commission land and Crown land that is in an agricultural land reserve, a green belt land reserve, a land bank land reserve, or a park land reserve, or Crown land acquired under the *Environmental Protection Act*, subject to such terms and conditions as the commission may determine;

(k) accept gifts of land subject to such terms and conditions as the commission may determine;

(l) acquire and hold personal property and dispose of personal property so acquired by sale, lease, or otherwise; and

(m) if authorized by any other Act, purchase or otherwise acquire, hold, administer, and dispose of land, including Crown land, for the purposes of that other Act.

8. For the purposes of section 7, the commission may

(a) with the prior approval of the Lieutenant-Governor in Council, designate land, including Crown land, that is suitable for farm use, as agricultural land;

(b) designate land, including Crown land, the present condition or future potential of which merits preservation by reason of its aesthetic quality or its location in or around urban areas, as green belt land;

(c) designate land, including Crown land, having desirable qualities for urban or industrial development or redevelopment, as land bank land; and

(d) designate land, including Crown land, having desirable qualities for, or future potential for, recreational use, as park land;

and, upon being so designated, the agricultural land, the green belt land, the land bank land, or the park land is established as

(e) an agricultural land reserve; or

(f) a green belt land reserve; or

(g) a land bank land reserve; or

(h) a park land reserve,

as the case may be, and shall be subject to this Act and the regulations.

9. The Lieutenant-Governor in Council may, by order, exclude any land, whether Crown land or private land, from the reserves established under section 8.
10. (1) No person shall occupy or use agricultural land designated as an agricultural land reserve pursuant to section 8 for any purpose other than farm use, except as permitted by this Act or the regulations or by order of the commission upon such terms and conditions as the commission may impose.

(2) In addition to the exceptions, reservations, or limitations set out in subsection (1) of section 38 of the Land Registry Act, a certificate of title heretofore issued under that Act in respect of agricultural land that is designated as an agricultural land reserve shall be subject, by implication and without special endorsement on the certificate of title, to this Act and the regulations respecting the reserve and farm use of the land contained therein; and the Registrar under the Land Registry Act shall note on every certificate of title of agricultural land hereafter issued that is designated as an agricultural land reserve an endorsement that the certificate of title may be affected by this Act.

(3) Notwithstanding subsection (2), the commission may, in respect of any agricultural land that is an agricultural land reserve, register a caveat in the appropriate Land Registry Office restricting the agricultural land described therein to farm use.

(4) On, from, and after the twenty-first day of December, 1972, except as permitted by this Act, or the regulations, or by an order of the commission upon such terms and conditions as the commission may impose,

(a) no municipality, or regional district, or any authority, board, or other agency established by it shall authorize or permit agricultural land in an agricultural land reserve to be used for a purpose other than farm use, or authorize or permit a building to be erected thereon that is not for farm use, or for a residence necessary for farm use;

(b) no person, designated or appointed under the Local Services Act, shall authorize or permit agricultural land in an agricultural land reserve to be used for a purpose other than farm use, or authorize or permit a building to be erected thereon that is not for farm use, or for a residence necessary for farm use;

(c) no approving officer under the Land Registry Act and no approving officer or Board of Variance under the Municipal Act shall authorize or permit agricultural land in an agricultural land reserve to be used for a purpose other than farm use; and

(d) no Registrar of Titles under the Land Registry Act shall accept an application for deposit of a plan of subdivision under the Land Registry Act, or under the Strata Titles Act, or under the Real Estate Act, all or part of which consists of agricultural land in an agricultural land reserve.

11. (1) Section 10 does not apply in respect of agricultural land in an agricultural land reserve that, on the twenty-first day of December, 1972,
was, by separate certificate of title issued under the *Land Registry Act*, less than two acres in area.

(2) Where a use of agricultural land that is within an agricultural land reserve

(a) is a use other than farm use; and

(b) was established and carried on continuously for a period of at least six months immediately prior to the twenty-first day of December, 1972; and

(c) is permitted by, or is not in contravention of, any other Act, regulation, by-law, order, or any other law respecting land use, that agricultural land is exempted from section 10 unless and until

(d) the use of that agricultural land is changed to a use other than farm use without the permission of the commission; or

(e) any other Act, regulation, by-law, order, or any other law made after the twenty-first day of December, 1972, prohibits such use; or

(f) permission for any other use granted under any other Act, regulation, by-law, or order is withdrawn or expires.

(3) Where agricultural land, exempted under subsection (2), is sold, leased, transferred, transmitted, or otherwise disposed of, this Act and the regulations thereupon apply to that land, except as otherwise permitted by the commission.

(4) The commission may, in accordance with the regulations, hear and determine applications for permission under subsections (2) and (3), and under subsections (1) and (4) of section 10, and may grant or refuse permission for a use of the land for other than farm use, and may impose whatever terms and conditions it considers advisable, and, except as provided in subsection (5), the decision of the commission is final and no appeal lies from that decision.

(5) An owner of land aggrieved

(a) by an order or decision of the commission refusing permission under subsection (1) or (4) of section 10 or under this section; or

(b) by the terms and conditions imposed by the commission in an order made under subsection (1) or (4) of section 10, or a permission granted under this section,

may appeal, on a question of law or excess of jurisdiction only, by way of stated case to the Supreme Court, and the provisions of the *Summary Convictions Act* respecting appeals by way of stated case apply, with the necessary changes and so far as are applicable, to the appeal, and to any further appeal therefrom, and a reference in that Act to a Justice shall be deemed to be a reference to the commission.

12. With respect to agricultural land designated as an agricultural land reserve, the commission may

(a) make agreements with the owners of agricultural land respecting continued farm use of the agricultural land upon such terms and conditions as may be agreed;
13. The commission may make, place, or construct on or bring onto, or cause to be made, placed, or constructed on or brought onto, any commission land such capital improvements as it considers necessary or desirable for the efficient development or use of the commission land or other land in the vicinity, and pay for or purchase any capital improvements made, placed, or constructed on or brought onto any commission land by any person.

14. Where commission lands are unoccupied or a lease of commission land does not provide for the payment of tax by the lessee, the commission may pay to the municipality or regional district a grant in lieu of taxes.

15. The commission may establish, with the approval of the Lieutenant-Governor in Council, a schedule of fees to be paid to the commission for the preparation of leases and other documents, for appraisals and evaluations of land, and for copies of documents of the commission.

16. Land shall be deemed not to be taken or injuriously affected by reason of the designation by the commission of that land as an agricultural land reserve, green belt land reserve, land bank land reserve, or park land reserve.

