

**Cooper Institute
Social Justice Symposium
PEI Lands Protection Act: The Spirit and the Letter
March 3, 2018
Report**

Organizing Committee: Maureen Larkin; Debbie Theuerkauf; Reg Phelan;
Marie Burge.

Over-all Chair: Debbie Theuerkauf

Note taker: Jiselle Bakker

Video: Callista Tan

Panelists: Gary Schneider; Reg Phelan; Douglas Campbell; Edith Ling.

Thanks to Table group leaders and reporters (identified by L & R in the following list of participants)

Objectives of the Symposium

- to examine the meaning and significance of the spirit and letter of a legislation
- to review the history of the “Voices for the Land”
- to identify why and how the Lands Protection Act has been (and is being) misinterpreted to serve a few interests
- to discover some of the loopholes in the Lands Protection Act
- to identify practical and doable community action to strengthen the Lands Protection Act.

Participants: Margaret Andrade (R), Kevin Arsenault, Jiselle Bakker, Leslie Beck, Sally Bernard (L) Faye Boswall, Marie Burge, Irene Burge (L), Joe Byrne (R), Philip Callaghan, Douglas Campbell, Carol Carragher (R), Gordon Carter, Mary Carter, Leo Cheverie, Gary Clausheide, Joan Diamond (L) , Stephen Dimond, Irene Doyle, Barbara Dylla, Alfred Fyfe, Nathan Gamauf (L), Mary Lou Griffin-Jenkins, Ole Hammarland, Kim Hendricken (L), J P Hendricken, Mia Hill, Pauline Howard, Maureen Larkin, Edith Ling, Karen Lips (R), Fred MacCardle, Alex MacLeod, Christina MacLeod, Patrick Martens, Anne Mazer (L), Don Mazer, Chris Mermuys, Mary Mermuys, Karen Murchison, Jackie Olafson, Chris Ortenburger (L), Dwight Parkman, Reg Phelan, Byron Petrie, (R) Florence Potter, Peter Prauskopf, Carina Phillips (R), Tony Reddin, Lou Richard (R), James Rodd, Selvi Roy, Gary Schneider, Barb Smith, Paola Soto Flores, Jill Spelliscy, Callista Tan, Debbie Theuerkauf, Ellen Theuerkauf, Flora Thompson, Brian Turner, Philip Van Nieuwenhuyzen, Rit Van Nieuwenhuyzen, Hazel White, Trudy White, Peter Williams.

1.0 Introduction

Debbie Theuerkauf, event chair, welcomed everyone to the fourth annual Cooper Institute Social Justice Symposium. She noted that Calista Tan is recording the symposium for Facebook Live, so people at home can watch the afternoon’s process. Debbie acknowledged the support and hospitality of staff from Milton Hall in facilitating this event, especially Shari MacDonald.

Marie Burge explained that this symposium, like the former three, is dedicated to the memory of the late Father Andrew MacDonald, who was a founder of Cooper Institute.

Andrew had a deep commitment to the land and the need for land protection. She told of Andrew's surprise and somewhat comical, first performance of his land song on the occasion of the Latin American Mission Program's submission to the Select Standing Committee Hearings about the proposed PEI Lands Protection Act in 1981. The song was later played on CBC with Andrew's dedication of it to the National Farmers Union. Marie introduced Tony Reddin who led the room in singing Andrew's song, *No No Don't Sell PEI*.

2.0 Introduction to the Panel:

Panel Members were Gary Schneider, Reg Phelan, Doug Campbell, and Edith Ling. Gary Schneider's topic was the meaning and significance of the spirit and letter of legislation, pulling from experience with various legislations. Reg Phelan provided a brief history of the voices of Islanders protecting the land, including the Mi'kmaq, tenant farmers and family farmers. Doug Campbell discussed how the Lands Protection Act has been used to reinforce hold on the land by industrial agriculture interests. Edith Ling discussed some of the most obvious loopholes in the Lands Protection Act. (Panelists' bios and their presentations are below in the Appendix).

3.0 Original Songs: Teresa Doyle

Teresa Doyle entertained and challenged the assembly with three songs "Land for the Tiller," "Let's Pull the Plug (on the PNP)" and "The World is in a Pickle". Teresa, as is her custom, was also a full participant in the afternoon's discussions.

4.0 Table Talk

At seven tables, participants had lively and productive discussions around the question, What actions can you take with others NOW to strengthen the Lands Protection Act?

5.0 Report Back

The following are the reports from the seven tables arranged in four themes

5.1 Identifying Capital at the Source of Land Accumulation

- Expose how the bottom-line corporate business model governs PEI and how it related of land transactions.
- Transient nature of capital flow creates uncertainty about what interests are actually behind land transactions: need to understand how the money flows through.
- There is too little attention to the urgent need to have land socialized, held in common.

5.2 Citizens Taking a Stand

- Oppose corporate donations to political parties.
- Demand transparency from our government on land transferrals and acquisitions.
- Shame government for promoting mono-cropping and for all other polices and programs which neglect the protection of PEI land from corporate speculators.
- Engage MLAs re imposing minimum amount of organic matter & taxing those who operated below the minimum.

- Become political: join a political party—lobby all politicians and potential politicians regardless of political stripe.
- Identify and expose loopholes in the Lands Protection Act and demand that these be closed.
- Challenge/pressure the government to implement the Horace Carver recommendation 28d “3-year review”.
- Attend the NFU regional meeting on April 3rd to question Minister Brown and ask him to implement 28d; Support the NFU who are knowledgeable on the Lands Protection Act.
- Bring up the land issue wherever possible in social media and conversations.
- Re-visit the tractor demonstration: tractor demonstration 2.0.
- Promote Basic Income Guarantee for farmers tied to “steadfast stewardship” of the land
- Ensure that Cabinet ministers are adequately informed: they are responsible for the approvals given to land accumulation and land transferrals
- Call for legal response: loopholes in Lands Protection Act which allow a corporate entity to split into multiple corporate entities. Difficult to find out who owns what
- Pressure government to actually compile and make publicly accessible information on multiple corporations and ownership over the limits of the spirit of the Act.

