

**Exploring the Implications
of Non-Resident Land Ownership
in Nova Scotia**

by

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Abstract

This thesis examines issues related to non-resident land ownership and investigates the information on land tenure available in Nova Scotia. Concerns related to non-resident ownership fall under several different themes: the economy, natural resource management, society, and the environment. Countries all over the world and several provinces of Canada have legislation or regulations targeting non-resident owners: regulations from selected jurisdictions were examined in detail.

The available data on non-resident ownership from the property and assessment databases at the Department of Housing and Municipal Affairs were examined. Nearly one-third of all properties in the province can not be linked with tax accounts and it was not possible to use those properties in this study. Non-resident owners were identified using the mailing address for each property's tax assessment notice. Twenty-three percent of all tax accounts with non-resident addresses did not have property information available. Information on property area was compiled from the remaining tax accounts: 4407.03 km² or about 8.42 percent of the province is held by those owners. Because of the missing information, this is an underestimate of the extent of non-resident ownership in the province.

A case study of Richmond County was carried out to allow the issue of non-resident ownership to be explored in a more in-depth fashion. Some areas of the county have a high concentration of non-resident owners. Ambivalent opinions were expressed about non-resident ownership in Richmond County.

Better information is needed on the extent and location of non-resident land ownership in the province. The provincial government should take steps to improve the available information. Tools to mitigate some of the negative impacts of non-resident ownership are suggested and should be explored further by the appropriate community group or level of government.

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Chapter 1

Why Land Ownership?

1.1 Introduction

Land is the most basic of natural resources, but studies of land do not fit well within any academic discipline. Instead, land studies are divided among different fields. The field of urban and rural planning addresses land use issues. Land economists have taken aspects related to the supply and demand of land. Foresters examine forest lands; agronomists study agricultural lands; geologists analyse the soils and rocks underlying the land. Anthropologists investigate who controls the natural resources that come from the land. Studies of land have become as fragmented and subdivided as the land itself.

Even with the fragmentation and division of land studies in North America, most disciplines avoid the question of land ownership. However, in many developing countries land ownership is a key concern, and one that is considered to impact on land use. A body of work on North American land tenure is slowly beginning to develop. There is increasing recognition of the resources the land provides: land is part of the environmental and social capital of a community, and access to land will affect the sustainability of a community (Gaventa 1995a and 1995b). Changes in land ownership will affect how much land is available for various uses within a community.

Non-resident ownership is a particular category of ownership that elicits strong opinions. Discussions of non-resident ownership raise questions of fairness and the freedom of individuals to dispose of private property, and accusations of xenophobia. Those who believe the land market should be unrestricted are called speculators and profiteers; those who believe restrictions on land sales are needed are branded as xenophobic and opposed to free enterprise. A topic that calls forth such strong and opposing feelings warrants more examination.

1.2 Statement of Question

This thesis will examine the land in Nova Scotia owned by non-residents. It will venture to answer the following questions:

1. What resource management and environmental implications does non-resident ownership have?
2. Is it possible to determine how much land is owned by non-residents in Nova Scotia?
3. What policies can mitigate the impact of non-resident ownership?

This chapter will provide a rationale for this study and explain the methodology used. The next chapter will review the concerns raised about non-resident ownership in Nova Scotia and other areas. One of the key concerns of non-resident ownership in relation to the environment is the impact non-resident ownership can have on the rate of development. The third chapter will focus on the impacts of development and the role of land use planning in controlling development. Chapter 4 discusses legislation aimed at non-resident users. The experiences of other jurisdictions are described to show how other areas have dealt with the impacts of non-resident owners. Chapter 5 discusses legislation relevant to Nova Scotia. The next two chapters present the results of the study. Chapter 6 will look at land ownership for the whole province of Nova Scotia while Chapter 7 will focus on Richmond County. The concluding chapter will recommend methods of tracking non-resident owners in the province and limiting their negative impact on Nova Scotia communities.

1.3 Rationale for Thesis

1.3.1 Introduction

My concern about the implications of non-resident ownership came from travels throughout Nova Scotia during the summer of 1997. Residents of coastal communities who were interviewed for a separate research project talked about the people who were moving away and selling their homes to vacationers from out of town. The residents

were concerned about the impact of such land sales on the future of their communities. Their observations were reinforced by bilingual (English-German) real estate signs posted in Cape Breton, which represented overt marketing of the province to non-Nova Scotians.

Nova Scotia has a limited land base and many competing demands for land. The land-based resource industries of mining, forestry and agriculture make up a declining proportion of Nova Scotia's GDP but remain very important in rural areas. Tourism employs thousands of Nova Scotians and is heavily dependent on the state of the land. Many visitors come to experience the province's natural areas and undeveloped landscapes. Land is in demand for many different uses and by many different classes of owners. The province has no way of deciding what particular mix of land use and land owners are of the most general benefit to the province.

Twenty years ago, a study was carried out on the Nova Scotia government's policy towards non-resident land owners (Antoft 1977). Antoft's thesis documented concerns about non-resident ownership in the province and demonstrated that the province lacked an effective policy on non-resident land ownership. Despite the work of Antoft and the concerns raised by other writers before and since, Nova Scotia has yet to develop a clear policy on non-resident land ownership, nor does it have any hard figures on the amount of land held by non-residents.

This thesis will investigate the total or cumulative effect of non-resident ownership on land management in this province. Issues related to non-resident ownership fall within two general categories: first, the impact of the non-resident demand for land on local markets and taxes, and second, the broad types of land use that are encouraged by a particular category of ownership and their social, economic, and environmental impact.

The stewardship practices of individual land owners will not be examined in this thesis. This is not to say that individual practices are not important; individual initiatives towards environmental stewardship are an essential component of environmental protection. Individual views of land stewardship have been examined in works by Sutherland (1996) and Keith (1993), as well as by many others. The intent of this study

is not to compare the stewardship practices of one class of land owners with another class or classes of land owners. In fact, non-residents may be more concerned with environmental issues, may support more stringent environmental controls, and may be more open to private stewardship initiatives than permanent residents. If that hypothesis were indeed true, the logical step to protect the environment might be to encourage the sale of the land to the better caretakers, the non-residents.

Viewing the question of land ownership solely in terms of who are the better environmental stewards on individual pieces of land ignores the services that the land as a whole must provide to a permanent human population, as well as to non-human populations. By transferring land to non-residents we will not decrease the amount of land needed by the current human and non-human populations of the province. Land ownership can not be examined solely in terms of environmental impact; social and economic forces affect the perception of any observers of non-resident ownership.

1.3.2 Local Control of Resources

A growing body of literature has been published on community management of common property resources. Fisheries anthropologists have been especially prolific in their support of community-based resource management (see, *e.g.*, Berkes et al. 1989, Pinkerton 1989); however, studies of other natural resources have also supported the effectiveness of local control (see, *e.g.*, Berkes et al. 1991, McCay and Fortmann 1996). Supporters of local control recognize that natural resource users are members of a community, with incentives to act as rational community members as much as rational economic individuals. They make decisions based on societal pressures, traditional usage, and environmental restraints, as well as based on purely economic factors.

This discussion of community management of common resources may seem tangential to a study of land ownership — land is to many people the quintessential example of private property. Yet the recognition of private property rights is dependent on the larger society and private land provides benefits beyond its owners. Ironically, at the same time that governments are encouraging local control of other resources,

decisions on land use may be made by property owners living thousands of miles away, who have little stake in the local community.

Land ownership has become an important issue for international development theorists, who see local ownership as the key to adequate amounts of food crops and sustainable land use (Dudley et al. 1992). Many of these authors view equitable land redistribution as an essential component of social stability and environmental sustainability (Eckholm 1979, Weinberg 1991, Dudley et al. 1992). Despite the prolific writing on the importance of land in developing countries, there has been a dearth of studies that have applied the theory in developed countries.

This discussion of local control is intended to demonstrate my values: I agree with many of the arguments made by supporters of local control of resources. If user groups are given the power and the resources to make local resource management decisions, I believe that their decisions will often be fairer and generally will be at least as effective as those made by an outside government agency. Of course, the difference between the resources currently managed by local groups and land is obvious: community management organizations are considering common property resources while land, other than Crown land, is private. However, both the common property user and the private land holder are members of a community.

Community management is effective in its broader vision of the community as opposed to individual resource users. Similarly, land use decisions made by people who live in a community year-round are influenced by community pressures and values. Although land use decisions which solely benefit individual landowners are a common occurrence no matter who the landowner is, it seems that a disregard for the larger community would tend to occur more often on land that is held by people who are not residents of the community and not influenced by community values.

North Americans have drastically undervalued the role land ownership and land use plays in shaping our society and environment. My discussion of non-resident land ownership is influenced by my belief that local control of natural resources is in the best long-term interests of human communities and the environment of which they are part.

Of course, rural communities may also be constrained by development choices and may think that they must choose any form of development available. Rural areas often have limited resources; they may not be able to evaluate land use impacts or have the global vision to rise beyond parochial interests (Boschken 1982). Nonetheless, I believe that local control can be highly effective, if supported by appropriate resources at the regional, national, and global levels.

1.3.3 Importance of Study

By documenting the issues related to non-resident ownership in Nova Scotia and other parts of the world, this thesis will support the importance of knowledge about land ownership in land use decisions. Unfortunately, not a great deal is known about land ownership in Nova Scotia. This thesis will examine the information available and point out ways to improve that information. By taking an in-depth look at the situation in one part of the province, it will be possible to see the links between the literature, the available data, and an actual area where non-resident purchases are creating pressures on the community and the environment. The concluding chapter of this study, which offers suggestions on improving land ownership information and outlines tools to mitigate ill-effects of non-resident ownership, will provide practical information for the provincial and municipal governments.

1.4 Methodology

1.4.1 Methods

A literature review was assembled on non-resident ownership, documenting previous studies on the topic. It outlines the reasons behind land ownership concerns in Nova Scotia, Prince Edward Island, and many other parts of the world. Many provinces, states and countries have attempted to mitigate the impacts of non-resident ownership through legislation and their approaches were examined. A separate section of the literature review focussed on land use, planning, and development. The problems caused

by unrestrained development and the limitations of planning to control that development were described.

With this background in place, information from the property assessment and property mapping databases at the Department of Housing and Municipal Affairs was compiled to provide a picture of non-resident ownership in the province. The picture is not entirely accurate because of limitations in the data, which are discussed within the text. The data were assembled by county and, in some cases, by municipal division.

Because of the limitations of the data, a case study was undertaken for Richmond County, Cape Breton. This county was selected because the data were fairly complete and because of interest in the topic in the County. Conversations with members of government and environmental groups suggested that this was an area with concerns about non-resident land ownership. An initial look at the available data showed a high number of non-resident tax accounts and raised questions about what kind of impact this was having on the County. As well, Richmond County Council expressed an interest in knowing about the extent and potential impacts of non-resident ownership in the County. Besides property information, available data on property assessments and property taxes were assembled for Richmond County.

Case studies make it possible for researchers to explore new areas of research in depth. They allow the collection of different types of data from a variety of methods, such as reading previous studies, examining primary documents, communicating with key informants, carrying out interviews, and observing community events (Yin 1984). For this case study, a search of the literature was carried out, quantitative information on Richmond County was gathered, and residents and others who worked in Richmond County were interviewed. Data on assessment and property taxes were compiled from primary documents or were obtained through personal communication. Case studies are known to have a particular weakness: it is difficult to generalize from them (Yin 1984). This case study was not intended to be generally applicable. Land ownership and land use patterns are different throughout the province and any policy on land should

recognize that. At the same time, the Richmond case study brought up many of the impacts of non-resident ownership which were found in the literature.

Semi-structured interviews were carried out with government officials in Nova Scotia and other areas. Interview participants were selected through snowballing: key informants and interview participants were asked to name others who were knowledgeable on land ownership or land use (see *e.g.*, Singleton et al. 1988: 310, for use of snowballing). They were also asked to suggest people who might have a different perspective on the topic than their own. Fourteen interviews were carried out in Richmond County to gather information for the case study. In total, twenty-two interviews were completed and all interview participants were randomly assigned a number from one to twenty-two. Most participants agreed to be identified by name in the study. Only those who choose not to be identified by name are identified by number. Much of the information on non-resident ownership in Nova Scotia rests with knowledgeable individuals, and it is hoped that the participation and identification of those individuals will make it easier to carry out future studies on this topic.

From the information provided in the literature review and from the various databases, a policy on information gathering for the province was proposed. Several options to mitigate the effects of non-resident ownership were outlined. As originally envisioned, this thesis was not intended to be an exploratory study. However, the limitations of the data and the new questions that turned up as the result of my research has made the recommendations much more exploratory in character than originally intended.

1.4.2 Definitions

It is important to clarify several terms relating to classes of ownership that are used in this thesis. This study will use the definition of “resident person” used by Prince Edward Island’s *Lands Protection Act* (R.S.P.E.I. 1988) where residency is used to distinguish between classes of owners. It defines a “resident person” as “a person who resides in the province for one hundred and eighty-three days or more a year” (s. 1(1)(k)).

Nova Scotia's *Land Holdings Disclosure Act* (R.S.N.S. 1989) contains a broader definition of non-resident. There, non-resident is considered "an individual who is not a permanent resident of the Province and includes a person who acquires or acquired a land holding for or on behalf of an individual who is not or was not a permanent resident of the Province" (s.2 (e)). Although the definition includes people who acquire and hold land for non-residents, the databases used for this thesis do not contain any information regarding for whom the land was acquired. Like Prince Edward Island, Nova Scotia does not distinguish between Nova Scotians who have vacation homes in other parts of the province and those who live year round in the area where other Nova Scotians come to vacation.

It is important to point out that the definition used in this thesis does not distinguish between non-residents who are Canadian and those who are foreign. In the past, Prince Edward Island has enacted legislation targeting alien non-residents and other provinces have current legislation which distinguishes between those groups of land owners. The authority of a province to distinguish between foreign nationals and Canadian citizens has been a hotly-debated Constitutional issue. While many Canadians may prefer ownership legislation to distinguish between Canadians and foreign non-residents, current trade agreements may limit the ability of the provinces to do so. This question will be explored further in chapter 4.

1.5 Conclusion

Land ownership is a multi-faceted topic with repercussions that go far beyond the buyers and sellers of the land. Ownership of land by non-residents calls forth strong emotions in many people. These feelings are based on both real and perceived effects of non-resident owners and whether those effects are seen as good or bad. The next chapter will examine some of the impacts of non-resident ownership.

Chapter 2

Issues Related to Non-Resident Land Tenure

2.1 Introduction

Who owns the land is a key question. It has an impact on the organization of society, the distribution of wealth, and the future prospects of both human and non-human communities. European peasants rebelling against their landlords realized the importance of the land question in the eighteenth and nineteenth centuries, as did Prince Edward Island tenant farmers of the nineteenth century, and Barbudans and Jamaicans of the late twentieth century. As Paquette (1984: 196) states, "land is too unique and valuable to be treated as an ordinary asset. This non-renewable resource produces the basic commodities, minerals and food which form the basis for all production and wealth".

Despite historical concerns regarding land ownership, liberal-minded individuals of the 1960s through to the present day feel that there is something slightly wrong in limiting alien or non-resident land ownership. At best, it seems to constrict human rights and freedoms, at worst, it smacks of xenophobia and the limitation of free enterprise. Indeed, there is a long history of laws and restrictive covenants prohibiting or limiting land ownership by certain racial or ethnic groups, as well as by women (see *e.g.*, Spencer 1973: 394, Chan 1983: 13, Finkel et al. 1993: 435). An American article which argued against restrictions on alien ownership pointed to its roots in racism (Mason 1994: 460). This argument ignores other pieces of legislation which were discriminatory and which still exist in an altered form.

Early legislation regarding citizenship was also discriminatory; many so-called aliens were actually long-time residents who were denied naturalization because of their race or ethnicity (Corbett 1957: 195, Palmer 1982: 48, Chan 1983: 14). Despite the discriminatory roots of citizenship laws, Canada continues to have citizenship legislation. Canadian society evidently sees some value in creating a set of rights for those who are Canadian which excludes those who are not. For example, Canadians can vote in

Canadian elections and Americans can not, and this is generally agreed to be appropriate. Residency also plays a role in who can vote. Voters in a provincial or municipal election must live in that jurisdiction for a specified period before the election date. Your citizenship and province of residence is also important in establishing eligibility for health benefits, student loans, and public service employment. Despite existing laws which make reference to citizenship and residency, restrictions on land ownership based on those factors still raises concerns about discrimination and the limitation of free enterprise to many people.

Perhaps because of those concerns, few studies have been undertaken on non-resident ownership in North America. A recent conference, "Who Owns the Land?" pointed out that all North American land tenure issues have long been neglected (Gaventa 1995b: 3). This neglect continues despite the role that land plays in communities: access to land is central to economic, environmental, and social development. This chapter will outline the concerns that have been raised about non-resident ownership.

2.2 Land Tenure Concerns

In Canada, the class of non-residents called aliens was a subject of marked attention in the 1960s and 1970s. Commentators have suggested that the concern about foreign owners was perhaps due to a heightened sense of nationalism (Antoft 1977) or perhaps due to nostalgia for a disappearing rural lifestyle (Paquette 1984). In response to the concern about foreign owners, the federal government attempted to review foreign interests in Canadian real property in 1973 and again in 1984 (Ward 1984). The level of concern shown in the 1960s and 1970s was not sustained into the late 1980s and 90s.

Several important resource management, environmental, and economic concerns related to the purchase of land by non-residents have been brought up in the literature. These problems may also be caused by provincial residents who purchase properties in other parts of the province; however, non-residents exacerbate the problems by increasing pressure on a limited resource, the land. The increased demand for and pressure on land

is the key problem of non-resident land ownership. That pressure results in many other concerns which can be grouped into several categories:

Economy

- real estate priced outside the local market;
- increased assessment values of properties;
- land held for speculative purposes;
- pressures on marginal forest and farming operations because of increased prices and assessments of land;
- the development of a seasonal, tourist-based economy dependent on non-resident owners;

Natural Resources

- the declining availability of resource land, such as agricultural and forestry land;
- the transfer of lands highly valued by the community to people who do not live in the community full-time or at all;
- reduced access to traditional natural resource activities such as hunting and berry-picking;

Environment

- the increased pace of development and the subsequent deterioration of the natural environment;

Society

- community conflict caused by changes in the environment, natural resources, the economy, or community culture.

2.2.1 Economy

When there is a high demand for property by non-resident buyers, prices in local markets suddenly increase. This is especially true in markets with attractive land and low prices compared to other parts of the world. As undeveloped land becomes more scarce and prices rise in more popular locations, areas that were once shunned see an influx of non-resident owners, speculators, and land developers. In the late 1960s, American buyers sharply increased the price of land in Nova Scotia (Antoft 1977). Prices of recreational land in the northeastern United States had risen to the point where Nova Scotia became an attractive option.

The world market for land has no regard for the level of local salaries. For example, many islands in the Caribbean have low per capita incomes and high prices for land, especially beachfront land in tourist locations. In Negril, Jamaica, there are now more part-time or absentee owners than landowners who live in the community year-round (McKay 1987: 142). Throughout the Caribbean, the best beaches and most scenic spots are owned by foreigners and multi-national corporations (Thomas 1988: 162). Prices of land have risen because of demand by foreign buyers, putting many highly valued pieces of property out of range of local residents. Some Caribbean islands have reacted to this trend by placing restrictions on foreign owners, which will be discussed further in Chapter 4.

The increase in market prices affects the assessment value for properties in many jurisdictions, including Nova Scotia. Properties in Nova Scotia are assessed at market value. Owners of property in popular areas may see a sudden increase in their assessment value and property taxes. Antoft (1972 and 1977) pointed out that higher assessments were one of the impacts borne by local people when there was an increased demand for land by non-residents. Whatcom County, Washington experienced the same problem of property tax increases because of non-residents. Canadians from southern British Columbia were buying up recreational properties and more than doubling property tax valuations (Rutan 1977).

The increased demand for land creates a market ripe for speculators, who “flip” land: buying low and selling high (Antoft 1977). The upward spiral of land prices fuelled by property speculators provided the impetus for a speculation tax in Ontario (Paquette 1984). Not only land prices are affected; speculation may take land out of use and affect the local economy. Concern about land speculators led to the production of *Québec à vendre*, a National Film Board film about the uncertain future of the market farms surrounding Montreal. Prices of land within commuting distance of Montreal rose sharply and farmers found it more profitable to sell their land than to keep farming.

As that example shows, the changes in land prices in an area may make some economic activities more viable than others, and spur changes in land use. Those changes will affect the overall economy of an area. One American study showed that areas with a high degree of recreational property ownership were dependent on a seasonal, tourist-based economy (Appalachian Land 1980). Other American authors have discussed how recreational developments have affected and, in some cases, limited the economic choices available to rural communities (American Society of Planners 1976, Meyer 1979).

2.2.2 Natural Resources

Speculation is not the only activity affecting resource land which is driven by an outside demand for land. Non-residents may buy agricultural or forestry land and take it out of production. The land prices offered by non-residents make it attractive for farmers and woodlot owners to sell, especially for owners nearing retirement age and owners of marginal operations. A sufficient number of sales will have an impact on the economy of the surrounding community. The changing use of resource land has been a concern in Prince Edward Island, Quebec, Saskatchewan, and Ontario, as well as Nova Scotia.

Many of the initiatives targeting land owners in Prince Edward Island are aimed at preserving agricultural land (Round Table 1997). Nova Scotia also has concerns about keeping land in agricultural use. A study of land use in Nova Scotia’s Musquodoboit Valley in 1969 broke down the landowners into several categories (Redpath 1974). The author found that little land was available for farm expansion in the Valley. Non-

resident ownership was one of the factors limiting farm expansion — non-residents owned 15 percent of the acreage of the valley and 5 percent of the improved land. Non-farmers held a total of 61 percent of the land and 48 percent of the improved land.

The availability of forest lands is in decline in some areas. The Land Research Group found that cottage developments were reducing the land available for forestry activities in some parts of Nova Scotia (1990). The cottagers were not from the local community; however, many lived in the province. The Group also found that forest holdings were becoming consolidated and controlled by a few multinational corporations. These combined pressures made it more difficult for small, independent, forest contractors to gain access to forest lands.

A more extreme form of corporate land concentration can be seen in Central America. A high proportion of Central America's agricultural land is owned by private multinational corporations that are devoted to food production for export (Weinberg 1991). As a result, many inhabitants have been forced onto marginal lands — which has led to a high degree of environmental degradation. In 1988, the Nicaraguan Parks Director Lorenzo Cardenal commented:

[W]e have come to the rather untraditional conclusion for ecologists that one of the principal environmental problems for Central America is land tenure. For instance, the problem of deforestation, so eulogized by the world scientific community, has to do with the conditions under which the peasants have to live, which has to do with the social and economic structures of Central America (Interview quoted in Weinberg 1991: 93).

Weinberg (1991: 5) argues that both the political and ecological crises in Central America have their roots in inequitable land ownership. While the land and political situation in Nova Scotia no way approximates that of Central America, it illustrates the problem of high corporate control of land.

An example closer to home further illustrates to problems of non-resident, corporate ownership of land. *Who Owns Appalachia?*, an innovative study carried out by community members, looked at non-resident ownership and ownership concentration in several rural counties in Alabama, Tennessee, West Virginia, Virginia, North Carolina,

and Kentucky (Appalachian Land 1980). The authors found a high level of corporate control of the counties and a high level of non-local ownership: forty percent of the land area in their sample was owned by corporations. Seventy-two percent of the land sampled was held by absentee owners (Gaventa 1995a: 5). The environmental impacts related to a high level of non-local corporate control will be examined in greater detail in the next chapter.

While highly valued resource lands may end up in the control of non-resident corporations, prized recreational properties are often the first to be transferred to individual non-residents. In Nova Scotia, shorefront properties were the original target of out-of-province buyers (Antoft 1977). This forced local residents onto less highly valued land and increased already high pressures on ocean and lake frontage (see Wood 1990 for a discussion of some of these pressures). A seminar on Nova Scotia's coastal lands was held in the early 1970s because of concern about the allocation and environmental degradation of waterfront properties (*Shoreland* 1972).

In Kingsburg, Nova Scotia, a dispute flared up when new owners bought land directly on the shore and blocked access to the shore. Not only did the new owners block access, they built their homes directly on the fragile beach dunes, contrary to the Regulations made under the *Beaches Act* (R.S.N.S. 1989), which require ministerial approval for development on areas designated as beaches under the Act (Beaches Regulations 1989: s.6). As a result of the conflict, the Kingsburg Conservancy Trust was formed to purchase lands for conservation and for public use (Leslie 1997).

A study carried out by a student at the College of Geographic Sciences (COGS) examined land ownership in three areas of Annapolis County, Nova Scotia (Bulger 1991). He found that about two-thirds of the three areas was owned by local people, 20 percent was owned by Nova Scotians from outside the county, and the remaining 15 percent was owned by those from outside the province. However, shoreline properties showed a marked increase in the proportion of non-resident owners. The non-resident properties were concentrated along the shoreline and 55 percent of the shore lands included in the study were held by people from outside the county. Bulger believed that waterfront

properties should be more accessible to residents. He concluded that Nova Scotia needed a comprehensive Royal Commission on land ownership and land use.

The impact of reduced ownership of the shoreline is increased because non-residents often bring a different attitude towards property ownership. Boschken (1982) suggested that the repercussions of a change in land ownership are especially great when the land has been in general use by members of the community and the change in ownership will change the land use. Where neighbours once crossed each other's land freely, land owners from outside the community may post "no trespassing" signs (Antoft et al. 1971, Land Research Group 1990). In many of Nova Scotia's coastal communities, residents have routinely crossed each other lands for access to the shore (Leslie 1997). Access to traditional resources may also be restricted; new land owners may forbid hunting on their land and may close berry-picking areas.

2.2.3 Society

A loss of place doesn't necessarily mean just a loss of physical habitat, physical land, physical space. Loss of place also connotes a loss of the sense of place, a loss of feeling a connection with the land around you, what it means to you, brings to you, gives to you. D. Kemmis (1996: 235).

The impact of non-resident ownership on the local economy and natural resources can change the culture of a community. Conflict may be created when some individuals benefit from non-resident ownership, while others are affected only negatively by the new owners through higher property taxes, reduced ability to purchase land, or reduced access to resources. New developments may drastically alter the way of life in small towns and rural areas.

Changes to the scale of rural society were at the heart of opposition to a large cottage development in Washington. The proposed development would have transferred a large undeveloped area to part-time cottagers, converting the wilderness into 6000 cottage lots (Boschken 1982). Local residents fought the development, pointing out that their way of life would radically change while the benefits of the development would

accrue largely to the cottage owners who had little stake in the local community (Boschken 1982).

The community's perception of land itself may be changed by new owners. Land issues were at the heart of Barbuda's campaign for separation from Antigua in 1980. Antigua wanted shared control over the sale and lease of Barbudan land to foreigners; Barbudans, who did not want their land alienated, wished to retain control over land decisions (Berleant-Schiller 1987). The Antiguan prevailed in the debate, and since then foreign development projects have invaded Barbuda (Berleant-Schiller 1987). Berleant-Schiller (1987) found that the developments have changed many Barbudans' concept of land from a resource which should bring benefits to all island residents to a more exclusive, private conception of land.

There is a less obvious societal effect of non-resident ownership related to the quality of life. Some areas are willing to pay more taxes for quality of life through spending on community policing; social, educational and recreation programming; environmental monitoring; and land conservation. In those areas, non-residents may receive more benefits than residents by purchasing lands with a high environmental and recreational value, situated in attractive communities with ample services and a low crime rate. The non-residents have not contributed to maintaining the high environmental standards nor have they helped in the day-to-day work of building a functioning community.