17. For the purposes of this Act, the minister may, subject to the approval of the Lieutenant-Governor in Council, enter into such agreements as the minister considers advisable with

(a) the Government of Canada;
(b) a municipality;
(c) a regional district;
(d) an agent of the Crown; or
(e) any other department of Government.
18. (1) The commission shall submit annually to the Lieutenant-Governor in Council
(a) a report respecting the operations of the commission for the immediately preceding fiscal year;
(b) a financial statement showing the business of the commission for that fiscal year, in such form as may be required by the Comptroller-General.
(2) The report shall be laid before the Legislative Assembly within fifteen sitting days from the commencement of the session next following the end of the fiscal year for which the report is made; but the commission is not required to submit its annual report less than ninety days after the end of its fiscal year.

19. For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor in Council may make such regulations and orders as are ancillary thereto and not inconsistent therewith; and every regulation shall be deemed to be part of this Act and has the force of law; and, without restricting the generality of the foregoing, the Lieutenant-Governor in Council may make regulations and orders
(a) respecting the designation and approval of agricultural land reserves, and the designation of farm use;
(b) respecting applications to the commission for permission under section 10 and section 11, and the practice and procedure for hearing the application;
(c) respecting the appraisal of land and the acquisition, by purchase or lease, of land;
(d) respecting applications for sale or lease of commission land or personal property, or Crown land that is in a reserve, and the terms and conditions of sale or lease;
(e) respecting the management and control of commission land;
(f) prescribing the method of determining the eligibility of applicants to lease or purchase commission land;
(g) prescribing the interest payable in respect of purchases from the commission or arrears of rents;
(h) providing for varying, waiving, postponing, or rescheduling of interest or rent or the payment of interest or rent; and
(i) respecting any other matter required for carrying out the purpose of this Act.

20. (1) This Act is subject to the Environment and Land Use Act, and the Pollution Control Act, 1967, and the Environmental Protection Act, but otherwise, except as provided in this Act, this Act and the regulations are not
subject to any other Act or regulations, whenever enacted or made, and no
Minister, department of Government, or agent of the Crown shall exercise
any power granted under any other Act or regulation except in accordance
with this Act and the regulations.

(2) Notwithstanding the Land Act or any other Act or law, the
commission, as agent of Her Majesty in right of the Province, shall administer
as commission land all Crown land that is designated under section 8 as
reserve land and Crown land under the Environmental Protection Act, and
may sell, lease, or otherwise dispose of any portion of such land in
accordance with this Act upon such terms and conditions as the commission
may determine.

(3) Notwithstanding subsection (1), where Crown land that is designated
as an agricultural land reserve under section 8 has been leased by the Crown,
or sold by agreement for sale by the Crown and not transferred to the
purchaser before the twenty-first day of December, 1972, and on that date
was being used for a purpose other than farm use, but as permitted by, or not
in contravention of, the terms and conditions of the lease or agreement for
sale, that use may continue until the termination of the lease or the issue of
title to the purchaser under the agreement for sale.

(4) Subject to subsection (5), nothing in this Act or the regulations affects
or impairs the validity of a by-law of a municipality or regional district
relating to the use of agricultural land in an agricultural land reserve except in
so far as the by-law is contrary to, or is in conflict with, inconsistent with, or
repugnant to, this Act, or the regulations, or an order of the commission; and
in case of any conflict, inconsistency, or repugnancy between the by-law and
this Act, or the regulations, or order of the commission, this Act or the
regulations or the order of the commission prevails.

(5) A by-law or regulation of a municipality or regional district, or any
provision thereof, that is, in any manner, in conflict with, inconsistent with,
or repugnant to this Act, or the regulations, or order of the commission is
suspended and of no effect to the extent of such conflict, inconsistency, or
repugnancy.

(6) A by-law or regulation of a municipality or regional district that
provides for further or additional restrictions or conditions respecting farm
use of agricultural land than those provided by this Act and the regulations is
not, for that reason alone in conflict with, inconsistent with, or repugnant to
this Act and the regulations.

(7) Subject to subsection (8), the Companies Act does not apply to the
commission.

(8) The Lieutenant-Governor in Council may, by order, declare that any
of the provisions of the Companies Act apply to the commission, and those
provisions thereupon apply to the commission.

21. (1) For the purposes of this Act and the establishment of an
agricultural land reserve under section 8, the Minister of Finance shall, from
time to time as required by the commission, pay out of the Consolidated Revenue Fund, or the Revenue Surplus Appropriation Account of the Consolidated Revenue Fund, or partly from the Consolidated Revenue Fund and partly from the Revenue Surplus Appropriation Account, to the commission, an amount not exceeding in the aggregate twenty-five million dollars.

(2) For the purposes of this Act and the establishment of green belt land reserves, land bank land reserves, or park land reserves, the Minister of Finance may pay under the Green Belt Protection Fund Act or the Accelerated Park Development Fund Act, or any other Act that authorizes moneys to be paid for such purposes, such amounts as he may consider necessary for the purpose of this Act.

(3) Further moneys required for the purposes of this Act shall be paid out of the Consolidated Revenue Fund with moneys authorized by an Act of the Legislature to be paid and applied for such purposes.

22. (1) This Act, excepting this section, comes into force on a date to be fixed by the Lieutenant-Governor by his Proclamation and he may fix different dates for the coming into force of the several provisions of this Act; and the date of the coming into force of any of the provisions of this Act may be declared to be before or after the enactment of this Act.

(2) Where the date of the coming into force of any of the provisions of this Act is prior to the enactment of this Act, that provision of the Act is retroactive to the extent necessary to give full force and effect to that provision on, from, and after that date.

(3) This section comes into force on Royal Assent.

EXPLANATORY NOTE

The purpose of this Act is to establish a Provincial Land Commission to set up and control reserves of agricultural land, green belt land, land bank land, and park land.

(This statement is submitted by the Legislative Counsel and is not part of the legislation.)
APPENDIX D

BILL 42 -- INTEREST GROUPS

The following list of groups actively in favour and against Bill 42 at the time of its introduction is not conclusive. The groups however all announced, through the press, their feelings towards the legislation. The dates given correspond with the date the public commitment appeared in the newspapers. For the most part the list was comprised through a review of the Vancouver Sun, The Province and the B.C.F.A. 'Scrap- book'. The political parties have not been included in this list.

OPPOSITION

1. B.C. Federation of Agriculture: (February 23, 1973 and before).
4. B.C. Egg Producers' Association: (March 2, 1973 delay until study).
5. Real Estate Institute of B.C.: (March 6, 1973 withdraw Bill 42).
9. Stamp out Socialism (S.O.S.): (March 14, 1973 a group to fight the N.D.P. and represent all opposition parties).