5.3 Policy Directions for Government and Other Elected Politicians

- Create less favourable conditions for foreign investment in land.
- Establish single owner-operated regulations in agriculture similar to that in place for fisheries.
- Enforce crop rotation.
- Enact land zoning which prohibits taking farm land out of production or potential production.
- Tighten up section 1 (d) of the act.
- Enforce leasing restrictions based on soil quality criteria.
- Develop and implement policies for the strengthening of family-based farming.
- Strictly enforce residency requirements.
- Create user-friendly, free, searchable databases on land ownership and corporate control.
- Change Business Registration Act to have a minimum # of Canadian directors/Island directors.
- Take seriously the enforcement of the Lands Protection Act.

5.4 Community Education Needed

- Keep promoting lands protection education and history of the fight for lands protection.
- Engage the youth in history of land use and impact.
- Need more information on the Lands Protection Act
- Study the Act: community-based meetings.
- Linking these “so called” rural land issues with urban populations: No urban-rural divide.
- Raise public awareness about land ownership and control.
- Let people know what the roles of IRAC and the Cabinet are in decisions on land transactions.
- Each community in PEI map out various large land holdings and land costs.

- Make community-based Lands Protection Act Facebook page.
- Educate the MLAs in the Lands Protection Act (Land and Environment Cttee).
- Continue to talk – workshops etc./engage youth.
- Educate media.
- We should all read the lands protection act; and Horace Carver’s commission report of 2013.
- Become aware of the characteristics of the global land grabbing and identify these characteristics in the current land transferrals in PEI.

Summary, Next Steps and Conclusions

Marie Burge summarized the spirit of afternoon’s event and issued a call to action. A shared value she observed among participants is that of land is to be kept for the people who live on it, produce nourishing food, and who protect it for present and future generations. She noted the magnitude of the work ahead. It is not sufficient to say there is lack of political will to protect the land. We have to demand political will. If Islanders are inactive there will be no political will to protect the land. The high level of involvement and engagement in the room is an encouragement that more people will accept the challenge to be protectors of the land in organized non-partisan ways. We have to harness the power of this afternoon. She encouraged participants to continue to remind each other and all Islanders of the importance of this work and to consider establishing a coalition for the protection of PEI land.

NOTE: (March 18, 2018). Three community-based organizations have agreed to meet and take first steps in organizing the ***PEI Coalition for the Protection of Land***. You will hear from us in the next couple of weeks! Marie

ALSO PLEASE NOTE: The National Farmers Union Op Ed (Journal Pioneer, March 16; Guardian, March 17) is an interesting treatment of one of the loopholes in the Lands Protection Act.

Appendix: The Panelists and the Texts of Their Presentations

Gary Schneider

Gary co-chairs the Environmental Coalition of Prince Edward Island and started the Macphail Woods Ecological Forestry Project in 1991. The project demonstrates ecologically-sound forest management, with a focus on environmental education, conservation of rare plants, and the restoration of PEI's native forest.

In 2004, Macphail Woods won Canadian Geographic's Gold Medal Award in Restoration and Rehabilitation. The project has also received numerous local and national awards, including Environment Canada's National Environmental Citizenship Award and the Island Nature Trust's J. Angus MacLean Natural Areas Award.

Gary was a member of the provincial Round Table on Land Resource Use and Stewardship in 1997 and has been an active proponent of organic farming practices. Presently, he is a member of the Multi-Stakeholder Advisory Committee to Canada's Minister of Environment and Climate Change. He lives in Tea Hill.

PEI Lands Protection Act: The Spirit and the Letter

March 3, 2018

The Spirit and the Letter of the Law

Gary Schneider

Thank you for the opportunity to be a part of this presentation. I readily admit to knowing far less about the topic than the other panelists, and of course, far less about farming as well. What I do know something about is public interest legislation. Most recently, I have been deeply involved in trying to bring about an improved provincial Water Act, as well as a new federal Impact Assessment Act.

We often hear talk about the spirit and the letter of the law. It is why many people cringe when they see "the Minister may..." instead of "the Minister shall..." I remember talking to Elizabeth May many years ago, and she said that she wished her name was Elizabeth Shall. A lawyer joke, but it stuck in my head. And my lawyer friends tell me that the letter of the law trumps the spirit of the law. That doesn't mean that the spirit of the law isn't important – it can be an incredibly powerful tool to build public support.

One thing that I have learned is that even though Acts are the law of the land, they are often not followed. As with many things, the laws are in place until they become a discomfort. This is true even with strong Acts, which we think are protecting our rights and upholding our values. I want to give you just a few examples.

Up until the Harper era, you were not allowed to destroy fish (unless you were fishing) or fish habitat. Period. Those restrictions were removed, but have since been reinstated in the new Fisheries Act that is now moving through the federal legislature. I was recently at a briefing in Ottawa where representatives of Fisheries and Oceans stated, in both their purpose and objectives, that there would be a reintroduction of "Prohibitions against causing the **death of fish** (other than by fishing) and the **harmful alteration, disruption or destruction of fish habitat.**" My response was that I couldn't come back to PEI and tell people that, as they are fully aware that every year we average two fish kills, over 25 anoxic conditions, and a huge

amount of siltation in Island waterways that definitely kill fish and disrupt habitat. As you can probably imagine, that was met with silence, then a promise they would spend more on enforcement.

Another recent example highlights the lack of enforcement in the protection of migratory birds. Under the Migratory Birds Convention Act, no disturbance to nests or nesting birds is allowed during breeding and nesting periods (generally early April to late August in most parts of Canada). So every time you see a harvesting machine in the woods during that period, they are breaking federal law, since they would unquestionably be disturbing nests, destroying eggs and killing nestlings. It is not like the federal government is unaware of the contravention – they just do not want to take on the forest industry on this issue. Related to this, we know that migratory birds have been killed in at least one fish kill. In August of 2016, two dead cormorants and a great blue heron were found by cleanup crews investigating a fish kill in the Little Miminegash River.

