



**National Farmers Union**  
**Union Nationale des Fermiers**



**NATIONAL FARMERS UNION**

**DISTRICT 1, REGION 1**

**SUBMISSION TO THE**

**LAND MATTERS ADVISORY COMMITTEE**

**Summerside, P. E. I.**

**January 12, 2021**

***Presented to the Committee in Summerside, PEI, January 12, 2021***

District I, Region 1 of the National Farmers Union is appreciative of the opportunity to appear before the Land Matters Committee. We will begin our presentation by familiarizing committee members with our organization. Formed in 1969 on the national stage, the National Farmers Union is the only Canadian farm organization incorporated by an Act of the Parliament of Canada (Chapter 80 of the Statutes) with a mandate to promote the economic and social betterment of Canadian Farmers. We are the only Canadian voluntary national farm organization committed to ensuring family farms, of which many incorporate for tax purposes, are the primary unit of food production. The NFU promotes environmentally safe farming practices, the building of healthy vibrant rural communities, and assurance of an adequate supply of safe, nutritious food for Canadians through sustainable farming practices. The full list of our objectives can be viewed on the national website.

District 1 is the local chapter of the national organization. We have a strong membership and presence in Prince Edward Island. History has taught us that the achievement of our above objectives for Prince Edward Island farmers, as well as other Islanders, greatly depends on ownership and usage of our land, which is the province's primary natural resource. Since European settlement, Island land, both fertile and beautiful, has constantly been under threat from absentee, foreign, and corporate ownership, and control. All Islanders should therefore be able to relate to the experience of our indigenous people, the Mi'kmaq, who suffered the loss of their homeland with the arrival of our ancestors, many of whom were pushed off their land in Europe. Thus the National Farmers Union has long focused our energy on the Island land question. We were instrumental in having the *Lands Protection Act* passed in the PEI Legislative Assembly in 1982 to ensure Island agricultural land stayed in the hands and control of bona fide Island farmers.

Since the adoption of the *Lands Protection Act*, the NFU has been greatly disappointed at how the Act has been ignored, manipulated, and circumvented to enable individuals and corporations to achieve their own profit and control objectives. However, it is not surprising considering the worldwide ever-increasing intertwining of government and corporations, which over the past four decades, has fuelled the growing concentration of wealth and resources in the hands of fewer and fewer individuals and corporations. Now we find ourselves in the fourth land review or study of the act while violations continue.

Island land, soil, water, and air are public trusts. This reality makes the *Lands Protection Act* one of the most important, if not the most important, legislation ever passed in this province. Horace Carver, in his land study, titled it, the Gift of Jurisdiction. Generations of land holders are only short-term occupants entrusted with the responsibility of good stewardship of the public trusts for both current and coming generations. The *Lands*

*Protection Act* is more relevant than ever as PEI has become a commodity in the world-wide land grab.

The *Lands Protection Act*, passed in 1982 was, in part, a response to a request from Irving's Cavendish Farms, the successors to the bankrupt Seabrook Frozen Food plant in New Annan, to buy another 6000 acres to add to the 3000 acres they already owned.

It was known then that land ownership by the Cavendish Farms processor, would put them in direct competition with independent farmers and in a heightened position of control in the potato processing sector. It would also increase their influence over government. The Spirit and Intent of the *Lands Protection Act* was to ensure independent farmers farmed and processors processed so that both could flourish in a relationship of equal dependence and productivity. It was to ensure government would benefit from the diverse generation of wealth, and through taxation, be able to deliver services to all Islanders. In the early days of the *Lands Protection Act*, Cavendish Farms, along with others, had to divest themselves of some land in order to comply with the provisions of the Act. There was hope for both the future of the family farm and agriculture in the province.

Because of how successive Island governments have handled the management and enforcement of the *Lands Protection Act*, we find ourselves, 39 years later, in the very place the act was intended to prevent. The French fry processor and the Irving family, hold the title to large acreages of farmland (with no apparent intentions to stop acquiring) on which they are growing potatoes in direct competition with Island farmers. While many are not yet willing to publicly admit to the fact, this has given Cavendish Farms the upper hand in the processing industry with numerous independent farmers pushed aside, others struggling to remain viable, and others willing to play by the processor's rules in the demand to increase their acreage in potatoes and to lobby for the lifting of both land and water restrictions.