The environment provides a particularly good example of benefits provided to non-residents. In recent years, provincial laws and municipal zoning by-laws have been created to protect the land from environmental degradation. Although those steps have been taken, legislators have done little to ensure that the wealth of well-stewarded land passes to community members, not rich vacationers. As Maxwell wrote in 1972:

Governments are spending millions of dollars to combat pollution. The pollution abatement programs will raise the value of many shore areas. Is it in the public interest that these incremental values should accrue mainly to the owners of private shoreland properties? (11).

Maxwell's concern about coastal properties can be expanded to include all the money and care the community spends on the environment. Resentment towards high taxes spent on environmental programs — and towards non-resident owners — could easily be the result if highly valued properties continue to pass out of the hands of local owners. This resentment is compounded by other impacts of non-resident owners. Jealousy can increase the level of resentment: in some communities, the cottages built by summer residents are more luxurious than the year-round residences of local people.

2.2.4 Environment

The environmental impacts of non-resident ownership result from an increased pace of development. If there are inadequate planning provisions, the increase in the market value of land, high property assessments, and the increased demand for land will mean that more land will be sold, more natural areas will be developed and remaining natural areas will become more fragmented (Yaro et al. 1990).

The Caribbean provides a good example of the environmental impact of non-resident owners and visitors. Land use and land tenure issues in the Caribbean are exacerbated by the islands' limited ability to dispose of waste. Many of the non-resident owners and the tourists who visit the region come from countries with a much higher level of consumption—and disposable consumption—than the residents of the Caribbean (Pollard et al. 1991: 28). Tourist developments also place pressures on natural habitats, such as mangroves, tropical forests, and coral reefs. These developments may bring economic benefits to the islands in the form of increased revenues, but they also demand increased environmental services and place pressure on natural resources (Thomas 1987, Pollard et al. 1991).

The Caribbean islands have a limited land base and a more reduced capacity to absorb the impacts of development than areas richer in land. Even in areas with low population densities and a seemingly endless supply of open space, the effects of development can outweigh any benefits. Because the consequences of land development

on the environment are multiple and complex, the next chapter will examine some of the effects in more detail and look into means of mitigating them.

Chapter 3

Land Development and Land Use Planning

Even the environmental movement, when it emerged in the 1970s, didn't tap all these concerns; at first, we were paying so much attention only to clean air and clean water that I used to think that any visitors from outer space would immediately ask each other, "Are these creatures really terrestrial beings?" Robert Yaro, interviewed in Hiss (1990: 206).

3.1 Introduction

One of the most visible results of non-resident ownership in Nova Scotia is new cottages on lands that had been otherwise undeveloped. The effects of cottage developments and other housing developments on the environment are often negative, though in some cases, those effects could be easily mitigated. When development is encouraged, the negative effects may often be ignored while the short-term benefits — such as immediate construction jobs — are touted. Development and land use changes are often looked at as all-or-nothing measures: proponents of development stand firm by their original plans, while those opposed to any land use change strongly oppose any form of development. These hard-line positions are not generally beneficial: development plans can be altered or development locations moved, allowing the economic benefits while mitigating impacts. This chapter will discuss the effects of housing developments on rural landscapes and the environment. Besides discussing the negative effects of land use changes, this section will point out mitigation measures which allow development — but in a way more generally beneficial.

What does land development have to do with people who live outside the province? In many ways, using non-resident owners as an example may make them scapegoats for activities that are carried out by land use developers and buyers throughout the province. However, people from outside the local area may spur development which would not occur without the influx of capital from outside. When a non-resident who intends to remain a non-resident buys land, generally one of three things happens: 1) he or she keeps the land as it is for speculative purposes, in the hopes of developing

something in the future, or perhaps even for conservation reasons; 2) he or she builds a cottage or part-time residence on the property; 3) he or she uses the land for a business venture. When non-resident ownership is increasing, the existing part-time residences available on the resale market can not meet the demand. This results in new developments which have implications for resource management, the environment and local communities. By bringing in money from outside the province, non-residents spur development that might not otherwise occur and force rural communities to address land use issues that they might not have otherwise. Areas which are seeing an increase in non-resident owners may want to look closely at local patterns of development and land use bylaws.

Of course, the impacts of changes in ownership are not solely negative. New owners, whether in the form of part-time or full-time residents, bring new ideas and money to rural areas. They may support local businesses that would otherwise not survive or they may allow for a greater variety in business ventures. Landscapers, building supply stores, craft shops, summer theatres, and even the local supermarket may be able to survive because of the business of part-time residents. Since they have chosen to buy land in the community, non-residents may place a higher value on the natural landscape and the design of the rural community than full-time residents. Non-residents from other parts of the world may enrich the community by sharing their culture and traditions. The question is, how do rural communities realize the positive effects of changes in land ownership and land use while minimizing the negative effects?

This section will focus on the perceived negative effects of new housing and cottage developments in rural areas. It will not look at the positive effects, since those are promoted by proponents of development while the negative effects are often skipped over. The negative effects may include some of the impacts already addressed in the previous chapter such as increased prices for land and increasing reliance on a seasonal economy. In this chapter, the effects on the land itself will be discussed. Those effects include the following:

Landscape

- the erosion of the wilderness or rural atmosphere, which is valued by both community members and visitors;

Environment

- the degradation of ecosystems by housing or other developments which sprouted to service the new housing developments;
- habitat fragmentation, encroaching development, and other pressures on valued and sensitive habitats;
- increased pollution and run-off from new developments;

Natural Resources

- the decline in the availability of land for natural resource activities and conservation;

Services

- increased demand for environmental services provided by government and community organizations.

3.2 Cottage Developments

Do you know the difference between a developer and a conservationist? A developer wants to build a cottage in the woods. A conservationist already has a cottage in the woods. F. Jarvis (1993: 7)

While all housing developments have an impact on the environment, those of most interest to non-resident purchasers are cottage or recreational communities.¹ These developments are generally located at some distance from a city and often on lakes, rivers, or on the ocean. Very few people live in these developments year-round: their

¹Non-residents also purchase land outside recreational developments, both in rural areas and in towns and cities.

permanent residence may be in another part of the province, another province, or another country.

Recreational developers buy large tracts of land, often with waterfrontage, subdivide and sell it to cottagers from outside the immediate area. Practically all Nova Scotians are familiar with the Cottage Country® ads which run every week in the Chronicle-Herald and are heard on the radio. The ad states:

Cottage Country® has been opening up some of the finest recreational properties in Eastern Canada for over 27 years. We have large forested properties with deeded access to water, riverfront and lakefront properties. [...] Our cottages are located in secluded forest environments and furnished with all modern conveniences including TV, VCR, microwave, coffee maker and 4 piece bath (ad in *Halifax Chronicle-Herald* Feb. 7, 1998).

The seclusion and the natural setting are features that the company uses as selling points, at the same time that it points to the urban amenities of appliances and a four-piece bath. With improved transportation links throughout the province, formerly isolated and secluded wilderness areas are within easy travel of metro Halifax and other urban areas throughout the province. The developers and cottage purchasers are in a paradoxical situation. By subdividing and selling wilderness areas, they undermine the peacefulness and natural features of the area.

The ability of large-scale recreational projects to destroy the very aesthetic values that attracted developers has long been observed (see for example Leopold 1949; Boschken 1974). However, it is not only larger projects that undermine landscape values: the cumulative effect of several small projects can drastically change the landscape. It is usually only the large scale developments which face any public opposition since their impacts are more obvious.

Recreational developments, large or small, are subject to few controls in Nova Scotia. New cottage developments must conform to subdivision rules and ensure that lots are adequate for septic systems. But municipalities do not control the number of developments and rarely control their locations — anyone can put a subdivision pretty

much anywhere he or she wants, subject to the environmental constraints outlined in the *Environment Act*. Municipal planning strategies would help control the location and scope of development; however, few municipalities have developed them. In the early 1980s, a 1500-lot recreational development covering 5000 acres was proposed for Queens County (Cameron 1982). At the time the development was proposed, the population of Queens County's largest town, Liverpool, was about 3500. On a summer weekend, the completed development could be expected to rival Liverpool in population size (Cameron 1982). Even though many of the lakes in that area had been used for camps for local people, the scale of the development would drastically change the character of the area. In the early years of the development, most of the interest in purchasing properties was largely from Americans and Canadians from outside Nova Scotia (Cameron 1982).

Large recreational developments have met with opposition in other areas of the world. Boschken described a classic confrontation between a recreational developer and a local environmental group in Washington:

On the one hand, the developer [Boise Cascade] argued that as a property owner it had rights to use the land as it saw fit and that substantial governmental restrictions would constitute a "taking" of property without compensation. [...] On the other hand, opponents asserted that such a large development in a "wilderness type area" would destroy much of the satisfaction enjoyed by those who lived there (1982: 206).

Many opponents of the Boise Cascade development were owners of recreational properties in the area themselves. They had bought properties to escape from the city to a wilderness environment. Boschken does not mention if the non-residents appreciated the irony of their situation.

When effects of development are cumulative, mitigating those effects can be difficult. The degradation of the natural environment may occur only at a slow rate. While the destruction of one scenic vista, the infilling of one bog, or the erosion of one hillside may have minimal effect, constant individual developments combine to destroy the natural scenery and environmental values of an area. Indeed, what is happening could be considered the tragedy of the commons on a grand scale. The benefits enjoyed by the

community in common are being undermined by the decisions of individual property owners.

3.2.1 Landscape

Advertisements on rock and rill confide to all and sundry the whereabouts of new retreats, landscapes, hunting-grounds, and fishing-lakes just beyond those recently overrun. Bureaus build roads into new hinterlands, then buy more hinterlands to absorb the exodus accelerated by the roads.
A. Leopold (1949: 166)

The landscape is a resource that has been developed by a combination of human activities on the land and benign neglect by humans. Concern for landscape may be considered by some as an entirely aesthetic concern; however, attractive landscapes not only look good, they can have economic, environmental, and even psychological benefits (Hiss 1990; Kunstler 1993; Nelessen 1994). While not all visually attractive landscapes have high environmental values (for example, most urban parks), if one thinks of the beautiful undeveloped vistas of national parks, it is obvious that some of the most attractive landscapes have both high environmental values and high scenic values, as well as the potential to attract more tourists than beneficial for the survival of the landscape. In fact, the high scenic values of landscapes that have remained largely undeveloped make them attractive to developers and others who inadvertently damage what originally drew them to that locale.

North Americans often place a high value on the rural landscape: at the same time, we have been slow to develop tools to protect and preserve it. In Britain, a great deal of public debate has taken place on the subject of Britain's disappearing countryside — which was already almost completely altered by humans. As far back as 1947, *The Town and Country Planning Act* was passed in England amid concerns about the disappearing countryside. It required most land to remain as it was being used at the time (Hylton 1993). This law did not eliminate land use conflicts, and achieving a harmonious balance of uses continues to be a challenge. Cloke and Park (1985) developed a resource framework for rural areas in Britain. Their approach to the countryside outlines land use

pressures related to the various resource uses. Rural land is used for forestry, farming, mining, recreation, conservation, and anchors buildings for a variety of uses.

What is the rural landscape that is looked on so fondly? Cloke and Park's definition includes three principal elements: land that is undeveloped or dominated by agriculture or forestry uses, small settlements which are considered rural by the inhabitants, and respect for a way of life that is part of the landscape (1985: 13). Other definitions of "ruralness" tend to focus on the use of the land (Gilg 1985), although Ashton et al. (1994) created a scale of "rurality" based on population size and density, dependence on resource industries, and distance from urban centres. Land use and the appearance of the landscape help us decide whether or not an area is rural.

Millward and Allen (1994) developed a scale to assess the scenic landscapes of Nova Scotia. They suggest that their results can be used to identify areas with high scenic values that are also experiencing development, in order to control that development. The authors also recognized the difficulty of controlling development in areas with chronic economic difficulties: "In a province possessing few economic bright spots, any control of growth in rural areas is likely to meet strong opposition" (18). They argue that the long-term benefits of scenic and environmental preservation must be presented to the public. By not controlling the shape of development, rural areas may risk their key assets: high environmental values and attractive scenery.

3.2.2 Environment

Communities with a long tradition of camps owned by local residents may not be concerned about damage to ecosystems until some "outsider" buys land. These concerns will be reinforced when the outsider does not conform with community standards of land use, for example, by posting "no trespassing" or "no hunting" signs. A steady influx of "outsiders", who pay high prices for land, can create a great deal of resentment in a community. At that point, concerns for environmental standards and land use planning may be expressed by community members, although the pattern of land use had already been established by local residents.

Habitat fragmentation caused by developments means that the environment supports a less diverse mix of species. While it may seem that Canada has ample undeveloped land, in fact, wilderness areas are quickly disappearing from Canada. Nearly 60 percent of the land in the 10 provinces has been claimed for development of some sort (Dearden and Rollins 1993: 5). Wilderness land is a more scarce and valuable resource than most Canadians realize.

Studies suggest that cottage developments impact negatively on species diversity and the abundance of certain (but not all) species. In Ontario, concern about habitat disturbance by cottagers resulted in a study on the impacts of lakeshore cottages on the environment (Teleki and Herskowitz 1986). The study developed models to predict environmental impacts in various sectors, including land use, sewage disposal, fishing effort, water quality, and wildlife habitat. One component of the study looked solely at impacts on habitat and developed an index of habitat disturbances (Racey and Euler 1983). The authors had previously examined the impacts of shoreline cottage development on small mammal populations (Racey and Euler 1982). They categorized the animals as tolerant or intolerant of cottage development, with a third category for those mammals indifferent to development. Another Ontario study examined the effects of cottage development on the winter habitats of white-tailed deer (Voigt and Broadfoot 1995). The authors found the developed sites resulted in more open areas, but the openings were less productive than natural openings. This meant that developed areas were not able to support as many deer through the winter.

Other developments accompany large-scale cottage construction and impact wildlife. Golf courses are well-known for destroying natural areas and replacing them with homogenized landscapes. An American study examined the ability of naturalized golf courses to provide habitat for birds and other wildlife. The author concluded that courses with large remnants of native wildlife habitat could support a significantly greater number of bird species than traditional golf courses; however, the overall abundance of birds remained lower than nearby natural areas (Terman 1997).

Nova Scotia also faces pressures caused by cottage development. One study by a planning student found that the Margaree River was facing increased environmental pressures because of cottage and recreational development along its shores (Chisholm 1990). The author suggested that strong controls on development be implemented, to preserve the ecological values that attracted tourists — and compelled them to purchase land of their own.

The impact on wildlife habitat from clearing land for cottage developments is not well-regulated. The Nova Scotia government has developed guides to conserving wildlife habitat; however, those manuals are largely intended for forestry workers. Guidelines would be helpful for all owners of forested land. For example, the *Forest/Wildlife Guidelines and Standards* suggests leaving uncut wildlife corridors, especially along streams or between habitat types (Dept. of Natural Resources n.d.a). It discusses the importance of the riparian zone for wildlife and its fragility, and lists guidelines for preserving lakes, rivers, and streams.

The *Nova Scotia Wildlife Habitat Conservation Manual* describes the importance of Nova Scotia's different habitats for wildlife and rare plants (Wildlife Habitat Issue Group 1995). Rare habitats are also pointed out for consideration by land owners contemplating forestry or other activities on their land. The *Conservation Manual*, the *Forest/Wildlife Guidelines and Standards* and other sources mentioned in both documents contain important information for all owners with wildlife habitat on their land.

Both wildlife and human health can be affected by cottage developments that affect the water supply. A study of a proposed cottage development in Washington State commented that it would have a negative effect on the adjacent water body as well as groundwater resources (Boschken 1982). Because of water quality problems caused by malfunctioning septic systems, Nova Scotia's latest regulations on sewage disposal are more stringent than any previous guidelines (*On-Site Sewage Disposal* 1997). Many existing cottages are notorious for poor sewage systems, some of which discharge directly into rivers and lakes. New developments have to comply with the strict

regulations, which protect water at the expense of the land by requiring large lots. Cluster systems, which would allow cottages to be built on smaller lots, are allowed but approval is subject to the discretion of the inspector. It is not clear whether the minimum lot sizes would still be enforced if a cluster system was approved.

3.2.3 Natural Resources

Contrary to our concept of Canada as a vast, forested country, in reality less than 25 percent of Canada's land area can support forests according to the Canada Land Inventory. Less than 11 percent will support agriculture activities of any kind and an even smaller percentage will support sustained agricultural use (Manning 1986). Throughout the 1980s, observers pointed out that the amount of land available for renewable resource production in Canada was declining (Manning 1986).

One of the reasons that agricultural and forestry land is becoming less available is because of its fragmentation. Farms are purchased for development, subdivided, and sold to several different owners. Lots are often large in rural areas, and if the "extra" space on each lot in the subdivided farm was amalgamated, there would still be plenty of farmland. Because it has been chopped up among different owners, the agricultural use of the land has been destroyed. Productive forestry land is also squandered when lots are divided among several different owners.

At the same time that resource land is becoming less available, it is also becoming concentrated among fewer owners. Two of the biggest land owners in Nova Scotia are J. D. Irving Ltd. and Kimberly-Clark Worldwide (Pannozzo 1998). As well as controlling a great deal of land, these companies are in fact non-residents. Irving is a private company, based in New Brunswick, with owners who are residents of Bermuda. While Kimberly-Clark has a Nova Scotia office, it is a multi-national company answerable to its shareholders, with headquarters in Dallas, Texas.

The Appalachian Land Ownership Task Force (1980) pointed out problems caused in the Appalachian mountains by the concentration of land ownership in the hands of non-resident corporations. The Task Force found that there was not enough land

available for adequate housing, forcing large scale developments of trailer parks. The land itself was denuded by the corporations, causing increased run-off and soil erosion, with the inevitable result of massive flooding. There was also an impact on revenue available to the counties with large scale corporate and government ownership. Resource lands were taxed at a much lower rate than residential and commercial properties, while government lands were tax exempt. The tax base of the counties with large scale corporate and government ownership was reduced, with those counties unable to provide adequate services to their residents.

The Appalachian study pointed out that the high level of corporate ownership had affected land stewardship practices. Appalachian land has been exploited for quick economic gain, leaving a legacy of strip mining scars, soil erosion, and water pollution (Gaventa 1995a). Mining companies have been working to almost completely eliminate the need for local employees, which would in turn eliminate any local benefits. New methods of mining made intensive use of robotics and computers, providing few jobs as they damaged the landscape (Gaventa 1995a). As for the barren, abandoned strip mines, a new role has been proposed for them: landfills for out-of-state garbage (Gaventa 1995a: 19). Although the Appalachian study was one of the most comprehensive on the effects of land tenure, not one of its recommendations has been implemented. Corporate and absentee owners continue to reign in the rural counties of Appalachia. The study demonstrated the importance of land ownership issues to the environment and to community control.

While this is not to suggest that all corporate owners are irresponsible, their priorities may not match those of community residents. A detailed examination of the effects of resource land concentration among a few owners is not possible here, but it is another land use and land ownership issue that bears consideration. If controlling cottage development results in transferring large acreages of private forest land into the control of a few corporations, it may not be the best solution.

Besides reducing the amount of land available for resource extraction, development reduces the lands available for conservation. In Nova Scotia, a protected

areas system plan was developed to protect some Crown lands from development and resource extraction activities. The plan was based on protecting representative areas from each of Nova Scotia's different landscapes (Dept. of Natural Resources 1997). Because so much of Nova Scotia's land is held privately, many of the landscapes did not have Crown land available for protection. Conserving land in all of Nova Scotia's landscapes will require the participation of private landowners, through such tools as land donations or conservation easements (Keith 1993; Sutherland 1997). Unfettered development will limit the amount of private land that is available for consideration.

3.3 Land Use Planning

Land use planning can save a community from uncontrolled development, or it can doom it to regulations that drastically change the character of a community, and at worst, make the community entirely unfit for human habitation. Land use planning creates rules to be fairly applied to all but ignores the vagaries of specific situations. In many areas, zoning has been substituted for planning, and planning and urban design are carried out by developers who can choose whether or not to create a development that is responsive to the needs of the greater community. Good planning needs coordination and communication among many different groups and requires foresight, not just reactive measures.

3.3.1 Planning and Rural Areas

Rural areas often do not have the resources to deal with large developments. The county commission that dealt with the large cottage development proposed for Washington State was ill-equipped to deal with the development. They did not have environmental experts, nor did they have adequate planning mechanisms (Boschken 1982: 165). In the end, it was state officials who refused environmental permits and stopped the development. Rural areas that do carry out planning may find it difficult to find examples of land use bylaws that meet their needs; most rural planning is urban planning in disguise.

Writers on rural planning have suggested that a revolution in planning took place when suburbs were developed, and “zoning became a convenient substitute for planning in most communities” (Arendt 1993). The process of what should go into those zones has been completely forgotten. As Arendt points out:

Although people do not generally yearn to live in a seamless web of sprawling subdivisions, shopping centres, and office parks, that is the ultimate future being provided for them and their children by the current planning system (1993: 4-5).

Developers are playing the role of planners, and even if they wanted to create developments that fit into the natural environment and the existing human community, they are often prevented by zoning bylaws.

Zoning and subdivision bylaws have harmed more than helped the American landscape. American writers have described the tragic effects that misguided land use planning has had on the landscape, natural environment and culture. Kunstler’s *The Geography of Nowhere* describes how America’s countryside was transformed into highway strips punctuated by vast parking lots and “cookie cut-out” subdivisions through misguided land use bylaws and policies promoting automobile use. Journalist Thomas Hylton became increasingly distressed at the pattern of urban development in his home state of Pennsylvania. He received a fellowship to study comprehensive state planning and travelled throughout North America to learn about the type of planning that worked — and what didn’t. The result of his studies, *Save our Land, Save our Towns* (1993) is a plea for better planning and development for Pennsylvania.² The books written by Hylton and Kunstler echo William Whyte’s work of thirty years earlier, which called for preserving open space and clustering development to limit impacts on the landscape (1968).

²Despite the experience of the United States, and the reams of books written on the problems with post World War II urban planning, Nova Scotia does not seem to have recognized the costs of large lot zoning and automobile-centred development. Developments outside Halifax continue to be centred around highway interchanges, with vast industrial parks and subdivisions sprawling on the outskirts of the city.

In reaction to the sprawl which has dominated American developments for the last fifty years, some planners have developed innovative designs which preserve farm land, wildlife habitat, and view planes. The Massachusetts portion of the Connecticut River Valley was facing increasing urbanization pressures. Many people were attracted to the lovely countryside and the high quality of life in the area — provided in large part by the rural, undeveloped countryside. The resulting developments took over farmland, destroyed scenic views and eroded the local ambience. As a result, several planners came up with a design manual for the Valley using examples with sketches showing land before it was developed, a traditional development scenario, and an alternative development plan (Yaro et al. 1990). Both the traditional and alternative development plans provided for the same amount of housing and commercial development; how that development was placed on the land was dramatically different.

By showing that there are alternatives to conventional development, while still allowing development, this book was a valuable educational tool for rural dwellers and developers. Hiss (1990) states that the design manual was an instant sensation in planning circles: "A development company known for carving up whole mountains into small lots bought 110 copies for the use of its acquisitions and planning staff." It also affected how rural areas approached municipal planning.

The authors of the design manual point out that the instinctive reaction of small towns to large scale development is often precisely the wrong thing to do. In an effort to preserve rural character, municipal councils demand large lots and minimum set backs. Many subdivision bylaws demand wide roads in subdivision plans, roads which may be used for less than ten homes. What follows is that even more land is carved up for the same number of dwellings, wildlife habitat is fragmented, resource land is subdivided and unuseable, and the very landscape that council wanted to preserve is destroyed. Yaro et al. (1990) used the example of a subdivision in the Connecticut River Valley, where a large farm was divided in two- and four-acre lots:

In all respects, the plan followed the letter and spirit of the town's zoning by-laws and subdivision regulations. It also ended the possibility of any future agricultural uses on any part of the farm, permanently altered the rural character of the area, blocked a beautiful view of the river and distant mountains, and destroyed the Indian village archaeological site (28).

Many of the people buying recreational and residential properties in the area were attracted by the old villages of New England, with homes and businesses close to each other. However, most zoning by-laws no longer permit such development. Instead, they require large lots, long setbacks and minimum street frontages (Yaro et al. 1990). The new owners ended up building houses that detracted from the very characteristics they valued.

Some innovative developments have worked to preserve public access to valued lands such as waterfrontage. Seaside, a recent residential development in Florida, is located directly adjacent to a long strip of beach. Most developments in Florida divide up the beachfront among several lots and perhaps leave a narrow strip for access for other homes in the development. Instead, all of Seaside's waterfront access is public. Views of the beach are not blocked by development and the beach benefits everyone who lives in the community. This means that the value of all the lots in the community is high (Kunstler 1993).

Rural character is one of the drawing points for people fleeing urban sprawl and the problems it creates in large metropolitan areas (Hylton 1993). However, exodus to rural areas recreates the same problems in the countryside. Hylton comments, "One of the most pristine areas of Pennsylvania — the Pocono Mountains — has been severely degraded by massive development for people running away from urban problems in New Jersey and New York" (16). Hylton's book is punctuated with photos that graphically portray the results of poorly controlled development in both rural and urban areas. Shopping malls catering to tourists sprawl over the richest farmland in Pennsylvania's Lancaster County. Development in Pennsylvania has meant suffocating ecosystems in asphalt, replacing natural systems with lawns and foreign flora, and increasing air

pollution. Run-off from development pollutes streams and rivers, septic system malfunctions pollute the groundwater. This kind of development lowers everyone's quality of life and can not be sustained. Eventually, we will run out of places to escape from the bad living conditions we have created.

Nelessen, an architect at Rutgers University, has studied what kind of communities and development people want (1994). It's not the sprawl of suburbia, it's tightly clustered villages and traditionally-planned towns. At the same time, people do not want to live in homogeneous towns cloned from a master pattern. Hiss (1990) has discussed the importance of living and visiting places that have unique characteristics, that are liveable and recognizable, that value the environment and human needs. Developments that reflect existing architecture and design will fit in better and become a boon rather than a blight on the landscape.

3.3.2 Planning for Preservation on Private Lands

Land Trusts, conservation easements, and special heritage designations help preserve valued landscapes. The United Kingdom has a "Heritage Coast" designation, aimed at preserving undeveloped areas of its coastline. The Heritage Coast may include sections of the coastline which have been settled by humans, but areas that fit into the landscape through long use (Millmore 1994). National parks in England have protected private land. Like the heritage coasts, the parks have not focussed exclusively on wilderness or recreation lands, but also on humanly-altered landscapes of historical significance (Nelson 1993).

Throughout the northeastern United States, land trusts have helped reduce the pressures on farmland (Kunstler 1993). Farmers donate or sell the development rights for their lands to a land trust organization, or the land trust may set-up a long-term lease from the farmer. The resulting restrictions on the deed ensure the land is kept as farmland or open space. The idea has not been universally accepted by farmers, some of whom flinch at the thought of permanently restricting activities on the land. An unintentional result in some areas has been the creation of hobby farms for the very rich, as opposed to working

family farms. The lands are no longer attractive to developers but have value as country estates for wealthy urban dwellers (Kunstler 1993).

Conservation easements have been encouraged in some parts of North America through tax breaks (Keith 1993). Ontario has incentives to conserve provincially significant natural areas and forests. Owners of natural areas are eligible for tax reductions as are owners who prepare management plans for their forested lands (Ministry of Natural Resources 1997).

