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RURAL LAND BANKING: THE CANADIAN EXPERIENCE

JOHN MCCLAUGHRY*

In recent years rising concern has been expressed with regard to the steady decline in black land ownership in the southern United States. According to a survey by the Black Economic Research Center,

The number of acres of farm land owned in full or in part by blacks declined from 12 million to 5.5 million acres between 1950 and 1969, a loss of more than 50%. This decline, which seems to be continuing unabated, is taking place at the very moment when the southern black community is finally within grasping distance of some significant degree of political control over its destiny as the effect of the Voting Rights Act of 1965 begins to be translated into majority rule in the heavily black counties of the South.¹

This decline in black land ownership seems to be due to several factors. Prominent among them are (1) the migration of many of the most energetic and entrepreneurially minded blacks to the North after World War II, both to search for greater economic opportunities and also to escape the institutional racism of the South;² (2) a host of legal techniques designed since reconstruction days to bring about transfer of southern land ownership from black to white;³ and (3) "the lack of funds by blacks who are desirous of buying land and their inability to acquire funds from any lending institutions."⁴ It is this last problem that forms the focus of this paper.

The most often voiced solution to the problem of inadequate capital for land acquisition is some form of land bank. "If a lending source was available, and possessed adequate funds, the trend of a decreasing amount of black-owned land would not only be stopped but would in fact be radically reversed," states Jesse Morris, a long-time worker for

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1. Black Economic Research Center, *Only Six Million Acres: The Decline of Black Owned Land in the Rural South* (New York: Black Economic Research Center, 1973) p. 3; see also Eleanor Clift, *Black Land Loss: 6,000,000 Acres and Fading Fast*, 2 SOUTHERN EXPOSURE 108 (Fall, 1974), and Black Economic Research Center, *Black Land Loss: The Plight of Black Ownership*, *id.* at 112.

2. See, e.g., Abt Associates, Inc., *The Causes of Rural to Urban Migration Among the Poor* (Report to the Office of Economic Opportunity, 1970).

3. Cf. Harold R. Washington and Paris Favors, *Forty Acres, No Mule*, 5 N.C. CENT. L.J. 36 (1973).

4. Jesse Morris, *Land Banks and Mortgage Banks*, paper presented at the Workshop on the Economic Development Potential of Black Owned Land, Institute of Policy Sciences and Public Affairs, Duke University, December 6, 1974, p. 2.

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civil rights and black land ownership in Mississippi.⁵ Strangely, however, with the rather irrelevant exception of urban renewal in large cities,⁶ land banking is not a popular idea among Americans. As R.W.G. Bryant (a Canadian) observes, “. . . in North America . . . there is no tradition of long term municipal intervention in the land market. Politically, it is difficult to ask for tax increases or bond issues for a long term program of land acquisition, given that the electorate probably have an ingrained distrust of city hall anyway, and are simply not accustomed to the idea of long term public investment in land.”⁷ In Canada, however, the idea of rural land banking to preserve agricultural lands and to ensure the continuation of farming—especially by younger farmers of modest capital—has grown apace in the last six years. The Canadian experience in rural land banking to date may, then, offer a useful guide for those seeking to reverse the decline of black land ownership in the United States.

The idea of land banking, both urban and rural, has long been accepted in Canada, although the rural version is of more recent origin. As far back as 1949, the Central Mortgage and Housing Corporation [hereinafter CMHC] launched a federal assistance program for municipal land assembly projects.⁸ Under this “section 40” program, 75% of the capital cost of a land assembly project conducted in a province is shared by the federal government, and the remaining 25% is usually split between the provincial government (20%) and the municipality

5. *Ibid.* Other land bank proposals or analyses include Sylvan Kamm, *Land Banking: Public Policy Alternatives and Dilemmas* (Washington: Urban Institute, 1970); Richard Fishman and Robert Gross, *Public Land Banking: A New Praxis for Urban Growth*, 23 CASE W. RES. L. REV. 897 (1972); Peter Barnes, *Buying Back the Land*, PEOPLE AND LAND, Summer 1973; Southern Rural Action, *Land Program for Disinherited Black People* (Atlanta: SRA, 1970); CAROL VAN ALSTYNE, ed., LAND BANK HANDBOOK (National Technical Information Service, September 1972); Robert S. Browne, *A Southern Land Bank Proposal* (New York: Black Economic Research Center, 1970); Black Economic Research Center, *Three Associated Black Institutions* (report on Emergency Land Fund) (New York: Black Economic Research Center, 1973); and Southern Development Committee, *Proposal for a Development Program to Increase and Upgrade Minority Participation in Southeastern Commercial Agriculture* (Washington: Opportunity Funding Corporation, April 1975). Generally, see Daniel D. Heath, *Rural Land Banking* (Concord, Vermont: Institute for Liberty and Community, 1974) for a survey of published proposals and references.