SUPPORT

2. Sierra Club of B.C.: (March 10, 1973 qualified support).
3. Citizen's Action to Save the Environment (C.A.S.E.: (March 13, 1973 will march in support of Bill 42).


15. Block Bros. Real Estate Co.: (March 27, 1973 qualified support pending amendments).
APPENDIX E

LAND COMMISSION ACT
Land Commission Act

1. In this Act, unless the context otherwise requires,
   "agricultural land" means land designated under section 8;
   "commission" means the commission established under section 2;
   "commission land" means land acquired by the commission for the
   purposes of this Act;
   "farm use" means an occupation or use of land for bona fide farm
   purposes, including, without limiting the generality of the fore­
   going, husbandry of the land and the plants, and animals
   thereon, and any other similar activity designated as farm use
   by the Lieutenant-Governor in Council;
   "green belt land" means land referred to in section 7;
   "land" includes any estate or interest in land;
   "land bank land" means land referred to in section 7;
   "land reserve plan" means a plan prepared pursuant to this Act
   in the manner prescribed by the regulations, which sets out
   clearly the areas within a municipality or regional district
   that, subject to the approval of the Lieutenant-Governor in
   Council, may be designated by the commission as an agri­
   cultural land reserve;
   "minister" means that member of the Executive Council charged by
   Order of the Lieutenant-Governor in Council with the admin­
   istration of this Act;
   "park land" means land referred to in section 7;
   "regulation" means a regulation or order of the Lieutenant-Gover­
   nor in Council made under this Act;
   "reserve" means a reserve of land established under section 8 of
   this Act. 1973, c. 46, s. 1.

2. (1) There is hereby established a commission to be known as the
    Provincial Land Commission (hereafter referred to as the "commission")
    consisting of not less than five members appointed by the Lieutenant-­
    Governor in Council, to hold office during pleasure, and upon their
    appointment the members constitute a corporation and shall be the
    directors thereof.

    (2) Each member shall be reimbursed for any reasonable travelling
    or out-of-pocket expenses necessarily incurred by him in discharging
    his duties, and in addition may be paid such remuneration for his ser­
    vices as a member of the commission as the Lieutenant-Governor in
    Council may determine.

    (3) Except as provided in sections 8 and 9, at any meeting of the
    commission, a majority of the members constitutes a quorum. 1973,
    c. 46, s. 2.
3. The Lieutenant-Governor in Council shall designate one of the members as chairman and one other member as vice-chairman. 1973, c. 46, s. 3.

4. (1) The commission is for all purposes an agent of the Crown.
(2) The commission may, on behalf of the Crown, carry out its powers and duties under this Act in its own name without specific reference to Her Majesty and may hold in its own name any land or other real or personal property, and likewise may dispose of, mortgage, hypothecate, pledge, and assign any such property. 1973, c. 46, s. 4.

5. (1) The commission may, pursuant to the Civil Service Act, appoint such officers and employees as it considers necessary for the purpose of this Act, and may determine their duties.
(2) The Lieutenant-Governor in Council may appoint a general manager of the commission, to be appointed during pleasure, and may fix his remuneration and may declare that the Civil Service Act applies to him.
(3) The Lieutenant-Governor in Council may declare that the Civil Service Superannuation Act applies to the members of the commission and to the general manager.
(4) The commission may, with the approval of the minister, engage and retain such experts, consultants, or specialists as it considers advisable and fix their remuneration. 1973, c. 46, s. 5.

6. The commission may make such by-laws and pass such resolutions, not contrary to law or this Act, as it considers necessary or advisable for the conduct of the affairs of the commission and, without limiting the generality of the foregoing, may make by-laws and pass resolutions with respect to the time and place of calling and holding meetings, the procedure to be followed at the meetings, and generally with respect to the conduct, in all respects, of the affairs of the commission; and may repeal, amend, or re-enact them. 1973, c. 46, s. 6.

7. (1) It is the object of the commission to
(a) preserve agricultural land for farm use;
(b) encourage the establishment and maintenance of family farms, and land in an agricultural land reserve, and a use compatible with the preservation of family farms and farm use of the land;
(c) preserve green belt land in and around urban areas;
(d) encourage the establishment and maintenance of land in a green belt land reserve for a use compatible with the preservation of a green belt;
(e) preserve land bank land having desirable qualities for urban or industrial development and restrict subdivision or use of the land for other purposes;
LAND COMMISSION

(f) encourage the establishment and maintenance of land in a land bank land reserve for a use compatible with an ultimate use for industrial and urban development;

(g) preserve park land for recreational use;

(h) encourage the establishment and maintenance of land in a park land reserve for a use compatible with an ultimate use for recreation; and

(h) advise and assist municipalities and regional districts in the preparation and production of the land reserve plans required for the purpose of this Act;

and, for these objects, it has the power and capacity, by itself, or in co-operation with the Government of Canada, or any of its agencies or corporations, or with any department of Government, or with a municipality or regional district to

(i) purchase or acquire land, except by expropriation, on such terms and conditions as may be negotiated, and hold such land for the purposes of this Act;

(j) dispose of, by sale, lease, or otherwise, commission land and Crown land that is in an agricultural land reserve, a green belt land reserve, a land bank land reserve, or a park land reserve, subject to such terms and conditions as the commission may determine;

(k) accept gifts of land subject to such terms and conditions as the commission may determine;

(l) acquire and hold personal property and dispose of personal property so acquired by sale, lease, or otherwise; and

(m) if authorized by any other Act, purchase or otherwise acquire, hold, administer, and dispose of land, including Crown land, for the purposes of that other Act.

(2) For the purposes of this section, the commission may

(a) purchase or acquire land, except by expropriation, including Crown land, the present condition or future potential of which merits preservation by reason of its aesthetic quality or its location in or around urban areas, as green belt land;

(b) purchase or acquire land, except by expropriation, including Crown land, having desirable qualities for urban or industrial development or redevelopment, as land bank land; and

(c) purchase or acquire land, except by expropriation, including Crown land, having desirable qualities for, or future potential for, recreational use as park land;

and, upon being so purchased or acquired, the green belt land, land bank land, or park land is established as

(d) a green belt land reserve; or

(e) a land bank land reserve; or

(f) a park land reserve,

as the case may be, and shall be subject to this Act and the regulations.

1973, c. 46, s. 7.
8. (1) For the purposes of section 7, the commission may, subject to this section, with the prior approval of the Lieutenant-Governor in Council, designate land, including Crown land, that is suitable for farm use, as agricultural land, and, upon being so designated, the agricultural land is established as an agricultural land reserve and shall be subject to this Act and the regulations.