I find it interesting that in these two examples, one can almost picture the Irvings behind the curtain in some kind of twisted Wizard of Oz scenario. Which brings me to the Lands Protection Act. There is no question that the Act was brought into place mainly to restrict large corporations from taking over Prince Edward Island farmland.

Lately, we have been hearing more and more about corporations exceeding their land limits under the Act, which states that an individual may own no more than 1,000 acres of land, while a corporation may own no more than 3,000 acres of land. As with all legislation, there are exceptions and loopholes. For instance, if an individual holds up to 400 acres of non-arable land, that doesn't count towards your total. If a corporation owns up to 1,200 acres of non-arable land, that doesn't count either. There are more, and as with most Acts, discretion is available to the Minister or the Lieutenant Governor in Council in its enforcement.

There are also problems associated with leasing land, and whether or not these agreements are accurately reported and accounted for. Whether a corporation owns land outright or controls that land through a lease agreement, they can have immense control over what is happening in an area. This is especially true if they control much of the market and can impose conditions on cropping methods.

I'm not trying to demonize the Irvings – in most cases they are just doing what they are allowed to do by governments. It is interesting, though, that a great deal of the pressure to lift the moratorium on high-capacity wells came from Cavendish Farms. Robert Irving publicly warned that the future of Cavendish Farms and its 700 full-time employees is in the balance. The Guardian also reported that Irving told the MLAs his company would likely not enter into contracts with growers without irrigation if the moratorium were lifted. "We would want them to irrigate," Irving said.

To understand how this all fits together, we need to better understand the Act, and especially the purpose of the Act. In the "Purpose" section, the Act acknowledges that we face "singular challenges with regard to property rights as a result of several circumstances." The first, and to my mind, most important of these challenges is the "historical difficulties with absentee land owners, and the consequent problems faced by the inhabitants of Prince Edward Island in governing their own affairs, both public and private.". The second challenge is our small land base and comparatively high population density. The final challenge is "the

fragile nature of the province's ecology, environment, and lands and the resultant need for the exercise of prudent, balanced, and steadfast stewardship to ensure the protection of the province's ecology, environment, and lands.”

I have looked at many Acts and I can honestly say this is the first time that I had wanted to cheer when reading one. Whoever wrote the words “steadfast stewardship” deserves a pay raise, for in fact the author distilled the essence of the Act into two words. Isn't that what this is all about? The Act urges us to be steadfast in our stewardship of this land. It does not say that we own this land and can do anything we want with it.

It also brings me to how Indigenous rights and relationships fit into the Act. These seem to be absent from the Act, but if we really are talking about steadfast stewardship, we must incorporate Indigenous knowledge and values. After all, they have been steadfast stewards of this Island for thousands of years.

I was a member of the Round Table on Resource Land Use and Stewardship, a multi-interest body that released a report over 20 years ago. In some ways the name is very telling. I always felt that it should have been named the Round Table on Stewardship and Resource Land Use. It is like hearing people say that something must be economically and environmentally sustainable. Too often, what that means is that if I feel I can afford to, I will stop damaging the environment. Setting those parameters means there is no urgency to change.

The Round Table recognized the fragility of our Island, that we have a finite amount of clean water, topsoil, forests, wildlife, everything. Unfortunately, many of the recommendations fell short of what was needed, while others were just ignored. We concluded our report by stating that “Our vision of a better Island starts with three fundamental principles: a working rural landscape, a healthy environment, and the successful alliance of community and individual well-being.” That still sounds like a healthy mix to me.

We have had many other reports throughout the years and they all recognized that we need to be careful with what goes on in our province; especially with those things we wrongly label resources, such as land, water, and air. The ability to be careful flows from having some control over ownership of the land base. Unfortunately, protecting land from domination by huge corporations can be a very difficult task. And it is not just one industry, or one industrial sector. It is the fisheries, the forest companies, the mining conglomerates – it's a long list. But clearly, governments find it difficult to act in the best interests of citizens when it means taking on a giant. For them, it is like being between a rock and a not-so-hard place. And the rock usually wins.

The spirit of the Lands Protection Act tells us that it is a tool to help all of us be steadfast stewards. We all know that despite good intentions, laws are not always followed either in the spirit or the letter. As there are many pressures that are eroding the intent of this legislation, we would be wise to maintain vigilance and strive to preserve the spirit of the Lands Protection Act. And we should also ensure that our current and aspiring governments recognize that if they truly act in the public interest, there will be a political reward.

Reg Phelan

Reg Phelan is an organic farmer, growing vegetables (more than 20 varieties) wheat (spelt flour), cattle (Belted Galloway), and blueberries. He and his wife Stella Shephard, live in a 150 year old farmhouse built by great grandparents, located on Byrne Road, PEI, Canada.

Reg is a long time member of the NFU and presently is the regional rep on the national executive board. Reg has completed a Masters thesis on the Land issue, entitled *Islanders and the Land*.

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History: Voices of the Land Protectors
By Reg Phelan.

Welcome to Mi'kmaq (unceded) Territory. Native ancestors have been on this land for over 12,000 years. The Mi'kmaq have a close attachment to the land. They looked after it very well. They thought highly of plants and animals and developed rituals to show their respect for the exchange of lives between animals and themselves. This belief affected the way they hunted animals and gathered plants and how they used them. People imitated animals very well in dances. When food was plentiful in summer months there was lots of time for leisure activities.

The native communities felt themselves superior to Europeans. They felt that the European communities must have been inhospitable for people to leave family and friends to come all the way across the Ocean to Mi'kmaq land.

Many earlier Europeans joined the native communities. It was said that children took little time to fall in with the "Indian" ways. An historian of the time says: "Thousands of Europeans are Indians, but we have no examples of even one Aboriginal having, by choice, become European."

In treaties the native concept of land was different from colonial Europe. The Mi'kmaq did not lay claim to the land, but only used what was on the land during various seasons of the year. This concept was also shared by many agricultural peoples throughout the world..

The early Acadians tended to settle along the marshes and this did not offer a big challenge to the native habitat. After the Acadian expulsion things changed drastically. In 1767, PEI was lettered off to those in line for patronage from the British Crown. A feudal land system was to be established in Isle St. Jean.