6. This is not to suggest that urban renewal is a popular idea, however. Indeed, part of the unpopularity of urban renewal stems from the inability of many Local Public Authorities to find some productive use for condemned and cleared urban renewal land. To solve this problem, HUD has recently published a voluminous book entitled GUIDELINES FOR URBAN RENEWAL LAND DISPOSITION (1975).

7. R.W.G. BRYANT, LAND, PRIVATE PROPERTY, PUBLIC CONTROL (Montreal: Harvest House, 1972), p. 221; and see chapters 13 and 14 *passim*.

8. STAT. CANADA 1949, 2nd Sess., c.30, s.9; amending National Housing Act of 1944-45, as new § 35. The section is now § 40 of the Act. REV. STAT. CANADA 1970, Vol. V, National Housing Act (NHA), c.40, as amended by STAT. CANADA 1973-74, c. 18, s.16.

(5%).⁹ The assembled land may be developed either as public, subsidized housing or as a private development to meet local housing needs. The federal government retains 75% ownership of the project and profits and losses are shared according to ownership by the three levels of government.

Under the companion "section 42" program, launched in 1964, CMHC makes loans at below market interest rates to provincial governments for the assembly and servicing of lots for public and general housing.¹⁰ CMHC lends 90% of the capital cost, and the province retains 100% ownership.¹¹ The federal government also subsidizes half of the operating losses, if any.

These programs, however, have amounted to only about two percent of CMHC's housing program.¹² In addition, they have not been used in the land bank sense, but have been directed to immediate land needs. That is, they are not true long-term market control programs, but immediate land development programs. The two programs have to date been used in all Canadian provinces except Quebec.

In 1969 the prestigious Canadian Task Force on Housing and Urban Development (the Hellyer Committee) strongly recommended that:

Municipalities or regional [metropolitan] governments as a matter of continuing policy, should acquire, service, and sell all or a substantial portion of the land required for urban growth within their boundaries.

. . .

The federal government should make direct loans to municipalities or regional governments to assist them in assembling and servicing land for urban growth.¹³

This recommendation was prompted by the problem of steeply rising land prices—lots for single family housing, on the average, increased in price 15% in 1971 alone.¹⁴

The policy recommended by the Hellyer Report is not an untried one. The practice of land banking to control future urban growth, as distinguished from land acquisition to meet immediate development needs, has been in effect in the provinces of Alberta and Saskatchewan for over forty years. The Alberta Planning Act of 1913,¹⁵ preceding by a decade

9. NHA, § 40(2).

10. REV. STAT. CANADA 1970, col. V, NHA, c.42, as amended by STAT. CANADA 1973-74, c. 18, s.19. This section was added in 1964. STAT. CANADA 1964-65, c.15, s.9.

11. NHA, § 42(2)(b).

12. K.C. Parsons and Harriet Budke, *Canadian Land Banks* (Chicago: American Society of Planning Officials, 1972) Report #284, p. 2.

13. Canadian Task Force on Housing and Urban Development, *Report* (Ottawa: Queens Printer, 1969) p.43.

14. *Op. Cit.* note 5, p.1.

15. STAT. ALBERTA 1913, 1st Session, c.18. The present Alberta Planning Act was enacted in 1963. STAT. ALBERTA 1963, c.43.

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the Standard Planning and Zoning Enabling Act in the United States,¹⁶ gave that province a broad range of sophisticated tools to use to guide future growth.

