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B I L L 42

LAND COMMISSION ACT

March 8, 1973

BACKGROUNDACTION IS NEEDED NOW:

British Columbia is not richly endowed with prime farm land. Only two per cent of the total land area of 230,000,000 acres is considered arable. It is therefore a very scarce and precious natural resource that once lost cannot be replaced. Properly cared for, agricultural land can produce food for present and future needs in perpetuity. The principle of preserving prime agricultural land is unassailable and is overwhelmingly supported by citizens throughout British Columbia.

The continuing loss of prime agricultural land had to be either stopped, or at least brought under much closer control. The reason for initiating this action is clearly substantiated in figures supplied by provincial soil survey experts who have provided me with the following loss estimates of prime agricultural land during the past twenty years:

Prince George . . . . .	26,000	acres
Peace River . . . . .	9,000	"
Kamloops . . . . .	3,000	"
Cariboo . . . . .	10,000	"
Okanagan . . . . .	15,000	"
Vancouver Island . . . . .	65,000	"
Fraser Valley . . . . .	57,000	"
Kootenays . . . . .	6,000	"
Miscellaneous . . . . .	4,000	"
T O T A L . . . . .	195,000	"

The rate of loss, therefore, of prime agricultural land approaches 10,000 acres per annum. (An acreage equivalent to the loss of one hundred-100 acre farms each and every year during the past twenty years.)

In the Fraser Valley alone twenty per cent of the total arable land has been lost, the rate of loss per annum has been estimated at 3,000 acres.

AGRICULTURE IS ESSENTIAL TO BRITISH COLUMBIA:

We must protect our present and future supply of food. British Columbia is a "deficient" province in terms of meeting its own food requirement. We cannot take it for granted that outside sources will always be able to supply our needs. We are highly vulnerable in terms of security. While it may now seem extremely remote, no one can predict for certain that the presently reliable supply of food could not change with alarming suddenness. Among these risks must be included possibilities of war, disease, drought and other calamities beyond the control and influence of provincial or national authority. Canada depends heavily on American supplies which, in the event of a home need, would place British Columbians in a serious position.

The production of food in British Columbia protects our citizens against price exploitation; we are not left to the mercy of the food importer and cannot be held up for ransom.

Agriculture is an important sector of the provincial economy. In 1972 the farm cash income is expected to approximate two hundred and fifty million dollars. Further, due to the complexity of the "food chain" it is an employment-creating industry and therefore has a high multiplier effect within the economy. The multiplier effect for agricultural products is three and four times farm value, therefore, the worth of the agriculture/food industry in total approaches one billion dollars per annum and ranks as a major provincial industry.

FARMING MUST BE VIABLE:

Farm lands are highly vulnerable to acquisition by other uses for well understood reasons. Land value determined on its agricultural economic worth is comparatively low price in relation to its worth for non-farm uses. Agricultural returns per acre cannot compete with the quick profits that can be realized by conversion to industrial and urban purposes.

Farm land lends itself to low cost development: the topsoil is already present, the topography favourable and service installation costs



are low. However, most of these benefits appear to go to the developer and not to the public purse.

There are many aspects of this buy-develop-sell process that are also undesirable on flood plain lands. The immediate economic loss to the provincial economy is obvious; sewage disposal by septic tank is virtually impossible due to a high winter water table; flood risks are greater and these have been paid by the public purse; wildlife values are nil under urban development whereas they are compatible with agricultural activities.

The policy of taxing farm land on the basis of its worth when used for farming is of benefit to the farmer. However, in the absence of effective zoning the same policy also encourages the speculator to buy up farm land, and enjoy the tax shelter while holding for a major capital gain. This practise is common throughout North America and various schemes have been, and are being tried in order to combat land erosion of this type.

Small acreages, with some exceptions also tend to interfere with efficient farming; they increase rural service costs and, in the marketplace, they are sometimes responsible for "nuisance" quantities of low-grade produce. There is need and justification for the small farm holding, however, it should not be permitted to develop on the prime lands excepting when the occupier may locate in a special use area, e.g. nursery, berries, bulbs, etc.

The important principle is that farm specialization not dependent on use of the best soil, should be relegated to the upland soils most appropriate to their requirements.

Special farm tax status should not be granted to land occupiers who contribute little or nothing to the economy. In Ontario a minimum of \$2,000 annual production is required before being granted farm status for taxation purposes; in New York State new legislation requires a minimum of \$10,000 in gross annual farm produce sales.

Farming must have certain conditions provided if it is to remain an efficient industry. Agriculture purchases huge quantities of supply

materials including machinery, building materials, seed, feeds, fertilizers, fuels, hardware, et cetera. As the number of farms decline, production input costs increases and reduces profit.