Many of the landlords were absentee and managed their affairs through land agents who threatened to confiscate tenants' property if rents were not paid. Those were tough times for Island tenants and most were in no position to pay the rent demanded of them. Angus Mauley, land agent for Landlord Selkirk, wrote to him: "I wish to serve you and the people. It is impossible. The bulk of the inhabitants on this Island consist of entrapped Loyalists and illiterate Roman Catholic Highlanders, the latter floating over the face of the country like Scytheens, without money, bedclothes or permanent building or residence."

Those were rough times and not made any easier when Governor Smith and Receiver General Carmichael moved to collect rent in lots 36 and 37 and the more easterly lots in Kings County. They demanded instant payments of arrears or promissory notes redeemable within ten days. Refusal to honour would result in sale of stock or danger to lives. In February, 1823 Carmichael attained judgments in the Supreme Court against small properties of some 40,000 acres in Kings County.

In 1819 Edward Abell, a land agent for James Townsend, was killed in Lot 56 attempting to seize a horse of tenant Patrick Pearce. Pearce, caught with a writ issued, went among his neighbours to raise the cash. He returned with payment in Spanish coins to see Abell leading his horse off. Abell refused the coins. It seems Abell's wife wanted the Pearce horse. With a 20,000 pound reward for his capture, Pearce was never apprehended. He was hidden by fellow tenants until able to escape. Tenants continued to organize resistance to land agents as occasions warranted with a great deal of solidarity in their ranks.

The memory was kept alive in many ways. One example: An old fellow was in Fortune church and he went to sleep as the minister was preaching about Cain killing Abel. The old guy woke up at that point and said, "You're wrong sir: it was Pat Pearce. I can show you the exact spot."

The land agent who succeeded Abell later resigned in disgust and joined the struggle of the tenants. He was later elected to the legislature in a by-election in 1831. Male Catholics were given the vote at this time and as most were of the tenant class their vote would change the make-up of the legislature. William Cooper was the man elected in this by-election, even after a riot was created to disrupt voting. From the recorded speeches of Cooper in the Legislature we gain a good insight into how tenants viewed the struggle. In his first speech of March 27th he argued that the fight over the control of land was really a fight for the control of labour and challenged the notion that landlords had any real interest in the land itself. He said: "Did they use or occupy the lands themselves? No. They why did they wish to hold the lands they could not use or occupy? It was not the lands they wanted, but, by holding the land, to have claim on the labour of their fellow subjects, who had equal rights with themselves."

Cooper argued that the landlord monopoly of the land was in fact the monopoly control of labour. The land monopoly led to labour enslavement and since British law did not permit the enslavement of British subjects, then such a land system was illegal. He asserted as well that the value of the land really lay with the labour that had been applied to it. If tenants had not cleared the land, it would not have been of value to others. In addressing himself to tenants he said: "They have wasted their youth in clearing land for others, they have planted their labour where the forest grew . . . and built a cabin where the bear has had his den." There cannot, he said:

"be greater power given to one man over another than the right of a landlord over poor tenants. . . The more I consider the Escheat question, the more plain it appears to me that nothing less than a general Escheat will do justice to or satisfy the inhabitants of this Island."

He argued that tenants had a natural right to the land they farmed because it was they who cleared the land and gave it the value it has. Cooper challenged the whole laissez-faire notions of property relations and the role of the state. "That the government of this Colony, unlike the majority of the people but for the benefit of a couple of dozen land speculators, thus anxious dependents and parasites."

The tenants combined organized resistance with electoral politics to prevent landlords from collecting rents or seizing properties. The Royal Gazette of January 8, 1834 carried the story.

“On Sunday, June 8, 1834e, the Deputy Sheriff and Peace Officers, well armed, left Charlottetown to issue warrants against the accused in Kings County who refused to come to court. The accused being Allan, Isabelle, Ronald and Mary McDonald and Michael (?) McCormac . . . when the party arrived they encountered a large group of settlers armed with spears, pitch forks and muskets, who refused to let them issue warrants.” We can see from this that women were involved in the movement. In earlier days writs were issued to male members and they would often hide in the woods. Women were left to deal with the Sheriff and parties.

The incidents of resistance were very widespread. Land Agent H. D. Morpeth, in writing to Landlord David Stewart on March 3, 1833, complained that Stewart’s tenants in both Prince and Kings County refused to pay rents. The situation was the same with other landlords: “Worrell’s, MacDonald’s of Tracadie, Cambridge and W. Townsend’s tenants, and in short by far the greater part of those of the large proprietors have refused to pay and not a few of them prevented the sheriff by violence and intimidation from carrying the law into effect. A regular combination is formed and I am afraid blood will spill.”

As we can see from these accounts tenants were organized widely in the resistance to pay rents. On December 18, 1836, a large group of over 100 tenants met at Hay River near Souris and advocated the withholding of rents and maintained that the tenants of the Island “. . . were victims of fraud, deceit, and oppression on the part of the land monopolist, . . . to pay rent any longer to landlords was to foster oppression and reward crime.” On December 24, 1836, tenants from Southern Kings met and unanimously adopted the address and resolutions of the Hay River meeting.

In the election of 1838 the Escheat Party won 18 of the 24 seats of the Assembly. Cooper was elected Speaker (synonymous with Premier nowadays). With a clear mandate the party introduced legislation that would end the leasehold tenure system and many other pieces of progressive legislation. The Assembly sent Cooper to England to see the Colonial Secretary, John Russell, but he refused to meet him. The tenant farmers grew despondent about any chance of justice from the electoral system.

One might think, from all this struggle, that economy-wise not much would be produced. The very opposite was the case. The economy expanded at a rapid pace from the late 1820's and continued until the late '60's. Agriculture expanded rapidly and accounted for more than two-thirds of the export value from the Island. Between 1830 and 1864, 2,362 vessels were built on the Island. These vessels were used to transport Island produce and greatly facilitated trade. The Island had many small industries located in the rural areas that made the area very self-reliant. The rural area, for the most part, was very independent of Charlottetown. Tenants were able to keep it this way with their strong organizational abilities. They used communication systems superior to that of land agents and lawyers of Charlottetown. One method of communication was the conch shell which, when blown, produced loud and shrill noises that could be heard for miles. Similar to our fire alarms today, they could signal by the number of toots, which area the sheriff or land agent was passing through. There are many of these shells in households today.