The Alberta Act emphasizes the "orderly and economic development of land."¹⁷ Regional and municipal plans must specify a long range schedule for land development and the extension of public services into new tracts.¹⁸ In addition, the law permits the replatting of fringe areas by the municipal council. To do this, the municipal council approves the proposed replatting. Under the law if the council vote is more than 2/3, only 60% of the landowners in the proposed replat area need to consent.¹⁹ If the council vote is only a simple majority, 90% of the landowners must choose to participate.²⁰ In practice, however, 100% of the landowners have always agreed to participate; where a particular owner does not wish to participate, the city planning department redesigns the replat to exclude his land.²¹ The power of the city to deny utility service to nonparticipating land is a strong incentive for landowners to cooperate. Generally, however, the great majority of landowners have been eager to participate, recognizing that a careful replatting, integrated with amenities and municipal services, will ultimately lead to far higher development values than a haphazard approach by individual landowners.

Once the parcel is assembled, the city allocates about 22% to public uses in the case of industrial replats, and up to 40% in the case of residential subdivisions.²² This land is used for roads, parks, schools and other public uses. Then the remaining area is divided into developable parcels, which are reconveyed to the original private owners as nearly as possible in conformity to each owner's original parcel boundaries. Each owner is then free to initiate the development of his replatted parcels, in accordance with the overall subdivision regulations. At no time is there any joint or corporate ownership of the replatted area. This technique gives the municipal government virtually complete control over the development of the new tract housing, along with its power over the extension of municipal services.

The city of Edmonton grew at an extremely rapid rate during the

16. U.S. DEPARTMENT OF COMMERCE, A STANDARD STATE ZONING ENABLING ACT UNDER WHICH MUNICIPALITIES MAY ADOPT ZONING REGULATIONS (1926), reprinted in C. RATHKOPE, LAW OF ZONING AND PLANNING 100-1 (3rd edition, 1962).

17. Planning Act, § 3.

18. Planning Act, § 69 (regional plans), § 98 (municipal plans).

19. Planning Act, § 37(1), as amended by STAT. ALBERTA 1964, c.68, s.9.

20. Planning Act, § 33.

21. The following information on replatting in Edmonton comes from a private conversation with City Subdivision Officer Howard Holfeld, February 24, 1975.

22. Planning Act, § 24(2), as amended by STAT. ALBERTA 1967, c.60, s.4, provides that for subdivisions at least 10% of the land must be reserved for public purposes.

60's—from 281,027 in 1961 to 438,152 in 1971.²³ In 1968 the expansion rate of 12,500 residents per year required 350 acres of new residential land; 200 acres for industry; 200 acres for new roads; and 60 acres for parks, schools and other facilities.²⁴ Fortunately for guiding orderly development, Edmonton had a long experience with land banking by this time. In the thirties, it had come into possession of some 3,000 acres of tax delinquent land, which gave it great power to influence growth following the discovery of oil in 1947.²⁵

Thus when the original supply of city-owned land began to dwindle in the 1960's, land prices began to escalate alarmingly—more than doubling in ten years. To cope with this price escalation as well as with the problems of orderly growth, Edmonton developed a municipal plan for expansion on a neighborhood unit basis, tied to extension of public facilities, and freeway and transit improvements.

The Edmonton Mill Woods project comprises 5,500 acres within five miles of the central business district. The purpose of this project is specifically to curb rising residential land costs. Through a private agreement with the city, the Alberta Housing Corporation began to assemble the parcel in July, 1970 and completed the task by September at a total cost of \$9,000,000. This is perhaps the most advanced example of public urban/suburban land banking in Canada. Other significant uses of the land bank principle occur in Red Deer, Alberta, and in Saskatoon, Saskatchewan.²⁶

The foregoing projects are almost totally oriented toward guiding suburban growth and preventing the sharp rise in the price of residential land for housing. Only recently have Canadians begun to apply the same concepts to the preservation of agricultural land in rural areas. Perhaps the foremost example of intelligent action to deal with this question has been that of Prince Edward Island [hereinafter P.E.I.].

The P.E.I. Land Development Corporation was established by the P.E.I. Legislative Assembly in 1969.²⁷ This legislation came about after considerable research and analysis of the agricultural and land related trends in P.E.I. during the period 1967-1969. In relation to the Canadian averages, agricultural productivity was low, the average farmer's age was high and education low, size of holdings were small and scattered, and lease tenure was short and unstable. To deal with these problems, the Corporation was created under the auspices of the Comprehensive

23. CENSUS OF CANADA, 1951, 1971.

24. *Op. cit.* note 5, p.4.