(2) The regional board of every regional district, either alone, or in co-operation with its member municipalities, shall, with the advice and assistance of the commission if required, including such financial assistance as may be determined by the commission, within ninety days after the coming into force of this Act or within such further time as the commission may allow, by by-law, adopt a land reserve plan prepared in accordance with the regulations and file the by-law and land reserve plan with the commission.

(3) The council or regional board, as the case may be, shall not adopt a by-law for the purpose of this section until it has held a public hearing, notice of which has been published in the manner prescribed in section 703 of the Municipal Act, and except upon the affirmative vote of a majority of all members of council or of all the directors of a regional board.

(4) The provisions of section 703 of the Municipal Act apply, with the necessary changes and so far as are applicable, to a hearing under subsection (3).

(5) Where the commission considers that the land reserve plan filed under subsection (2) carries out the intent and purpose of this Act, it shall, after approval of the Lieutenant-Governor in Council, designate the agricultural land shown therein as an agricultural land reserve.

(6) Where the commission considers it necessary or advisable to amend the land reserve plan filed under subsection (2) to better carry out the intent and purpose of this Act, it may recommend to the Lieutenant-Governor in Council amendments to the land reserve plan, and shall, after approval by the Lieutenant-Governor in Council of the land reserve plan or the land reserve plan as amended, designate the agricultural land therein as an agricultural land reserve.

(7) Where the council or regional board of a municipality or regional district, as the case may be, fails or refuses to prepare and file a land reserve plan with the commission in accordance with subsection (2), the commission shall, subject to subsections (8), (9), and (10), prepare a land reserve plan and submit the land reserve plan to the Lieutenant-Governor in Council for approval.

(8) The commission shall not submit the land reserve plan prepared under subsection (7) to the Lieutenant-Governor in Council until it has held a public hearing, notice of which has been published in the manner prescribed in subsection (1) of section 703 of the Municipal Act, and the provisions of subsections (2), (3), and (4) of section 703 of the
Municipal Act apply, with the necessary changes and so far as are applicable, to a hearing under this subsection.

(9) For the purpose of a hearing under subsection (8),
(a) the commission has and may exercise all the powers of a Commissioner under sections 7, 10, and 11 of the Public Inquiries Act;
(b) the commission may accept written submissions or any other form of evidence; and
(c) notwithstanding subsection (3) of section 2, three members of the commission have and may exercise all the powers of the commission.

(10) The Lieutenant-Governor in Council may approve a land reserve plan as submitted by the commission under subsection (7), or with such alterations or variations as he may consider necessary or advisable to carry out the intent and purpose of this Act, and the commission may thereupon, pursuant to subsection (1), designate the agricultural land shown therein as an agricultural land reserve.

(11) Notwithstanding the other provisions of this section, pending the establishment of an agricultural land reserve in a municipality or regional district under this section, all land that is zoned for agricultural or farm use under a by-law of the municipality or regional district subsisting immediately prior to the twenty-first day of December, 1972, shall be deemed to be an agricultural land reserve and subject to this Act and the regulations, unless excepted by the commission. 1973, c. 46, s. 8.

9. (1) The Lieutenant-Governor in Council may, upon the application of a municipality, regional district, or the commission or on his own, by order, exclude any land, whether Crown land or private land, from the reserve established under subsection (1) of section 8.

(2) Subject to subsection (5), an owner of land aggrieved by a designation by the commission of his land as part of an agricultural land reserve under section 8 may, notwithstanding that he appeared before, or made representations to, the municipality, or regional district, or the commission under subsection (3) or (8) of section 8, apply to the commission in the manner prescribed by the regulations to have his land excluded from the agricultural land reserve.

(3) The commission, after a hearing held in such manner and after such notice as is prescribed by the regulations, may allow the application upon such terms and conditions as it considers advisable, or may refuse the application.

(4) Notwithstanding subsection (3) of section 2, for the purpose of the hearing, three members of the commission have and may exercise all the powers of the commission.

(5) Where land of an owner was, immediately prior to the twenty-first day of December, 1972, zoned for agricultural or farm use under a
by-law of a municipality or regional district subsisting on that date, the owner is not entitled to apply to the commission under subsection (2) unless so authorized by a resolution of a municipality or a regional district, as the case may be.

(6) The commission shall, at the request of the owner,

(a) deliver to him its decision in writing; and

(b) allow him to examine and make available to him copies of all relevant documents in the custody of the commission pertaining to his application.

(7) A person who is dissatisfied with the decision of the commission,

(a) upon being authorized to appeal by a resolution of the municipality or regional district, as the case may be; and

(b) upon being granted leave to appeal by any two members of the commission,

may appeal, in the manner prescribed in the regulations to the Environment and Land Use Committee established under the Environment and Land Use Act.

(8) Subject to the procedure prescribed by the regulations, an appeal under this section shall be a hearing and review, but the Environment and Land Use Committee may accept written submissions or any other form of evidence, provided any such submission or other form of evidence is made available to the appellant.

(9) The Environment and Land Use Committee may, after a hearing, allow the appeal, subject to such terms and conditions as it may consider advisable, or refuse the appeal; and, in the event the appeal is refused, may order that any costs of the hearing be paid by the appellant, and, in the event the appeal is allowed, shall order that the reasonable costs incurred by the appellant be paid by the commission.

(10) The commission is entitled to be a party on the hearing of the appeal and may take part in the proceedings.

(11) Where land is excluded from a land reserve plan by order of the commission or the Environment and Land Use Committee under this section, the commission shall amend the land reserve plan accordingly and notify the municipality or regional district, as the case may be, and the appropriate Registrar of Titles. 1973, c. 46, s. 9.

10. (1) No person shall occupy or use agricultural land designated as an agricultural land reserve pursuant to section 8 for any purpose other than farm use, except as permitted by this Act or the regulations or by order of the commission upon such terms and conditions as the commission may impose.

(2) In addition to the exceptions, reservations, or limitations set out in subsection (1) of section 38 of the Land Registry Act, a certificate of title heretofore issued under that Act in respect of agricultural land that is designated as an agricultural land reserve shall be subject, by implication and without special endorsement on the certificate of title,
to this Act and the regulations respecting the reserve and farm use of the land contained therein; and the Registrar under the Land Registry Act shall note on every certificate of title of agricultural land hereafter issued that is designated as an agricultural land reserve an endorsement that the certificate of title may be affected by this Act.

(3) Notwithstanding subsection (2), the commission may, in respect of any agricultural land that is an agricultural land reserve, register a caveat in the appropriate Land Registry Office restricting the agricultural land described therein to farm use.