Sixty percent of PEI potatoes are used in processing of which the majority are sold to Cavendish Farms, according to the Department of Agriculture and Land Study, by Doctor Ziad Ghaith, released December 2020. This concentration of power has come at a great cost to the health of the Island soil, land ownership, the health of a once world-renowned potato seed industry, the financial and mental health of farmers, the well-being of rural communities, the survival and prosperity of small rural independent agricultural businesses, and the autonomy of our government. The bargaining power and financial position of process growers and all Islanders will only further weaken as the processor gains control over more land and water. Margins for farmers are becoming thinner and thinner while costs continue to climb.

Our elected governments and bureaucrats allowed this to happen. It is no secret there is considered to be a "special relationship" between government and the Irvings. However, there is no longer any excuse for government buy-in to the trickle-down theory of

economics that became an increasing dominant model for governments starting in the U.S. Ronald Reagan era.

Trickle-down economics is based on the assumption that investors, businesses, and corporations are the drivers of growth. Governments have given these entities incentives such as tax cuts, other financial breaks, and looser regulations, on the assumption they will expand their operations and hire more people and stimulate the economy. Governments believe the revenue lost in the tax cuts will be replaced by the benefits that will trickle down from the wealthy. But the reality of trickle-down economics is that instead of prosperity trickling down, prosperity has trickled up and income inequality has worsened.

The International Monetary Fund has rejected the trickle-down theory after determining that expenditures of middle-and low-income sectors are the drivers of the economy. In a report written by five economists, the fund says, “increasing the income share of the lower and middle classes actually increases growth while a rising income share of the top twenty percent results in lower growth – that is, when the rich get richer, benefits do not trickle down.”

Is that not what we are seeing here on Prince Edward Island? As government allows the concentration of our primary resource in fewer hands such as Cavendish Farms, and a decreasing number of contract growers, the wealth is trickling up, not down. Therefore, the question has to be asked, if the land Cavendish Farms is now using to grow potatoes was being farmed by independent farmers, lessening the power of the processor, would this province experience a greater distribution of wealth in more hands and would the coffers of the government be more enriched by the trickle-up phenomenon? The provincial government should examine the recent move by the federal government to make sure fishing licenses stay in the hands of independent fishers, not be transferred to processors. Obviously, they have learned some lessons.

With suspicious timing, the government released in recent days statistics on the value of the potato industry to the Island economy. The numbers certainly are impressive. The news release is basically a good news story, but the negative side of the equation is largely missing in the short news release and in the report done by Department of Agriculture and Land economist Doctor Ziad Ghaith. But perhaps most troubling in the numbers listed in the report is that 78 percent of total PEI cash crop receipts are represented by potato production. We need to be asking the question why we are so willing to put our eggs in one basket, especially now that Prince Edward Island has been surpassed in production by two other Canadian provinces, and when pathogens in potatoes, such as potato wart, can impact economic viability by closing world markets. There are many reasons to be diversifying rather than to be encouraging yet more growth in the potato sector. Farmers were being told as far back as two decades ago to start diversifying and looking for drought alternative crops due to coming climate change.

Cavendish Farms certainly does not stand alone in violation of the Spirit and Intent of the *Lands Protection Act*. We have other farming corporations such as Vanco quietly doing the same, while passing themselves off as a family farm. Their land grab is impacting others in the industry, which in turn impacts the underlying economic stability of the province.

Then we have the foreign investors openly manipulating the *Lands Protection Act* with no push back from government in what we can only surmise is being influenced by the touchy subject of racism. However, the racial card should not be allowed to be played as a way to circumvent the laws of the province. Such behaviour does a disservice to the real problem of racism and inequality faced by many people.

The National Farmers Union is against the land limits being increased for these five principal reasons.