25. *Ibid.*

26. *Ibid.* See also DON RAVIS, *THE SASKATOON EXPERIENCE* (Ottawa: Community Planning Associates of Canada, 1973).

27. STAT. P.E.I. 1969, c.40, the LAND DEVELOPMENT CORPORATION ACT, as amended by STAT. P.E.I. 1974, c.21.

Development Plan, a general development plan for P.E.I. Thus the first rural land banking program was born.

The concept of the Land Development Corporation was an expansion of the land purchase and lease program sponsored by the federal government under the Agricultural and Rural Development Act.²⁸ It was designed to buy, hold, reorganize units, develop lands and to offer these as required under favorable terms to farmers needing additional land on a secure long-term tenure basis under a reasonable financial arrangement.

The policy objective as stated in the Corporation's 1973 annual report is:

To conserve, develop and assist in improving the use of lands in Prince Edward Island in relation to its capability and in accordance with the public interest, both now and in the future, but with the primary objective of consolidating good agricultural lands for the purpose of increasing farmer and agricultural sector income.²⁹

This policy is to be carried out by aiming at seven specific goals:

- 1) To acquire farm land held by people who may be elderly, in ill health, or non-resident;
- 2) To acquire farm units that are too small for efficient agricultural production or that are too small for the adoption of new technological processes of production and marketing;
- 3) To assist in the consolidation of farmlands into economic units, which will permit increased efficiencies of production;
- 4) To assist in the establishment of young farmers on economic units;
- 5) To provide credit to farmers for acquisition of Corporation lands;
- 6) To remove lands from agriculture whose best use is not agricultural production; and
- 7) To generally improve land use in the province in relation to the capability of the land resources.³⁰

In carrying out these goals, the Corporation began with an initial appropriation of \$26,000,000 over 5 years. The federal government provided all the capital funds and 75% of the administrative funds.³¹ With this initial capitalization, the Corporation purchased farms for cash, or for annuities over a period of five years. The assembled land was then either sold to farmers by cash sale or mortgage, or leased for five year periods, with the farmer having the option to renew the lease

28. STAT. CANADA 1966-67, c.11; REV. STAT. CANADA 1970, vol. 1, ch. A-4.

29. Prince Edward Island Development Corporation, 1973 *Annual Report*, p.6.

30. *Id.*, p.7.

31. 1974 *Annual Report*.

and/or purchase at a later time.³²

The activity of the Corporation since its inception can be shown in the following chart:³³

	FY 72	FY 73	FY 74
Acreage acquired	23,448	21,194	14,687
Acquisition cost	1,507,776	1,681,473	1,374,445
Number of parcels acquired	209	232	179
Acreage sold	1,357	2,181	5,480
Acreage leased	2,686	4,637	8,946
Number of parcels sold or leased	39	87	208
Administrative overhead expense (including property maintenance and purchase expenses)	227,361	284,604	352,391

The experience of the P.E.I. Land Development Corporation has been that of a "flywheel" in the agricultural price cycle. When the farm produce market (principally potatoes) falls, more acres are offered to the Corporation; when produce prices rise, there is a strong demand from the farmers to acquire land from the Corporation and put it back into production. This can be seen in the table above which relates to the Corporation's activities. Potato and other agricultural prices were low until the fall of 1973. Offerings of land to the Corporation until that time were extensive, but dropped quickly thereafter. The leasing of land by farmers, on the other hand, was low until farm prices started to rise. Farm prices also are reflected in prices paid for land by farmers. It is quite clear from this information that a land bank can operate as an "anti-cyclic" mechanism. The Corporation is not intended to prevent private sales of farmland, but to maintain a long range presence in the farm land market to ensure the preservation of viable farms in the province.

In addition to the basic land banking functions, the P.E.I. Land Development Corporation also administers several other publicly financed programs related to rural land. These include a community pasture management program, a maintenance assistance grant program for land improvement, and a family farm capital grants program. More importantly, this corporation is beginning to act as a land banking mechanism for recreation, wildlife and forestry; although these functions are modest and are still in the embryonic stage of development, they remain an integral part of implementing a complete land package.