(4) On, from, and after the twenty-first day of December, 1972, except as permitted by this Act, or the regulations, or by an order of the commission upon such terms and conditions as the commission may impose,

(a) no municipality, or regional district, or any authority, board, or other agency established by it shall authorize or permit agricultural land in an agricultural land reserve to be used for a purpose other than farm use, or authorize or permit a building to be erected thereon, except

(i) for farm use; or
(ii) for residences necessary for farm use; or
(iii) such residences for an owner of the agricultural land as may be permitted to be erected by the regulations;

(b) no person, designated or appointed under the Local Services Act, shall authorize or permit agricultural land in an agricultural land reserve to be used for a purpose other than farm use, or authorize or permit a building to be erected thereon, except

(i) for farm use; or
(ii) for residences necessary for farm use; or
(iii) such residences for an owner of the agricultural land as may be permitted to be erected by the regulations;

(c) no approving officer under the Land Registry Act and no approving officer or Board of Variance under the Municipal Act shall authorize or permit agricultural land in an agricultural land reserve to be used for a purpose other than farm use; and

(d) no Registrar of Titles under the Land Registry Act shall accept an application for deposit of a plan of subdivision under the Land Registry Act, or under the Strata Titles Act, or under the Real Estate Act, all or part of which consists of agricultural land in an agricultural land reserve. 1973, c. 46, s. 10.

Exemption.

11. (1) Section 10 does not apply in respect of agricultural land in an agricultural land reserve that, on the twenty-first day of December, 1972, was, by separate certificate of title issued under the Land Registry Act, less than two acres in area.
(2) Where a use of agricultural land that is within an agricultural land reserve
(a) is a use other than farm use; and
(b) was established and carried on continuously for a period of at least six months immediately prior to the twenty-first day of December, 1972; and
(c) is permitted by, or is not in contravention of, any other Act, regulation, by-law, order, or any other law respecting land use,

that agricultural land is exempted from section 10 unless and until
(d) the use of that agricultural land is changed to a use other than farm use without the permission of the commission; or
(e) any other Act, regulation, by-law, order, or any other law made after the twenty-first day of December, 1972, prohibits such use; or
(f) permission for any other use granted under any other Act, regulation, by-law, or order is withdrawn or expires.

(3) Where agricultural land, exempted under subsection (2), is sold, leased, transferred, transmitted, or otherwise disposed of, this Act and the regulations thereupon apply to that land, except as otherwise permitted by the commission.

(4) The commission may, in accordance with the regulations, hear and determine applications for permission under subsections (2) and (3), and under subsections (1) and (4) of section 10, and may grant or refuse permission for a use of the land for other than farm use, and may impose whatever terms and conditions it considers advisable, and, except as provided in subsection (5), the decision of the commission is final and no appeal lies from that decision.

(4a) Where land of an owner was, immediately prior to the twenty-first day of December, 1972, zoned for agricultural or farm use under a by-law of a municipality or regional district subsisting on that date, the owner is not entitled to apply to the commission for permission for any other use under section 10 or 11, unless so authorized by a resolution of a municipality or a regional district, as the case may be.

(5) An owner of land aggrieved
(a) by an order or decision of the commission refusing permission under subsection (1) or (4) of section 10 or under this section; or
(b) by the terms and conditions imposed by the commission in an order made under subsection (1) or (4) of section 10, or a permission granted under this section,

may appeal, on a question of law or excess of jurisdiction only, by way of stated case to the Supreme Court, and the provisions of the Summary Convictions Act respecting appeals by way of stated case apply, with the
necessary changes and so far as are applicable, to the appeal, and to any further appeal therefrom, and a reference in that Act to a Justice shall be deemed to be a reference to the commission. 1973, c. 46, s. 11.

12. With respect to agricultural land designated as an agricultural land reserve, the commission may
(a) make agreements with the owners of agricultural land respecting continued farm use of the agricultural land upon such terms and conditions as may be agreed;
(b) carry on farming operations on commission land or agree with other persons to do so;
(c) withdraw from an agricultural land reserve, agricultural land owned by the commission and, with the prior approval of the Lieutenant-Governor in Council, dispose of such land to the Crown to be dealt with under the Land Act;
(d) dispose of agricultural land owned by the commission, with the prior approval of the Lieutenant-Governor in Council, to private ownership for permanent farm use, or any other use considered by the commission to be in the public interest, subject to such terms and conditions as the commission may determine; and
(e) subject to the approval of the Minister of Finance, or of the Minister of Municipal Affairs, as the case may be, establish a system of tax incentives to encourage the dedication of privately owned agricultural land to permanent farm use, and to increase the agricultural productivity thereof. 1973, c. 46, s. 12.

13. The commission may make, place, or construct on or bring onto, or cause to be made, placed, or constructed on or brought onto, any commission land such capital improvements as it considers necessary or desirable for the efficient development or use of the commission land or other land in the vicinity, and pay for or purchase any capital improvements made, placed, or constructed on or brought onto any commission land by any person. 1973, c. 46, s. 13.

14. Where commission lands are unoccupied or a lease of commission land does not provide for the payment of tax by the lessee, the commission may pay to the municipality or regional district a grant in lieu of taxes. 1973, c. 46, s. 14.

15. The commission may establish, with the approval of the Lieutenant-Governor in Council, a schedule of fees to be paid to the commission for the preparation of leases and other documents, for appraisals and evaluations of land, and for copies of documents of the commission. 1973, c. 46, s. 15.

16. Land shall be deemed not to be taken or injuriously affected by reason of the designation by the commission of that land as an agricultural land reserve. 1973, c. 46, s. 16.
Agreements. 17. For the purposes of this Act, the minister may, subject to the approval of the Lieutenant-Governor in Council, enter into such agreements as the minister considers advisable with
(a) the Government of Canada;
(b) a municipality;
(c) a regional district;
(d) an agent of the Crown; or
(e) any other department of Government. 1973, c. 46, s. 17.

Reports. 18. (1) The commission shall submit annually to the Lieutenant-Governor in Council
(a) a report respecting the operations of the commission for the immediately preceding fiscal year;
(b) a financial statement showing the business of the commission for that fiscal year, in such form as may be required by the Comptroller-General.

(2) The report shall be laid before the Legislative Assembly within fifteen sitting days from the commencement of the session next following the end of the fiscal year for which the report is made; but the commission is not required to submit its annual report less than ninety days after the end of its fiscal year. 1973, c. 46, s. 18.