In urban areas, “street scapes” and valued buildings have been preserved through heritage designations. In some cities, tax reductions are given on heritage buildings. Reductions recognize the burden on the individual land owner of preserving the building and the benefit of heritage preservation to the community as a whole. Owners of designated heritage buildings in Winnipeg benefit from having their property assessments frozen. This incentive encourages the owner to maintain the building and preserve its heritage value (Denhez 1987).

3.4 Planning in Nova Scotia

3.4.1 Land Use Bylaws

In order to carry out designs which will preserve rural land, planning legislation and land use by-laws must be flexible and allow innovative development while preserving environmental standards. Most of the details of planning are left up to individual municipalities; however, many municipalities do not have comprehensive planning strategies, especially in rural areas. Municipal Planning Strategies provide the opportunity to set up guidelines for land use in the whole municipality. Even municipalities with comprehensive planning must work within the framework set out by Nova Scotia’s *Planning Act*.

The *Planning Act* could go a lot further in promoting development which adapts to the environmental and cultural features of communities. It could do better at encouraging areas for public, recreation, or conservation purposes. Although it is possible to conserve open space through zoning, for rural areas with general zoning, preserving

large areas within subdivisions is really only possible through easements. An easement is agreed to by the property owner and places restrictions on land use. These restrictions are attached to the property deed and remain valid even if the land is sold. Some subdivisions in the province have easements, but they generally restrict activities on all the properties in the subdivision and are not aimed at conserving large blocks of land or allowing public access (see *e.g.*, Land Research Group 1990). The *Planning Act* allows municipalities to make bylaws requiring the transfer of land within subdivisions to municipalities for public use, but the municipalities can not require more than 5 percent of the land to be transferred (s. 99 (2)). The proposed *Municipal Government Act* would allow up to 10 percent of subdivision land to be transferred (Dept. of Housing 1997: 146); however, there are doubts that the Act will even be introduced in the Nova Scotia Legislature.

Nova Scotia's subdivision bylaws do not require as much land per lot as many bylaws in the United States. Many of the province's municipalities allow lots as small as one-tenth of an acre in areas with central sewage and water (see *e.g.*, the Consolidated Subdivision By-law for the Counties of Inverness, Richmond, Victoria and Port Hawkesbury). However, most rural areas have limited central services and do not plan to expand them because of the expense. Areas without central water and sewer require much larger lots partially because of the requirements of the *On-Site Sewage Disposal Systems Regulations*. It is ironic that many central sewage and water systems were first created because of the problems of sewage disposal caused by houses crowded together. To prevent these problems from occurring, large lots are now required, spreading out housing and making it very expensive to replace on-site systems with central services. This in effect makes it impossible to recreate the close-knit towns of the past without a great deal of effort and expense by the individual developer. Large lots are also demanded out of the belief that it will preserve open spaces and the rural character of the area (see Chapter 7 for expressions of this belief in Richmond County).

Kings County has an innovative *Municipal Planning Strategy* (1997) which designates Agricultural Districts on the best farm land in the County. In those Districts,

only farming activities and farm support activities are allowed. Even with the development of agricultural districts, land use conflicts occur. Kings County has seen a great deal of residential development for retirees in recent years. An owner of agricultural land wanted to capitalize on the new developments by building a golf course. He asked for a variance from the zoning and was turned down by the municipal council. This led to a brief public debate on CBC Radio concerning what landowners should and should not be able to do on their land (*Maritime Noon* 1998).

Municipal planning is not necessarily well-integrated with other land use decisions. The provincial Departments of the Environment, Natural Resources, and Housing and Municipal Affairs all make policies and regulations on land use on public or private land. While provincial government departments used to carry out some co-ordinated activities through the Deputy Ministers' Land Use Committee, that committee was disbanded in 1996. No formal body co-ordinates land use decisions among government departments. Local planning commissions liaise with the provincial government and are aware of the various departmental restrictions governing their work. But considering the parallel and ongoing work of the various provincial government departments, to say nothing of the activities of municipal and federal governments, it seems obvious that greater co-ordination would prevent the various government groups from working at cross-purposes. Co-ordination in areas which share natural features — such as in the Bras d'Or Lake area — would allow for more coherent land use decisions and greater public benefits. An overall policy governing coastal land use in the province would assist in the development of co-ordinated decisions (Keith 1993).³

Guidelines given in the *Planning Act* (R.S.N.S. 1989) and the *Model Land Use Bylaw* (Community Planning Division 1993) do not allow for variations among specific areas, with their own landscape features, soils, and settlement patterns. They create a generic model, designed for no place and with the potential to damage the unique features

³The provincial committee on Land Use tried to develop a policy on coastal land use. The consultation paper *Coastal 2000* was prepared in 1994 but its recommendations were not accepted. The Land Use Committee was disbanded two years later.

of specific areas. Developers can play a leading role in creating liveable and innovative residential developments, but they can only do so when planning strategies recognize what is unique and important to that area and develop land use bylaws that preserve and encourage that uniqueness. Creating appropriate land use structures can be challenging in rural areas, since planning may seem an imposition of urban ideas on rural lifestyles. Resistance to land use bylaws may occur because people “don’t want to be told what to do on their land.” but may also happen because rural people have seen what has happened to “planned” urban areas and don’t want the same results in their communities. There is a limit to what land use planning can mitigate; while planning may be able to somewhat control the scale and pace of development, other tools may be needed to control impacts of developments aimed at non-resident owners.

3.4.2 Preservation and Conservation Tools

The Nova Scotia Nature Trust is a private charitable organization. It was set up to protect significant natural areas on private lands through the development of management plans, donations of land outright, or the development of conservation easements.

Donating land or a conservation easement with significant ecological values may qualify as a charitable donation and may reduce income tax (Nova Scotia Nature Trust n.d.).

Conservation easements are tailored to the property and may allow limited forestry and traditional resource activities such as hunting and berry picking. The Nature Trust and the legislation that allowed conservation easement agreements are relatively new and many landowners are not yet aware of the variety of options available to protect their lands while still allowing them to live or work on them.

The Nova Scotia government may designate ecological sites on private land. Land owners are not required to protect those sites; the designation merely advises landowners that the area is a special place for the province. Landowners who protect special places are eligible for tax breaks. The Bowater Mersey Paper Company established the Lambs Lake Conservation area to protect a unique hardwood forest in western Nova Scotia (Redwood 1998). Despite success stories like Lambs Lake, there

are many more sites which are vulnerable. The vast majority of the ecological sites on private land do not have management plans (Dept. of Natural Resources n.d.b).

3.5 Conclusion

Development by both residents and non-residents threatens scenic landscapes, wildlife habitat, and lands with significant ecological values. Many rural areas are not well-equipped to deal with cottage developments; they do not have regulations in place when faced with large-scale developments nor can they afford the staff to deal with complex regulations. Rural planning is a neglected field, meaning that urban bylaws are often adapted for rural use—with poor results (Arendt 1993). Nor can land use bylaws address customary use of land. Rural communities may wish to pursue cottage developments in their area, but may not have the planning and environmental experts available to ensure that such developments come at little cost to the community. Many of the important details of development are left up to the developer. While some wish to maintain high environmental values on their properties, others are simply not interested and will not be interested unless it becomes a requirement.

Not only do rural municipalities have a limited capacity to deal with developments, there is a limit to the role the average citizen is able to play in land use planning decisions. Involvement in municipal affairs requires a certain amount of time to keep up-to-date on the current issues and various land use planning alternatives. Often, decisions are made by uninformed groups of people who are swayed by whichever side puts on the most persuasive campaign, whether or not that campaign is grounded in fact. The ability of average citizens to become well-informed about the issues is further limited by the complex jurisdictional control over land. Land use is affected by decisions taken at the federal, provincial and municipal levels, involving more than a dozen different government departments or levels of government. Although it has been argued that a combination of structures and strategies may make more appropriate land use decisions (Boschken 1982), it seems equally obvious that the absence of a co-ordinating body will result in insufficient information on land use choices.

Because of the limitations of land use planning, many jurisdictions have developed legislation on property ownership and legislation aimed at non-resident owners. The next two chapters will examine legislation on property ownership currently in place in Nova Scotia and other jurisdictions.

Chapter 4

Land Ownership Legislation and Policy

4.1 Introduction

Land ownership is an issue of high priority in many smaller states. Delegates at a 1989 Small Countries Conference believed that restrictions on who could own land were essential to protect the rights of residents and to conserve the environment (Land Policy 1990). Even when indigenous practices degrade the environment, delegates believed it was important to limit foreign ownership, since the introduction of non-residents further increases pressure on their small land bases.

There are several types of legislation related to non-resident ownership: legislation that sets limits on the amount of land that the various classes of owners can hold; legislation that allows differential property taxing of residents and non-residents; and legislation that prohibits ownership by certain classes of owners. This chapter will discuss legislation on non-resident ownership in several different jurisdictions. Prince Edward Island will be examined in detail, since that province has the most comprehensive legislation on land ownership in the country. This discussion is intended to illustrate various possibilities for Nova Scotia. The situation in Nova Scotia is examined in the next chapter.

4.2 Land Tenure in Prince Edward Island

4.2.1 Background

Absentee landownership has been an issue on Prince Edward Island since it was settled by Europeans. The entire island was divided into sixty-seven townships in 1764, of which sixty-four were given to the king's favourites in London (Conrad et al. 1993: 280). The landowners did a poor job of living up to their obligations, and friction between the Island's tenants and their overseas landlords was the motivating force in Island politics well into the nineteenth century. The "land question" was a central factor in PEI's decision to join Canada and reverberates today; Islanders related stories of the

land troubles that their families had more than a hundred years earlier to the 1990 Royal Commission on Land Use (Royal Commission vol. 1 1990: 20).

After a long period of dormancy, PEI was re-awakened to non-resident land issues in the late 1960s and 1970s, partially because of increased national interest in the subject, and partially because improved transportation connections put the Island within easy reach of the large cities of Ontario, Quebec, and the northeastern United States (Raymond Commission 1973: 12). Vacationers from other Canadian provinces and the US began buying more land. As a result, large tracts of productive farmland were converted to cottage lots or lay dormant in the expectation of higher prices (Land Use Service Centre 1978: 1). Prices of coastal property soared. Fences were erected, access to the shore was restricted, and Islanders, highly sensitive to land issues, took action. In 1970, the PEI Legislature appointed a Special Committee of Inquiry on Land Acquisition and Land Transfer to Non-Resident Corporations and Private Individuals (Committee on Land Acquisition 1971).

The Committee found general concern about non-resident land ownership among Islanders. It reported that non-residents, both Canadians and aliens, held about five percent of the province as of December 1970, and non-resident holdings were increasing at a troubling rate. By projecting the current rate of acquisition, the Committee estimated that non-residents would hold 14.5 percent of the province by the year 2000 (Committee on Land Acquisition 1971: 7). In fact, the rate of non-resident purchases was quickly increasing. PEI's 1973 Royal Commission on Land Ownership and Land Use projected the 1972 rate to the year 2000 and estimated that 25 percent of the Island would be owned by non-residents (Raymond Commission 1973: 31).

4.2.2 Prince Edward Island Legislation

Legislation restricting land ownership on PEI first appeared in 1859 with the *Act to Enable Aliens to Hold Real Estate*, in which aliens were limited to holdings of 200 acres or less (Raymond Commission 1973). This Act also marked the first time that aliens were allowed to hold land on Prince Edward Island; British common law prevented

foreign land ownership (Spencer 1973). This law did not address the Island's key land question since the absentee landlords and their discontented tenants were all British subjects, albeit separated by an ocean. The 1859 Act was aimed at Americans, in the hopes they would invest in the Island fishery (Raymond Commission 1973: 14).

The 200-acre limitation on foreign ownership remained well into the twentieth century. It was relaxed somewhat in 1939 when new legislation was enacted in the province. *The Real Property Act* kept the maximum land holdings at 200 acres, but allowed for exceptions if special permission was received from the Lieutenant-Governor-in-Council — the provincial Cabinet (R.S.P.E.I. 1951: s. 3). The Act was amended in 1964, reducing the maximum holding to ten acres unless special permission was granted and restricting shore frontage holdings by aliens to five chains (approximately 100 metres) (S.P.E.I. 1964: s. 1). The legislation restricting alien ownership was considered by some to contravene federal legislation which allowed aliens the same rights as citizens to hold property (Spencer 1973); however, the 1964 statute was never challenged. Nor was the legislation ever enforced; land sales continued much as before, and purchases by foreigners in excess of the maximum limits rarely went through the provincial cabinet (Land Use Service Centre 1978: 1).

As a result of the findings of the Special Committee on Land Acquisition and Land Transfer to Non-Resident Corporations and Private Individuals, the PEI Legislature amended the *Real Property Act* in 1972. The amended Act prevented all non-residents, whether Canadian citizens or aliens, from holding land in excess of ten acres and/or holding shore frontage of more than five chains (R.S.P.E.I. 1974: s. 3(2)). The *Registry Act* was also amended in 1972, to allow property to be registered by non-residents only if it fell within the limits specified in the *Real Property Act*, unless an order granting special permission from the Lieutenant-Governor-in-Council was provided (S.P.E.I. 1972: s. 1).

By amending the *Real Property Act* to include all non-residents, the province was able to target a larger group of potential purchasers. The amendments may have also kept the Act within provincial jurisdiction and enabled it to survive a legal challenge. In 1973, two Americans tried to buy property exceeding the ten-acre maximum, and were unable

to register their property (Young 1975). They brought an action against the Attorney General and the Registrar. The PEI Supreme Court ruled in favour of the defendants (*Morgan* 1974). The plaintiffs appealed to the Supreme Court of Canada. In 1975, that court unanimously ruled that the statute was within the authority of the provincial legislature since it dealt with property and civil rights within the province (*Morgan and Jacobson* 1975). This case was nationally significant. The Attorneys General of the other nine provinces intervened on behalf of Prince Edward Island, while the Attorney General for Canada intervened on behalf of the appellants.³ The court's decision allowed the provinces to continue making laws on land ownership.

The province created agencies to administer their legislation. In 1974, the PEI Land Use Commission was set up to administer the approvals needed under the *Real Property Act* and was succeeded by the Island Regulatory and Appeals Commission in 1991 (PEI Special 1993). Land use programs were established; the Land Identification Program tracks land use by non-residents, corporations, and on property sold by the government, with the ultimate goal of preserving agricultural land (Round Table 1997).

The *Lands Protection Act* was passed in 1982, which limited the amount of land resident owners could acquire (R.S.P.E.I. 1988). Individuals were prohibited from having aggregate property holdings in excess of 1000 acres; corporate property holdings were limited to 3000 acres. Furthermore, non-agricultural corporations had to apply for permission from the Lieutenant-Governor-in-Council if they wished to purchase property greater than five acres in size or with more than 165 feet of shoreline (approximately 50 metres) (s. 5). As well as the new limitations on resident ownership, the existing restrictions on non-residents were tightened. Their aggregate land holdings could not exceed five acres nor could they hold properties with a shore frontage longer than 165 feet (s. 4). In all cases, individuals or corporations could apply for special permission from the Lieutenant Governor in Council.

³For a discussion of the implications of the decision, see Young (1975) and Jones (1976).

Large corporate landholders, particularly Cavendish Farms, were not happy with the legislation (Royal Commission vol. 1 1990: 80). The constitutionality of the new statute was questioned and as a result, the provincial Cabinet forwarded four questions to the provincial Supreme Court *in banco*. The first two questions were related to leases and the definition of land holding, the last two were related to the *Canadian Charter of Rights and Freedoms*:

3. Do the provisions of the Prince Edward Island *Lands Protection Act* infringe the rights to liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice guaranteed by section 7 of the *Canadian Charter of Rights and Freedoms (Constitution Act 1982)*?
4. Are the provisions of the Prince Edward Island *Lands Protection Act* inconsistent with the right to pursue the gaining of livelihood conferred by clause 6(2)(b) of the *Canadian Charter of Rights and Freedoms*? (*Reference* 1987: 249).

The constitutionality of the statute was upheld by the court. In the view of Mitchell, J., section 7 of the Charter contains a limited right to property, if needed for an individual's "physical integrity" (*Reference* 1987: 262). He stated that the limitations under the *Lands Protection Act* were not such that they prevented someone "from obtaining something essential to their physical or psychological well-being." As for clause 6(2)(b), the court pointed out that, in other cases, there had been a reluctance to protect economic rights, and that owning property was not a prerequisite to working (*Reference* 1987: 260).

Cavendish Farms, owned by Irving Pulp and Paper, has publicly opposed the legislation several times. It was an intervener in the 1987 Supreme Court decision in order to challenge the definition of land holding (*Reference* 1987: 253). The corporation appeared before the 1990 Royal Commission, stating that it was necessary for them to lease land beyond the legislated maximum to ensure the viability of their operation (Royal Commission vol. 1 1990: 84). However, Cavendish Farms was the only group appearing before the Commission that wanted the acreage limits increased. The National

Farmers' Union wanted the maximum limit reduced, and many others expressed concern about Cavendish Farms' degree of control over the province (Royal Commission vol. 1 1990: 75).

The *Lands Protection Act* recently acquired new teeth. In 1995, the Act was amended, limiting the discretionary power of the Lieutenant Governor in Council (S.P.E.I. 1995). No permits would be granted allowing any individual to hold more than 1000 acres or allowing corporations to hold more than 3000 acres, unless it was an interim permit designed to give the party the opportunity to reduce its holdings (s. 4). In June 1998, the government set up a 9-year schedule for divesting of land over the limits (Smith).⁴ However, for non-residents who want to hold land over their 5-acre limits, getting a special permit is fairly easy. Anne-Marie Smith, land officer at the Island Regulatory and Appeals Commission, states that unless the permit is for large holdings, especially holdings with agricultural potential, waterfrontage, or areas where there is already a high concentration of non-resident ownership, a permit will be granted.

Penalties for breaching the Act were also increased in 1995. The fine for corporations was increased to a maximum of \$250,000 from \$1,000, and prison terms were increased to a maximum of two years from six months (s. 11). For failing to comply with investigations into land holdings, the maximum fine was increased from \$500 to \$250,000. Clearly, Islanders were determined to make the law more effective, likely because of several applications by corporations for large land holdings. An application by Cavendish Farms to purchase another 6,000 acres caused Islanders to demand that the discretionary power of the Island Regulatory and Appeals Commission be limited (PEI Special 1993).

In the late 1980s, the PEI government began using taxation to address concerns about non-resident ownership. Resident owners of non-commercial properties were eligible for a rebate of up to half the value of their property tax (*Real Property Tax Act*

⁴Information obtained from interviews for this thesis is cited by name or participant number only. Appendix A is a list of all persons interviewed who agreed to be identified. Other participants are identified solely by number, e.g., "Participant 32."

R.S.P.E.I. 1988: s. 5). The Province has stated that the legislation was intended to increase revenue and not to deter out-of-province land purchasers (Royal Commission vol. 1 1990: 509), but such provisions provided relief to residents who faced mounting property assessments and increased taxes because of the increased demand for land by non-residents. The PEI Association Against Double Taxation protested this law, arguing that non-residents received few services from the government, yet had higher property taxes than their neighbours. The 1990 Royal Commission assessed this argument and decided that, in fact, seasonal residents paid very few taxes in the province compared to full-time residents (Royal Commission vol. 1 1990: 512). Moreover, the increased revenue from the non-resident property taxes was minimal.

This section of the *Real Property Tax Act* faced a legal challenge from members of the Association Against Double Taxation (Royal Commission, vol. 1 1990: 513). The case went to the Appeals Division of the PEI Supreme Court in 1994, where the appellants argued that the higher tax for non-residents violated subsections 6(2) and 15(1) of their Charter rights (*McCarten et al.* 1994). The court upheld the *Real Property Tax Act*.

A report prepared for the PEI Department of Finance compared the relative tax burdens of residents and non-residents on the Island (Antoft 1992b). Non-residents contribute only property taxes to the provincial tax pot. For 1991, the average property tax paid by a non-resident for a non-commercial property was \$280 — lower than the average property tax of \$451 paid by Islanders and substantially lower than the average tax per household in the Province (\$16,656). Despite paying few taxes in the province, non-residents benefit from the taxes and services paid for by PEI residents even if they never set foot in the province, since “the availability of the whole spectrum of public services is an essential ingredient in contributing to the value of all properties within the provincial boundaries” (Antoft 1992b: 12). Foreign owners benefit the most: they pay no taxes in Canada, other than property taxes, yet benefit from the stable land market and availability of services.

With both taxation legislation and limits on land ownership, Prince Edward Island has the most comprehensive land ownership legislation in the country. Islanders may have recognized their non-resident problems earlier because of a strong sense of a community fostered by the geographical isolation characteristic of islands (Raymond Commission 1973). Because the Island is small, it may have been easier to pass legislation to protect community values, something which larger or more populated jurisdictions are unable to do because they are unable to agree on community values. The 1973 Royal Commission on Land Ownership and Land Use reported concern about reduced access to the shore, the reduction and fragmentation of farmland, the rising costs of land, but also concern about changing community standards:

[P]erhaps most at stake, with the arrival of non-resident land owners in this special Island landscape, are those rights and expectations which are unwritten but which at least until very recently have been very clearly understood by all members of the rural community. While the community has promoted and respected the independence and pride of individual landholders, it has also looked askance at those whose buildings went uncared for, or who husbanded land poorly. A community right of access was also well understood, and problems of trespass were practically unknown. One was not expected to ask permission to walk over the property of others to reach the trout stream or the beach, for it was understood that one would show respect to livestock and planted crops, that one would not cut fences and that one would close the gates behind one (Raymond Commission 1973: 40).

The preservation of community and environmental values, as opposed to simple economic values, continues to concern Islanders. The 1997 Round Table reported that Island residents were dissatisfied with such economic indices as GDP, the unemployment rate, and the Consumer Price Index, and wanted an indicator that linked “economic, environmental, and societal outcomes” (Round Table 1997: 12).

Whether or not the PEI legislation has been effective in preserving community values and ensuring sustainable land use has been debated — in fact, many Islanders do not think it has been effective (Antoft *pers. comm.*). However, it has been argued that the very existence of the legislation deters would-be purchasers and diminishes speculation in

Island real estate (PEI Special 1993: 13). Nonetheless, PEI's land issues continue. The 1990 Royal Commission found that land fragmentation was still a problem in both the agricultural and forestry sectors, and recommended that legislation targeting different types of land be enacted (vol. 1: 59). In 1997, the Round Table on Resource Land Use and Stewardship found that prime agricultural land continued to be lost to production. legislation aimed at different land uses had not been enacted, nor had general land use planning been implemented (Round Table 110). Both the 1973 and 1990 Royal Commissions recommended that a general land use plan for the province be drawn up: the 1997 Round Table Report pointed out that a land use plan had yet to be developed (95). It again recommended that official zoning plans be put in place. Despite the continuing concerns, without the regulation and programs that did exist, more land would have likely passed out of agricultural production (Round Table 1997: 96). Prince Edward Island has at least some legal and administrative tools to address land ownership issues—and a concerned public to ensure that land ownership and land use issues remain in the spotlight.

4.2.3 Non-Legislative Measures

Besides enacting legislation, the PEI government has taken other actions to deal with non-resident ownership. A key problem caused by the purchase of land by non-residents is the fragmentation of farms. PEI farmers who wished to increase the size of their farms found that adjacent agricultural land had been subdivided into cottage lots, or was out of their price range (Land Use Service Centre 1978). In 1969, a Land Development Corporation was formed and acted as a land bank for the next twenty years, with the primary purpose of acquiring agricultural land and selling it to farmers who wished to expand or consolidate their holdings (Land Use Service Centre 1978). The Corporation also bought land for forestry, wildlife and conservation purposes; as a result of this and other land purchase programs, PEI was able to increase greatly the amount of publicly-held land (Round Table 1997).

4.3 Land Tenure in Other Canadian Jurisdictions

Other provinces have tried to regulate non-resident or foreign land acquisition. The legislative initiatives of Ontario, Saskatchewan and British Columbia have been slightly different than Prince Edward Island. Both Ontario and Saskatchewan have implemented legislation to preserve farm land. British Columbia gives tax breaks to homeowners for their primary residences. Ontario also has legislation aimed at recreational properties, as well as legislation, since amended or repealed, that targeted speculative land acquisitions. Saskatchewan's legislation has focussed solely on agricultural land.

4.3.1 Saskatchewan

Like Prince Edward Island, agriculture is the leading economic sector in Saskatchewan (Royal Commission vol. 2 1990: 168). The *Farm Ownership Act*, passed in 1974, was intended to keep agricultural land in production and help Saskatchewan farmers. The Act limited the amount of agricultural land that could be held by non-residents. Concurrent amendments to the *Land Titles Act* required land transfer agreements to be accompanied by a statement of the purchaser's citizenship. A Land Bank program ran from 1972 to 1982 to keep farms from transferring out of agricultural use (Royal Commission vol. 2 1990: 170). In the mid-1980s, with Saskatchewan farmers under heavy debt loads and facing crop failures, the *Farm Land Security Act* was enacted to keep banks from foreclosing on family farms by mediating between farmers and their creditors (In Canada 1996).

The *Farm Land Security Act* and the *Farm Ownership Act* were amalgamated in the 1988 *Saskatchewan Farm Security Act*. Part VI of the Act dealt solely with farm ownership issues, including limits on how much land could be held by non-residents or by non-agricultural corporations (s. 81 and s. 85). This part of the Act was amended in 1993 but remained substantially the same. It prohibits non-residents and non-agricultural corporations from holding more than ten acres (s. 80) and forbids residents from acquiring land on behalf of non-residents or non-agricultural corporations if it would put

those individuals or corporations beyond the stated maximum (s. 89). There is a grandfather clause for land acquired prior to 1974. Former Saskatchewan residents may also be exempted from the provisions of the Act.

The Saskatchewan Act makes provisions for non-residents generally as well as addressing those living in other parts of Canada. Out-of-province Canadian residents are allowed to hold more land, up to 320 acres (s. 81). If the land holding is beyond the 320 acre limit but is held by a Canadian resident who had lived in Saskatchewan in the previous five years, he or she is permitted to continue to hold that land. Other exemptions are available as well: non-agricultural corporations and non-residents could apply for an exemption from the maximum land holding limits (s. 90). Transfers to relatives and land received through inheritance are also exempt from the Act (s. 93). The Manager of Farm Ownership of the Farm Land Security Board, Jim Chernick, says that exemptions are also made for conservation organizations that acquire land, such as Ducks Unlimited (*pers. comm.*).

Penalties under the Act are fairly stiff, although not as severe as Prince Edward Island. Individuals can be fined up to \$10,000 for holding more land than permitted, while corporations can be fined up to \$100,000 and corporate officers up to \$10,000 (s. 93). As well, those not covered by the grandfather clause can be ordered to immediately reduce their holdings, and land transfer agreements can be voided if they are found to contravene the Act (s. 94).

4.3.2 Ontario

Ontario took a tax-related approach to controlling the problems arising from non-resident ownership. Land speculation by foreign investors was a chief concern in Ontario in the early 1970s (Paquette 1984). To combat this problem, Ontario created the *Land Speculation Tax Act* in 1974, and passed the *Land Transfer Tax Act* the same year. The land speculation tax faced heavy criticism and does not seem to have been very effective: the tax was simply passed on to property purchasers, exacerbating the very problem it was designed to alleviate (Paquette 1984: 42). It was repealed in 1978. The *Land*

Transfer Tax Act (R.S.O. 1990) is still in force. It assigns differential tax rates on land transferred to different classes of owners. Residents are assessed at a nominal rate, while a rate of 20 percent of the value of the property is levied on agricultural or recreational land transferred to non-residents. Non-residents are considered to be non-Canadian residents, not simply those living outside of Ontario (s.1). All other lands have the same deed transfer tax for residents and non-residents.