The capital cost of land is a critical factor in farming. Escalating land values often prohibit the continuation of farming. It cannot be sold to deserving young and/or new farmers leaving but one alternative and that being to sub-divide.

Farming is a biological industry with peculiar sounds, smells and which urbanites, on occasion, find objectionable. Farming cannot long suffer sensitivity constraints if it is to remain economically viable. It requires rational consideration.

#### A CRITIQUE OF MEASURES ADOPTED ELSEWHERE AND PROPOSED FOR BRITISH COLUMBIA

Preferential assessment is the most common technique used. It means land used for farming should be assessed for its farm value only, and all other non-agricultural uses shall not be considered. This is of major importance to the farm industry and is universally favoured as an indispensable aid to maintaining a viable and stable industry. The major problem association with preferential assessment is that, unless carefully applied to benefit the bona fide farmer, the speculator enjoys a tax comfort while waiting for a change in zoning. Small farm holdings are also encouraged often by an unwarranted tax incentive.

Approximately one-half of the state governments in the U.S.A., in order to halt the loss of prime agricultural lands, have also introduced farm land preservation legislation. A meeting of some twenty-five State Commissioners of Agriculture was held in Victoria in 1971 with senior officers of my department also participating. In response to an enquiry as to the degree of success achieved by State farm land preservation programs, none of the twenty-five Commissioners present could report substantial success. In almost every instance, the existing state programs, (where they existed at all) were considered to have a temporary effect at best.



New York State introduced in 1971 the most recent version of the preferential tax approach. While the details are fairly complex the basic features are as follows:

1. Establishment of "agricultural districts" on request by a group of land owners.
2. Farmers may apply for an agricultural value assessment on their land providing they farm ten acres or more and produce agricultural products worth \$10,000 or more annually.
3. Local governments are limited in enacting ordinances that would restrict or regulate farm structures or farming practises.
4. State agencies must modify administrative regulations and procedures to encourage the maintenance of commercial agriculture.
5. The right of public agencies to acquire land or to advance funds for non-farm development may be restricted or subjected to delays and the agencies will be required to consider alternative areas.
6. The law also provides for individual farmers who are not in agricultural districts, and have ten acres or more and produce \$10,000 or more of agricultural produce annually the possibility of obtaining agriculture value assessment similar to farms located in agricultural districts.
7. In return for an agricultural assessment the land owner in a district must make a commitment to continue to use his land exclusively in agriculture for the succeeding five years. Any land converted to non-farm use after it has enjoyed an agriculture value assessment would be subject to "roll-back" taxes for five years. Roll back taxes are to be computed by applying the applicable tax rate for each of the preceeding five years to the exempt assessed valuation.

The foregoing describes the most recent and presumable the most "improved" approach to be found in the U.S.A. (Oregon has since drafted legislation now in Bill form).

WOULD THIS TYPE OF PROGRAM WORK IN BRITISH COLUMBIA?

I think there are several observations that cast immediate doubt on the usefulness of the plan on the British Columbia scene.

1. Firstly, the main incentive for a group of land owners, or for an individual to enter an agricultural district is wholly dependent on receiving a tax concession. The concession being eligibility for assessment at agricultural land values as opposed to market value. This is rendered meaningless in British Columbia because we have long had farm land classification in this province.

2. The program is lacking in permanence for it provides for a review every five years. The implication of this provision is that "holding power" of the plan will only last to the point that it becomes profitable to convert to non-farm uses.

In New York and many other States conversion is discouraged by imposing penalty in the form of roll-back tax. The penalty may require payment of back tax for three years or five years; in some jurisdiction interest is also added to the roll-back tax.

In Ontario twenty-five per cent of regular tax is annually rebated to the farmer and in the event of conversion to other use, eight per cent interest is retroactively applied to a maximum of ten years.

However, despite these penalties, the experience in Ontario, as well as in California, Oregon and other States is that the effect is only temporary. The land owner continues farming until the additional capital value comfortably exceeds penalties in aggregate and then he cashes in.

3. Further disadvantages to the system is that it encourages investors to buy farm land and hold for long term conversion to non-farm use. The effect is further escalation of land values above its agricultural productive value thereby prohibiting future sale of land to farmers. Farmers cannot pay speculative land values unless they too become speculators; which often describes the present British Columbia scene.



4, The decision to enter and to disband agricultural districts is voluntary and the initiative largely rests with county legislature, although the State Government has an approving function. The process bears some similarity to existing municipal, regional and provincial planning and zoning responsibilities in British Columbia.

CONCLUSION:

The British Columbia land use planning, zoning and approving functions, now largely established at several levels of government in the province, is clearly abreast of what is being done in New York and other States. 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.