Regulations. 19. For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor in Council may make such regulations and orders as are ancillary thereto and not inconsistent therewith; and every regulation shall be deemed to be part of this Act and has the force of law; and, without restricting the generality of the foregoing, the Lieutenant-Governor in Council may make regulations and orders
(a) respecting land reserve plans for, and the designation, establishment, and approval of, agricultural land reserves, and the designation of farm use;
(b) respecting applications to the commission for permission under section 10 and section 11, and the practice and procedure for hearing the application, and for applications, hearings, and appeals under sections 8 and 9;
(c) respecting residences for owners under subsection (4) of section 10;
(d) respecting the appraisal of land and the acquisition, by purchase or lease, of land;
(e) respecting applications for sale or lease of commission land or personal property, or Crown land that is in a reserve, and the terms and conditions of sale or lease;
(f) respecting the management and control of commission land;
(g) prescribing the method of determining the eligibility of applicants to lease or purchase commission land;
(h) prescribing the interest payable in respect of purchases from the commission or arrears of rents;
LAND COMMISSION

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(1) providing for varying, waiving, postponing, or rescheduling of interest or rent or the payment of interest or rent; and

(1) respecting any other matter required for carrying out the purpose of this Act. 1973, c. 46, s. 19.

20. (1) This Act is subject to the Environment and Land Use Act, and the Pollution Control Act, 1967, but otherwise, except as provided in this Act or in the regulations, this Act and the regulations are not subject to any other Act or regulations, whenever enacted or made, and no Minister, department of Government, or agent of the Crown shall exercise any power granted under any other Act or regulation except in accordance with this Act and the regulations.

(2) Notwithstanding the Land Act or any other Act or law, the commission, as agent of Her Majesty in right of the Province, shall administer as commission land all Crown land that is established under section 7 or 8, as reserve land and may sell, lease, or otherwise dispose of any portion of such land in accordance with this Act upon such terms and conditions as the commission may determine.

(3) Notwithstanding subsection (1), where Crown land that is established as an agricultural land reserve under section 8 has been leased by the Crown, or sold by agreement for sale by the Crown and not transferred to the purchaser before the twenty-first day of December, 1972, and on that date was being used for a purpose other than farm use, but as permitted by, or not in contravention of, the terms and conditions of the lease or agreement for sale, that use may continue until the termination of the lease or the issue of title to the purchaser under the agreement for sale.

(4) Subject to subsection (5), nothing in this Act or the regulations affects or impairs the validity of a by-law of a municipality or regional district relating to the use of agricultural land in an agricultural land reserve except in so far as the by-law is contrary to, or is in conflict with, inconsistent with, or repugnant to, this Act, or the regulations, or an order of the commission; and in case of any conflict, inconsistency, or repugnancy between the by-law and this Act, or the regulations, or order of the commission, this Act or the regulations or the order of the commission prevails.

(5) A by-law or regulation of a municipality or regional district, or any provision thereof, that is, in any manner, in conflict with, inconsistent with, or repugnant to this Act, or the regulations, or order of the commission is suspended and of no effect to the extent of such conflict, inconsistency, or repugnancy.

(6) A by-law or regulation of a municipality or regional district that provides for further or additional restrictions or conditions respecting farm use or agricultural land than those provided by this Act and the regulations is not, for that reason alone in conflict with, inconsistent with, or repugnant to this Act and the regulations.
21. (1) For the purposes of this Act and the establishment of an agricultural land reserve under section 8, the Minister of Finance shall, from time to time as required by the commission, pay out of the Consolidated Revenue Fund, or the Revenue Surplus Appropriation Account of the Consolidated Revenue Fund, or partly from the Consolidated Revenue Fund and partly from the Revenue Surplus Appropriation Account, to the commission, an amount not exceeding in the aggregate twenty-five million dollars.

(2) For the purposes of this Act and the establishment of green belt land reserves, land bank land reserves, or park land reserves, the Minister of Finance may pay under the Green Belt Protection Fund Act or the Accelerated Park Development Fund Act, or any other Act that authorizes moneys to be paid for such purposes, such amounts as he may consider necessary for the purpose of this Act.

(3) Further moneys required for the purposes of this Act shall be paid out of the Consolidated Revenue Fund with moneys authorized by an Act of the Legislature to be paid and applied for such purposes. 1973, c. 46, s. 21.

22. (1) This Act, excepting this section, comes into force on a date to be fixed by the Lieutenant-Governor by his Proclamation and he may fix different dates for the coming into force of the several provisions of this Act; and the date of the coming into force of any of the provisions of this Act may be declared to be before or after the enactment of this Act.

(2) Where the date of the coming into force of any of the provisions of this Act is prior to the enactment of this Act, that provision of the Act is retroactive to the extent necessary to give full force and effect to that provision on, from, and after that date.

(3) This section comes into force on Royal Assent. 1973, c. 46, s. 22.

[NOTE—Sections 1 to 7, inclusive, sections 13 to 15, inclusive, and section 17 to 21, inclusive, proclaimed in force May 18, 1973, Part II Gazette Vol. 16, p. 211; Sections 8 to 12, inclusive, and 16, proclaimed in force July 3, 1973, Part II Gazette Vol. 16, p. 359.]
APPENDIX F

ORDER IN COUNCIL 353

APPLICATIONS UNDER THE LAND COMMISSION ACT
Pursuant to the *Land Commission Act,* and upon the recommendation of the undersigned, the Lieutenant-Governor, by and with the advice and consent of the Executive Council, orders that the following regulation be made:

**Applications Under Land Commission Act**

*Applications by a Municipality, Regional District, or the Commission to Exclude Land From an Agricultural Land Reserve Under Section 9 (1) of the Act*

1. Where a municipality, regional district, or the commission makes an application to the Lieutenant-Governor in Council under section 9 (1) of the Act, the application shall be in substantial compliance with Schedule A to this regulation, and the applicant shall notify the other two parties referred to in section 9 (1) of the Act by sending to each party a copy of the application and the supporting material, and the Lieutenant-Governor in Council, prior to considering the application, shall allow each party to make representations in respect of the application.

2. Where the Lieutenant-Governor in Council, under section 9 (1) of the Act, intends, by his own Order, to exclude land, he shall notify the commission, the regional district, and, if applicable, the municipality, and shall allow each party to make representations in respect of the intended action.

3. Where the Lieutenant-Governor in Council, by his own Order under section 9 (1) of the Act, excludes any land, the Lieutenant-Governor in Council shall notify the commission of such action; and the commission shall in turn notify the regional district and, if applicable, the municipality, and the appropriate registrar of titles.