**1)** It would be only in the interest of a very small number of agricultural stakeholders. The primary ask to have the limits lifted or increased is coming mainly from the potato processing sector and Cavendish Farms. However, other agricultural sectors are already negatively experiencing the expansion of this sector. High land prices being paid by the potato sector are making it difficult, if not impossible for other farming sectors to compete and secure the land they need for viability. Where banks once would not look at land as collateral, they are now hungry for it and gearing expansion and operating capital around land holdings. This is making it very difficult for smaller farmers to maintain sustainable farming practices. Livestock producers can't even count on being able to secure hay and silage from process farmers as few wish to now grow it as a rotation crop. Straw is also becoming difficult to access as potato farmers now see it as a cash sale for the highest bidder, not necessarily a neighbouring farmer. Many no longer have interest in trading land to give it a rest from potato production as the high prices they are paying for land necessitates intensive farming for the greatest yield to make bank payments.

**2)** Climate change is a reality. Individual farmers, and processors, regardless of their equipment size can only plant, tend, nurture, and harvest what Mother Nature will allow. The fall of 2018 proved that, when 7000 acres of potatoes were left in the ground. Who absorbs that loss? Farmers can't afford to, and the rest of the public should not have to bear the increased use of insurance or government compensation packages. Is it not far better to care for current land holdings in order to achieve greater returns?

**3)** While Economies of Scale works in some industries, it has not worked in agriculture for the farmer as the primary producer. The personal experience of farmers has been that as we strive to become more efficient, our debt loads increase, and margins tighten, while processing corporations have reaped the profitability by getting more for less. When Horace Carver did his land study, *The Gift of Jurisdiction: Our Island Province*, in 2013, he tried to source studies proving agricultural profitability would increase with larger land holdings. No

such study could be found. The NFU has not found studies to support the theory; only the personal testimony of many farmers proving that it doesn't.

**4) Issues of succession.** Even at the current limits it is difficult for the next generation to try to enter into agriculture through buying out an operation. If young farmers do succeed in entering the field, they are burdened with heavy and often crippling debt. And there is the question of who is willing to back the debt, which can give great control over the operation. Large holdings leave the door open to further corporate, foreign and developer pressure and control. Succession is a difficult and troubling issue faced by many farmers aging out of the industry. As a province, we need to find ways to make it viable for the person leaving, and for the next generation starting.

**5) Questionable Results for increased land limits.** Are farmers that wish higher limits seeking to make a decent living and return on investment, or are they trying to be the biggest players in the game? As one farmer stated, "If you can't make a good living under the current land limits, then you can't make it by doubling them. You have to ask yourself the question, who are you working for?" Sadly, too many farmers are currently working to enrich the profit margins of processors, machinery companies, seed and chemical input companies, etc, many of whom are vertically integrated. This impacts the opportunities and livelihood of local small businesses.

The National Farmers Union believes environmentally sensitive and marginal lands should not be farmed. We are in agreement with Horace Carver's recommendation that non-arable land be removed from a farmer's land holdings in order to ease environmental pressure on sensitive lands and woodland. However, while his recommendation was accepted, we are still seeing vast amounts of woodland being cut to create new land holdings. The question needs to be asked if that new farmland is being counted in the total aggregate land holding acreage of an operation. It is a grave concern that no government department is currently tracking overall land holdings. If this land is not being counted, it is a violation of the *Lands Protection Act*. It is also an environmental degradation to our Island forests, which have their own economic value, and environmental importance in carbon sequestration, wind and soil erosion control, and wildlife habitat.

When it comes to Island agricultural land, it matters who owns the land. It can't be processors, or other corporations, under the pretence they are farmers. The ownership must be with independent farmers, as well as the provincial government, through a land bank. Prince Edward Island has very little crown land. The number of acres can be found in the Carver report and in the land banking report by Kevin Arsenault. This leaves the Island in a weakened position in comparison to other provinces, especially as land is our primary resource. Based on that fact, and the world-wide land grab, it should be obvious for the need to increase public land holdings for the benefit of assisting young people to enter food production and to help current smaller farmers remain viable.

If PEI truly wants to be a food Island it needs to recognize the value in agricultural land banking. It also needs the awareness that the importance of Island farm land will only increase in the future. Canada is a country with a huge land mass of which only 7.3 percent (Statistics Canada) is suited for food production. Unfortunately, some of the very best agricultural land is being devoured by urban sprawl and development, putting greater pressure on the remainder, and risking our future as a nation to be able to feed itself.