Of course, in other western countries they too are grappling with the problem. Various land programs have been discussed with officials in Britain, Netherlands and in Sweden. It is prohibitive in this paper to dwell on complexities of these programs, however the following apply to all

1. Planning and zoning is much more detailed and of 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 programs whereby farmers are assisted to increase the size of their holdings.  
----- Sub-division of prime farm land is therefore greatly discouraged.

#### UNDERSTANDING BILL 42

Since Bill 42 was first introduced to the House a great deal of opinion has appeared in the public media. Some of the statements are based on actual study of the Bill and are therefore considered informed and of constructive nature. Other opinion is based on mis-information, mis-interpretation and sometimes deliberately misleading.

Bill 42 can, if passed to the Legislature, accomplish the following:

1. Greatly curtail further loss of prime farm land throughout British Columbia.
2. Stabilize the agricultural land base so that land improvement programs designed to improve farm income ~~are~~ 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.

Some sections of the Bill are not well understood and further clarification appears to be necessary. Frequently asked questions include the following:

1. WILL THE COMMISSION ARBITRARILY DESIGNATE ALL PRESENT AND POTENTIAL ARABLE LAND FOR FARMING PURPOSES?

NO. The Commission will only be interested in prime farm lands deemed now or potentially suitable for successful farming. Marginal lands, non-economic small parcels, will usually be excluded from the reserve. There will likely be special situations such as excessively priced ~~farm~~ land which will also be excluded.

2. WILL THE COMMISSION ARBITRARILY TAKE POSSESSION OF FARM LANDS?

NO. The Bill does not confer powers of expropriation to the Commission. Section 7(1) is often being misinterpreted: "or otherwise acquire" does not, on the advice of legal experts, mean expropriation. However, it may be necessary to clarify this in the Bill. It may also, for example, include leasing, delayed purchase agreements, purchase by annuity, et cetera. It does not mean many other interpretations being proclaimed by opponents of the Bill.

3. DOES AN AGGRIEVED LAND OWNER HAVE ANY RIGHTS OF APPEAL?

YES. Many people overlook the fact that the land commission will be served by a General Manager and technical staff. (Section 5) These are the people who will be cooperating and working with local planning officers at Municipal and Regional level making the routine decisions consistent with the Act and its Regulations. If a land

owner is aggrieved by their work and decisions, he may on application, appeal to the commission for a hearing. The commission is the main appeal body, and its judgments should be correct. Other appeal provisions on questions of law or excess of jurisdiction are provided for in Section 11. It is the intention to provide for further appeal to the Environment and Land Use Committee.

4. WILL A LAND OWNER HAVE TO SEEK PERMISSION FROM THE COMMISSION TO SELL HIS LAND?

NO. The commission will in no way interfere with the freedom of a farmer to sell his land to a purchaser. The Bill requires the purchaser to use the land for agricultural purposes. Departure from this requirement may only be granted by the Lieutenant-Governor in Council.

5. IF A LAND OWNER CANNOT SELL HIS PROPERTY FOR AGRICULTURAL USE, WHAT IS HE TO DO?

The commission stands ready to purchase his property. The commission must deal fairly with people at all times, it must do so if it is to be a success. This implies that special situations will be dealt with at fair values. For example, consider the situation where a family recently purchased a farm at "market" price and in expectation that they too would at some future date be able to sell the farm to another family. However, due to death or other misfortune they are now owners of a property that has only a farm value. Clearly, if the commission did not give recognition to special circumstances this would be harsh treatment and may well bring financial ruin on innocent people. Of course, the commission will also have to be prudent with the taxpayers money.



6. DOES THE COMMISSION INTEND TO BECOME HEAVILY INVOLVED IN FARMING?

NO. The commission while having the authority to farm commission lands will not want to be in the farming business any longer than necessary. It will prefer to lease to farmers, or re-sell where it is advisable to do so.

7. IS IT INTENDED THAT THE COMMISSION WILL TAKE OVER THE ENTIRE PLANNING AND ZONING FUNCTION FROM LOCAL GOVERNMENT?

NO. The commission will seek to work cooperatively with local authorities in firming up those zones that are of particular concern to this Bill. There are many other Municipal and Regional planning and zoning responsibilities quite beyond the interest and authority of this legislation. Local government has little to fear from this Bill unless their efforts are badly out of line with the public's will to preserve farm land. It is expected that in many instances local zoning of agricultural lands will have been well accomplished and the commission will need only to designate existing boundaries. The commission should be expected to provide leadership in land use planning.

8. WILL LAND DESIGNATED BY THE COMMISSION BE FOREVER LOCKED INTO THAT USE?

NO. Informed land use planning and zoning is not a completely immobile function. Situations change, technology provides alternative options, the public interest recognizes new needs, all of these suggest the need for new assessments and the commission will respond as it deems necessary and advisable.