*Applications by an Owner to Exclude Land Under Section 9 (2) Pursuant to Section 9 (3) of the Act*

4. Where an owner makes an application to the commission under section 9 (2) of the Act, the applicant shall file the application in compliance with Schedule A to this regulation in the office of the secretary-treasurer of the regional district in which the land is situated and shall pay to the secretary-treasurer a processing fee of twenty-five dollars.

5. (1) The secretary-treasurer shall forthwith obtain the information as prescribed in Schedule B to this regulation and complete the Schedule.
(2) Where the land is located in unorganized territory, the secretary-treasurer shall supply the information required by items (1) to (9) of Schedule D; but, where the land is located in a municipality, the secretary-treasurer shall require the clerk of the municipality to supply the information referred to in items (2) to (9), and the clerk shall forthwith supply such information.

6. The secretary-treasurer shall, forthwith after receipt of the application and of the information required to complete Schedule B pursuant to sections 4 and 5, forward copies of Schedules A and B to the regional district, and, if applicable, the municipality.

7. Where an application filed under section 4 is in respect of land referred to in section 9 (5) of the Act, no further proceedings shall be taken unless and until the municipality or regional district passes the resolution referred to in section 9 (5) of the Act authorizing the application.

8. Where a resolution is passed pursuant to section 9 (5) of the Act, the secretary-treasurer shall transmit to the commission, along with the other information required pursuant to section 11, a certified copy of the resolution of the regional district where the land is located in unorganized territory, or a certified copy of the resolution of the municipality where the land is located in a municipality.

9. The regional district or municipality may, if it considers it necessary or advisable, transmit its recommendations, comments, opinions, or any other information in respect of any application to the commission within the time limited under section 11.

10. (1) The regional district may, if it considers it necessary or advisable, hold public information meetings in respect of any application and, where such a meeting is held, at least one member of the regional district representing the area within the land that is the subject matter of the application is situated shall attend and shall report to the regional district the views expressed at the meeting.

(2) The member of the regional district referred to in subsection (1) shall transmit a copy of the report or a summary thereof, indicating the degree of support for or opposition to, the application to the commission pursuant to section 11.

11. The secretary-treasurer shall, within thirty days, or, where a public information meeting is held pursuant to section 10, within sixty days, after receipt of an application, transmit the application in Schedule A and the information required in Schedule B, and the resolution, if required under section 8, and any other information pursuant to sections 9 and 10, to the commission.

12. Notwithstanding anything in these regulations or in Schedule A or B appended hereto, the commission may require of the applicant, or of the regional district or municipality, such further or additional information as it considers necessary.

13. A hearing required by section 9 (3) of the Act shall be held at a time and at a place designated by the commission and may be adjourned from time to time.

14. (1) The commission shall give written notice of the date and place of the hearing to

(a) the applicant;
(b) the regional district;
(c) the municipality, if any; and
(d) such owners or occupiers of land located adjacent to the land referred to in the application as it may consider necessary or advisable, not less than ten days and not more than thirty days before the date of the hearing.
(2) The notice of hearing shall
(a) identify the land referred to in the application;
(b) state the purpose of the application; and
(c) state the place and time at which the application and the documents
pertaining to the application may be inspected.

15. The commission shall cause to be mailed by registered mail to the appli­
cant a statement of the facts, opinions, and other information, or a summary thereof,
received by the commission to be submitted to the commission at the hearing.

16. The commission shall, at the request of the applicant or his agent, allow
him or his agent to examine and make copies of all relevant documents in the custody
of the commission pertaining to the application.

17. (1) The applicant is entitled to make representations at the hearing per­
sonally or by his counsel or agent.

(2) The commission may order the applicant or any other person to give his
evidence upon oath.

18. For the purpose of the hearing, the commission
(a) has and may exercise all the powers of a Commissioner under sec­
tions 7, 10, and 11 of the Public Inquiries Act;
(b) may accept written submissions or any other form of evidence not­
withstanding that it may not be evidence in a Court of law; and
(c) may hear representations, evidence, and opinions of any person
present or represented at the hearing, and of the regional district and
municipality, that are relevant to the application.

19. Where any evidence is presented at the hearing a statement of which has
not been sent to the applicant pursuant to section 15, the commission,
(a) where the applicant, or his counsel or agent, is present at the hearing,
may hear further representations in respect of such evidence, or
adjourn the hearing to enable the applicant to make answer to such
evidence; or
(b) where the applicant, or his counsel or agent, is not present at the
hearing, shall notify the applicant by registered mail of the additional
evidence presented by the hearing and the date within which such
additional evidence may be answered.

Applications to Appeal Under Section 9 (7) of the Act

20. (1) A person who is dissatisfied with the decision of the commission under
section 9 (2) of the Act may file a notice of appeal to the Environment and Land
Use Committee.

(2) The person shall file with the notice of appeal
(a) a certified copy of a resolution of the regional district, where the
land is in unorganized territory, or a resolution of the municipality
where the land is within a municipality, authorizing the appellant to
appeal; and
(b) a certificate of leave to appeal signed and dated by two members of
the commission.

(3) A certificate of leave to appeal expires sixty days after the date shown
thereon.

21. An appeal under section 20 shall be filed with the Environment and Land
Use Committee by delivering it or mailing it by registered mail to the secretary of
that committee in Victoria, British Columbia.

22. The appellant shall state in the notice of appeal the reasons for the appeal
and the grounds upon which he alleges that the decision of the commission is wrong.

23. The appellant shall attach to the notice a copy of the application and the
attached documents filed with the commission on the original application.

24. The appellant shall deliver or mail by registered mail a copy of the notice
of appeal to each person who made a submission or gave evidence in support of or
in opposition to the original application, and to the regional district and the munici­
pality, if any, and to the commission.

25. Upon receipt of a copy of the notice of appeal, the commission shall forth­
with transmit to the secretary of the Environment and Land Use Committee
(a) a copy of all the documents in the custody of the commission per­
taining to the original application;
(b) a transcript of any evidence that was transcribed at the hearing; and
(c) a copy of the decision of the commission, and the reasons therefor, if
any.
26. The Environment and Land Use Committee shall notify the appellant of the date and place of the hearing and the appellant shall deliver or serve by registered mail a copy of the notice on each person, regional district, and municipality served with the notice of appeal at least ten days before the date of the hearing.

27. The Environment and Land Use Committee shall, at or before the hearing, review all the documents filed with it pertaining to the appeal, and at the hearing shall hear the representations and evidence of the commission, the appellant, and the regional district, municipality, and other persons who made representations or gave evidence on the original application, and such other evidence as the Environment and Land Use Committee may consider necessary.