32. Land Development Corporation Act, § 9 (purchase of lands), § 11 (sale of lands), and § 12 (lease of lands to tenants).

33. Private communication, Clifford Wulff, former general chairman of P.E.I. Land Development Corporation, December 1974.

The Land Development Program is now emphatically endorsed by all segments of the agricultural community and is actively supported by members of both parties in the provincial legislature. Initially, small and medium sized farmers saw the Corporation as a potential threat. However, safeguards had been built into the legislation to protect and support the smaller farmer and this concern has long since dissipated.

The Corporation has provided a stable land market and a gauge from which land owners (although not dealing with the Corporation) can determine the fair market value of their properties, where previously there was no such information available. In a declining market where little or no private market existed, the Corporation played a major role in establishing or maintaining a *reasonable* market. In such periods, 65%-70% of all offers made were accepted and, as noted in the table, total activity was high. Conversely, in periods of an active and rising market, the program acted as a deterrent to rising prices as lands continued to be offered to farmers by the Corporation at reasonable prices under reasonable financial terms. In such periods, acceptance of Corporation offers to buy varied from 45%-50%, with considerably fewer properties being bought than in low income periods. The outflow of land, on the other hand, was high.³⁴

The level of the Corporation's inventory further exemplifies this point. During a very inactive market period for land, some 37,000 acres of 50,000 purchased were in inventory. During high income periods and thus an active land market situation, the inventory was less than 10,000 acres of a total of about 80,000 acres purchased.

Maintaining a stable land market is one important result of a land banking program, in addition to the benefits offered to those wishing to leave agriculture and to those wishing to expand their agricultural operations.

The Corporation had some 2,900 formal applications to consider up to March, 1974 (both to sell and to buy or lease), from a farm population of 4,500 in 1971 and a total of about 9,000 landowners (who own 5 acres or more). This represents a significant percentage of the land owners in P.E.I.

In the four year period ending March 31, 1974, the Corporation had purchased approximately 80,000 acres, amounting to 5.7% of the total area of the Island or 10.7% of the agricultural land base.³⁵ As a result of increased awareness in land and land use in P.E.I., a Royal Commission on Land Use and Land Ownership was established and it produced its final report in late 1973.³⁶

34. Interview with Clifford Wulff, former general chairman of P.E.I. Land Development Corporation, December 9, 1974.

35. *Op. cit.* note 26.

36. *Report of the Royal Commission on Land Ownership and Land Use* (Charlotte: Queens Printer, 1973).

In 1972, the Real Property Act was amended so as to require all non-residents (including non-resident Canadians), whether individuals, trusts, corporations, or whatever, to apply to Lieutenant-Governor-in-Council (the Government of the day) for permission to acquire land in P.E.I.³⁷ In 1974 this Act was further amended to require that all corporations obtain permission of the Lieutenant-Governor-in-Council before acquiring land in P.E.I.³⁸ Both of these amendments are intended to provide information on and to exert some influence over the sale of prime agricultural and recreational lands to persons and corporations, whose interest is not agricultural production or whose interest is not consistent with those of the people of the province.

Concern about providing access to good agricultural land has become a national concern; the federal government announced the National Small Farm Development Program in 1972.³⁹ This program, while drawing from the P.E.I. experience, does not encompass the full land bank concept. It does, however, offer an early retirement incentive (grant plus a life lease or retention of ownership of the dwelling house) and a special purchase agreement (\$200 down for properties valued up to \$20,000) for farmers with assets of less than \$60,000. This program, with minor variations, now operates in all provinces.

The P.E.I. land banking experience has served as a forerunner to other Canadian provincial and national programs and has been examined abroad from the Netherlands to Australia.

Not only has the P.E.I. program assisted over 300 farmers in four years to consolidate their holdings, but it has also put some 9,000 acres of land back into production which had previously been idle, and considerable other acreage was put to a higher or more intensive use. All the while, the program held and preserved lands for long-term agricultural production. Some property sold to farmers was later converted to other uses, e.g., recreational subdivisions. Provisions are presently being considered whereby the unnecessary conversion of prime agricultural land to other uses can be deterred or stopped.