Ontario has no limits on the amount of land that can be held by non-residents, although the *Non-Resident Agricultural Land Interests Registration Act* requires non-residents of Canada holding more than ten acres of farm land to register with the Ministry of Agriculture and Food. Other Ontario legislation has targeted agricultural lands for protection through tax rebates. The Ontario Farm Tax Rebate Program provides municipal tax rebates of up to 100 percent on eligible farm properties. However, these rebates are available only to Canadians or permanent residents of Canada (Royal Commission vol. 2 1990: 155). While this encourages Canadians to keep farming, non-residents who buy farmland are given no incentive to keep their land in agricultural production. Since there are no limits on the amount of land a non-resident can buy, this seems to be a serious oversight, although the registration requirements may allow the government to track the extent of non-resident ownership.

The introduction of market value assessments was a shock for cottage owners in Ontario. Property taxes for some cottagers went up by several thousand dollars, resulting in more than 11,000 of the District of Muskoka's 66,000 property owners appealing their assessments (Girard 1995). In 1997, owners of 2,000 of the properties won their appeals, with 9,500 appeals still outstanding (Wong 1997). Unlike in Prince Edward Island, there have been calls for cottage owners to have their property taxes *reduced* compared to full time residents. The Ontario Fair Tax Commission prepared a booklet to solicit opinions on taxes. One of their questions on property taxes asked, "Should those who own a cottage be assessed the full amount of property tax on their vacation home, even though they don't have access to some of the services that property taxes pay for such as

education?” (1992: 23). Editorials have also commented on the “overtaxation” of Ontario cottagers (Downing 1996).

4.3.3 British Columbia

British Columbia has a homeowner grant program that provides property tax rebates to people who live year-round on their properties. The property tax rebate is aimed at reducing taxes for those most in need: those with low incomes living in homes of lower value. It sets a minimum property tax payable of \$350 for those under 65 and \$100 for those over 65. The grant is eliminated for homes assessed at more than \$599,000 and for second homes (Home Owner Grant Program 1998). Fred Crossett, of the Homeowner Grant Program, says there have been some complaints from cottage owners, but they have been rare: “Generally, they’re receiving the grant somewhere else” (*pers. comm.*).

4.4 Land Tenure in the United States

Several American states have discouraged non-resident purchases through limiting the amount of land a non-resident alien may hold, the length of time he or she may hold it, or the type of land that may be held (Mason 1994). North Carolina allows aliens to hold land only if they are from a country where Americans are also allowed to purchase property (Mason 1994). Other states have used tax provisions to help residents deal with high property assessments caused by increased demand for land. For example, Florida has a homesteader’s exemption which grants permanent residents a \$25,000 exemption from the assessed value of their home (Pastel 1991).

4.5 Land Tenure in the Caribbean

Like Prince Edward Island, the Caribbean countries have a long history of non-resident or absentee land ownership (Gloade 1990). However, the land ownership situation in the Caribbean has some unique characteristics which makes the situation difficult to compare to other areas. Many of the Caribbean’s English-speaking states

have an institution called “family land”, where descendants of a single person all have claim to an undivided piece of land (Besson 1987). This tradition has resulted in a complex system of land tenure and, in many cases, unclear title to land. In at least one instance, land that had been in common agricultural and forestry use was sold for cottage development without the permission of the users (Craton 1987). This left the local settlement with no resource base. It could be argued that if land tenure had been legally clear, this problem would never have happened. It could also be argued that if foreign buyers had been prohibited, this problem would not have occurred, since local residents (including the seller) were well aware of how customary rights worked.

Land ownership legislation is often part of a comprehensive land use plan which aims to conserve the environment and natural resources. For instance, St. Vincent and the Grenadines has legislation limiting foreign ownership and requiring approval for all land uses on the islands (Gloade 1990). Dominica requires aliens who wish to purchase property to apply for a license stating how they will use the land (Gloade 1990). In the British Virgin Islands, the *Aliens Land Holding Regulation Ordinance*, 1923, requires aliens to apply for permission to hold land in the country (Pollard et al. 1991: 131). Any permits to hold land granted to aliens may impose conditions on the type of activities that may be carried out on the land.

4.6 Land Tenure in Europe

4.6.1 Norway

Norway's Concession Law is intended to “bring about such ownership and user conditions as are in the best interest of the community at large” (Faculty of Law 1975: 1). All foreigners must apply for permission from the government to buy real property. Even Norwegians must apply for concessions to own land if their plans for the land do not meet the criteria for land use or fall within the allowed acreage limits outlined in the Concession Law. Concessions are not granted if it is suspected that the owner intends to speculate in property. The Concession Law and its potential invalidity in the European Community (EC) was a factor in Norway's decision not to join the EC.

4.6.2 Denmark

Non-residents of Denmark must apply for permission from the Ministry of Justice in order to hold land (Aaen *pers. comm.*). The intent of the law is to control the amount of land used for vacation residences. With limited land available and competing land uses, the government decided to give preferential treatment to residents of Denmark over other potential purchasers of recreational properties (Aaen *pers. comm.*).

Permission to hold land is generally granted to non-residents who wish to purchase property to set up businesses (Buditz 1998). Citizens of the European Community, Norway, Iceland, and Liechtenstein do not have to apply for permission, but they must sign a declaration in the deed saying that the property will be used as a permanent residence or for business purposes, and not as a summer home or secondary residence (Aaen *pers. comm.*). EC Citizens must apply for permission if they want to purchase property for a second residence. Permission is granted for second home purchases if the applicant has a strong connection to Denmark, such as family living permanently in the country.

4.7 Implications of Canadian Federal Legislation

4.7.1 Federal Statutes

Aliens were given the legal right to hold land in Canada in bits and pieces: several provinces allowed alien landownership before Confederation (Spencer 1973). The British *Naturalization Act* of 1870 extended the same rights to hold property to aliens as those held by British subjects, and Canada's 1881 *Naturalization Act* repeated the property provisions of the British Act. This provision appeared in subsequent Canadian Citizenship Acts, until the revised Act of 1976 (R.S.C. 1985). However, the right of aliens to hold land is not so straightforward as these laws would make it seem. Despite the federal legislation, several provinces made laws restricting land ownership by aliens or by certain groups of aliens, as discussed earlier in this Chapter. Constitutional questions on the validity of the provincial statutes have appeared ever since (Charles 1972, Spencer 1973, Jones 1976). There are several key questions: 1) is provincial

legislation restricting ownership by aliens *ultra vires*? 2) is provincial legislation restricting ownership by non-residents, including Canadian citizens, *ultra vires*? and 3) how will trade treaties made by the Canadian government impact any such provincial legislation?

In a 1972 paper, Charles stated that provincial legislation restricting non-resident ownership could be declared unconstitutional by the courts. Citizenship, though not specifically mentioned within the *British North America Act*, was within the domain of the federal government, and any legislation which restricted the rights of citizens—or aliens—could only be made at the federal level (Charles 1972: 32). The question remained whether property rights were a right of citizenship. Charles (1972) and others have pointed out that the rights of citizens have not been fully determined (Spencer 1973, Jones 1976).

Spencer (1973) commented that cases which examined the question of property rights and aliens are “confusing and hard to reconcile with one another” (397). The Canadian Constitution gives the provinces authority over property and civil rights within the province (*Constitution Act* 1982: s. 92(13)). This suggests that legislation restricting land ownership would be *intra vires* the provinces. The confusion over jurisdiction was somewhat clarified in 1975 with *Morgan and Jacobson v. Prince Edward Island and Blacquiére* which stated that PEI’s *Real Property Act* dealt with property and civil rights, not citizenship rights, so was within provincial jurisdiction (*Morgan and Jacobson* 1975). However, it seemed to suggest that a provincial law aimed at alien ownership would be unconstitutional, although commentators were not entirely certain (Young 1975, Jones 1976).

With this question still hanging, the *Citizenship Act* of 1976 gave provinces the ability to limit alien land ownership. It stated that:

[T]he Lieutenant Governor in Council of a province or such other person or authority in the province as is designated by the Lieutenant Governor in Council thereof is authorized to prohibit, annul or in any manner restrict the taking or acquisition directly or indirectly of, or the succession to, any interest in real property located in the province by persons who are not

citizens or by corporations or associations that are effectively controlled by persons who are not citizens (s. 35 (1)).

The *Citizenship Act* further stated that permanent residents of Canada were to be exempt from provincial legislation that placed restrictions on alien land ownership (s.35 (3)(a)). Not only did the federal legislation allow the provinces to make laws on foreign land acquisition, it also stated that persons not complying with the provincial legislation were liable to be fined up to ten thousand dollars or jailed for up to one year, while the officers of offending corporations faced the same punishment. This legislation allowed the provinces to restrict alien ownership without necessarily restricting land purchases by non-resident Canadians, and statutes in both Ontario and Saskatchewan have distinguished between Canadians and other non-residents.

The attitude towards aliens apparent in the new *Citizenship Act* was reflected in other federal legislation of the 1970s. The *Foreign Investment Review Act* was established to review foreign investment in Canadian businesses (S.C. 1973-74). Its ultimate purpose was to allow Canadians “to maintain effective control over their economic environment” (s. 2 (1)). Although the *Foreign Investment Review Act* was repealed in 1985 (*Investment Canada Act* S.C. 1985) when free traders replaced the economic nationalists in the House of Commons, the provisions of the *Citizenship Act* remain the same.

These developments, along with the 1987 PEI Supreme Court ruling on ownership legislation, allow the provinces to make land ownership legislation, although the constitutional questions are by no means finished. Canada’s recent trade treaties, such as the North American Free Trade Agreement, and federal legislation encouraging foreign investment in Canada seem to be contrary to any provincial efforts to regulate foreign ownership. The Manitoba government protested the Canada-US Free Trade agreement and said it would introduce legislation to restrict foreign ownership of recreational land, since it believed restrictions on foreign ownership had to be made before the agreement went into effect. Other commentators on the deal suggested that the

federal government had entered into areas of provincial jurisdiction (Manitoba battles 1988).

4.7.2 Trade Agreements

The rights of investors elaborated in the North American Free Trade Agreement (NAFTA) means that Canada must treat American and Mexican investors the same as domestic investors in most respects (*NAFTA* 1992). Whether the Canada-US Free Trade Agreement, the North American Free Trade Agreement, and future federal treaties restrict the ability of the provinces to create land ownership legislation is still unclear. Hogg (1992: 293) states that court decisions on the federal government's ability to implement treaties that intrude in provincial jurisdiction have been split, some stating that federal intrusion in provincial jurisdiction can be defended by the "peace, order and good government" section of the Constitution, others stating that any such federal intrusion is unconstitutional. The Canadian government could, however, be forced to repeal federal legislation that contravenes international treaties. This suggests that foreign investors could demand the repeal of the alien land ownership sections in the *Citizenship Act*.

NAFTA does contain one exemption related to real property investment:

Canada reserves the right to adopt or maintain any measure relating to residency requirements for the ownership by investors of another Party, or their investments, of oceanfront land (*NAFTA* 1992: Annex II, C-2).

The United States reserved the same right for itself (*NAFTA* 1992: Annex II, U-1). As well, the definition of investment in NAFTA suggests that real estate acquired for recreational purposes is exempt from the treaty, since investment in real property is supposed to be "acquired in the expectation or used for the purpose of economic benefit or other business purposes" (11-24). Since property and civil rights are in provincial jurisdiction, it may take several court cases to clear up the constitutional tangle.

To avoid court cases and constitutional wrangling, provinces may simply choose to regulate ownership by all non-residents, whether Canadian or foreign. Undoubtedly the law in this area will evolve. The right to purchase property may yet be found to be a

right of citizenship. In many ways, laws reflect current values; as the rights of investors gain more and more national prominence through treaties such as NAFTA and the Multilateral Agreement on Investment, it may be only a short time before their rights are included in the Constitution. However, the courts may be reluctant to move in this direction if the provinces exercise their right to create legislation on property rights.

4.8 Conclusion

Many jurisdictions have developed legislation targeting non-residents. This legislation has differing goals, from tracking the amount of land held by non-residents, to limiting their holdings, setting up differential tax systems, and preserving agricultural land. Prince Edward Island has the most comprehensive tools available to deal with absentee landlords but those measures were the result of over a century of debate on the issue. Prince Edward Island has also made a concerted effort to collect information on non-resident and corporate land holdings, information which is not available in other jurisdictions.

Although Prince Edward Island has a great deal of legislation aimed at limiting land ownership, its neighbour Nova Scotia has done very little on the subject. This lack of action continues despite a lengthy history of concern about non-resident owners. The next chapter will examine the history of the non-resident issue in Nova Scotia and discuss relevant legislation.

Chapter 5

Non-Resident Legislation in Nova Scotia

5.1 Introduction

Non-resident land ownership has been a simmering issue in Nova Scotia for at least thirty years. The *Land Holdings Disclosure Act* (R.S.N.S. 1989) was passed in 1969 in the hope of finding out more about non-resident ownership in the province and the pace at which outsiders were purchasing land (Antoft 1992a). Despite that legislation, it is still difficult to determine the extent of non-resident ownership in the province. This chapter will discuss legislation related to non-resident land ownership in Nova Scotia. Since views of property influence the legislation affecting land ownership, this chapter will begin with a discussion of different views of property ownership and how they relate to the Nova Scotia experience. The final section of the chapter will contain an update on the current situation in Nova Scotia.

5.2 Property Ownership

5.2.1 Ownership

The ownership of real property is not the same as the ownership of a book or the ownership of a car. Real property ownership is a bundle of rights and privileges; it is not a license to carry out any activity on a particular piece of land. Nor has property ownership meant the same thing to all cultures.

The Romans viewed property owners as the possessors of land, who could sell or give it away, mortgage it, and pass it to others on death. Owners could use and sell the products of their land. However, these individual rights were packaged with certain restrictions on use for the benefit of the community (Powelson 1988: 34).

Land was considered so essential to well-being that in many parts of the world, including Europe, it was illegal or not commonly accepted to alienate land outside the family up until the sixteenth century. In medieval Europe, land was granted from a lord

to a grantee and his heirs.⁵ If there were no heirs, the land reverted to the lord. However, there soon developed ways to alienate land outside the family, especially in England. There, sales of land to outside parties started in the twelfth century, although the tradition of family land and attachment to the land continued to be very strong (Powelson 1988: 70).

Enclosures of common land and the consolidation of estates started in Europe in the Middle Ages and were at their height in the British Isles in the 16th, 18th and early 19th centuries. The original enclosures of the 16th century were spurred by the development of the wool industry. In the 18th century, with a growing population, the high demand for grain provided an impetus for further enclosures. Prior to legislation passed in 1801, each common land enclosure had to be approved by Parliament. However, enclosures and the subsequent decline of small farms were accepted as inevitable by the late eighteenth century. The enclosure movement meant that smaller farmers were evicted or bought out, and the large landowners accumulated larger and larger estates (Powelson 1988: 81).

As the Europeans expanded in the Americas, Africa and Asia, they imposed their systems of law and land ownership:

To the Europeans, fee simple ownership and alienability were essential to political stability and economic development. Only under their own laws could they themselves hold land. And they believed that agricultural progress required mobility of land (among owners) (Powelson 1988: 280).

European views of land ownership were imposed on cultures with very different ideas about land. Some North American aboriginal groups did not recognize the concept of land ownership, while others carved out territories of tribal land, where other tribes were not permitted. Communal lands with small, private household gardens were common in Africa. The ascendance of the view of land ownership for the benefit of the individual was brought to North America by Europeans and perfected by the Americans (Powelson 1988). This idea was first proposed by nineteenth century liberals who viewed private

⁵In this case "his" is meant to be gender specific: land was granted to men.

property as essential to individual freedom. This ideal holds sway throughout much of the western world, although it has been tempered by restrictions on activities in some areas and by community rights in others.

5.2.2 Trespass

Until recently, there was no statute exclusively related to trespassing in Nova Scotia, although it was possible to seek remedies for trespass through the common law. In 1982, *An Act to Protect Property* was passed by the Nova Scotia legislature. This law made it an offence to enter cultivated land, lands where entry was prohibited by notice, or lands enclosed by fences without the permission of the landowner. This Act also spelled out rights to carry out recreational activities on forested land:

No person may be prosecuted for contravening any notice given pursuant to this Act prohibiting entry or prohibiting activity on forest land if that person is hunting as defined in the *Wildlife Act*, fishing, picnicking, camping, hiking, skiing or engaged in another recreational activity or engaged in a study of flora or fauna. (R.S.N.S. 1989: s. 15(2)).

An earlier Act, the *Angling Act* of 1912, enabled any resident of Nova Scotia to travel by foot across uncultivated land or along the banks of any body of water in order to go fishing (R.S.N.S. 1989: s. 3(1)). The Act also permits boating on rivers, lakes and streams for the purpose of fishing (s. 3(2)). The only bodies of water exempted from the Act are municipal water supplies and their adjacent land.

Nova Scotia's statutes related to trespass are distinct from many provinces and states. These laws are a recognition that the land should provide benefits to society at large, not solely to the private individual who holds the deed to the property. However, many individual Nova Scotians are unaware of their own laws and are influenced by the view of private property commonly portrayed in the American media.

5.2.3 Takings

The Canadian and American legal systems contain very different views of real property. Americans have the right to property embedded in their constitution, which has led to legal debates over what laws so inhibit a person's actions on her or his land as to constitute a taking of the land by government. The Canadian Charter of Rights deliberately excludes the right to property, at least in part because of the problems it had created in the United States (Hogg 1992: 44-8). However, Canada's proximity to the United States and its media has made the American view of land widely known.

In the US, property rights advocates view environmentalists and the regulations they espouse as a threat to free enterprise (Brick and Cawley 1996: 8). Planning regulations and other restrictions on land use are often viewed as a constriction of individual choice, not as a protection for the larger society. Some anti-regulation proponents have considered environmental regulations a taking of the land by government, for which land owners should be compensated. The arguments of the "takings" advocates have been countered by suggesting that the government provides services to landholders that can be considered "givings" (Harriss 1997). Others have pointed out that American courts have upheld the ability of states to zone land in the community interest, as long as all of the economic value of the land has not been removed (Hylton 1995).

An individual's right to private property, like all our rights, exists because society recognizes it. The value of an individual piece of property depends on many outside community and societal factors. One of the reasons that land in Canada is attractive to outside buyers is because of its stable society, system of law, and high standard of living — all things to which the community at large contributes.

5.2.4 Waterfrontage

Waterfront lands have a special status in Nova Scotia and many other jurisdictions, since land below the high water mark belongs to the Crown or is owned by

the State.⁶ However, some jurisdictions treat waterfront properties differently. In the early 1970s, Massachusetts faced concerns regarding access to waterfrontage. Unlike Nova Scotia, the law in Massachusetts allows property owners to control coastal land to the low water mark. Massachusetts had a huge demand for coastal access, but of its 1200 miles of coastline, 935 miles were privately owned. In the early 1970s, legislation was introduced allowing passage by foot along the shoreline between the high and low water mark. The legislation was referred to the Supreme Judicial Court of Massachusetts to check its constitutionality. To the surprise of both the Bill's supporters and detractors, the Court ruled that the legislation would be unconstitutional, as it constituted a "taking" of property (Thomas et al. 1975).

The debate in Massachusetts illustrates the great demand for coastal access, as well as the difference between property rights in Nova Scotia and the United States. Coastal lands between the high and low water marks belongs to the Crown in Nova Scotia and passage by foot is perfectly legitimate, even if this information is not widely known to either Nova Scotia residents or the non-residents purchasing property in the province.

5.3 The Non-Resident Issue in Nova Scotia

5.3.1 Background

Discussion about out-of-province land owners in Nova Scotia began making headlines in the 1960s and continued long after disclosure legislation was passed in 1969.

The debate reached a peak in the early 1970s with almost daily media reports on the issue (Antoft 1977). With continuing public pressure, the government formed a Select Committee on Non-resident Land Ownership which held hearings across the province (Nova Scotia House of Assembly 1974). The key public concern was with American

⁶Some Nova Scotia shorelands, which were granted before Confederation, are privately owned to the low water mark. In some cases portions of the land grant even extend under water (Day *pers. comm.*).

buyers who were perceived to be snapping up the province at bargain basement rates (Foshay 1970, Dickie 1971).

Newspaper articles and editorials came from both sides of the issue.⁷ One writer defended his new American neighbours suggesting, “American investment in, and development and ownership of, our barren lands would result in rich benefits and enjoyment to us all” (Henman 1974). Other writers, however, were not so welcoming: “If Nova Scotians are not made aware of the subtle differences between their traditional relation to the land and the current relation of outsiders to that land, Nova Scotia will eventually be alien to all but aliens” (Reynolds 1974).

The same writer went on to describe the subtle differences between Nova Scotian attitudes and those of the “come-from-away”:

[I]n the last ten years, Nova Scotian attitudes toward land have changed. In some areas one can discern a definite trend emerging: the American view of property is exclusively private and expendable rather than loosely communal and ancestral. Though a man’s land was always legally his private property, he rarely exercised the right of exclusion. It was unthinkable. Yet in many areas of Antigonish County today, one can see those insidious little No Trespassing-Private Property signs (Reynolds 1974: 7).

Like the media reports, most academic attention given to the issue occurred during the early 1970s. The Institute of Public Affairs at Dalhousie University organized a seminar on shoreland ownership and management (*Shoreland* 1972). Kell Antoft, Assistant Director of the Institute at the time, carried out a study of land ownership around the Bras d’Or Lake (Antoft et al. 1971) and was a public figure in the land ownership debate. He also undertook a Master’s thesis on policy issues related to non-resident ownership (Antoft 1977).

The study of the Bras d’Or Lake found that 16 percent of the owners with waterfront properties were from outside the province. This represented 22.7 percent of the property acreage with waterfrontage and an increase from 1967 figures. The authors

⁷Antoft (1977) describes the debate in full detail.

argued that resident owners needed a tax break since their assessments had been rising in response to increased demand for land from outside the province.

Although many groups and individuals with concerns such as these appeared before the Select Committee on Non-resident Land Ownership, the Committee did not appear to take their concerns seriously. It reported in 1974: “the most pervasive thought emanating from the hearings was that land use is more important than land ownership” (Nova Scotia House of Assembly 1974: 227). Antoft (1977) asserted that over half the briefs presented to the Committee were concerned with land ownership; however, the committee chose to focus on the briefs from the Chamber of Commerce and real estate organizations. As a result, two bills proposed in 1973 to deal with non-resident ownership concerns were dropped. However, in accordance with a Royal Commission report released earlier in the year, the Committee recommended the establishment of a Land Resources Board to advise Cabinet on the proper use of land in Nova Scotia (Nova Scotia House of Assembly 1974: 235).

A government land use working group was established in 1975 and the Deputy Ministers’ Committee on Land Use Policy was formally established a year later (Land Use Committee 1977). The committee included representatives from twelve different government departments and had a broad mandate to deal with land use issues that fell under the jurisdiction of more than one Department. Non-resident land ownership was not one of these issues; it was listed under “Issues which transcend departmental interests” and the committee felt that no single department was responsible for the issue (Land Use Committee 1977: 14). Indeed, figuring out responsibility for non-resident land ownership was and remains a difficult task involving both federal and provincial legislation and several government departments.

Discussion of out-of province ownership continues in Nova Scotia. Articles appear in Nova Scotia newspapers almost every year (see, *e.g.*, Calhoun 1978, Gordon, 1984, Tibbets 1990, MacDonald 1998), and opposition members occasionally bring up the topic in the provincial legislature (Nicoll 1996). In 1982, there was a sudden flurry of media interest when Lands and Forests Minister George Henley revealed that his

Department had attempted to buy a large chunk of Cumberland County to keep it from going to a foreign purchaser (MacDonald 1982). The government was out-negotiated and did not make the purchase.

The lack of available information made a thorough investigation of land ownership difficult. It also made it difficult to sustain public and media attention. The diminished attention by academics and government officials could be due to inadequate information as well as the complexity of the concerns about and implications of non-resident ownership. Although there is continuing concern about non-resident ownership by the general public in Nova Scotia, (Land Research Group 1990, MacDonald 1998), this has not been reflected by government action. Academic interest in the subject has waned and only a few student research projects on non-resident owners have been carried out since the 1970s.

5.3.2 Nova Scotia: Land Holdings Disclosure Act

The 1969 *Land Holdings Disclosure Act* required non-resident individuals and corporations to report their land holdings in the province. As originally envisioned, the Act could have provided accurate statistics on out of-province ownership; however, it was weakened by amendments and exemptions (Antoft 1992a). The *Land Holdings Disclosure Act* defines a non-resident as:

an individual who is not a permanent resident of the Province and includes a person who acquires or acquired a land holding for or on behalf of an individual who is not or was not a permanent resident of the Province (R.S.N.S. 1989 s. 2 (e)).

By including individuals who acquire land on behalf of others, the drafters of the legislation seem to have had the intention of providing an accurate picture of non-resident ownership in the province. The first version of the bill required non-residents who acquired property to file a disclosure statement when the transaction was completed (Antoft 1992a). Non-residents who already held land were given a year to deliver a

disclosure form. The bill's opponents argued that those requirements were an infringement of privacy and would discourage investors (Antoft 1992a).

The legislation that was passed put the onus on the Crown to prove that non-disclosure was intentional. The Act reads:

Every non-resident who wilfully fails to comply with subsection (1) [the submission of a disclosure statement] shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one thousand dollars (s. 6 (2)).

The word *wilfully* was added after the bill was first introduced (Antoft 1992a) and this had a drastic consequence for the effectiveness of the legislation. No one has ever been charged under this Act and it is likely because the burden of proving deliberate non-compliance is too difficult.

The section applying to disclosure by corporations was equally weak. The statute states that every corporation who acquires or holds land in the province must submit a disclosure statement. There were several key exemptions though, for corporations that were incorporated or registered in the province and for corporations that carried out business on their land holdings (s.7). This meant that foreign forestry companies did not have to disclose information about their properties, both because they were using the land for business purposes and because many of the companies set up local corporations.

Although the Act only attempts to obtain information about non-residency, not to regulate it, non-resident buyers have used all the loopholes anyway. It is very easy for non-residents not to register their lands, yet very difficult for the Crown to prove non-compliance (Antoft 1992a). Three years after the Department of Lands and Forests began sending out disclosure forms, only 65 percent of owners with non-resident addresses had responded (Land Research Group 1990). Furthermore, real estate agents have advised their foreign buyers to incorporate or have their assessment notices sent to their Nova Scotia lawyer's office rather than a foreign address (Antoft *pers. comm.*), making it very difficult to find out which non-resident owners have not registered.

A further weakness is that the statute does not apply to lands “within the boundaries of a city or town” (*Land Holdings Disclosure Act* s. (3)). This section was probably inserted because legislators were trying to target rural and wilderness lands. While that goal made sense when the Act was passed, city boundaries have changed a great deal since then. The new “supercities” of Halifax and Sydney include thousands of hectares of rural land. Whether the Act applies to the new regional municipalities at all is a subject of confusion since regional municipality is not defined in the *Act*.⁸

A Lands and Forests report on non-resident ownership, based on the disclosure forms, appeared in 1974 (Wilmshurst and MacNeill). It focussed on shoreline properties, but found it difficult to come up with an accurate portrayal of non-resident ownership because of the flawed legislation. The authors stated in their introduction:

Due to a paucity and/or unreliability of data on non-resident ownerships in particular, we are convinced that the actual extent in the category is substantially underestimated in the report (ii, emphasis in original).