Islanders were very ingenuous in their methods and derived great pleasure from tricking and humiliating land agents. There are many incidents passed down through generations. My grandfather used to recall an incident when the sheriff spent the day in a neighbour's turnip cellar. The farmer was forewarned and the plan set. Once the writ was torn up the sheriff was free to go back to town. Ray Gill of Peaks recalls the story of his grandfather helping to heat a number of anvils red hot and with the contraction of other metals with cold water a loud bang like a cannon was produced. These were lined up along the Vernon River Road to disperse a regiment of British troops marching from Georgetown to Charlottetown.

The Belfast Riots: I can vividly remember, in my early teens, listening to my grandfather, Jack Kenny, proudly recalling the events surrounding the incidents of March, 1847. He was able to name relatives and other acquaintances involved. He told us the names of those who were killed and recalled that one person was found in the back of a cart the next day. My grandfather explained to me some of the tactics. For example, tenant farmers turned their shirts inside out so they could identify each other when the supporters of the Selkirk land agent returned to the polls ready to do battle.

In the general election held earlier, Escheat Party candidates, John McDougall and John Small, were declared elected. This was challenged by Douse and Maclean, Compact Party candidates, on the grounds that there had been intimidation at the polls. A third election was held on March 18 with Douse and Maclean as the only candidates. This was a time of a highly charged atmosphere among PEI tenants, particularly those east of Charlottetown., who were refusing to pay rents demanded of them by landlords and their agents. Four landlords claimed ownership of most of the lands in this area, Warrell, Cunard and MacDonald. Refusing to sell land to tenants and unable to collect rents, these landlords were becoming quite frustrated.

Warrell left PEI and went to England. It was rumoured that he and Selkirk were contemplating selling their estates. The land agents and the eventual purchaser of both were prominent PEI politicians at the time. W H Pope, of the prominent Pope family, purchased the Warrell estate of over 80,000 acres and later sold it to the PEI government for over 2 1/2 times the purchase price. Douse, the man elected by default after the Belfast riots subsequently worked a similar deal with Selkirk and the PEI government. One can see that land and politics were a very intensely intertwined issue, and that the Belfast Riots were much more than an attempt to solve clannish differences.

Joe Walsh, who lived a few miles down the road from my family, related a similar understanding to me about the Belfast Riots. He told me that his grandfather organized the neighbours to go to the Belfast Poll because they heard rumours of possible evictions from their lands. Joe was a great singer of old songs and ballads. It was he who introduced Edward Ives to the songs of Lawrence Doyle. Ives dedicated his work on Doyle to Joe, who took great pleasure in singing songs about this era. Doyle often dealt with the twin themes of landlords and the need to leave the Island to find work.

On St. Patrick's Day in 1865 over 5,000 tenants marched on the legislature in Charlottetown, demanding free land and tenants' rights. When some of their members were arrested they tore down the Sheriff's office and set it them free. On March 22 the governor issued a proclamation declaring the Tenants' League an unlawful association and took action

to arrest some leaders. On April 7 a force of 200 men was assembled to go to Alberry Plains to arrest Samuel Fletcher. The force was composed mostly of citizens of Charlottetown—many of them sympathetic to tenants. The cavalry composed of land agents and sympathizers went ahead. The infantry took up the rear and at 10:00 a.m. stopped 4 miles from Charlottetown for tea, known as Tea Hill today. The cavalry was ten miles ahead and were faced by a “battery of cannons” manned by Tenant Leaguers. They advanced under a flag of truce to find the “fort” consisted of straw, pipe and hats. The hatless tenant leaguers watched from the woods. Though embarrassed, the cavalry continued to Fletcher’s farm. Seeing hi stand by the gate, they made a charge to capture him and found it was a straw-filled effigy¹. They marched back to Charlottetown to face a taunting public.

It took a bankrupt railroad and money to buy the landlords off to get PEI into confederation. In our present day we are facing rends that are leading to a landed aristocracy and its modern day equivalent: corporate ownership of land. The pressures on our land are growing. In order to preserve our farmland and rural community it is imperative that we comprehend and understand the forces that have brought the present crisis on.

Our ancestors learned, centuries ago, that the liberty to order their lives was dependent on the right to have control of the land and of the surplus which the land provides. The full development of people cannot be realized so long as the means and the control rest I the hands of others who continue to ensure that whatever surplus is produced and can possibly be extracted is drained off to other areas.

Over the next year government was becoming increasingly frustrated in its attempts to control dissent. In the 1971 legislature session an act to “Prohibit Certain Public Gatherings” was introduced. The Act passed all readings in record time. By this act, any meeting of two or more people would need consent and approval. There were numerous demonstrations against the Act. A picket was kept up at the Provincial Legislature. A weekend rally was held in Rochford Square and, on April 7, a large demonstration of 1,500 farmers and students filled the Legislative grounds. Because of this determined opposition, the Act was never enforced. Surprised by the extent of the resistance, the Government agreed to set up a committee to review the Act. They also met with the Farmers Union at a later date and agreed to request some small changes from the Treasury Board which was set up with federal and provincial representatives to administer the Development Plan. These were turned down as the Federal Government was determined to proceed with the original objectives of the Plan. The farmers responded with the tractor demonstration.

THE TRACTOR DEMONSTRATION: The tractors started moving on the highways on August 12. And over the next few days the numbers kept growing. Soon there were fifty to one hundred tractors located in numerous places across PEI. It was the height of the tourist season, mid-August, tourists and other motorists found the travelling extremely slow on Prince Edward Island,. Hundreds of farmers on the major highways slowed traffic to a “snail’s pace”. Although many motorists and tourists visiting the Island were inconvenienced by the slow moving traffic and long line ups, the response from them was generally favourable to farmers’ concerns One survey taken by the media showed that over 70% of slowed motorists supported farmers’ concerns. Premier Campbell did not see it the same way, however, and in a radio broadcast on August 20, he condemned the tractor demonstration in these words: “The government I lead cannot and will not govern under the threat of ultimatums.