Other P.E.I. programs, developed in support of farmers, are Family Farm Capital Grants Program (grant of \$6,000 for capital and breeding stock expansion),⁴⁰ Provincial Lending Authority (offers operating and

37. STAT. P.E.I. 1972, amending REV. STAT. P.E.I. 1951, Real Property Act, c.138, § 3.

38. STAT. P.E.I. 1974, c.39, amending REV. STAT. P.E.I. 1951, Real Property Act, c.138, § 3.

39. Cf. Agricultural and Farm Development Act, STAT. CANADA 1966-67, c.11, § 4, REV. STAT. CANADA 1970, vol. I, § A-4, for general authority to carry out such a program.

40. P.E.I. An Act of Private Assistance to Establish Young Farmers. STAT. P.E.I. 1959, c.12. This act is restricted to residents between the age of 21 and 50. The maximum amount provided under the statute per loan is \$10,000, § 9(2). This act is now

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intermediate credit to farmers),⁴¹ Market Development Center (new product development, etc.)⁴² and other marketing assistance such as packaging, distribution and price information.

The prairie province of Saskatchewan has followed in the footsteps of its island cousin. In 1972 the government established the Saskatchewan Land Bank Commission to provide a new approach to land tenure and a means for the orderly transfer of operating farmland from generation to generation.⁴³ The purposes of the Bank include providing a market for farmers wishing to sell or retire, assisting young farmers to get started without inordinate capital investment, preventing the increase of absentee landowners, avoiding distress sales of farmland, and maintaining a stable and productive rural population.⁴⁴

The Saskatchewan Land Bank is empowered to:

- 1) Purchase farms outright from those who wish to retire from farming.⁴⁵
- 2) Transfer the family farm from generation to generation (direct descendants have first priority in leasing land).⁴⁶
- 3) Lease land to those with farming ability who wish to start farming.⁴⁷
- 4) Lease land to those who require additional land for a viable farm unit.
- 5) Provide counseling and management assistance to those renting land.
- 6) Provide loans to farmers leasing Land Bank land for land improvements.⁴⁸
- 7) Purchase, with a lease-back option, all or part of the land of persons who wish to continue to farm, but need to reduce their debt or free capital for the purposes of intensifying production.⁴⁹

The Land Bank, in its first two years, has had more offers to sell than the available funds.⁵⁰ In such case, the Bank purchases according to the following priorities:

carried out under the general lending authority of the province. P.E.I. Lending Authority Act, STAT. P.E.I. 1969, c.41, as amended.

41. REV. STAT. P.E.I. 1951, c.88, s.1(c), Loans Act.

42. STAT. P.E.I. 1969, c.42, P.E.I. Natural Products Marketing Act.

43. Land Bank Act, STAT. SASKATCHEWAN 1972, c.60. For description see Barbara Young, *Saskatchewan Government Buys Up Land To Help Keep Farmers Down on the Farm*, Wall Street Journal, February 5, 1975, p. 32; *Homesteading Goes Modern*, THE FURROW (Moline, Illinois: John Deere Co., January 1975) p. 36.

44. Land Bank Act, § 3.

45. Land Bank Act, § 9.

46. Land Bank Act, § 12(3); § 14(2).

47. Land Bank Act, § 12(1)(a).

48. Land Bank Act, § 22.

49. Land Bank Act, § 10(2)(b).

50. 1973 *Annual Report*, Saskatchewan Land Bank Commission (Regina: 1973).

RURAL LAND BANKING

- 1) Large tracts of land capable of supporting two or more operators.
- 2) Parcels of land which constitute a full unit.
- 3) From farmers who wish to retire and transfer their land to direct descendants.
- 4) From persons wishing to sell land that can be used to establish or assist in the establishment of a viable farm unit.
- 5) From persons having a need to sell the land, and a lack of an available sale alternative.

Purchase prices offered by the Bank are in line with current market prices. The prospective seller pays an appraisal fee if he subsequently rejects the Bank's offer. The Bank leases land to farmers at 5¾% of its market value, over a period of ten years. When local land values rise or fall by more than 5%, the land rental rate is adjusted. The lessee must pay all property taxes, and has an option to purchase the land after leasing it for five years.