In fact, their belief was well supported by media reports. In June 1972, twenty-four Guysborough county properties, including islands and coastal properties, were sold for unpaid taxes. A furor was created around the province when twelve of the properties, seven of which had water frontage, went to out-of-province purchasers (Antoft 1977: 145). None of these properties seem to have been registered as per the *Land Holdings Disclosure Act*. The 1974 Lands and Forests tabulation states that no salt water frontage in Guysborough County was held by non-residents (Wilmshurst and MacNeill 1974: 1). It seems unlikely that all seven properties were resold to Nova Scotians in the two years between the sale and the production of the report. Apparently the buyers all fell within the exemptions listed in the Act, or simply did not bother to register.

In the mid 1970s, the government stopped actively tracking non-resident ownership (Antoft *pers. comm.*), although a brief effort was made in the 1990s to increase compliance with the Act. The inadequacy of the legislation has been commented on by

⁸This point will be discussed later in this Chapter.

the Land Research Group (1990), Antoft (1992a), and government employees working with the Act (Wilmshurst and MacNeill 1974, Dunn 1989, see further discussion below). As poor as the information was during the 1970s, it has been difficult to get any kind of picture of non-resident ownership since then. In 1989, 8.79 percent of Nova Scotia was held by non-residents, according to the assessment records of the Department of Municipal Affairs (Tibbets 1990). Lands and Forests believed that percentage was a drastic underestimate since many foreign owners did not register their lands, nor did the figure include foreign forestry companies with Nova Scotia divisions. It was believed that if the forestry companies were included, foreign ownership would be at least 29 percent (Tibbets 1990). According to documents obtained in 1996 by the provincial NDP leader, an average of 1700 acres a year were sold to people living outside Nova Scotia during the ten-year period from 1986 to 1996 (Nicoll 1996). Most of the people interviewed for this study believe there has been a recent increase in the rate of land acquisition by non-residents but can not estimate by how much. In fact, without adequate legislation there is no way to collect accurate information.

5.3.3 Current Situation

5.3.3.1 Management of the *Land Holdings Disclosure Act*

Because the information available on non-resident ownership is so poor, decision-makers are reluctant to take any firm stand on the issue. Rosalind Penfound, Executive Director of the Land Services Branch at the Department of Natural Resources, commented that "Everyone agrees that the problem is information. You have to have the information to support rational decision-making." It is difficult to track non-resident ownership unless there is a specific mandate to do so — the Department of Natural Resources is supposed to collect the forms on non-residents, but the Department of Housing and Municipal Affairs has the property databases which could make tracking non-resident ownership effective.

The Department of Natural Resources has collected information via the disclosure forms demanded by the *Land Holdings Disclosure Act*. This author attempted to get

information from the disclosure forms. According to the registrar of land holdings, this is not public information and the annual report is intended only for the Minister. However, both the current registrar and his immediate predecessor, though helpful, felt the information from the forms would not help in creating an accurate picture of land tenure in the province. Dave Steeves, the current registrar, said there is very little compliance with the *Land Holdings Disclosure Act* despite a concerted effort by the former registrar, Don Parker.

In the early 1990s, Parker worked hard to raise awareness of the Act among real estate agents and lawyers. He believes that the reason for low compliance is not lack of awareness, but lack of co-operation:

[There was a] lack of co-operation from the legal community, in general. Some solicitors complied religiously. Others saw no reason for this Act and did not want to comply with it. But I should make this clear, the solicitors are not responsible for filing, it's the non-resident (Parker).

After advertising for three years in the Nova Scotia barristers' magazine, sending notices to all the real estate agents in the province for two consecutive years, putting up notices at the Registries of Deeds, and searching the records of the Registries for non-complying non-residents, Parker felt that there was little else that could be done with the existing legislation. Although more forms were submitted during the years Parker worked hard at gaining compliance, it tailed off again afterwards. Recent registrars have been the sole employees working on this Act. They have other responsibilities as well, meaning that less than half their time is spent administering the Act. The loopholes in the Act and the limited staff devoted to it mean that non-compliance with the Act is to be expected.

The creation of the new regional municipalities has made compliance with the Act even worse (Penfound). People who used to comply with the Act no longer bother because they think the Act no longer applies in those areas. At the same time, the registrar of land holdings would get phone calls from people who had purchased land in downtown Halifax, asking if they should submit disclosure forms (Parker). The

legislation should apply in the regional municipalities since “regional municipality” is not one of the areas exempted in the Act.

The Land Services Branch of Natural Resources, which administers the *Land Holdings Disclosure Act*, has been looking into other ways to make their task more effective. A proposal to transform the paper ledger of disclosure statements to electronic form was prepared last year (Terrio 1997). With the concerns that have been raised about the quality and usefulness of the data being collected under the Act, it does not seem that a computerized system would be any more useful than a paper system. The key problem is with the quality of the information received, not with the system of handling that information. Penfound believes, “We should either stop spending any effort on it [the Act] or make it useful.”

5.3.3.2 Working Group on Non-Resident Owners

Because of the difficulties of administering the Act and the regular flow of correspondence from the public on non-resident ownership, the provincial government has formed a working group on non-resident owners. There is some question of departmental responsibility for tracking non-resident owners. Right now, Natural Resources is believed to have the lead in this area because of the *Land Holdings Disclosure Act*, but because assessment and private property services are provided by the Department of Housing and Municipal Affairs, that Department has a better capacity to track land ownership.

Housing and Municipal Affairs also appears to have some responsibility for tracking non-resident owners. The *Assessment Act* requires assessors to identify non-residents on the assessment rolls (R.S.N.S. 1989, s. 35). Non-residents are considered to be non-residents of the municipality in that Act. Assessors no longer identify non-residents on the assessment roll because it has been computerized and they can generate reports based on the address (MacKenzie). They use no criteria other than mailing address to identify non-residents.

Choosing non-residents based solely on mailing addresses has several problems: non-residents may have their assessment notices sent to a local address, such as their bank, lawyer, or their own address. Non-residents may incorporate a holding company which would have a Nova Scotia address. Reports that have been generated based on the assessment list do not summarize the data and are not easy to use, as Richmond County Councillors have discovered. It is also difficult to identify the Nova Scotian owners who do not reside in the municipality by doing a computer report. There is no computer code that identifies them as non-resident Nova Scotians. However, John MacKay, Executive Director of Assessment Services, believes that “our responsibility under the *Assessment Act* is not to control and manage foreign ownership.”

The working group is examining whether or not the property and assessment databases managed by the Department of Housing and Municipal Affairs could be used to track non-resident ownership — in fact, the very databases used for this thesis. As an experiment, the group arranged to look at the extent of non-resident ownership in Guysborough County (Penfound). The information was grouped by estimated date of purchase, up to 1995, and the total area purchased was estimated to be 189.79 square kilometres. A little more than half of the properties with non-resident owners were estimated to have been purchased from 1985 to 1995.⁹

Members of the working group and those who work with the disclosure forms say that the same issues on non-resident ownership have come up year after year: access issues, increased market prices, and raised property assessments. Rosalind Penfound, whose office deals with most of the letters written to the government about non-resident owners, said some people have been concerned that non-residents are not contributing to the community. There have also been concerns that non-resident are buying large pieces of forest land that were actively managed and are not entering into forest management agreements.

⁹The estimate prepared by this author shows a much higher amount of land owned by non-residents. See Chapter 6.

Whether or not anything will be done to address local concerns about non-residency is a hot political issue. Many people believe that land should be bought and sold freely, with no restrictions of any sort. Even tracking non-resident ownership makes some people nervous. Don Parker pointed out that some people who did not comply with the Act did not see any reason for the Act and others were concerned that compliance might actually backfire on them, should the government place any restrictions on non-resident ownership. Parker suggested that the current wave of non-residents was nothing new for Nova Scotia:

[I]t isn't the first land grab by non-residents by far. The French in 1604, the English in the late 1600's at Grassy Island, not to mention the Portuguese, Spanish and Basque in the 1500's. The Yankees first came in the 1770s, and the Irish, and the Scots after the Highland Clearances, and the Germans. There will be others after this. But the land isn't going anywhere.

One key difference between Parker's long list of newcomers and the current non-residents is that many people came with the intention of settling in Canada.¹⁰ Non-resident landowners do not have the same commitment to Nova Scotia society as people who live here year-round.

5.3.3.3 Role of Municipalities

One of the questions explored by the working group on non-resident ownership is the ramifications of taxes targeted at non-residents: either a surtax on deed transfers to non-residents or a property tax rebate for resident owners, similar to the rebate given in Prince Edward Island.¹¹ In Nova Scotia, property tax is collected by the municipalities; in Prince Edward Island the Province collects the tax then distributes it to the municipalities. The PEI system has made it easier to develop the property tax rebate system. In Nova

¹⁰The new settlers listed by Parker also had an effect on the local people. If the Mi'kmaq inhabitants of the time had been able to stop the flow of Europeans, they may well have chosen to do so.

¹¹This should not be taken to mean that the provincial working group is actively pursuing this route; it appears to be more of a fact-finding group.

Scotia, the province is not likely to draft any differential tax legislation aimed at those from outside the province unless it can benefit directly from the tax. If the province does draft legislation that results in more property tax money going to the province, the municipalities will protest. Ken Simpson, from the Union of Nova Scotia Municipalities (UNSM), said, "We would oppose any measure by the province that's going to the provincial coffers."

Simpson stated that the UNSM does not have any set position on non-resident ownership. There is some concern but no real agreement on the issue. There are immediate economic benefits; realtors are making money from sales to non-residents, and there are some spin-off effects. The municipalities do not want to affect out-of-province businesses either, like the Irvings, or stall investment and development. Simpson commented that the perception of non-resident ownership varies from area to area. He suggested that some areas, like the South Shore, have a culture of welcoming part-time residents every summer. In other areas, especially areas which have land-based resource activities, non-residents are more of a concern.

Simpson thought that a surtax on non-residents could be viewed as a tax grab:

When you look at the differential taxes, outside of a money grab why would you do it? Do foreigners use more services, no. They use no recreational programming; they're not using the school system; they're only using roads for six weeks of the year. So what are you giving in return? Perhaps just creating an extra pot of money to benefit the entire community. But it distorts the principle of equity of taxation.

At the same time, Simpson recognized that non-residents may cause Nova Scotians to lose benefits they once had, such as the opportunity to buy and enjoy recreational properties and to enjoy their own environment. Chapter 7 will look at some of the impacts of non-resident ownership in one municipality, Richmond County.

5.4 Conclusion

Discussion of non-resident ownership has drawn forth strong opinions in Nova Scotia for at least thirty years. However, all those interviewed for this study believed that non-resident owners should be tracked to allow better land management. There was general agreement that current measures taken to track non-residents were inadequate. Even if no other actions were taken on non-resident ownership, better information would help government departments and municipalities make land management decisions. The next chapter will examine the information on non-resident owners available from the property databases from the Department of Housing and Municipal Affairs.

Chapter 6

Ownership of Nova Scotia

6.1 Introduction

Canada is a large country that is perceived as having lots of open space. It seems difficult to believe that Canada could ever run short of land. However, the diminishing availability and the high price of land in other parts of the world, and the apparent “pristineness” of Canada’s natural environment make it an attractive choice for outsiders looking for recreational properties (Land Research Group 1990). These purchasers are competing for wilderness land with resource users, conservationists, and rural residents.

The land tenure situation in Nova Scotia makes land issues more pressing here than in other parts of Canada. Prince Edward Island and Nova Scotia are the smallest provinces and have more land held privately than other Canadian provinces. Almost 70 percent of Nova Scotia is held by private owners (Dept. of Natural Resources 1997: 7), while in PEI, 91 percent of the province is private land (Round Table on Resource 1997: 133). This is far less than other provinces. New Brunswick has the next lowest percentage of provincial Crown land at 47 percent, while in British Columbia the government owns just over 90 percent of the province, subject to aboriginal land claims (Province of BC 1997). Nova Scotia and PEI have less public land available to set aside for conservation or to lease for forestry purposes.

The population densities of Nova Scotia and PEI further contribute to pressures on the existing land base. In 1995, PEI’s population density was 24 persons per square kilometre, almost ten times the national average of 2.97 (Statistics Canada 1996: 22 and 77). Nova Scotia had the second highest provincial population density at 16.9 persons per square kilometre. The higher population densities and the high percentage of land held privately have made land ownership issues of consequence in those two provinces.

This chapter will examine the land tenure situation in Nova Scotia, using the available data. Without knowing who owns the land — and how it is used — it is difficult for government to make policy on land use and ownership. Information on who

owns the land lets us know more about the kind of impacts this ownership could have. Knowledge of land ownership should feed into such planning programs as the integrated resource management on Crown lands project ongoing in Nova Scotia.

6.2 Provincial Land Tenure Figures

The following tables illustrate the land tenure situation in the province using databases from the Department of Housing and Municipal Affairs. Since these databases were not intended to track residency of owners, there are limitations to the data. As well, the process of making the information available in electronic form was not yet completed when these databases were accessed in February 1998. There are two sets of databases: the property information databases and the assessment file database.

The process of linking the property information databases works in the following manner: each individual piece of property is assigned a tax account number. This information, along with the mailing addresses of the property owners, is kept in the "m_address" database file. Another database file, called "pid_master," contains the property information for each individual piece of property. This database includes such fields as the area and location of the property; however, it does not contain the tax account number. A third database, "pidtax", contains both the tax account number and the property identification number, and can be used to link the other two databases. A fourth database, the assessment file database, contains the tax account number and some property information; however, information is not available for all properties, making the use of both sets of database necessary.

There were four key problems related to property information:

1. There was no tax account for a property identification number (pid), so it was not possible to link the property with a mailing address. 57,436 properties, or 9.85 percent of all properties in the province, have identification numbers but no corresponding tax account and mailing address.

2. There was no pid for that account, so it was not possible to link the address to the property information database, nor was there adequate property information available in the assessment database;
3. There was a pid for the account, but the area and area unit fields for that record were not completed, nor was there adequate property information available in the assessment database;
4. The area field for the tax account was completed, however, the information in that field was an indication that electronic information for those properties was not available. Generally, this meant that the area unit was in feet (F) and the area was equal to 0.00 or 1.00. In some cases, an area unit of V indicated that the information was not yet available.¹²

The number of tax accounts with property information or adequate property information varies from region to region. The following tables were created by combining information from the property information database with information from the assessment file. If both databases were not used, the number of properties with inadequate information would be much higher. Only the records with tax accounts were used, meaning 9.85 percent of the properties in the province were eliminated at the outset. The column which lists the percentage of tax accounts with inadequate information in Tables 1 and 3 includes only the properties with tax accounts. Only the tax accounts were used because this thesis was concerned with properties for which there were mailing addresses, information which is attached to the tax account. For those interested in the break-down of the properties missing tax accounts, Appendix B lists the number of properties in each county and shows the percentage of properties missing either property information or mailing address. In total, 28.39 percent of the properties in the province either could not be linked with tax accounts or had inadequate property information.

¹²The area unit "V" is a valid one: it indicates a condominium or business unit within another property. However, in Digby County and Queens County it was also used to indicate properties without property area information.

These shortcomings do not even touch on the problem of misentered data, which would also affect the validity of the information found in the following tables. Obviously wrong entries in one database were checked against the second database. For some properties, it was possible to correct the information. For example, properties that were listed with an area of less than 10 feet in one database were matched with the second database. Checking sometimes revealed that the area unit had been entered incorrectly. Entries such as those ones, which obviously did not make sense, were corrected if the information was available, and discarded if it was not. It was not possible to check for less obvious mistakes. There are undoubtedly other data entries which were incorrect and which were not filtered out.

6.2.1 All Tax Accounts

Table 6.1 looks at the state of property information attached to the tax accounts of all owners in Nova Scotia. By looking at all owners, it becomes possible to compare the accuracy of information for all accounts with that of the non-resident tax accounts.

As can be seen from Table 6.1, the areas with the best electronic data are Digby and Annapolis Counties and the Cape Breton Regional Municipality, with less than 8 percent of the tax accounts in those regions missing property information. The Halifax area also has very good electronic information available. Between 9 and 19 percent of the tax accounts in most counties are missing property information. The available property information is much poorer for Southwestern Nova Scotia. More than half of the tax accounts in Lunenburg, Queens, Shelburne, and Yarmouth Counties do not have property information available electronically. Those counties were the last ones which were added to the property map database, and have not had the benefit of being rechecked several times (Gray).

Table 6.1 Nova Scotia Property Tax Accounts				
County or Regional Municipality	Municipal Codes¹	Total Number of Tax Accounts	Tax Accounts with Adequate Property Information	% of Tax Accounts with Inadequate Information
Annapolis	20, 21, 22, 25	18132	16879	6.91
Antigonish	27, 28	12803	9534	25.53
Cape Breton	34 to 41 (incl.)	57318	54000	5.79
Colchester	43, 44, 45	31541	26388	16.34
Cumberland	47 to 51 (incl.)	27260	22838	16.22
Digby	23, 24, 96	22536	20880	7.35
Guysborough	29, 30, 31, 32	12320	9087	26.24
Rural Halifax ²	55	74364	63866	14.12
Urban Halifax ³	53, 56, 57	59723	54432	8.86
Hants	59, 60, 61, 62	24034	21659	9.88
Inverness	64, 65	17546	14402	17.92
Kings	69, 70, 71, 72	31519	27279	13.45
Lunenburg	74 to 78 (incl.)	38363	17259	55.01
Pictou	80 to 85 (incl.)	30576	27593	9.76
Queens	89	13761	5315	61.38
Richmond	66	9960	8326	16.41
Shelburne	87, 88, 91, 92, 93	14792	4821	67.41
Victoria	67	7997	6630	17.10
Yarmouth	95, 97, 98	21105	6318	70.06
Totals	n/a	525610	417506	20.57

1 Each county includes municipalities that fall within county boundaries. For example, Port Hawkesbury is included with Inverness County and Truro is included with Colchester County.

2 "Rural Halifax" means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

3 "Urban Halifax" includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area.

6.2.2 Non-Resident Tax Accounts

Table 6.2 shows the number of tax accounts in each county or regional municipality that have out-of-province mailing addresses. There are limitations to the information portrayed in this table. As mentioned previously, some non-resident owners have their assessment notices sent to a Nova Scotia address — a property management company, lawyer, bank, neighbour, or friend. Others incorporate Nova Scotia companies to hold their land. Neither group shows up as non-residents in the databases. There is

also the reverse problem of residents showing up as non-residents. Because of the time lag in entering data, people who have bought properties with the intention of moving to Nova Scotia may show up as non-residents in the database. The tally of non-residents includes businesses with out-of-province mailing addresses, such as J. D. Irving and Irving Oil. Nova Scotians who live in one part of the province and have property in another part are not included in the list of non-residents. While these may seem like huge limitations, when combined with other information about the province, the table raises some interesting points about land ownership.

Table 6.2 Non-Resident Tax Accounts			
County / Regional Municipality	Number of Tax Accounts	Number of Tax Accounts with Non-Resident Addresses	Non-Resident Accounts as % of Total Accounts
Annapolis	18132	1720	9.48
Antigonish	12803	1081	8.44
Cape Breton	57318	2495	4.35
Colchester	31541	1404	4.45
Cumberland	27260	2464	9.04
Digby	22536	2818	12.50
Guysborough	12320	1654	13.42
Rural Halifax ¹	74364	2771	3.73
Urban Halifax ²	59723	1609	2.69
Hants	24034	831	3.46
Inverness	17546	2943	16.77
Kings	31519	1225	3.89
Lunenburg	38363	2632	6.86
Pictou	30576	1585	5.18
Queens	13761	1931	14.03
Richmond	9960	1749	17.56
Shelburne	14792	1818	12.29
Victoria	7997	1175	14.69
Yarmouth	21105	2179	10.32
Totals	525650	36060	6.86

¹ "Rural Halifax" means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

² "Urban Halifax" includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area.

Table 6.2 contains information that may be contrary to what most Nova Scotians know about Nova Scotia. The South Shore is known as a popular haven for cottagers from outside the province, yet Lunenburg County shows only 6.86 percent of its tax accounts going to non-resident addresses. However, included in the information for Lunenburg County is information for Bridgewater, a sizeable town with a few thousand tax accounts, as well as data for the towns of Lunenburg and Mahone Bay. Lunenburg County also contains many cottages belonging to Nova Scotia residents. Much of the “Cottage Country” advertised on the radio and in the newspapers is located around the lakes of Lunenburg County.

The number of non-resident tax accounts in Guysborough County raises some questions. Guysborough is in a rural area with a resource-based economy — mainly fishing and forestry. There are few businesses with out-of-province addresses in this county with a declining population — from 11,724 residents in 1991 to 10,917 in 1996 (Statistics Division 1997). Kimberly-Clark Worldwide, the large forestry company which operates in the area, has a Nova Scotia office to which its assessment notices are sent. At the same time, 13.42 percent of tax accounts in Guysborough belong to people with out-of-province addresses. Is this because people have left Guysborough after the downturn in the fishery but held on to their land? Or is it because people from outside the province have been purchasing properties in the area?

Inverness, Richmond, and Victoria Counties raise similar questions — counties with declining populations and a high percentage of tax assessments sent to non-resident addresses. Shelburne and Queens Counties, on the South Shore, also have more than 10 percent of their tax accounts sent out of province, but since information for those areas is currently poor (see Table 6.3), it is not possible to probe further into the land ownership situation there.

The tax account situation in Digby County is also intriguing, but for another reason. There too, more than 10 percent of assessment notices go to an out-of-province addresses. However, Digby and Yarmouth Counties are areas where J.D. Irving Ltd. has extensive property holdings — about 200,000 acres in those areas (Borland *pers. comm.*).

While many of these properties are contiguous, they were purchased in separate parcels and have separate tax accounts. Unlike the other large forestry companies in the province, Irving has an out-of-province address; thus, all of their tax accounts show up as separate instances of non-resident owners. If Irving was counted as a sole owner, the number of non-resident tax accounts would decline in both Digby and Yarmouth Counties.

Other details about non-resident ownership emerge when rural and urban areas are compared. When the areas with the largest urban populations are removed from the provincial tally — Cape Breton Regional Municipality and the Halifax Regional Municipality — the percentage of non-resident tax accounts increases from 6.86 percent of all tax accounts to 8.73 percent of the tax accounts. In the Cape Breton and Halifax Regional Municipalities, non-resident tax accounts make up only 3.59 percent of all tax accounts. Non-residents make up a higher percentage of rural tax accounts than urban tax accounts.

Table 6.3 lists the proportion of tax accounts with adequate information for each county. The South Shore has a paucity of data available electronically, which is the reason none of those counties were selected for further examination. Several people interviewed for this study felt that the South Shore would be a good location for a case study. The other area that was often mentioned in interviews as a centre of non-resident ownership is Cape Breton, especially around the Bras d'Or Lake. As the table shows, the Cape Breton counties have fairly good information, with Victoria, Richmond and Inverness counties showing less than 15 percent of their tax accounts with inadequate information, and the Cape Breton Regional Municipality having even better information. When this table is compared with Table 6.1, it shows that properties with non-resident mailing addresses generally have as good information, and in some cases better information, than the county as a whole.

Table 6.3 Property Information for Non-Resident Tax Accounts			
County / Regional Municipality	Tax Accounts with Non-Resident Addresses	Non-Resident Tax Accounts with inadequate property information	% of Non-Resident tax accounts with inadequate information
Annapolis	1720	44	2.56
Antigonish	1081	193	17.85
Cape Breton	2495	220	8.82
Colchester	1404	249	17.73
Cumberland	2464	331	13.43
Digby	2818	111	3.94
Guysborough	1654	325	19.65
Rural Halifax ¹	2771	570	20.57
Urban Halifax ²	1609	453	28.15
Hants	831	47	5.65
Inverness	2943	379	12.88
Kings	1225	182	14.86
Lunenburg	2632	1201	45.63
Pictou	1585	137	8.64
Queens	1931	749	38.79
Richmond	1749	215	12.29
Shelburne	1818	1248	68.65
Victoria	1175	97	8.25
Yarmouth	2179	1536	70.49
Totals	36084	8287	22.97

1 "Rural Halifax" means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

2 "Urban Halifax" includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area.

The questions raised about the high percentage of tax accounts with out-of-province addresses in Victoria, Inverness and Richmond County, as well as the relative adequacy of the data in those areas, made them good sites for a case study. Guysborough County would also be a good site for a case study; however, the data is not as good for that area.

6.2.3 Non-Resident Land Ownership

Table 6.4 displays the amount of land held by the tax accounts with non-resident addresses. Only those accounts with adequate property information are incorporated, meaning this table is an underestimate of non-resident land holdings for the province.

County or Regional Municipality	Non-Resident Tax Accounts with adequate property information	Area owned by those in column 2 (km ²)	Area of County ¹ (km ²)	Non-Resident Holdings as % of County
Annapolis	1676	294.98	3203.66	9.20
Antigonish	888	292.43	1461.39	20.01
Cape Breton	2275	194.32	2472.91	7.86
Colchester	1155	102.96	3622.33	2.84
Cumberland	2133	382.31	4288.18	8.91
Digby	2707	641.32	2472.48	25.94
Guysborough	1329	356.88	4380.75	8.14
Rural Halifax ²	2201	348.34	5557.29	6.43
Urban Halifax ³	1156	9.17		
Hants	784	70.47	3504.74	2.01
Inverness	2564	361.57	3696.99	9.78
Kings	1043	58.39	2182.24	2.68
Lunenburg	1431	131.63	2880.44	4.57
Pictou	1448	323.92	2774.42	11.67
Queens	1182	43.32	2367.71	1.83
Richmond	1534	142.23	1230.2	11.56
Shelburne	570	56.90	2356.52	2.41
Victoria	1078	378.24	2767.87	13.67
Yarmouth	643	257.75	2070.71	12.45
Totals	27797	4447.03	52840.83	8.42

¹ County areas are from the Nova Scotia Resource Atlas (Dept. of Development 1986). Although the total area of the province is not the sum of the county areas given, it is the figure given in the Atlas.

² "Rural Halifax" means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

³ "Urban Halifax" includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area.

Existing data show more than 10 percent non-resident ownership in several counties — even with 9.85 percent of the properties in the province showing no mailing addresses, and even with missing property information for many of those property

accounts. The impact of the missing information is obvious in Queens County. In that county, 14.03 percent of the tax bills were sent to out-of-province addresses, yet our tally of the area owned shows only 1.83 percent of the county is held by non-resident owners. Nearly 40 percent of the non-resident tax accounts had no property information. For all areas, the amount of non-resident ownership portrayed in Table 6.4 is an underestimate, but especially for Queens, Shelburne, Lunenburg, and Yarmouth Counties.

Interesting questions are raised by the information that is present in the table. Victoria, Inverness and Richmond Counties have a high percentage of land held by non-resident ownership. The attractions for non-resident purchasers could be the Bras d'Or Lake, on which all three counties border, and the cheap price of land in Cape Breton compared to other areas. Victoria and Inverness counties also share Cape Breton Highlands National Park and have a high percentage of provincial Crown land. In Victoria County, 51.33 percent of the county is provincial Crown land, most of which is leased by Stora or held in candidate protected areas.¹³ At least another 13.67 percent of the county is in the hands of non-residents and about 10 percent falls within the national park, leaving only about 35 percent of the county's land area. This land ownership situation could account for the rejection of the new candidate protected areas by some residents. In adjacent Inverness County, 41.67 percent of the county is provincial Crown land and at least 9.62 percent of the county is held by out-of-province owners. Another 8 percent of the county is federal Crown land, leaving only about 40 percent of the county's land area.