On the tractors were signs with the following messages:

“Campbell wants 2 out of 3 Farmers Kicked Out”

“N F U on the March”

“Land Development Corporation; Hands off Our Farms”

“Campbell, Your Land Policy Stinks” (with a picture of a skunk)

“We Farmers have been pushed around too long. We want an answer”

“If you think this is Slow, Ask the Government for Something”

The tractor demonstrations, mass rallies and pamphleteering were spread over a period of ten days, until bus loads of RCMP and heavy highway equipment were called in.

A leaflet called the “Highwayman” was passed out to motorists during these demonstrations. It had this to say about the “Just Society”. “Prime Minister Pierre Elliot Trudeau is an immensely rich and powerful man. Premier Alex Campbell presented Prime Minister Pierre Elliot Trudeau with a gift last week—a piece of Prince Edward Island. The dispossessed farmers—those who have been foreclosed on by the PEI government’s Land Development Corporation find it difficult to understand how this fits the concept of a “Just Society”. Why forcibly take land from people who are producing food and give it to someone for a playpen that might, at best, be used for only a couple of days of the year? Why take the land and homes from families that have worked hard yet have nothing, and at the same time, give land to a man already overstuffed with power and privilege? Your attitude makes farmers angry Mr. Campbell. So does yours, Mr Trudeau. And all the three ring circuses in the world, such as you staged here last week, will not change that one bit. We will judge you on your performance, not on your public relations stunts.”

The pamphlet also contained a message entitled “Our Heritage”. “Over one hundred years ago the British Monarchy paid off some of its old war debts by giving Prince Edward Island to their creditors. The new owners immediately set about enriching themselves by raising the price of land rentals. The farmers refused to pay the unjust increased rentals. The new owners complained to the King who had the sheriff sent out to collect. No collections were made so the King sent in the Army. By this time Island farmers had organized the PEI Tenants; League. The main point, however, is that the farmers organized to protect themselves against exploitation, they fought and they won! Does this sound familiar?”

This demonstration and show of force took many on PEI by surprise, especially many of the establishment figures. They were not prepared for such a reaction. There was no indication in the established media that there was such dissatisfaction with the direction of the “Development Plan”. The local media carried all the government press releases describing the “wonderful” work being done on PEI with federal dollars. They also covered in great detail the many lavish events organized to show the “wonderful” work being done by Federal and Provincial governments.

The tractor demonstration ended after the roads were blockaded at Borden and the ferry to New Brunswick closed down. The RCMP with military backing moved in to remove the blockade and arrest Union leaders. The demonstration was a highly educational experience for most Islanders. The issues were debated in kitchens and coffee shops all over PEI. Feelings ran high and sides were taken on the issue. The Tourist Association was the only organization to publicly support the government and condemn the farmers. It was worried that the image of PEI would be hurt by the demonstrations. The government was now on the

defensive and over time was forced to recognize the support and respect gained by the Farmers Union.

Jean Marchand and Pickersgill were coming to Charlottetown to meet the mayor on the waterfront. Because over 1500 farmers and their supporters were at the waterfront the helicopter flew west to visit a tourist complex being built by the government at Mill River.

The Premier refused to meet with demonstrators and attempted to avoid the situation. It is clear that the basic considerations guiding the policies of the Development Plan were other than farmers and the land. There was no reference made to the sources of problems in the land economy or their underlying causes. They considered the removal of most farmers as a necessary pre-condition to the establishment of an economically efficient agriculture system. Many Islanders, as their ancestors before them, were not impressed and were determined to resist the direction and aims of the Development Plan.

The liberals were voted out in 1979. And replaced by the Conservatives under Angus Maclean, whose campaign included a call for “rural renaissance” Maclean, a long-time Member of Parliament who retired to blueberry farming, was sympathetic to smaller family farms and organic agriculture. In an open line radio program during the election campaign Maclean promised to look at legislation which would prevent industrial companies from becoming involved in farming.

Often referred to as anti-vertical integration legislation, the National Farmers Union had been consistently asking the government for its implementation since 1971. In 1974 they even presented a draft copy for proposed legislation. In the winter of 1980 union members lobbied their MLA’s for the introduction of such an act, and packed the legislative galleries for two days while proposed legislation was introduced and passed first and second reading. Just before the bill was to go to third reading, Eric Hammill, the Executive Manager of the Federation of Agriculture, on behalf of the executive members, delivered a letter to the table of all MLA’s stating:

“The Federation of Agriculture should not allow our MLA’ to be coerced by a few disgruntled promoters and forced to enact legislation which will further control legitimate expansion of our agriculture industry.”

The Federation of Agriculture went on to accuse the NFU of having a “socialist orientation” and of being influenced by Communists. This was sufficient to give MLA’s a reason not to pass the original legislation. Instead, they introduced what they thought was a compromise legislation which would have all corporations list their land holdings with the PEI government. The NFU members were very disappointed with the Federation’s position. They decided however, not to publicly confront them, but to out-manuever them by going to the community for support and asking them to apply pressure to have this important issue dealt with properly.

Douglas Campbell

Doug is a second generation dairy farmer from Southwest Lot 16 where he farms with his wife, Kathy, son, Tristan and Nephew, Tyler. Doug has been an active member of the National Farmers Union for the past 25 years and is a strong advocate for family farms. He is currently the District Director of the NFU, Region 1, District 1.

**Cooper Institute
Social Justice Symposium
PEI Lands Protection Act: The Spirit and the Letter
March 3, 2018
Corporate Influence
By Douglas Campbell**

For this symposium, I was asked to talk about corporate influence on the intent, or spirit, of the PEI Lands Protection Act. The NFU takes the position that such influence is present ... powerful ... and effective in circumventing the intent of the LPA.

I want to start with the definition of the word law; which is defined as a rule, usually made by government - to order the way in which a society behaves to give the rule of conduct for mutual protection. I'll repeat that - to order the way in which a society behaves to give the rule of conduct for mutual protection. Unfortunately, we live with many laws because of those who do not wish to conduct themselves in a manner favourable to mutual protection.