Applicants for available lands are ordered on a point system involving the following factors:

- a) Canadian citizenship or landed immigrant status.
- b) Declaration of intent to reside in Saskatchewan during the lease period.
- c) Adoption of farming as applicant's major occupation.
- d) Net worth of less than \$60,000.
- e) Average net income over the preceding three years of less than \$10,000.⁵¹

During 1972-1973, 400 of the Bank's 605 offers to purchase were accepted. The parcels had an average value of \$28,750, for a total purchase price of \$11,500,000, and an average size of 458 acres. Over 1,500 applications for land leases were received by the Bank in January, 1973, when the first lease period opened.

The following chart summarizes the Land Bank's experience in its first full fiscal year of operation—(1972-1973):⁵²

ACQUISITION

Purchase offers made		601	
Purchase offers accepted		405	
Purchase transactions finalized		381	
Land purchased			
Cultivated	131,953		
Uncultivated	36,528		
		Total	168,481 acres

51. *Ibid.* These regulations are authorized by the Land Bank Act, § 12(a).

52. *Ibid.*

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Value of land & improvements purchased		
Land	9,340,677	
Improvements	1,579,032	
		Total \$10,919,709
Average value per acre		\$53.50
Average size of parcel		458 acres

DISPOSITIONS

Number of lease applications	1,509
Number of leases finalized	425
Average age of lessees	34
Average size of leased parcel	404 acres

In addition to the highly successful land bank operation, the Province in 1974 adopted a Farm Ownership Act⁵³ designed to prevent the spread of absentee ownership of farmland.

The government of Saskatchewan believes that agricultural resources in Saskatchewan should be owned by the people of this province. The Government does not wish to see farmers become hired labour for absentee landlords, nor does it wish to see farmers squeezed out of agriculture by corporations or persons who purchase land with profits accumulated in other industries or in other countries. The government of Saskatchewan also believes that food production should never be allowed to fall into the hands of a small number of large corporate production units. The government believes that such a development would inevitably result in higher prices for consumers and lower returns for those doing the work.⁵⁴

The new act restricts the amount of land which may be owned by nonresident persons, and the amount of land which may be owned by nonagricultural corporations (i.e., corporations not primarily engaged in agriculture and at least 60% owned by the resident farmers).⁵⁵ Corporations not in compliance with the act have 20 years to sell excess farm acreage, down to the allowed 160 acres.⁵⁶ Non-resident individuals can not own land whose assessed valuation exceeds \$15,000.⁵⁷

In addition to these acts, Saskatchewan also has a Farmstart program which makes grants to farmers with less than \$35,000 net worth, which must be matched 3:1 and invested in starting or expanding farm production.⁵⁸ The Department of Agriculture maintains a host of agricultural improvement and marketing services as well.⁵⁹

53. STAT. SASKATCHEWAN 1973-74, c.98.

54. *Information About the Saskatchewan Farm Ownership Act 1974* (pamphlet) (Regina: Ministry of Agriculture, 1974).

55. Farm Ownership Act, § 2(b). Definition of agricultural corporation.

56. Farm Ownership Act, § 12.

57. Farm Ownership Act, § 7.

58. REV. STAT. SASKATCHEWAN, 1965, c.223 (Family Farm Credit Act), § 11(f) limits the net appraised value of assets of participating farmers to \$35,000.

59. *Annual Report, Minister of Agriculture* (Regina: 1974).

The province of Ontario has also initiated a public land banking program, but unlike that of P.E.I. and Saskatchewan, it is not aimed at preserving farming. The Ontario Land Corporation, [hereinafter OLC] enacted by the provincial parliament on February 7, 1975, is primarily responsible for assembling land for new towns and industrial development.⁶⁰

The OLC enjoys eminent domain ("expropriation") powers⁶¹ and has the power to issue its own bonds and securities.⁶² Initially, however, it has been funded by an advance of \$320 million from the provincial government itself.⁶³ As the present law does not permit the province to guarantee the security of a public corporation, at some point—estimated to be about 1980—the OLC will have to issue its own revenue bonds; or the province will have to float a bond issue specifically for the purpose of the OLC; or the law will have to be changed to permit the provincial guarantee of an OLC issue.