Yarmouth County has only 29.51 percent of its non-resident tax accounts included in the tabulation of area, yet shows the fourth highest percentage of non-resident ownership in the province. This is likely because of the Irving forest properties which are concentrated in southwest Nova Scotia. J.D. Irving Limited also owns a great deal of land in Digby County, which shows just over a quarter of its area held by out-of-province owners.

¹³Information on provincial Crown land holdings is from Steeves, *pers. comm.*

Guysborough County shows at least 356.88 km² owned by people from outside the province. This is almost twice the amount in the estimate prepared for the provincial working group on non-residents in 1995. This suggests that the information in the property records database has improved, or there have been a great number of land transactions recently in Guysborough County.

The next table, Table 6.5, further breaks down property ownership by categories of residence: Canadians from outside the province, Americans, and other owners. The break-down of categories is by tax account and includes all tax accounts to show the proportion of non-residents for each category. The next table, Table 6.6, includes only the tax accounts with adequate property information.

By far the highest proportion of non-resident owners come from within Canada: more than half the non-resident owners have Canadian addresses. These owners include businesses with offices that handle property taxes in other parts of the country. However, a high proportion of non-resident owners come from outside the country. When the database is examined entry by entry, it shows that the majority of the non-Canadian, non-US owners are from Germany. Since the address code for Germany has not been standardized in the address database, it is difficult to tabulate the number of owners with German addresses. Comparing Table 6.5 with Table 6.6 shows that the tax accounts from outside Canada and the US have generally better information than the Canadian and American accounts; 86.23 percent of the “other” accounts have good information, compared with 76.68 percent for the Canadian accounts and 72.29 percent for the American. Even in areas with generally poor information, owners in the “other” category have better information. It is possible that this reflects a wave of new buyers in the “other” category, who have bought land since the electronic databases were set up — although this statement is purely speculative. The property information for land that had recently been bought would have been recently checked and confirmed.

Table 6.5 Categories of Non-Resident Owners			
County or Regional Municipality	Categories of Non-Residents		
	Tax Accounts with Canadian Addresses	Tax Accounts with US Addresses	Other Tax Accounts (Addresses outside Canada and the US)
Annapolis	939	577	204
Antigonish	681	325	75
Cape Breton	1952	411	132
Colchester	1115	231	58
Cumberland	1991	391	82
Digby	1188	1407	223
Guysborough	745	651	258
Rural Halifax ¹	1737	779	255
Urban Halifax ²	1501	76	32
Hants	665	132	34
Inverness	1487	1074	382
Kings	956	211	58
Lunenburg	1461	754	417
Pictou	1224	313	48
Queens	732	489	710
Richmond	795	420	534
Shelburne	604	1046	168
Victoria	569	557	49
Yarmouth	803	1136	246
Totals	21145	10974	3965

1 "Rural Halifax" means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

2 "Urban Halifax" includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area

Queens County shows how better information for one category can skew perception of the results. Looking only at Table 6.6, it would seem that non-residents from outside Canada and the United States are more numerous and hold more land than the other two categories. When that is compared with Table 6.5, it is evident that is not the case. Although there were roughly the same number of tax accounts in both the "Canada" category and the "other" category for Queen's County, the proportion of

properties in the “other” category with good information was higher than the other two categories.

Table 6.6 Land Held by Category of Non-Resident Owner¹						
County or Regional Municipality	Categories of Non-Residents					
	Tax Accounts with Canadian Addresses		Tax Accounts with US Addresses		Other Tax Accounts (Addresses outside Canada and the US)	
	Number of Accounts	Area (km ²)	Number of Accounts	Area (km ²)	Number of Accounts	Area (km ²)
Annapolis	905	133.08	568	151.55	203	10.25
Antigonish	539	238.33	279	47.44	70	6.66
Cape Breton	1749	118.84	400	60.26	126	15.21
Colchester	902	74.42	199	22.05	54	6.49
Cumberland	1703	335.48	359	30.48	71	16.35
Digby	1124	514.36	1371	115.32	212	11.60
Guysborough	558	56.99	547	101.07	224	198.82
Rural Halifax ²	1357	87.00	629	41.77	215	219.56
Urban Halifax ³	1066	8.16	60	0.91	30	0.10
Hants	625	53.22	125	14.95	34	2.29
Inverness	1261	118.04	963	192.68	340	50.85
Kings	784	38.44	202	16.14	57	3.81
Lunenburg	777	97.31	315	19.10	339	15.22
Pictou	1104	280.05	299	36.61	45	7.27
Queens	348	16.56	210	11.26	624	15.50
Richmond	700	54.67	358	52.99	476	34.56
Shelburne	190	20.12	280	25.20	100	11.58
Victoria	517	147.47	516	220.29	45	10.49
Yarmouth	236	235.48	253	12.26	154	10.01
Totals	16445	2630.02	7933	1174.33	3419	648.62

¹ Includes only the tax accounts with adequate property information.

² “Rural Halifax” means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

³ “Urban Halifax” includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area

The information for Yarmouth and Digby Counties reinforces the theory that much of the non-resident land in those counties is owned by J.D. Irving. The vast majority of known non-resident owners in those two counties have Canadian addresses.

The break-down of non-resident owners in Guysborough County raises more questions about the ownership situation in that area. Although only 224 of Guysborough's non-resident tax accounts with adequate information are from outside Canada or the United States, those owners hold 55.71 percent of the land owned by non-residents. Why is so much more land held by that group of non-residents?

In Shelburne County, there are more tax accounts with American addresses than with Canadian and other addresses combined. Digby, Victoria, and Inverness Counties also have a high proportion of non-resident addresses. Accounts with US addresses own the most land of the non-residents in Victoria and Inverness Counties.

6.2.4 Land Ownership Summary

The following table shows a summary of the land ownership figures available for the province. It lists some of the large land owners and those who lease large areas of Crown land. The intent is to show the distribution and availability of land among different land users.

Although land known to be owned by non-residents makes up only 8.42 percent of the area of Nova Scotia, this number is a significant amount when ownership by other groups are considered. Table 6.7 shows that a great deal of Nova Scotia's land is devoted to forestry. Stora Port Hawkesbury manages almost 12 percent of Nova Scotia through its own holdings and a management agreement on Crown land in the eastern Counties. Kimberly-Clark Worldwide owns or leases 9.2 percent of the province, and Bowater Mersey owns 4.7 percent outright. Because J.D. Irving has a license agreement for a volume of wood on Crown land and not for a specific area of land, it is difficult to estimate their control of Nova Scotia's forests. The amount owned or controlled by Irving will increase since J.D. Irving Ltd. is constantly purchasing new properties in the southwestern part of the province (MacDonald 1998).

Table 6.7 Property Ownership in Nova Scotia			
Category of Owner*		Area Owned (km ²)	% of Province
Non-Residents (from known information)	Non-residents - 4447.03 km ²	4407.03	8.42
	J.D. Irving - 809.72 km ² (partially or wholly included in the above total)		
Large Forestry Companies Registered in NS	Bowater Mersey - 2500 km ²	6778.58	12.83
	Kimberly Clark - 4048.58 km ²		
	MacTara Sawmill (undisclosed)		
	Stora - 230.00 km ²		
Provincial Crown (15 480.96 km ²)	leased to Stora - 6070.30 km ²	15 480.96	29.30
	leased to Kimberly Clark - 821.53 km ²		
	volume agreement with Lewis Sawmills Ltd. (J.D. Irving) (1000 Mfbm/year)		
	volume agreement with Hefler Forest Products Ltd. (1000 Mfbm/year)		
	volume agreement with Sproule Lumber Ltd. (3,195,000 cubic feet/year)		
	volume agreement with MacTara Sawmill (up to 2,400,000 cubic feet/year)		
	volume agreement with Harry Freeman & Son Ltd. (1000 Mfbm/year)		
Federal Crown		3111.95	5.89
Indian Reserves		114.58	0.22
All other land**		22947.69	43.43
Whole Province		52840.83	100***

* Information on ownership and crown land leases by forestry companies is from Borland (*pers. comm.*), Eidt (*pers. comm.*), Pannozzo (1998), and Peters (*pers. comm.*). Information on provincial Crown land is from Steeves (*pers. comm.*); federal Crown land is from Reid (*pers. comm.*); reserve land is from Comeau (*pers. comm.*).

**Land in the "all other land" category may include land which should be in another category, but for which there is not enough information to place it in that category.

*** Percentages do not add up because of rounding.

Land not owned by the federal or provincial Crown, non-residents, or large forestry companies makes up 43.43 percent of the province, according to the known

information. This percentage was obtained by subtracting all the other groups of owners from the total land in the province; if the amount held by the other groups increased because of better information, this percentage would decrease. Still, this is the largest proportion of owners and means that a good deal of land is held by private individuals or businesses in Nova Scotia. However, the proportion of private, resident owners varies from county to county. Kings and Hants Counties have little Crown land, few non-resident owners, and few holdings by the large forestry companies. Victoria and Inverness Counties, as discussed earlier, are facing more pressures on the land available for local activities because of a high percentage of Crown and non-resident ownership.

It is hard to draw any conclusions on whether or not the rate of non-resident ownership is increasing based on the existing data. A newspaper article from a few years ago stated that 8.79 percent of the province was held by out-of-province owners according to assessment records (Tibbets 1990). That estimate was likely based on paper records and probably included information on more properties than available for this study. By compiling information from the property databases, this author found that at least 8.42 percent of the province held by non-residents.

The percentage of land owned by non-residents is higher than that, and could be much higher. The land ownership figures presented in the tables are from 77.03 percent of the non-resident tax accounts and 71.61 percent of the property records. If we assume that the current total of non-resident holdings, 4447.03 km², also represents 77.03 percent of the area held by non-residents, the total holdings would be 5773.11 km² — 10.93 percent of the province. If we assumed instead that the current total represents 71.61 percent of the total area held by non-residents, the total holdings would be 6210.07 km², or 11.75 percent of Nova Scotia's area. Because so much of the data is missing, it is not valid to extrapolate the findings in that manner. In fact, non-resident holdings could be much less — or much greater — than that amount.

6.3 Conclusion

It is difficult to develop an accurate picture of land tenure in the province because of problems with the existing data. The property mapping and assessment databases were not set up with the aim of tracking non-resident ownership. Using these databases for the purposes of the *Land Holdings Disclosure Act* would be a tedious task, since not all non-residents have out-of-province addresses, and businesses with out-of-province addresses are not required to register under the Act yet would be identified as non-residents using the database. Nor would the databases show the purpose for which the land was acquired as required by the disclosure statement. Despite the limitations of the data, the tables presented in this chapter raise questions about why there are particular patterns of land ownership in certain areas.

The information on land tenure does not show land use, which is a vital factor. Ownership of land is important but so is what those owners do with their land. For example, the non-resident owners in “Rural Halifax” include businesses which have warehouses at the airport and the ones in “Urban Halifax” include store and gas station owners. Some categorization of property use — such as property for business, recreational, or residential purposes, as well as the type of business use — would provide much more useful information than just raw figures on non-residential ownership.

Knowing the location of non-resident holdings would be useful for land management decisions. For example, Kings County shows only a small percentage of its land held by non-residents. But if that land is prime farmland, which is falling fallow, it could be an issue of significant concern for the county. The ownership of waterfront land — which is highly valued for recreational purposes — is an issue throughout the province. Earlier studies of the Bras d’Or Lake and Annapolis County showed that non-resident ownership was concentrated along the shoreline (Antoft et al. 1971; Bulger 1991). Whether or not the land is found within a rural area or a town or city is also important for land management decisions.

Another factor at work in Nova Scotia may quickly change the mix of land owners in the province. Nova Scotia is facing increasing migration from small, coastal

communities. With the decline of the groundfishery, many families and individuals are leaving rural areas and selling their homes to vacationers. Although Nova Scotia has traditionally welcomed summer visitors, the continued departure of permanent residents and their replacement by sojourners will affect the character of the province's communities. This change could happen before we know it since Nova Scotia currently can not accurately track non-resident ownership.

Land ownership knowledge is essential to making informed land management decisions. Knowing who owns the land will make it possible to analyse impacts of ownership change and formulate policy. Yet, although this data gives some idea of the breakdown of landownership in the province, it tells nothing about whether or not the level of non-resident landownership is having an effect on local people and the environment. At what level does non-resident ownership become critical? Knowing that is only possible through examining the land uses and the locations of non-resident owners in the local area. The next chapter will take an in-depth look at non-resident ownership in Richmond County, Nova Scotia, and explore issues related to non-resident owners in that part of the province.

Chapter 7

Richmond County

Land is the most valuable commodity we have, it's the basis of all life.

R. Bouman, Canadian Pioneer Estates, Richmond County

7.1 Introduction

Richmond County is a rural county on Cape Breton Island, Nova Scotia. It is Nova Scotia's smallest county in area and the second smallest in population. Most of its communities are scattered along Richmond's lengthy coastline. The county borders both the Bras d'Or Lake and the Atlantic coast, linking the two bodies of water at St. Peter's canal. The distance between the two shores is never very far — about 10 miles as the crow flies at the widest point in the western part of the county, and about 22 miles in the eastern part of the county. Figure 7.1 shows the location of Richmond County in Nova Scotia.

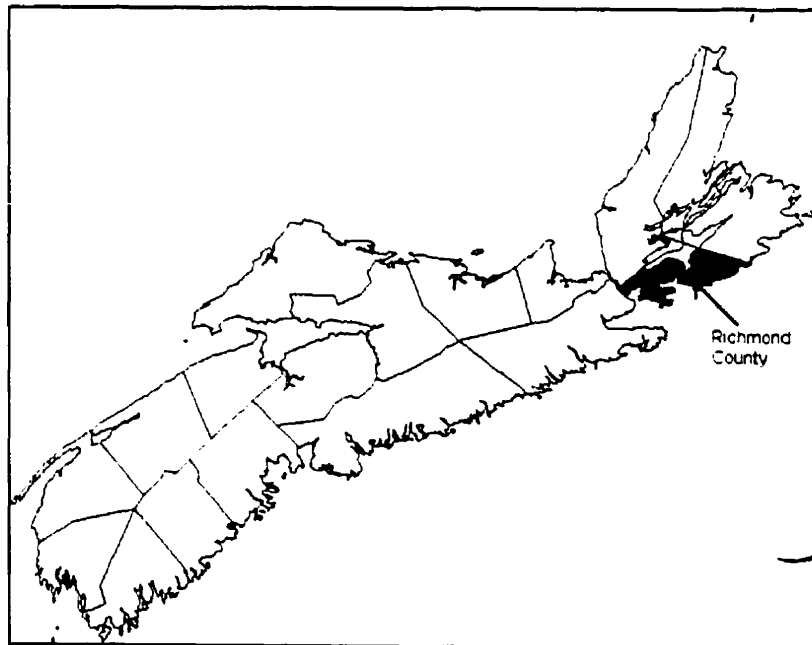


Figure 7.1 Map of Nova Scotia, Richmond County Shaded

This chapter will present the results of the case study on land ownership in Richmond. In the last decade, Richmond has seen numerous multi-lot subdivisions — an anomaly in a rural county with a declining permanent population. The new subdivisions in Richmond have brought in seasonal residents from Germany, Austria, Switzerland and other European countries. Because of the influx of Europeans, many of the people interviewed for the study used the words “non-resident”, “European” and “foreigner” interchangeably. The land ownership situation in the county will be described, and the applicability of the tenure concerns and land use conflicts outlined in previous chapters will be discussed.

Key informants in Richmond County were interviewed: county councillors, people who work with land and assessment information, people whose businesses benefited from the new developments, and others who were considered by key informants to have an important perspective or valuable information on non-resident ownership in the county. These fourteen semi-structured interviews were used to give context to the material in the literature and the quantitative information about the county and are not intended to be a comprehensive survey of opinion in the county. The interviews do represent people from diverse backgrounds, opinions and perspectives on non-resident owners in Richmond. They are intended to highlight the various issues that have been raised about non-resident owners.

7.1.1 Description

Richmond County had 11,022 residents in the 1996 Census, a 2 percent decrease from 1991. The county itself is only 1230.2 square kilometres (Dept. of Development 1986), so although there are few residents, distances between communities are never vast. The northeastern section of the county is the most sparsely populated, with only 2,074 residents on the northeastern side of the St. Peter’s canal (Statistics Division 1997). The small towns and villages which make up Richmond County each have less than 1000 residents.

Resource industries have long been an important part of Richmond's economy. Fishing spurred the settlement of Isle Madame and other communities along the Atlantic coast. Forestry was an important employer in the interior areas. A large proportion of the county's population works in Port Hawkesbury, just outside the border of Richmond County, or at Point Tupper, an industrial area next to Port Hawkesbury.

Richmond County has a rich cultural heritage. There is a Mi'kmaq community within the county at Chapel Island on the shores of the Bras d'Or Lake. It is one of the oldest Mi'kmaq settlements in the province and was once home to the Confederacy of Eastern Natives. The first Europeans to settle in the county were Portuguese fishermen, who briefly established a fishing station. The French set up a trading post at the present-day location of St. Peter's and the descendants of Acadian settlers still live in the county. Waves of Scots, English, Irish, and American immigrants have followed over the years.

7.1.2 Natural History

The *Natural History of Nova Scotia* (Davis and Browne 1996b) divides the province into areas called theme regions, according to the living and non-living features of all of these areas. Each region is further subdivided into districts and some of the districts are broken down into units. Richmond County contains portions of six different landscape areas: the Sporting Mountain and East Bay Hills (330a and 330b), the Salmon River Lowland (512), the Bras d'Or Lake Lowlands (560), the Sedimentary Lowland (860), and the Till Plain (870).

The Sporting Mountain and East Bay Hills are fault ridges. They have less severe climates than other upland regions of the province due to their lower elevations and the moderating effect of the Atlantic Ocean and Bras d'Or Lake. Uplands have higher precipitation and cooler temperatures than other regions of the province. They provide good habitat for moose, bear, bobcat, and other mammals (Davis and Browne 1996b). Although some small farms existed in the uplands, the land is poorly suited for crops, most of it rating a 7 (no capability for agriculture) in the Canada Land Inventory for Agriculture (Davis and Browne 1996a).

Most of Richmond County falls in a lowland area. The entire area bordering Chedabucto Bay is called the Sedimentary Lowland district. Most soils in the area are rated Class 3 to 4 for agriculture: moderately severe to severe limitations. The cool climate further restricts agricultural capability. Wetlands found throughout the area support specialized communities of plants and animals. Region 870, the Till Plain, is the section of the county directly on the Atlantic coast, from Red Point to Fourchu. There are many freshwater wetlands, streams, and lakes within the flat landscape that provide habitat for a variety of plants, fishes, insects, and birds. The other two lowland areas, the Salmon River Lowland and the Bras d'Or Lake Lowlands, make up only small parts of the county. The Salmon River Lowland runs from the county line to Hay Cove, north of Lakes Uist and Lomond and south of the East Bay Hills. The Bras d'Or Lake Lowlands run along the entire shore of the Bras d'Or Lake. The landscape has few bogs or barrens, although streams and lakes are found in the lowlands. Some fresh water and salt water marshes also occur throughout these areas.

The county as a whole has a fairly cool climate with high rainfall, even cooler along the Atlantic coast, although the area within Chedabucto Bay is sheltered and warmer than the rest of the area (Davis and Browne 1996a). The agricultural capability of the county is very limited, although some farming operations are scattered through the county. Natural forests have been altered by farming and forestry. Some old farms have been abandoned and farm fields have returned to early successional forests. Fishing is an important resource along the Atlantic coast, although strongly affected by the overall downturn in that sector, while forestry is important throughout the entire county.

7.1.3 Municipal Services

The county's population is scattered, making the cost of providing municipal services high (Municipal Development n.d.). Central sewer and water services are provided in four areas: St. Peter's, Louisdale, Arichat, and central Petit-de-Grat. When the new hospital was built on River Inhabitants, lines were extended from Louisdale. People living on the line were also provided with central services. It is considered to be

too expensive to extend those services to other parts of the county, although there are problems with leaching septic tanks in West Arichat and D'Escousse (Cotton).

The Municipality pays the operating expenses for the volunteer fire departments and pays for policing services from the RCMP. It provides garbage collection, street lights, and some recreational services. It also pays for snowclearing done by the province on "J" class roads; other roads in the county are the province's responsibility. The Municipality collects money for education which it remits to the Province, who sets the education budget.

7.2 Land Tenure

7.2.1 County Overview

Richmond County has 9936 property tax accounts.¹⁸ Some contiguous pieces of property have more than one tax account because the pieces making up the property were acquired separately, or the building and land are held by different owners (Bourque). The information in the following tables was derived in the same manner as described in Chapter 6 and has the same limitations. Tax accounts with addresses outside the province make up 17.56 percent of all tax accounts in Richmond (see Table 7.1).

Table 7.1 Richmond County Property Tax Accounts		
Category of Property Owner	Number of Tax Accounts	% of Total Tax Accounts
All Tax Accounts	9960	100
Nova Scotia Tax Accounts	8211	82.44
Non-Resident Tax Accounts	1749	17.56

Of those 9936 tax accounts, 8302 have information on property size, location, and a mailing address for the owner (see Table 7.2). The information on properties owned by

¹⁸Richmond County has 12,548 properties listed in the property information database. Of those, 2,588 have no tax account and are excluded from all calculations in this chapter. In total, 33.65 percent of the properties have no tax account (and thus no mailing address) or no property information. See also Appendix B.

persons outside the province is better than properties inside the province, perhaps because a fair number of the non-resident properties are in subdivisions which have been recently surveyed and are properties which changed hands in the last ten years. Transactions provide opportunities to update property information found at the Registry of Deeds and subsequently transferred to assessment and other property records held by the Department of Housing and Municipal Affairs.

Table 7.2 Property Information for Tax Accounts, Richmond County			
Category of Tax Account	Number of Tax Accounts	Number of Tax Accounts with Adequate Property Information	% of Tax Accounts with Inadequate Information
All Tax Accounts	9960	8326	16.41
Nova Scotia Tax Accounts	8211	6792	17.28
Non-Resident Tax Accounts	1749	1534	12.29

Table 7.3 breaks down the non-resident category by nationality. Canadian non-resident owners make up 45.45 percent of the non-resident tax accounts. Twenty-four percent of the mailing addresses are American, and 30.53 percent are from other parts of the world. An entry-by-entry inspection of the database revealed that most of the addresses in the "other" category are German, with some from Austria, Liechtenstein, and Switzerland. Very few of the "other" addresses are outside Europe.

Table 7.3 Categories of Non-Resident Owners, Richmond County				
Category of Non-Resident	No. of Tax Accounts	% of Non-Resident Accounts	Number of Tax Accounts with Adequate Property Information	% of Tax Accounts with Inadequate Information
Canadian (Non-NS)	795	45.45	700	11.95
American	420	24.01	358	14.76
Other Non-Resident	534	30.53	476	10.86
All Non-Residents	1749	100*	1534	12.29

*Percentages do not add up because of rounding.

Table 7.4 shows the amount of land owned by non-residents in Richmond County, of those property tax accounts with adequate information. Although there are only 358 tax accounts with American mailing addresses, those accounts hold a combined 52.99 square kilometres of the county. The average property size for those accounts is 36.57 acres.

Table 7.4 Richmond County Non-Resident Land Ownership		
Category of Non-Residents	Number of Property Tax Accounts*	Area Owned (km ²)
Canadian addresses (not NS)	700	54.67
American addresses	358	52.99
Other non-NS addresses	476	34.56
All non-resident addresses	1534	142.23

* This information is solely from the number of properties with adequate property information.

Table 7.5 shows further information on property ownership in Richmond County. As can be seen from the table, at least 11.56 percent of the county is held by persons with out-of-province mailing addresses.

Table 7.5 Property Ownership in Richmond County			
Category of Owner		Area Owned (km ²)	% of County
Non-Residents (from known information)		142.23	11.56
Large Forest Companies Registered in NS	MacTara Sawmill (0.81 km ²)	9.12	0.74
	Stora (8.31 km ²)		
Provincial Crown (390.66 km ²)	leased to Stora (330 km ²)	390.66	31.76
	other (approx. 60 km ²)		
Federal Crown		14.7	1.19
Indian Reserves		5.93	0.48
All other land*		667.56	54.26
Whole County		1230.2	100

*This likely includes land which should be in one of the other categories; however, not all properties in the other categories have property information available.

Since no information on property size is available (electronically at least) for 12 percent of the tax accounts in the non-resident category, the amount of land held can be somewhat or even substantially more. Another 31.76 percent of Richmond County is provincial Crown land, which is leased almost in its entirety by Stora Port Hawkesbury. A very small portion of the county falls within the Reserve at Chapel Island. This leaves 54.26 percent of the county, most of which is likely held by residents of Nova Scotia. The Nova Scotia residents do not all live or work in the county; many people from Sydney and Halifax have vacation homes along the Bras d'Or Lake.

7.2.2 Waterfrontage

Waterfront properties are highly valued by many people (as assessment values will later show). The recreational capability for the land on both the Atlantic coast and Bras d'Or shore of Richmond County is among the highest in Nova Scotia, according to the Canada Land Inventory (Davis and Browne 1996a). The area around the Bras d'Or Lake is especially highly valued; the Bras d'Or Lake is well-known for boating, and hills rising above the lakeshore make shoreline properties exceptionally scenic.

In 1971, a study of ownership of the Bras d'Or shoreline was carried out and found that 266 of 1665 owners with waterfront properties (16 percent) were from outside the province (Antoft et al.). This study broke down ownership even further, classifying owners as non-resident but living in Cape Breton, and non-resident living in Nova Scotia. Only 45 percent of the properties were owned by people with addresses in the same county as the property. The study looked solely at waterfront properties greater than one acre in area; smaller properties were not considered. It is interesting to note there was no category for non-residents outside Canada or the United States; European vacationers had not yet "discovered" Cape Breton.

In 1974, Wilmshurst and MacNeill compiled information on shoreline ownership from non-resident disclosure forms. They found that 19 percent of the Bras d'Or shoreline was held by non-residents. The Richmond County portion of the Bras d'Or shoreline was largely owned by Nova Scotians; however, 21.6 miles (34.75 km) of frontage on the Bras d'Or Lakes was owned by non-residents, or 17.5 percent. Today, the picture depicted by the available information has somewhat changed.

Not only Bras d'Or waterfrontage, but lakes and rivers in the interior have a significant amount of non-resident ownership. River Inhabitants has a few subdivisions with non-resident owners. Loch Lomond, in the interior of the northern part of the county, has a large group of non-resident owners clustered on the southern and western shore of the Lake (see Figure 7.3).