28. Sections 17 and 18 apply to a hearing and review under section 27 and the words "Environment and Land Use Committee" shall be substituted for "commission", where applicable.

Applications to Exempt the Use of Land Under Section 11 (4) of the Act, Pursuant to Section 10 (1) and (4) and Section 11 (2) and (3) of the Act

Where a person makes an application to the commission under section 11 (4) of the Act, pursuant to section 10 (1) and (4) and section 11 (2) and (3) of the Act, the applicant shall file an application in substantial compliance with Schedule A hereto in the office of the secretary-treasurer of the regional district in which the land is situated and shall pay to the secretary-treasurer a processing fee of twenty-five dollars.

30. Sections 5 and 12 apply in respect of applications filed pursuant to section 29.

31. The commission may, where it is considered necessary or advisable, hold a hearing with respect to any application filed pursuant to section 29 and the meeting shall be held at a time and place designated by the commission and may be adjourned from time to time.

32. Where the commission holds a hearing under section 31, sections 14 to 19 apply in respect of the hearing.

D. D. STUPICH
Minister of Agriculture

D. BARRETT
Presiding Member of the Executive Council

SCHEDULE A

APPLICATION UNDER THE LAND COMMISSION ACT
(Information to be supplied by applicant)

I, (Name) (Address) (Telephone)
the undersigned, being owner

I, (Name) (Address) (Telephone)
the authorized agent of the undersigned owner of the following properties:

(legal description)

within the Regional District of

do hereby make application under (Section 9 (2) or Section 11 (4))
of the Land Commission Act to

(Select either (a) or (6) below)
If pursuant to section 9 (2)—
(a) have the above described properties excluded from the Agricultural Land Reserve Plan of the Regional District.

If pursuant to section 11 (4)—
(b) describe as fully as possible the nature of the application for permission; i.e., whether under section 10 (1) and (4) or section 11 (2) and (3) of the Land Commission Act and for what purposes.

My reasons for requesting this action are as follows:

In support of this application I submit one copy of each of the following as addenda, and am prepared to supply such additional copies of any items as the commission may direct:

(a) A map or maps and/or plan or plans of appropriate scale, indicating
(i) the subject property of the application, in terms of the smallest existing legal parcel or parcels, and the location of the subject property within the Agricultural Land Reserve; and
(ii) where the applicant owns, leases, or rents additional properties, the collective properties or farm unit under the ownership, lease, or rental of the applicant in the immediate area of the application.

Such maps or plans must identify parcels by legal description, and specify boundary lines, dimensions, areas, ownership, and tenure.

It is preferable that these maps or plans be those of a surveyor, engineer, architect, planner, or other equivalent professional:

(b) A description of the existing use of the overall properties or farm unit, and of the subject property, including photographs of the property and buildings and any other details or information relating to the present usage of the property:

(c) A brief description, either in words or by plan of the existing land use and buildings adjacent to and surrounding the property:

(d) A description of the proposed use of the subject property including, if available, plans of any proposed buildings or development:

(e) Any other information or comments.

I hereby declare that the information contained herein is to the best of my knowledge factual and correct.

(Signature of owner)

(Owner's name printed)

(Date)

SCHEDULE B
INFORMATION TO BE SUPPLIED BY REGIONAL DISTRICT AND/OR MUNICIPALITY

In respect to the application of

(Name of applicant)

(Address)

(Legal description)

within the Regional District of, the following information is applicable:

(1) If applicable, the regional plan designation of the subject property and a description of the permitted uses, minimum lot size, and other regulations pertaining thereto:

(2) Any other applicable community or other plan or study designations:
(3) The zoning applicable to the subject property at the date of application and a description of the permitted uses, minimum lot size, and other regulations pertaining thereto;

(4) The zoning applicable to the subject property immediately prior to the twenty-first day of December, 1972;

(5) A description of the use of the subject property, including any details relating to occupancy and legality of use and occupancy;

(6) A brief description of the existing land use and buildings adjacent to and surrounding the subject property;

(7) A description of the services available to the subject property or the possibility or feasibility of providing services;

(8) Indication of whether property is located in floodplain;

(9) Any other information or comments.

(Signature of secretary-treasurer or administrator)

(Date)

APPENDIX G

B.C. NEW DEMOCRATIC PARTY
AGRICULTURAL POLICY
-- as of August, 1972 --
New Deal for Farmers

The produce of the land sustains the life of society. We cannot ignore the problems facing the 130,000 people who work the land in B.C.

Vast and powerful corporations now dominate agriculture. Their tightened grip on the land squeezes every British Columbian. Consumers pay more and more for the food they buy. Independent farmers get less and less for the food they grow. Everyone loses but big business.

High machinery costs. Unfair competition from foreign producers. And now the invasion by corporate agricultural interests. The independent farmer is methodically being forced off his land.

A major program to revitalize agriculture in our province is urgently needed.

An NDP government will:

Land Use
- Establish a land-zoning program to set aside areas for agricultural production and to prevent such land being subdivided for industrial and residential areas.
- Establish a land bank to purchase existing and re-zoned agricultural land for lease to farmers on a long-term basis.
- Recognize individually-operated farm units, rather than large corporate farms, as the basis of B.C. agricultural production.
- Legislate to preserve open space for cattle grazing and to improve range land in co-operation with wildlife authorities.

Marketing
- Make efforts to achieve flexible tariffs to better protect B.C. growers against foreign imports.
- Establish regional producer-controlled marketing boards to be named as sole first purchaser of given products.
- Encourage consumers to buy B.C. products by making "produce grown and/or processed in B.C." signs compulsory on containers.
- Investigate the possibility of public and co-operative ownership of food wholesale outlets to reduce the price spread between producer and consumer.

Farm Machinery
- Establish a farm machinery testing depot to test and evaluate all types of machinery and to provide this information to farmers.
- Ensure that manufacturers and dealers maintain well-stocked depots to make replacement parts readily available throughout rural areas and that these parts are clearly identified and, where possible, standardized.
- Encourage co-operatively owned equipment and machinery to be made available along with qualified operators to member farmers.
Taxation
- Ensure the progressive removal of school taxes from the family farm over a five-year period.
- Immediately remove succession duties from farm lands passing within the family for farm purposes.

Ecology
- Establish a Test and Research Board under the Department of Agriculture to carry out extensive tests under actual conditions throughout rural areas and to make results known to agricultural groups.
- Prohibit entry into the province of foodstuffs from other countries or provinces using sprays or other chemicals banned in B.C.
- Transfer the right to specify the amount of any spray or similar product to be used from the manufacturer to the Test and Research Board.