As of August 1975, the OLC had assembled some 35,000 acres, including sites for three new towns. Each of these towns will be developed by a specifically formed development corporation, governed by representatives from various provincial and federal agencies. Prior to actual development, land assembled by the OLC will continue in farming under leasehold arrangements, but the preservation of farming is not an OLC objective.

Certainly the Canadian experience in the preservation of independent farms through land banking, as practiced in P.E.I. and Saskatchewan, provides important guidance for similar efforts in the United States. Indeed, legislation has been introduced in at least five states to create similar programs,⁶⁴ and such a program is already in operation in

60. Bill 133; passed third reading February 7, 1975 and was proclaimed in force in March by the Lieutenant Governor in Council.

61. *Ibid.* § 15.

62. *Ibid.* § 20.

63. This and the following information about the operations of OLC is from a personal conversation with Mike Goff, solicitor, Office of Legal Services, Ministry of Treasury, Economics, and Intergovernmental Affairs, Toronto, July 30, 1975.

64. -Vermont House Bill 126 (1975) (to create a State Land Trust);

-Connecticut House Bill 7598 (1975) (to create an Agricultural Land Preservation Fund);

-New Jersey, S.C.R. 86 (to amend the constitution to permit assignment of property transfer tax revenues to a development right purchase program, to be enacted subsequently);

-North Dakota, House Bill 1400 (1975) (to create a Trust Lands Division of the Department of Agriculture). The North Dakota proposal is obviously modeled after that of neighboring Saskatchewan. See A LAND TRANSFER SYSTEM FOR NORTH DAKOTA FARM FAMILIES (Jamestown, N.D.: N.D. Farmers Union, 1974);

-California, AB 921 (1973) (passed the legislature but was vetoed, 1974);

-Maryland House Bill 18 (voluntary agricultural districts with strict limit of eminent domain and assessment powers by local government) (1975).

Suffolk County, New York, a Long Island suburban area.⁶⁵

To date, however, agricultural land banking proposals have not received public attention in the areas where minority group members are most likely to continue and expand family farming, namely the South and Southwest. This is probably so because the political push for rural land banking in this country (with the exception of North Dakota) stems largely from upper class environmental concern over the consequences of unchecked development, a condition not yet prevalent in the large areas of the South and Southwest where Blacks, Chicanos and Indians are most likely to become landowners.

In addition, there is a large and vocal school of thought that agricultural land can best be preserved by zoning it for agricultural uses only, without paying any sort of compensation to the landowner.⁶⁶ To those relying on this approach, public acquisition of interest in land is both unnecessary and undesirable. It raises the question of competition for scarce appropriations in the state legislatures, where through zoning the objective can be achieved by placing the entire economic loss not on the public, but on the landowner.

In the long run, however, an agricultural land banking program at the state or in some cases the county level would seem to hold considerable promise for preserving the small farm and also capturing for the public some of the increments in land value caused by public investments and rising social demand for farmland. It is thus likely to be attempted more widely, especially if the drive for confiscation of land values through zoning falters and subsides. The question, perhaps, is whether land banking programs will be designed in the interest of lower income family farmers, including minority group members, or of higher income or corporate farm operations located in areas favored by the environmental movement.

These bills and the subject of a state land trust in general is discussed at length in John McClaughry, *A Model State Land Trust Act*, 12 HARV. J. LEGIS. 563 (1975).

65. Suffolk County Legislature, Local Law No. 19, Year 1974 (June 25, 1974), enacted pursuant to the New York General Municipal Laws, § 247. The program is set forth in John V.N. Klein, *Farmlands Preservation Program* (report from the county executive), Sept. 1973.

66. For examples of enthusiasm for a zoning approach without compensation, see Fred Bosselmann and David Callies, *The Quiet Revolution in Land Use Control* (Washington: Council on Environmental Quality, 1971); WILLIAM F. REILLY, ED. *THE USE OF LAND* (New York: Thomas Y. Crowell Co., 1973); Joseph Sax, *Takings, Private Property and Public Rights*, 81 Yale Law Journal 149 (1971); Fred Bosselmann, David Callies and John Banta, *The Takings Issue* (Washington: Council on Environmental Quality, 1973). For a discussion of one State's unsuccessful effort to implement such an approach, see John McClaughry, *The New Feudalism*, 5 ENVIR. L. 673 (1975).