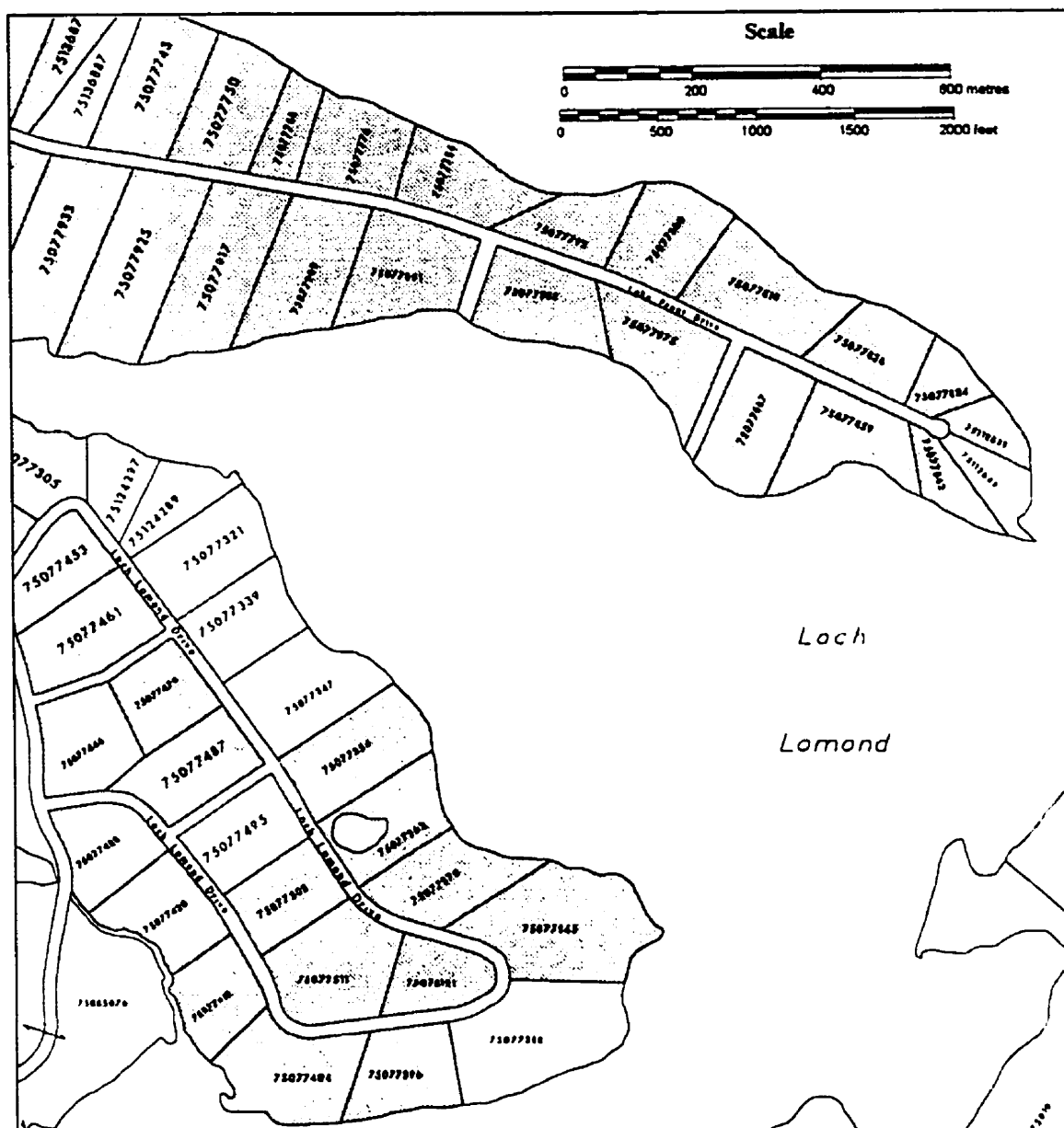


Figure 7.3 Map of southwest Loch Lomond (properties held by non-residents are shaded)

The River Inhabitants-Walkerville area was thought to be a centre of non-resident ownership in the County. Figure 7.4 confirms that the Walkerville shoreline has a high concentration of non-resident property owners (see Figure 7.4).

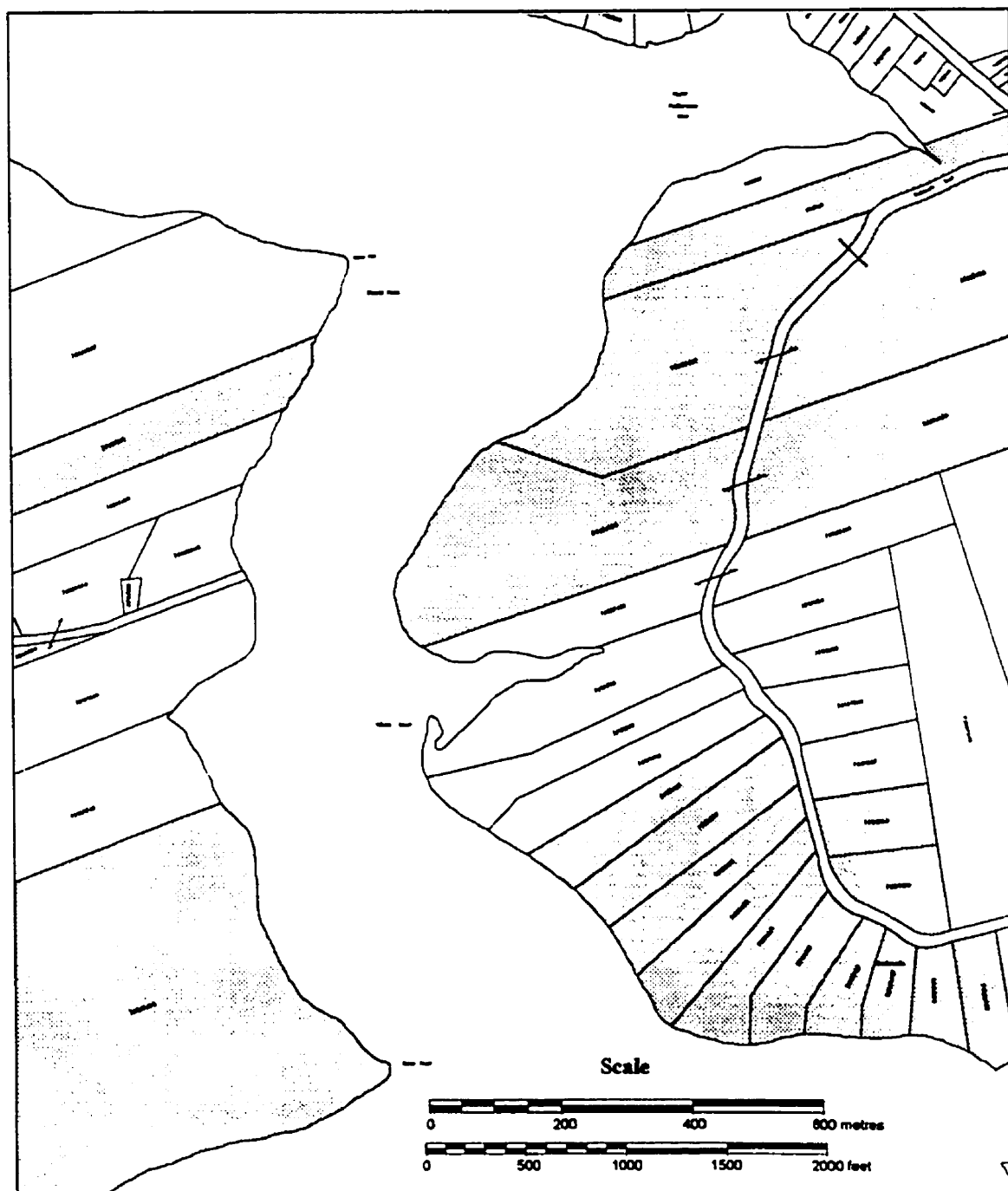


Figure 7.4 Map of Coastline near Walkerville (Properties held by non-residents are shaded)

It is estimated that at least 155 kilometres of the total salt water shoreline of Richmond County is owned by non-residents. This is about 18 percent of the total shoreline of the county, a significant increase from the 1974 tabulation which ascribed 7.25 percent of the salt water frontage to out-of-province owners (Wilmshurst and MacNeill 1974). There are long stretches of shoreline where there is none or very little non-resident ownership and areas where non-resident owners are highly concentrated. Appendix C is a map of all the properties in Richmond County, with properties with non-resident tax accounts highlighted in yellow.

7.2.3 Subdivisions

In Richmond County, non-resident owners are spurring the development of subdivisions. The permanent population of the county actually declined from 1991 to 1996, yet in that same period, 22 final plans for subdivisions of four lots or more were received, with a total of 389 lots. From 1996 to April, 1998, another 22 plans with a total of 242 lots were received. The creation of these lots was not in response to local demand — the subdividers expect that people from outside the county will want to buy a piece of Richmond.

Concern about non-resident ownership in the county was catalysed by the presence of a developer in the county, Canadian Pioneer Estates Limited. They have a sales office in Auld's Cove, on the mainland side of the Canso Causeway. Their bright yellow, bilingual (English-German) signs can be seen there and at locations throughout the county. Canadian Pioneer Estates Limited marked a sudden and highly visible expansion of a specific type of sales to non-residents: subdivisions of recreational developments. Since 1993, the company has submitted 12 final plans for subdivision in Richmond County, with a total of 188 lots. Other developers are also involved, although they don't have the visibility of Canadian Pioneer's bright yellow signs.

Richmond County had seen subdivisions before, but they had been on a much smaller scale and not as successful (Participant 5). Either the new entrepreneurs have better connections to foreign buyers, or some combination of circumstances made land in

Richmond County more attractive to people from outside the country. Whatever the reason, the new subdivisions, the new cottages, and the flood of German visitors have given people in Richmond County a lot to talk about.

The president of Canadian Pioneer Estates is Rolf Bouman, a German who moved to the area about twelve years earlier and is now a permanent resident of Canada.

Bouman is the target of much of the local concern about subdivisions, and other people who work with non-residents have suggested that he may be too visible in the area (Participant 17). Other developers have also created a large number of new lots but do not have the same profile, and their subdivisions are not the subject of as much discussion. At the same time, Bouman is well-respected in the area. He is known for building his subdivisions to high standards and employing local people. County Councillor Shirley MacNamara, who believes there should be limits on non-resident ownership, said that Bouman “is doing a very good job with the subdivisions. I respect him greatly. He’s making vast amounts of money — but I don’t blame him for that. People are selling the land to him.”

Bouman is known for his non-traditional stand on non-residents, that is, non-traditional for someone who makes a living selling land to non-residents. He addressed the Richmond County Council last year and suggested that a limit be placed on the amount of land an individual non-resident can purchase. He said five acres was adequate for a foreigner buying a recreational property. Although this limitation may seem solely self-serving — if people with large lots of land wanted to sell it, they would likely have to sell to a land developer like Bouman — Bouman is worried about the impact of a high volume of land transfers to Europeans. He commented:

Some Canadians are in favour, others are against it, but I think foreign ownership is very good. Canadians have ancestors from all different countries. You have to allow people to buy land here, but not so much that Canadians are being pushed to the side (Bouman).

Besides Canadian Pioneer Estates, many other companies have bought and subdivided lands and are in the process of selling them to Europeans and other

vacationers. In 1996, Walkerville Estates submitted a final plan for 18 lots at Walkerville; in 1997, Torus Country Lands submitted a tentative subdivision plan for 81 lots at Cape George and Sunset Gate Developments submitted a preliminary plan for 31 lots at St. George's Channel. The H.M. Dignam Corporation has properties scattered throughout the county; the Summer Cottage Company has properties in Roberta; Sunset Gate Developments has properties in West Bay; Treasure Quality Products Inc. has properties in the Evanston and Walkerville areas. Some of these subdivisions are fairly new or have not yet sold well; however, it is evident that the subdivisions were set up with the European market in mind.¹⁹ With hundreds of new building lots, Richmond County's capacity for housing developments is far beyond the need of the local population.

7.2.4 Other Areas in Richmond County

The recent blossoming of subdivisions masks the fact that a good part of Richmond County has been held by non-residents for quite a while. Although waterfront properties on the Bras d'Or Lake and subdivision lots throughout the county are the most visible and well-known examples of out-of-province ownership in Richmond County, in fact, many properties in other areas have non-resident owners.

Isle Madame is not considered to be a centre of non-resident ownership by local people. But as the map of the shoreline near Janvrin Harbour shows, non-residents actually own quite a few properties on the Island (see Figure 7.5).

¹⁹Two study participants who worked regularly with non-residents believed there had been a downturn in sales in the last two years and felt the market was flatter than it had been a few years earlier.

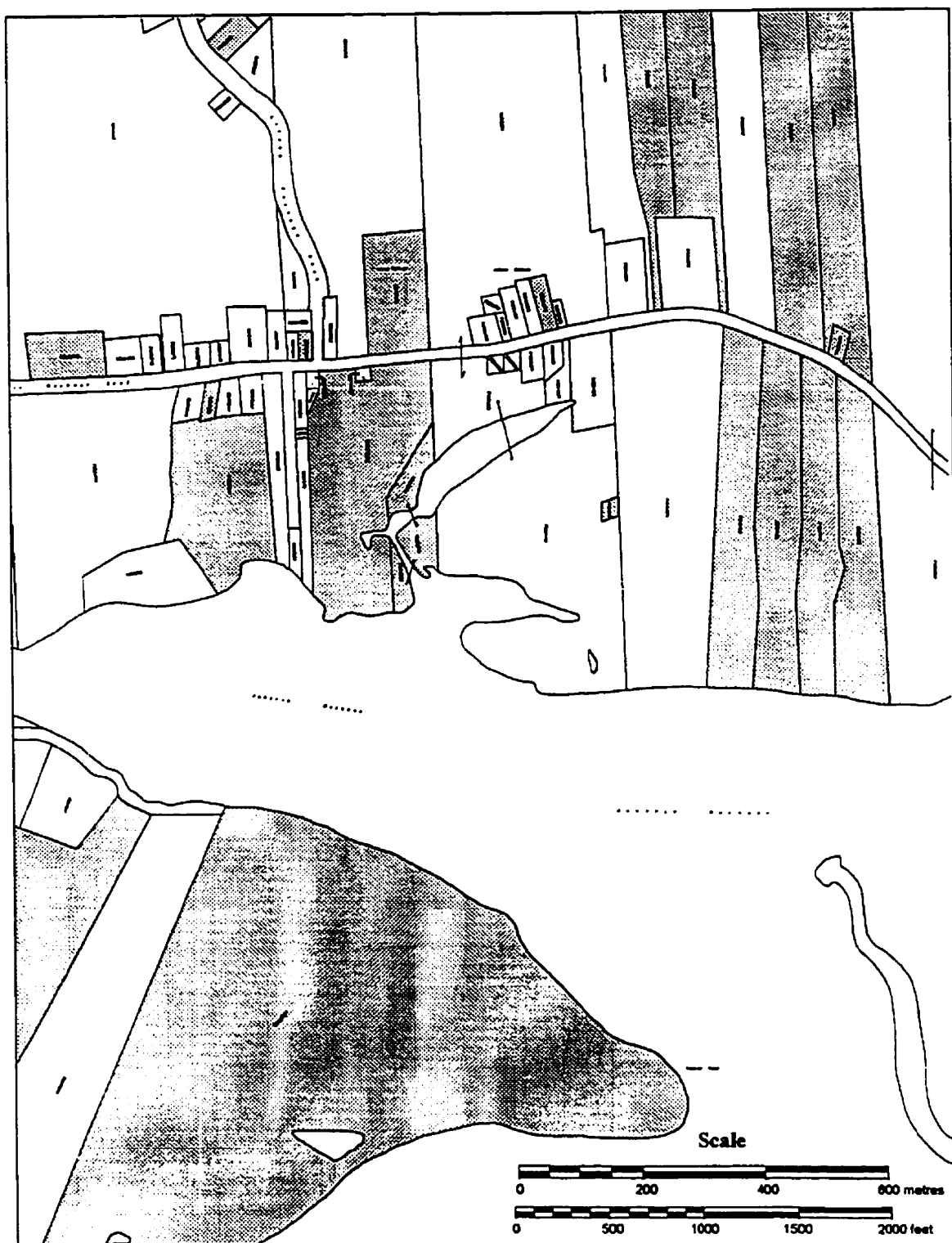


Figure 7.5 Map of coastline, Janvrin Harbour (properties held by non-resident owners are shaded)

Another area that was not brought up in discussions of non-resident ownership was the sparsely populated eastern section of the county. However, the area near St. Esprit and Fourchu has many beautiful oceanfront properties with out-of-province owners (see Figure 7.6).

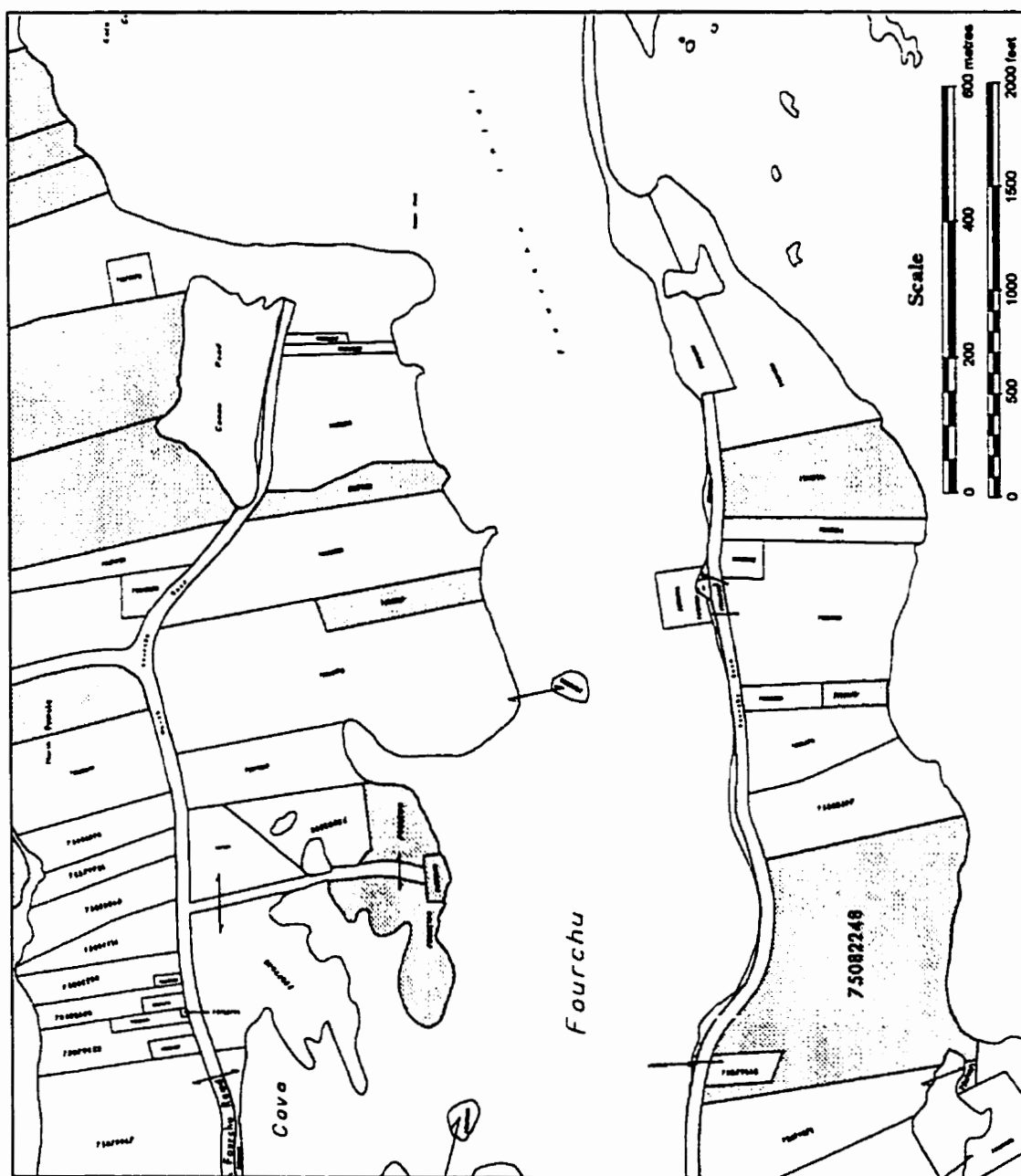


Figure 7.6 Map of coastline near Fourchu (properties held by non-residents are shaded)

7.3 Issues Related to Non-Resident Ownership

7.3.1 Landscape

Cape Breton is well-known for its beautiful scenery and Richmond County has many striking vistas and scenic roads. According to Millward and Allen's (1994) scale, areas of Richmond overlooking the Bras d'Or Lake have very high scenic landscape values while those adjacent to the Atlantic coast have moderately high to moderate scenic values. Any visitor to the county can attest to the beauty of its shoreline areas. Richmond County has now become a refuge from urban sprawl and the lack of natural space surrounding most urban centres.

Despite the great attraction of Richmond County's natural scenery, most of the people interviewed for the study expressed more concern that the land would be bought and remain undeveloped, rather than concerns about the impacts of the development. There is a general perception that a lot of Nova Scotia is not being used for anything and should be developed — otherwise the land is “just sitting there.” Councillor Gerry Bourque expressed an opinion common to many interviewed, “A lot of Americans bought land and never did anything with it. They buy land and are sitting on it.” In comparison, many of the Europeans who recently bought land in the county have built “cottages” on their properties, which have given support to local businesses.

It was generally agreed that the natural features were a major draw for the new European purchasers, and most wanted to preserve that atmosphere. As one study participant commented, “Most of the non-residents want the trees and are very protective of the environment” (Participant 17). In fact, some of the county's new landowners -- both immigrants and seasonal residents — have expressed concerns that the new developments will turn Richmond into the very places they've tried to escape (Cotton). Because of that, they may be agreeable to stricter planning rules and environmental regulation than currently exist — more open in fact, than the local people.

7.3.2 Environment

Most of the people interviewed for this study considered sewage disposal systems to be the main environmental hazard caused by cottage development. Indeed, they are the main environmental hazard, if the environment is considered to consist merely of clean water. Proper septic disposal directly impacts on human health which is why there are comprehensive regulations dealing with the installation of septic systems. However, there is also an environmental impact of cottage development that does not have such a direct effect on humans: degraded habitat, which reduces the capacity of those habitats to support plant and animal communities and affects biological diversity.

Many of the people interviewed believe that the large lots in most of the subdivisions would preserve the rural atmosphere and natural environment. As outlined in Chapter 3, this is not the case. Large lots fragment more of the natural environment, unless human intrusions on those pieces of land are kept at a minimum. Although the most well-known subdivider — Canadian Pioneer Estates — keeps its lots in a natural state, there is nothing to prevent purchasers from putting in a suburban-style lawn, thinning the underbrush, or changing the character of the waterfront by putting in a beach or boat launch. Rather than requiring large lots, a subdivision with the same number of smaller lots and a larger, common area kept in its natural state would do better in preserving the natural landscape as well as wildlife habitat. However, there are problems with smaller lots in Richmond County.

The soils of Richmond County are not well-suited to septic systems; most have poor drainage. In the early 1980s, malfunctioning septic systems were considered to be a key environmental problem (Background Studies n.d.). At that time, nearly all the moderately densely inhabited harbours and inlets of the county were closed for shellfish harvesting due to the failure of septic systems. Providing the existing central water and sewer services is expensive and extending the services is not an affordable option for the municipality (Background Studies n.d., Cotton 1998, MacPhee 1998). At the same time, the slow percolation of most soils in Richmond County means that an increased development density outside the serviced areas could easily create health problems.

There have been questions raised about how well the septic regulations are enforced. One person pointed out that there was only one inspector for the whole county (Participant 18). Failures to meet standards are likely not the fault of the new wave of non-residents who are generally concerned about following the appropriate regulations (Participant 17).

A solution to the concerns about septic systems, which would also preserve wildlife habitat, would be to encourage cluster development. This would require placing the septic fields for the entire subdivision in one or two areas with well-drained soils or requiring the developer to provide sewage and water services. One study participant suggested that subdivisions over a certain number of lots should require the developer to put in an on-site sewage treatment system (Participant 18). Future responsibility for the system would either rest with the developer or a homeowner's association.

Admittedly, this may not be an easy solution as most of the subdivisions are catering to non-residents, who would not be there for most of the year should any problems arise. A simpler solution may be to lay out the subdivision based on the areas with the best drainage, leaving as large an area as possible undeveloped.

Although cottage developments may cause changes in habitat, in Richmond County, several of the subdivisions were built in areas that were clearcut already (Bouman). Local sellers sometimes clear-cut their land to realize the value of the timber before selling the land to Europeans or developers (Bourque). A tour of several subdivisions confirmed this; new houses were sprouting on land that had been logged within the last five years.

By placing homes on these lots, the new residents are making the habitat disturbance permanent, limiting the natural regeneration of the forest. The open spaces provide habitat that is good for deer but not as agreeable for moose, who prefer more mature vegetation (Davis and Browne 1996a). Deer prefer natural disturbances to human made openings in the forest.

A few people did express concern about the impacts of development on the natural environment. Henry Fuller of the Bras d'Or Stewardship Society wrote a brief on the potential impact of non-resident development around the entire Bras d'Or Lake:

We are not just talking about waste disposal, but about shoreline scarification, pressures due to future increased boat traffic, i.e., shoreline erosion and hydrocarbon pollution, land alteration and the likely devaluation of the Bras d'Or Lake as an attraction (*pers. comm.*).

Alteration of natural shorelines of lakes, rivers and streams may be the most serious impact of non-resident ownership for wildlife. The riparian zone – the edge along all water bodies – is one of the most productive habitats. Many different wildlife species use this habitat and the communities of plants on the edges of water bodies are vulnerable to disturbance.

Rolf Bouman realizes that his developments could affect the shoreline and maintains that he has tried to preserve it:

Every customer gets a canoe from me to promote the wilderness experience. My friend said she was disappointed with my motorboat and I should try canoeing. I did and I went and ordered 25 canoes. We still have two small motorboats but I try to promote canoeing. We're building boat launches along the shore for everyone to use. We're doing four or five boat launches on the river, that way the shoreline is left much more intact than otherwise.

Bouman is not required to leave the shoreline intact, to promote canoeing, or to provide public access to the river. Other developers do not and will not preserve the shoreline unless required or given encouragement to do so.

Another environmental problem that has been caused by some subdivisions is hillside erosion caused by substandard roads. Private roads in subdivisions did not have to meet any set standards and a few subdivisions have very poor roads. John Bain, Director of the Rural Cape Breton Planning Commission said, "There have been roads built that go up the side of the mountain. If people want to access their homes year-round, they're out of luck." Those roads are difficult to plow in the winter and prone to washout during heavy rains. Road erosion is more than just inconvenient for the people

who own properties up the hill; silty run-off flows into streams and degrades conditions for aquatic life. As a result of concerns about erosion and changes to the *Planning Act*, the Planning Commission prepared new subdivision by-laws for the county that provide minimum standards for private roads. If the Council passes the bylaw, it will require the standards to be met before the subdivision is approved.

Richmond County has two significant natural areas that have been identified as needing protection. In 1974, the International Biological Programme (IBP) identified Point Michaud as an important ecological site. It was characterized as a relatively undisturbed sand dune ecosystem. About 10 percent of the area identified by the IBP is owned by the Crown; the remainder is private land (Ogilvie 1984). The other site is the candidate protected area at Middle River Framboise, which straddles Cape Breton and Richmond Counties and is an excellent representation of the Mira River Drumlin Landscape.

7.3.3 Natural Resources

The resource that uses the most land in Richmond is forestry. A study of the municipality that was undertaken in the early 1980s recommended that steps be taken to preserve good forest land (Background Studies n.d.). However, the study's recommendation of large lots would not necessarily work. Lots of five acres would end up fragmenting woodland into individual pieces with different owners, many of whom would not want to cut down the forest on their properties. Smaller lots that leave a large section of the original parcel undivided would be a more effective way of preserving good forest land, whether for conservation or forestry purposes.

One concern raised by forestry operators in Nova Scotia was that managed forests were being purchased and no longer being harvested. In certain areas, non-residents were buying woodlots and no longer using them for forest purposes (Land Research Group 1990, Penfound). There seems to be no general consensus on this in Richmond County: Councillor Gerry Bourque believes that many of the European owners are developing forest management plans.

Richmond County has very little agricultural land. Less than 2500 acres of land in the county are classed as agricultural lands for assessment purposes (Bourque). There were once more farms along the shore of the Bras d'Or; most of these are no longer working farms, and many are summer homes for people from outside the county. Since farming is not a large industry in the area and most lands in the county have only a marginal ability to sustain agriculture, preserving farm land is not a concern for those interviewed in Richmond County.