It also needs to be recognized that the foundation of a farmer's agricultural operation is their land base. If someone else owns the land, the farmer has no guarantee of long-term access for food production. The land owner can also dictate how the land is used, such as no spreading of manure.

The National Farmers Union does not wish to see municipalities in charge of zoning agricultural land for the very fact their needs and desires are centred on commercial, industrial, and residential growth rather than the production of food. Agricultural land must remain under provincial jurisdiction.

The Planning Act being developed is the mechanism to deem agricultural land as such, which protects it against development and ensures it stays in agricultural production. It must be a strong act to ensure agricultural land is truly protected from commercial, industrial, residential and waterfront cottage development. However, it is only of any use if enforced. We can't allow agricultural land to be bought on the pretence of remaining agricultural and then being rezoned for development by foreign and local interests. There have been no repercussions from government for such actions taken in recent times.

There is need of a Lands Ownership Transparency Act to ensure it is known who the real benefactors of any land purchase are, as well as to ensure there is a method to account for multiple people buying land utilizing the same account. This would publicly flush out corporations and organizations using loopholes to buy large acreages of land.

As land is our most valuable natural resource, it should be a primary concern of all Island governments. But most of the last four decades have shown that the destiny and protection of our land is too important to be left in the hands of our elected representatives. Politicians come and go and there has been no clear educational tools put in place to ensure they know of the act, the spirit and intent of its purpose, why it was, and still is, necessary. The system we have under the *Lands Protection Act*, would have worked if our elected representatives and bureaucrats had understood and enforced the act, and brought the letter of the law into line with the spirit and intent of the law. It would have worked if they had been transparent and accountable to the public rather than influenced by corporate goals, special relationships, and scare tactics.

So, if our elected representatives haven't been willing to enforce what we already have, what is it they wish to achieve with this so-called modernization of the Act? Are they simply

looking for an easy way to bow to pressure and answer the call of the minority to increase agricultural land limits for the corporate sector while bowing to the pressure of foreign land grabbing? If so, the final approval of the sale and purchase of land can't be left to the Executive Council, which seems unable, and often unwilling, to stand behind the act and implement the same rules for all players.

It appears the Island Regulatory and Appeals Commission is also not the answer under the current system. It is hard to expand on their effectiveness in protecting our land when there is no transparency required of their land recommendations to Executive Council or of land investigations they have not carried out. And when the Minister of IRAC is uncertain who they are accountable to, there is definitely a problem, especially since they are being well paid by the taxpayers of Prince Edward Island. IRAC also admits they depend on the honour system, which we can clearly see has not worked.

IRAC'S primary concern is the letter of the law. Thus, they are failing the *Lands Protection Act* by not following its spirit and intent, of which they admit to being well aware. Because of lack of transparency, it is unclear if IRAC even makes government elected leaders aware of the loopholes in the act and the ways they can be closed. They have little need to carry out land transaction investigations under this narrow scope. There is no grey area for them; it is simply black and white. The result is corporations, individuals, and some lawyers and real estate agents circumventing the act with the complacency of the government.

We need a much better system for managing, implementing and enforcing the *Lands Protection Act* in order to protect our primary resource. Now we have the Department of Transportation, Infrastructure, and Energy in charge of buying Island land for government purposes. We have the Department of Agriculture and Land, but we question if it even has a defined role in the subject of land. We have IRAC supposedly overseeing the *Lands Protection Act*, and the PEI Executive Council spending a lot of time signing off on land sales of which they may have limited understanding. It is disjointed, ineffective, and putting our social and economic future at risk.

It is our belief that a lands department or agency should be established to deal with all land matters under the power of the *Lands Protection Act*. Serving as its own department or agency it would be accountable to a minister and the public, but established with a management structure that would enable it to work at arms length from government, and be free of political influence. This should prove a great relief for MLAs.

Government would give the department/agency the power and resources to implement and enforce the *Lands Protection Act* with the emphasis on Spirit and Intent. It would be given direction by government to recommend legislation necessary to block loopholes in honour of its spirit and intent. It would have to present a semi-annual report to the Legislative Assembly and be audited. Employees would be held accountable through a process that



would have to be developed. All incidents of attempted political interference would have to be publicly reported.