History shows us that most laws are reactionary to behaviours that proved to be harmful to the whole. Thus, laws are written with intent, aim, or purpose to prevent or correct a said behaviour. The letter of the law should ensure the intent is fulfilled.

Laws are the tools used to provide equality, stability, and peace in society. In other words, to ensure the strongest do not rule over everyone else. But we all know laws are only effective if their intent is respected and enforced.

Back in 1982, the PEI government had the fortitude to put in place the Lands Protection Act to regulate the use of land and for mutual protection and equality of all Islanders. Its intent was to control land ownership so that Islanders would not find themselves displaced in their own province, and permit them to be their own masters.

The intent or spirit of the Lands Protection Act came out of our Island story. Land ownership and use is an ongoing saga in the development of the Island culture and economy.

In 1764, when the British first assumed control of the Island from the French, they immediately crippled its settlement and economic development through a lottery. The lottery gave crown creditors townships averaging 20,000 acres. The crown's action resulted in over a hundred years of Island history dominated by absentee landowners. Settlers were enslaved as land tenants - they had no control over their land and futures. They suffered economic stagnation, financial and personal hardship, turmoil and unrest. It took great effort and political will to break free of those absentee landowners and for Islanders to hold title to their land.

Unfortunately, the land issue has not gone away with the buying out of absentee landowners. They simply have been replaced with new entities -foreign buyers, individuals, and corporations who desire unlimited control and/or ownership of the land and its resources.

The land grab threat is a current world wide issue. The concentration of land ownership of 1982, which the newly minted Lands Protection Act sought to control was mild in comparison to the concentration we are seeing in the current day. Since the enactment of the law the NFU estimates that the PEI Cabinets of various governments have approved over 85 percent of the requests for land transfers from foreign investors and corporations. This has been done without full public transparency. That, in itself, is telling of the influence of corporations on circumventing the intent of the law.

Since the Lands Protection Act implementation, various Island governments have carried out at least four land use studies because of pressure from interest groups wishing the land limits increased. The one recurring recommendation to come out of all the studies was that the land ownership limits remain as stated in the original legislation. Yet the cabinet of those various governments approved and continues to approve land transfers on the bases they are staying within the letter of the law.

Corporations, private or publicly held, have no reason to uphold the spirit of the lands protection law. The law flies in the face of their very goals – to generate as much profit as possible while minimizing expenses – and to secure as much market share as possible. We see this in their constant strive to gain control of the entire food supply chain, right down to the farmers from whom they contract the crop.

It is in their interest to find ways around the Lands Protection Act in the goal to grow larger, to increase production and efficiency, and to become more powerful in the market place. Was it not world governments themselves - post World War II - that put in place the foundation for the move towards monoculture corporate farming in the name of efficiency and greater productivity?

Corporations under their current economic agenda will never stop trying to influence the spirit of the law. They have the resources both human and financial to uncover the loopholes within the law, use them, and yet be credited with staying within the letter of the law.

The NFU is not necessarily alleging that any of the widespread transfers of land are contravening the legal requirements of the Act - though some stretch the law to its limits. What we are saying is that Island governments are abandoning the purpose, spirit, and intent of the Act.

Corporations influence the intent of the Lands Protection Act in the power they hold over government around employment numbers and economic input. Islanders need and want jobs, so is it really that bad for government to give a little here and a little there on the spirit of the law if it means current Islanders are working? And if it means the government has a better chance of being re-elected?

It is an ace card for corporations that North American jurisdictions are falling over each other to offer incentives to companies to locate within their boundaries and create jobs. Retired politicians and senior bureaucrats who are no longer in the game of politics, speak of the subtle and not so subtle demands of corporate CEO's that came through their office doors. Corporations are the ones that seem to have the ear of government.

It is the government that needs to have the moral ethics; they are elected to represent the people, not corporations or foreign investors. So, when it comes to ensuring mutual protection for Islanders, in regards to the land – it is the Island government that has to be the

champion of the intent and spirit of the Lands Protection Act.

Our government has the power to stand behind the Lands Protection Act and too strength it, but do they have the political will? Do they even have the understanding of the law and its intent? As we get further and further out in time from the 1982 implementation of the law, and have new generations of politicians, the question has to be asked - are elected representatives even fully versed on the intent and spirit of the law? As we have more urban members of the legislature, do they understand the importance of rural PEI?

The NFU would argue that - if it was in the best short term interest of any sitting government to fully stand behind the Act then every attempt to infringe upon its spirit would be met with a strong counter push back. The law would be made stronger and stronger to order the way in which a society behaves to give the rule of conduct for mutual protection. There would be total transparency in land transfers. The first statement of the NFU land policy says, "The members of the generation which is in power must not treat the earth as something given by their parents, but rather as something borrowed from their children."

The NFU has no doubt, as do many other Islanders that corporations, and the interest groups they have influence over, are influencing the intent and spirit of the Lands Protection Act. We see it around us everyday. Many Islanders would be shocked if they knew the land holdings of many of our corporations. But because of lack of information and transparency they believe the intent and spirit of the act is being carried out.

There are numerous causalities in what is happening– Island farmers are one - but all Islanders, whether they realize it or not – are another. But the biggest causality of all - is the land itself, which is under great stress.

The Island Department of Agriculture recently released its findings of a twenty year study of soil health in PEI. Those findings are stark. Organic matter necessary to make our soil productive and crop bearing and able to withstand erosion and climate change, has declined despite laws around crop rotation. It is yet another failure to uphold the intent of the law. We cannot realistically deny that the stress on the land has come out of the model of industrialized monoculture corporate farming. Many will try, but the evidence speaks for itself.

Sadly very little coverage on the state of our soil has made its way into the Island media, and the hard questions are not being asked of government and corporations. But we ignore to our own peril.

Land is PEI's primary natural resource. No more is being made. If the trend continues the Island's most valuable resource will be lost to the wind, the rain, and the corporate pillage; making it all the more reason for the intent or spirit, of the PEI Lands Protection Act to be upheld.