It would be in charge of educating all Members of the Legislative Assembly on the *Lands Protection Act*.

All land transactions would have to be listed with full transparency, which is essential to serve and retain our democracy, and our land. If one is doing nothing wrong, this should not be an issue.

The land department/agency would research all land deals and follow the money, all of which would be publicly listed. It would have the power to deem what a corporation is and investigate a company's land holdings as defined in the *Lands Protection Act*. Shareholders, directors, etc. would have to be disclosed.

All land transactions would go through the agency, not just five acres and above. This includes land transfers between Island residents.

It would have the power to lay charges against lawyers, real estate agents, corporations and individuals trying to circumvent the act and its land limits.

It would have the power to order divestment of land that falls outside the Act's limits.

It would ensure designated agricultural land can't be removed from that designation for development, and regardless of ownership, must be kept in sustainable food production.

It would oversee the establishment and administration of a land bank.

It would map all arable and non-arable land and track land usage, especially environmentally sensitive lands to ensure they are not being farmed. It would work closely with a rebuilt and strengthened Department of Agriculture in implementing and enforcing the Crop Rotation Act. It would tie land usage to both the *Lands Protection Act* and the Crop Rotation Act. It would work closely with forestry.

It would ensure the landscape of Prince Edward Island's countryside and vistas are preserved not only for Islanders, but in support of our second largest industry, Tourism.

An appeal system on land transactions would be available through a quasi-judicial committee. No such avenue of appeal now exists.

Through such a comprehensive department or agency the ownership, usage, and protection of Island land could be ensured. Major decisions around agricultural land would be removed from the political realm, and political and corporate influence. It would be an even playing field for all parties. Islanders could have faith that our primary resource and homeland

would be protected into the future. Of course, there would be many more details to be worked out.

Prince Edward Island leaders had foresight in 1982 and the Island positioned itself well for the future. However, the ball has been dropped, and we are now at a place close to the point of no return if the *Lands Protection Act* is not strengthened and enforced.

Are we going to be the masters of our own future or again tenants in our own land? Government needs to wake up to the fact that our land is our greatest resource. Its ownership, usage, and fertility must be protected. Our government representatives need to wake up to the fact that what is good for the corporation is not necessarily advantageous to the people.

Generations later we still witness the individual, social, and economic repercussions of the displacement of indigenous peoples from their land. We will be no different unless government takes immediate action. The pandemic has shown that when government has the will it can make things happen quickly. The foundation and structure is in place through the *Lands Protection Act*. We need real leadership now.

We have listed the National Farmers Union's three key points followed by additional recommendations as stated in our presentation.

#### **KEY POINTS:**

1. Government further strengthen the *Lands Protection Act* so that the letter of the law reflects the spirit and intent of the law. And that the Act is enforced to its full powers including ordering the divestment of land.
2. Government **NOT** increase the land limits to serve the wants of Cavendish Farms and a small number of process growers, and in turn cause further problems for other agricultural sectors, and process farmers, who do not wish to be pressured into increasing acreage.
3. A Lands Ownership Transparency Act be adopted to publicly flush out corporations and organizations using loopholes to buy large acreages of land. In the meantime, the Business Corporation Registry needs amendment to list shareholders and it must become user friendly.

**We recommend (in no particular order of importance):**

- That the government begin the establishment of an agricultural land bank, which usage would be firmly tied to the Crop Rotation Act.
- Government acknowledge that Island land, soil, water, and air are public trusts.
- Government acknowledge the importance of the *Lands Protection Act*, and commit to gaining knowledge and understanding of its purpose in protecting our primary resource.
- Government consolidate the management of land under one agency with the powers listed in the presentation and expanded upon with public input.
- Government be a leader in seeking diversification in Island agriculture so that there is not such heavy dependence on the potato sector thus putting the stability of our economy at risk.
- As recommended by Judge Ralph Thompson and by Horace Carver that environmentally sensitive and marginal lands not be farmed but be maintained as non-arable land in a farm's total land aggregate.
- Island agricultural land must remain in food production
- The zoning and management of agricultural land must remain in provincial jurisdiction, rather than be given over to municipalities.

Respectfully submitted by the National Farmers Union, District 1, Region 1