Edith Ling

Edith grew up on a family farm in West Covehead. She worked for fourteen years as Private Secretary to various Ministers of Agriculture in the Provincial Government. Following that, she served for sixteen years as District Secretary with the National Farmers Union in P. E. I. and she is now completing her tenth year as NFU Women's District Director. She married David Ling in 1970 – is the mother of two daughters and now "Grammie" to two little granddaughters.

Edith and David began farming organically in 1985 and direct marketed their beef at the Charlottetown Farmers Market for sixteen years. Since David's passing in October 2013, Edith have continued to live on their family farm in North Winsloe and has maintained the beef cattle operation on a much smaller scale.

**Cooper Institute
Social Justice Symposium
PEI Lands Protection Act: The Spirit and the Letter
March 3, 2018
The Loopholes
By Edith Ling**

It has often been said that the National Farmers Union is ahead of its time. This has been proven to be true as in the late 1970's and early 1980's the National Farmers Union saw the need for land laws in this province to control the acquisition of large amounts of land in the hands of individuals, corporations, and non-residents. In fact the National Farmers Union was instrumental in having the Lands Protection Act passed in the Provincial Legislature in 1982. The policy of the Government of the day, under the leadership of **Premier Hon. J. Angus MacLean, was that individuals and corporations must be prohibited** from accumulating vast land holdings. The Lands Protection Act was enacted to regulate and limit the amount of land that corporations, farmers and non-resident persons can acquire in P. E. I.

For farming, the limit was set at 1,000 acres for an individual and 3,000 acres for a corporation. A farm corporation was defined as consisting of bona fide resident farmers and considered to be three farm families working together, hence the figure of a maximum of 3,000 acres per corporation was determined. In later years, it was decided that woodland and sensitive areas should not be included in the land aggregate so the current limit is 1,000 acres of arable land and up to 400 acres of non-arable land for an individual and 3,000 acres of arable land and up to 1,200 acres of non-arable land for a corporation. Then an individual can lease in/lease out up to 500 acres and a corporation can lease in/lease out up to 1500 acres. The possibility of *also controlling the land leased out is high.*

In 1984, it is interesting to note that Cavendish Farms was directed to divest some land as this corporation was found to be 1,400 acres over the limit. In the court case where this was decided, Justice John McQuaid stated that the purpose of the Lands Protection Act was to "prevent the concentration of ownership of the Island's limited land resource in the hands of a limited number of elite land holders".

Fast forward to 1992 and at that time a special legislative committee spent a year in a

review of the Lands Protection Act. They held public hearings and released a report in March 1993. The Committee concluded that the "central purpose" of limits on aggregate ownership was to support family farm based agriculture in P.E.I. for the economic and social benefit of the Province by preventing large scale corporate farming and by promoting a wide distribution of land rather than having it concentrated in a few hands.

How we wish that same philosophy prevailed today. On June 30, 2013 the report of the Commission on the Lands Protection Act was released. Commissioner Horace Carver noted that the Lands Protection Act has not kept pace with the evolution of corporate structures, for example, farming operations consisting of multiple corporations, family trusts and corporations involving voting and non-voting shares.

Loopholes have been discovered in the Act which makes it possible for a family, for example, to continue to set up multiple corporations and be able to own and control vast amounts of land. We see this in the case of Vanco Farms and Cavendish Farms. While they may legally own the amounts of land they do, the spirit, intent and purpose of the Act is being seriously disregarded. Then we have the Asian investors buying up land in Kings County - it could be said this is for purely speculative reasons.

Section 1 (d) of the Lands Protection Act defines a corporation as "including a partnership, co-operative association or body corporate whether formed or incorporated under the law of this province or any other province of Canada or outside of Canada, and for the purposes of this Act a corporation and other corporations directly or indirectly controlled by the same person, group or organization shall be deemed to be one corporation".

The National Farmers Union has tried to have this enforced, but it seems virtually impossible because of the ways corporations are set up with different shareholders, etc. We maintain that a family operation that shares the same equipment, buildings, machinery, etc. and has buildings and equipment all labeled with the name of one of the corporations involved, should be classed as one corporation even though they may have formed many corporations in order to circumvent the Act.

Today we have the same Lands Protection Act as we had in 1984 when Cavendish Farms and I believe some others over the years were ordered to divest themselves of land because they were over the limit at the time. What has changed? Corporations and individuals have found loopholes in the Act. I am sure there is a lawyer in this Province who could come up with a way to close the loopholes. What is needed is the political will to do this, and we just don't have it with the MacLauchlan Government.

It is one thing to own land - it is quite another thing to control the land. It has been reported that a large corporation in this province controls land without having legal ownership.

The Irving Corporation controls their producers in every way imaginable - from the purchase of inputs to telling them what the final price will be for their production. Many of these producers are so intimidated by the power this company exerts over them that they dare not speak out on any issues, much less be seen attending a farm meeting - at least one where anything controversial might be discussed, for example at a NFU meeting. To do so could jeopardize their contract with that company. This is serious business.

If the present situation is allowed to continue, it will be next to impossible for new and

beginning farmers to acquire land and very difficult for existing farmers to find land to lease or buy. The fabric of our rural communities is being torn apart to the extent that much of the land in some communities is owned by a few entities - in most cases the owners do not even live in the community.

Recommendation #28 in the report of Land Commissioner, Horace Carver suggested that the Provincial Government establish an advisory group made up of farmers and non-farmers that would consult with Islanders on matters related to the Lands Protection Act and report to the Legislative Assembly every three years. It is now almost five years later, yet the Provincial Government has done nothing in this regard. Since Government displays no interest in doing this, it is up to the people to bring about the necessary changes. That is why I am so glad to see Cooper Institute organize this symposium on the land today. We need to keep up the fight to protect our natural resources, land, air and water. It is never too late.

We need political backbone to close the loopholes and tighten up the Lands Protection Act. We need to constantly inform politicians of all political stripes about the seriousness of the land situation and then to insist that constructive changes are made to the Lands Protection Act so that vast amounts of our precious farmland will not be concentrated in the hands of a few.