One of the key issues in the county is the sale of highly valued lands — especially waterfrontage on the Bras d'Or Lakes — to people from outside the community. One interviewee summed it up by saying, “The best land is bought and local people can't afford it” (Participant 14). Henry Fuller believes that the most significant peninsula properties on the Bras d'Or had already been purchased by developers (*pers. comm.*). Peninsulas are attractive to real estate developers because they can maximize the number of lots with waterfrontage. Waterfront properties can be sold at a significantly higher price than lots without any shoreline.

One participant believed that local people were selling off a resource that should benefit everyone: “The Bras d'Or Lake is a major asset. I think you should say, only x % should be owned by non-residents” (Participant 14). Another participant, whose business benefited from the increase in non-residents, believed that the provincial government could easily have averted local concerns about foreign ownership if it had acted sooner:

You know what I've been saying for years? The province should have a policy that every body of water should have public access. They should spend the money to buy the land. They should have done that a long time ago. [...] I don't blame the public to be pissed off (Participant 5).

Access was the prime issue of concern for many people interviewed: access to forested property and water for hunting, fishing, swimming, and walking. Many people had stories of how access roads had been gated, properties had been fenced, and “No Trespassing” signs posted. Although most people believed that these restrictions had increased since the European buyers had come into the county, in fact, many of the signs

and gates were on properties belonging to Canadians, Americans, and Nova Scotians who live in other parts of the province. One of the best-known examples of restricted access — a gate put up on a public road leading to a graveyard — was actually done by a Halifax resident (Participant 18).

Many concerns related to access could be alleviated through improved education. Nova Scotia has fairly lenient trespass laws and recreational activities can be carried out on privately owned forest land. Trespassers who engage in recreational activities such as hiking, camping, and picnicking on forest land can not be prosecuted under the *Protection of Property Act*.²⁰ Of course, gates and “no trespassing” signs give the message that trespassers are unwelcome, and few people would feel comfortable carrying out recreational activities on posted properties. Nova Scotia residents are also free to cross uncultivated private land for access to rivers, streams, and lakes for fishing, although they must possess a valid fishing permit.

Salt water frontage presents another concern. Although most Nova Scotians are aware that shorefront below the high water mark is owned by the Crown, it may not be generally known among non-residents. Councillor Shirley McNamara told of one incident in the Walkerville area: “[P]eople bought land and put up “No Trespassing” signs. There was a young family walking on the beach there, and they were told to get off the beach. That’s just people who don’t know our regulations.” Situations like that breed resentment; local residents either have to confront the person telling them to get off the beach or leave knowing that they have every right to walk there.

Rolf Bouman said that he discourages his clients from putting up “No Trespassing” signs. He has signs that say “No trespassing or hunting unless authorized” with a phone number to call. Several of his clients have asked for signs like his and he believes they offer a good compromise. People know who is on their land and what

²⁰The land must meet the definition of forest land found in the *Protection of Property Act* and the activities must be one of those listed in the Act. Freedom to carry out recreational activities does not mean that trespassers are free from legal liability if they damage the landowner’s property. A landowner may also ask trespassers to leave his or her property.

activities they are doing. Nonetheless, trespassing signs send a negative message to local residents. Few full-time residents would put up no trespassing signs on their properties even if they posted signs restricting activities. Education about Nova Scotia's laws and tradition of allowing free passage on forest properties would go a long way towards easing resentment towards non-residents.

Besides education, requiring more public access in subdivisions with waterfrontage would also alleviate concerns about public access. The open space provision of the new subdivision bylaw will require subdivisions of greater than 5 lots to transfer 5 percent of the subdivision area (not including roads) to the municipality to use for public purposes. The subdivider could also offer land from a different area of equivalent value (Consolidated By-Law 1998). Bain says that this option was included because of concern about foreign ownership — requiring open space would still allow residents access to the area (Bain). Bain believes that municipalities have had the tendency to view parkland solely as active parks like baseball diamonds and playgrounds. However, this parkland option is intended largely to be passive parkland, with few (if any) facilities provided. The county could also have a separate waterfront access requirement for subdivisions on the water. For example, for subdivisions with greater than 1000 metres of waterfrontage, 50 metres of public access on the waterfront could be required for every 1000 metres of waterfrontage.

7.3.4 Economy

7.3.4.1 Economic Activity

Everyone interviewed from Richmond County felt that economic development was needed for the area. One person who was concerned about foreign ownership pointed out that foreign ownership ranked fairly low on the scale of general concern because of current economic conditions: "There's a lot more problems than foreign ownership — maybe if everyone was working [there would be more concern]" (Participant 14). Another respondent, who favoured unrestricted property sales, said, "Small communities are dying — they need an infusion of money" (Participant 5). To

him, Europeans buying properties and building cottages represented a direct transfer of cash to the county.

Councillor Joseph MacPhee, who is concerned about the extent of non-resident ownership, saw some benefits for the local economy:

There are good aspects to it too. Maybe by attracting people from outside with money, it will develop the area. There are offshoots: economic spinoffs, construction, more money from taxes. Maybe Cape Breton hasn't been traditionally economically pushy — this could spur people to do it themselves.

Other people wondered how long the boom would last. One participant pointed out that non-residents were only here for a couple of weeks of the year and after they built cottages, the construction boom would dry up: “Yes, they’re contributing something — but it’s what, two months to build a cottage? It’s the people that move here or are here for a good part of the time that contribute something” (Participant 14).

Another participant, who works at the provincial level on economic development, said, “My personal gut feeling is, if they come here and live, it’s one thing. But coming here for a few weeks of the year... it could actually be a drag on the economy [...] They’re taking land out of production — for agriculture, forestry, what have you” (Participant 15). He was also quick to point out that there was little concrete evidence to back him up, “We don’t have good data on this. But at the same time, the same type of concerns keep coming up.” One interviewee also felt that non-resident ownership could constrict community development opportunities by limiting the lands that could be developed by local people (Participant 14).

Richard Cotton, Warden of the County, believes that the county has few development choices: “Right now, you’ve got two choices. The first choice, my preferred choice, would be to have a lot of young families move in. That’s not going to happen. The second choice is to develop the land for Swiss and Germans. That’s better than no development at all.” Although Cotton thinks that non-resident ownership — with controls — is beneficial for the county, he also thinks the development of offshore oil

makes the local situation more complex. He believes that offshore development will create more opportunities for people and create more demands for land by local residents.

There was little concern expressed about the development of a seasonal economy dependent on people from away. People in rural Nova Scotia are used to seasonal fluctuations in the economy, and non-residents may be at least as reliable at providing income as the fish or the forests. Non-residents are believed to have kept many local businesses going through hard times (Participant 5). Any discussions of the economy created some confusion between non-residents and the new European immigrants who had moved here and started successful businesses. These new immigrants have connections in Europe and have opened up opportunities that were not previously available to Richmond County. The linkage of the European immigrants — who are now permanent Canadian residents — with the recent wave of European non-resident land purchasers, who are only here part of the year, made it difficult to distinguish between economic activity caused by non-residents and activity caused by the new immigrants.

Rolf Bouman believes that many of his clients would like to settle permanently in Canada but do not qualify under the immigration categories. This seems to create a somewhat ironic situation in which many local people would prefer the land buyers to settle in Richmond permanently, yet the non-residents are prevented from doing so because of federal immigration rules. At the same time, the non-residents are allowed to buy as much land as they wish in this country even though they can not live here permanently.

7.3.4.2 Assessments and Taxation

Most of the concerns expressed about non-resident ownership in Richmond County were related either to access, or to rising market values, assessments and property taxes. Assessments are currently pegged to market values, and reassessments are done on an annual basis. With prices in many of the new developments far beyond what local people are used to paying for land, there have been concerns that properties next to the new homes will also be assessed at high prices. Several participants in the interviews felt

that the land was being sold before local people realized what was happening, and soon not only prime waterfront real estate would be unaffordable, but so would other land in the area (Participant 7).

At the same time, it has been suggested that local residents undervalue the land or that people from away see its worth better than those who grew up in Richmond County. Cotton said that to people from Europe, “Our land was very cheap. People from away see the land as being worth more than the residents do, and have the money to develop it.” Bouman said that Europeans appreciate the wilderness available in Richmond County much more than most local people because they have lost it at home. That appreciation translates into a willingness to pay for natural, unspoiled areas.

Not only were people from away willing to pay more land, but they were willing to buy land that residents would not have bought (Participant 2, Cotton, Bourque, Bouman). Many local people are puzzled at the willingness of Europeans to spend thousands of dollars on lots of 3 or 5 acres, located inland. However, people from Richmond County, Nova Scotians from other parts of the province, and non-residents all want to buy waterfrontage. Many people believe that waterfront properties has been priced out of the local market and that local people who hold onto waterfront properties wind up paying very high property taxes (Participant 2).

The assessment office believes they have dealt with new developments in a reasonable manner, without penalizing adjacent land owners. Charles MacKenzie, Director of Assessment for the Eastern Region, said that the new subdivision developments get their own assessment codes, so they don’t impact on surrounding values. If a property outside a subdivision sells for an unusually high price, it’s not included in the reassessment values. However, a group of sales at high prices would affect everyone. MacKenzie looked into concern about rising assessments in Cape Breton County and found that prices on the Bras d’Or were being affected by the high demand for land — by local as well as out-of-province buyers. Nova Scotians as well as Europeans want to buy waterfrontage.

The property assessment records for Richmond County for 1988, 1993, and 1998 were examined for changes in assessment values for each code.²¹ While most codes stayed the same or changed by very little, there were a few significant changes of more than \$1000 in value over that period. In the Grand Anse - Dundee area, small lots with a view of the Bras d'Or Lake but no waterfrontage rose in value from \$6,000 in 1993 to \$10,000 in 1998. Lots up to 2.25 acres in size with waterfrontage rose in value to \$18,100 from \$16,500 in 1988. In the Soldier's Cove area, waterfront lots of less than 3 acres also rose in value: from \$10,000 in 1993 to \$12,000 in 1998. In the St. Peter's / Roberta area, waterfront properties saw their assessments climb to \$20,000 for lots of less than 2.5 acres. All waterfront properties along the Bras d'Or, Loch Lomond and the Atlantic coast saw assessments go up by \$300 per acre for acreages beyond that included in the base assessment.

These reassessments have come as a shock to people who have held large acreages on the Bras d'Or for a long time. Some people have been forced to sell their land or have subdivided it and sold off portions in order to keep the rest of the land (Participant 2, Participant 18). Some participants in the study believe that the price for waterfront properties is reasonable considering current demand. However, the reason for the increased value of the land is of little importance to someone on a fixed income who planned to live out her or his life on the family property.

Subdivisions with their own new, separate codes have much higher assessments than the surrounding areas. These are not considered changed assessments, since they were created specifically for those subdivisions. The value of properties in those subdivisions can be more than twice the value of land nearby. For example, waterfront lots of 2 to 4.5 acres in several subdivisions near Walkerville are assessed at a value of \$18,400 to \$38,500. Other waterfront properties in the same assessment area but not in a new subdivision are assessed at \$10,500 for lots of 1 to 3.25 acres.

²¹Buildings are assessed separately from land. The values for buildings were not examined.

The increased value of property is both positive and negative (Johnson). For people who have held onto land, the high prices may help them enjoy a more comfortable retirement if they do sell land. For others who have always dreamed of having a cottage on the Bras d'Or or even on an interior lake, land prices may be out of reach (Participant 14). But at least one participant thought that was a question of preferences: "You know what I tell people? The price of lots on the Bras d'Or Lakes has followed the price of a new car. I think that it's a fallacy that the local people can't afford it" (Participant 5). Another participant also believed that land purchases reflected priorities. Europeans don't necessarily have more money than local people, but they are used to paying more for land. He too used the new car analogy:

There are lots going for, what, \$50 or \$60,000 dollars? Local people are buying trucks for \$40,000. The value of land has been too low. People didn't respect the property. If people pay higher prices for the land, they'll be better custodians (Participant 17).

Participant 5 suggested that the increase in the amount of property taxes collected by the county due to the non-residents should result in a decrease in the property tax rate, meaning increased assessments would have little effect on the taxes paid.

Information on property taxes provided by Richmond County shows no clear pattern. The residential property tax rate went up from 1988 to 1996, then dropped in both 1997 and 1998. However, the commercial property tax rate was also changing, not entirely in sequence with the residential rate, and the total budget of the county steadily dropped from 1995. The county's budget is not determined just by the cost of municipal services; the province sets the amount to be collected for education and provides funding for some programs. It would not be possible to relate tax rates and new developments for non-residents without knowing how the province affected the county's budget, then breaking down how much money came from non-residents, how much came from residents, and how much came from commercial property taxes. That task is beyond the scope of this thesis.

Many people believe the property taxes contributed by the non-residents are a boon to the county. One participant believed that the new developments helped reduce taxes for local people because of the expanded tax base: “The Europeans are only here a couple weeks a year. They have their own wells, their own sewers. They’re not parasites; they’re contributors” (Participant 5).

But Canadians pay taxes for many amenities that are provided by all levels of government. According to Rolf Bouman, part of the reason Europeans are attracted to Richmond County is because of Canadian society: “They want to go somewhere with a low crime rate, political stability, clean environment, somewhere where they can still afford to do things.” These societal features are paid for by Canadians as a whole — certainly municipal property taxes can not equal the cost of a stable society.

Richmond Councillor Shirley McNamara believes that non-residents enjoy many more benefits than they pay for. She remarked:

My concern is, as a resident, I’m contributing taxes every time I go to the gas station. I contribute through gas tax, through HST every time I go to a shop. I’m a contributing part of the community. The people who are here part-time, they’re enjoying every privilege of our land of milk and honey. Now, some people have moved here — they live here and take part in the community, and I’m very happy to have people stay. But for the others, we’re providing a wonderful place for them and not getting much in return.

Besides property taxes, non-residents who start businesses pay a higher rate of income tax than permanent residents. However, if they register as a Nova Scotia holding company they avoid paying the high rate and can apply for an HST rebate on purchases. Foreign tourists — including seasonal residents — can also apply for the HST rebate.

Gail Johnson, councillor for the eastern part of the county, believes that tax relief would help alleviate the impact of increased assessments: “We used to have that for seniors. It was based on income. [...] I think that’s a good idea, people who live on their properties year-round should get some relief.” A property tax rebate for residents, with a minimum tax payable, would provide relief to local residents who had seen increased

assessments because of increased market prices for land. This would be especially helpful for seniors and other people on fixed incomes.

7.3.4.3 Land Speculation

The buildings and development recently created for the Europeans were often compared to the Americans who had bought land 30 years earlier. The Americans were perceived as speculators, people who bought land and sat on it (Participant 7, Participant 2, Participant 5). If they did have cottages, they did not visit as often as the new German landowners seem to be doing (Participant 17). Buying land for speculative reasons was not well-viewed by many participants, and the European owners were perceived as better than the Americans because many of them had built homes.

Gail Johnson suggested that non-residents should have a time period under which they had to develop the land if they bought it. Other interview participants brought up similar ideas; Richard Cotton said that one concern was that people bought land and did not develop it — yet the sale prevented local people from developing it. Participant 14 echoed that concern.

7.3.5 Society

The new developments in Richmond County have made some people much better off financially than others. People who have owned land for years are receiving a sudden windfall from the developers and other purchasers buying land. The homes built by the new wave of European land buyers have also benefited some businesses more than others. Among those who have not benefited, there is a certain amount of resentment that people from other places can buy Richmond County's most valuable properties. Many of the people who have participated in the land development market have been Europeans, both permanent residents and non-residents. Many have been able to buy land very cheaply, subdivide it, and sell it for much more. Several participants in the study thought concerns about non-resident ownership can be attributed to jealousy: "I think there's a certain amount of envy on the part of the locals. The property was just sitting there —

anyone could buy it — then some non-resident does and people complain” (Participant 17). At the same time, the European land developers have opened access to markets that did not exist for residents of the county (Cotton).

Others point out that while people may complain about land being transferred to foreigners, those same people are willing to sell land. Councillor Gerry Bourque thinks many local concerns are misplaced: “I think it’s just sour grapes personally. I can recall going to a meeting in Dundee twenty years ago. Two of the biggest complainers there have since sold their properties, and they didn’t worry about the local market. It was mostly Americans then.”

There is a perception that many of the Europeans buying land have much more money than local residents — a perception that one participant disagreed with:

The German economy lately has been very poor. There’s been tremendous expenses with reunification. People get the wrong impression. It would be the same in Barbados, say if I went to Barbados, sat on the beach and drank Margaritas for two weeks, people there would think I was rich. They wouldn’t know that I worked like crazy back here. I think too, though perhaps this is a generalization, here we save money, there they buy property instead of banking the money. There’s some people who come to buy properties, just normal, skilled tradesmen (Participant 17).

But to Europeans, land in Richmond County is a bargain. Land in Europe is much more expensive than land in Canada, and the exchange rate favours European currencies over the Canadian dollar. Average incomes in Richmond County are lower than those in most of Canada. Richmond County’s average income tax return was \$18,083 in 1994, the second lowest average in the province and \$9,000 below the average tax filed in Halifax County (Statistics Division 1997). It is not surprising that higher prices for land are creating some resentment in the county.

Accessibility of land for younger people was one concern that came up often. Warden Cotton said that many locals were hoping that young people who had left the county would return when the jobs expected from the offshore oil development appeared. Parents were trying to buy land for their children in that expectation. Councillors

MacPhee and McNamara wondered if land would be accessible for future generations. One person commented, "My heart is torn; I grew up here. I'm in the business, but my kids, it would be nice if they could buy land. I'd like my kids to stay here but there are no jobs for them" (Participant 5). He believed that non-residents provided jobs that allowed more local people to stay in the county.

One participant thought that the non-residents contributed more than money to Richmond County. He suggested that the new immigrants and German visitors gave people a chance to learn more about the world (Participant 17). There are other positive aspects for the local community too. If non-residents have actually assisted local businesses through rough times, there is a general benefit to the community in having services available locally.

Several participants stated that some public discussion was needed on the issue of non-resident ownership. But one person wondered whether things had gone too far for a constructive public discussion: "The problem is half the community curses the Europeans for buying their birthright; the other half is working for them" (Participant 18). He pointed out that St. Peter's, a town of less than 1000, used to have just one person selling real estate and now has eight.

The effects of the public consultations on the Sporting Mountain land use bylaw a few years ago did not help to move along the public discussion. The Sporting Mountain area previously had no land use bylaw. The regulations proposed in the bylaw, though minimal, were contentious in the county, and some commentators on the plan were xenophobic in their opposition, even defacing signs (Participant 7). One study participant said of the Sporting Mountain debate, "I wasn't proud to be a resident. Some people were just... racist" (Participant 18).

The Sporting Mountain episode made planning a touchy issue in some parts of the county. Joseph MacPhee was a member of a community group who opposed the Sporting Mountain Plan but does not want to be associated with the bigoted actions of some of the opponents of the land use bylaw. MacPhee believes that many rural people do not agree with planning because their concerns are not heard. He suggested that if

members of the area advisory committee had to conform with conflict of interest regulations, the committee's decisions might be more broadly accepted in the county. Sporting Mountain was not the only example of difficulties with land use planning in Richmond. Twenty years ago, outside consultants developed a Municipal Planning Strategy for Richmond that became a complete debacle. County residents felt the Strategy had been forced on them and refused to accept it. The Strategy was never passed (Cotton).

On the other hand, the public consultations for the Isle Madame land use bylaw progressed without incident and the bylaw was passed by Council with only one dissenting vote (Bain). County residents who are concerned about non-resident ownership should realize that a municipal planning strategy would help control the location and scope of developments. To some rural residents, the drawback is that planning will affect both local people and out-of-province developers (Bain). This drawback may seem less disadvantageous as the number of cottage and other developments in Richmond County increases.

7.3.6 Municipal and Community Services

Non-residents generally demand few services from the municipality. Most developments are in areas where there are no central water or sewer services; they are on private roads; garbage collection is at the end of the private road and only for six or seven weeks of the year. However, some study participants are concerned that the demand for municipal and community services could be increased because of the developments for non-residents. In some ways, demand has already increased; most non-residents are not around long enough to participate in local community groups such as the volunteer fire department, nor do they have the interest (Participant 2). At the same time, the existence of the fire department, community groups, and the services provided by all levels of government benefit people with seasonal homes in the county.

There are concerns that some of the non-resident developments could become full-time developments with residents demanding services from the municipality

(Johnson). The real concern was with the roads: “If those subdivision roads ever became public roads, they’d be the county’s responsibility and a real burden” (McNamara). Part of that burden would be the poor quality of some of the roads. However, the quality of subdivision roads should be raised with the provisions of the new subdivision bylaws.

7.4 Discussion

Everyone interviewed in Richmond agreed that non-resident owners have had an effect — although whether that effect has been largely negative or largely positive remained open for debate. Some people weigh the impact of sales at the local building supply store more positively than do others, who are concerned that land prices are out of reach of local people. However, it was generally felt that the County should try to accommodate everyone. Many study participants felt that both those with concerns about non-resident ownership and those with concerns about regulating non-resident ownership could be accommodated. .

Several of the Richmond County Councillors expressed frustration at the quality of the information available on the extent of non-resident ownership. They had asked the assessment office to provide them with a listing of non-resident owners; the resulting print-out was a couple of inches thick and would require weeks of analysis. Practically everyone interviewed for the study in Richmond County believed that the provincial government should have a better grasp of the extent of non-resident ownership.

Throughout the interviews and other contacts with Richmond County residents, there was some confusion about which changes in the county were caused by non-resident owners and which resulted from the recent European immigrants to the County. This confusion is easy to understand, since many of the enterprises established by the newcomers cater to European visitors and buyers of land. While there was appreciation for those businesses and the links created by the new immigrants, some people were ambivalent about the actual business of the new enterprises, since many of them are based on selling Richmond County land.

The most recent wave of non-resident owners – mostly from Germany, but also from other European countries – have been active builders and more visible than the other non-residents. The concern about the most recent wave of buyers masks the fact that a great deal of Richmond County was already owned by people outside the province. This land may have been inherited by people who grew up in Richmond, or it may have been bought by Americans or other Canadians during the land grab of the late 1960s. Those purchasers often did not develop the land.

Non-resident land ownership does not end at the Richmond County line. Concerns about the environment and access to land have been expressed about the extent of non-resident ownership around the entire Bras d'Or Lake (Fuller *pers. comm.*). Public access to the Bras d'Or Lake is quite limited: there are few public access points or recreational areas (Participant 18).

One suggestion that was often brought up by study participants was to limit the amount of land that non-residents can buy, as is done in Prince Edward Island. This may or may not have the intended effect. Limiting the amount of land that non-residents can hold will also limit the number of buyers available for that land and likely make its market price decrease. This means that large pieces of real estate will likely only be bought by developers (albeit developers who are permanent residents) who will be able to flip the land at a much higher profit than before. This could promote both a greater degree and a higher density of development since the large tracts of land will have to be subdivided before they are sold to non-residents. There are at least two negative impacts of this: the profit margins of developers will be increased at the expense of the local seller, and wildlife habitat will be further fragmented. On the other hand, many people in Richmond County would likely prefer to see an increased density of seasonal development since it would bring in more people to the area. If limitations caused lower prices for large properties, land could become more affordable for local people.

In Prince Edward Island, the restrictions on non-resident ownership are not as clear-cut as most people think. As mentioned in Chapter 4, acquiring a permit to purchase land beyond the 5-acre limit is fairly straightforward in PEI. A permit is

generally granted unless the proposed purchase is very large, is on agricultural land, or results in unfavourable concentration of ownership. PEI has the infrastructure in place to enforce land limits, including a commission to review land purchases and applications for special permits.

Placing limits on the amount of land that can be purchased would have to be done at the provincial level since the municipalities do not have the authority to do so. For the province to do this would take a great deal of lobbying from all parts of the province. This also introduces the question of whose purchases should be limited? Non-Canadians? All out of province purchasers? Should permits be issued for larger holdings? What guidelines should be developed for larger holdings?

Councillor Gerry Bourque believes that restrictions on land purchases may discourage foreigners from buying land. Rolf Bouman, whose business largely depends on sales to people from outside the country, does not think that limits would discourage foreign purchasers. Undeveloped land of five acres in a country with a low crime rate, a clean environment, beautiful scenery, and available at a relatively low price is more valuable than residents may appreciate. Restrictions on foreign purchases and regulations controlling development recognizes that the land is valuable, something that foreign buyers have already realized. The next chapter will discuss some of the steps that could be taken to mitigate effects of non-residency and promote more harmonious interactions between local people, non-residents, and the environment.

Chapter 8

Conclusions and Recommendations

We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect. A. Leopold (1949: viii).

8.1 Introduction

Our society has not yet adopted Leopold's conception of land. If it did, questions about land ownership would become moot. How can we best allocate land to the benefit of society and the environment while still living in a democratic society which respects individual property rights? While this may seem a far-reaching goal, it may not be if communities can agree on priorities. Prince Edward Island has a fair amount of legislation on land ownership and land use because there has been general agreement that land ownership and land use are important issues that affect everyone.

The following conclusions and recommendations on the state of non-resident ownership in Nova Scotia are intended to address the lack of information on classes of land ownership and some of the concerns raised about non-resident ownership. In itself, information on the extent of non-resident ownership can not provide a solution. Residents of Richmond County and other areas of the province already have concerns about non-resident ownership that could be eased through some simple actions. Ideally, this would make relations between residents and non-residents more harmonious. It is doubtful if the tools suggested in this chapter would drive off any but the most anti-regulation non-resident owners. The recommendations have been made considering the dual priorities of maintaining a high quality environment and ensuring that the needs of local, full-time residents are met.

8.2 Information Needs

8.2.1 Conclusions

This study has demonstrated that the information available on non-resident ownership is wanting in this province. While it is possible to look up the owners of individual pieces of land through a title search in the Registries of Deeds, the computer information systems are still missing significant amounts of data. The missing data makes it difficult to compile reports on the different classes of owners. However, this knowledge is important for land management and land use planning in the province.

8.2.2 Land Information System

The Nova Scotia lands information system is still in the process of being developed. While data for some areas of the province are excellent, some areas are still being entered into the system. This system could provide an excellent source of information about non-resident ownership, if the Department of Housing and Municipal Affairs was given the property authority to collect and manage the information.

8.2.3 *Land Holdings Disclosure Act*

Legislation is necessary to make the collection of the accurate information possible. The existing legislation — the *Land Holdings Disclosure Act* — is inadequate. As well, the databases on private property ownership are maintained by the Department of Housing and Municipal Affairs (DHMA), while the responsibility for collecting disclosure forms from non-resident owners rests with the Department of Natural Resources. Although the information from Housing and Municipal Affairs is available to the public, there are concerns about using their databases to fulfill the responsibilities of another department. The assessors do not believe that the *Assessment Act* gives them enough authority to manage non-resident ownership. Right now, it seems that DHMA has the best capability to fulfill this responsibility, and including information on non-residency in their property ownership or assessment databases would be relatively simple

— and much more effective than maintaining an entirely separate database at Natural Resources.

The Land Holdings Disclosure Act was intended to track land holdings of non-residents, but the provisions of the law made it impossible for the public servants who administer the Act to do so effectively. Compliance with the Act is known to be poor, and even if compliance was perfect, the information is of little use in calculating the extent of non-resident holdings. At 100 percent compliance, the disclosure forms would merely track the transfer of lands to non-residents for that year. They would not record any subsequent sales of that land — unless it was to another non-resident — making it impossible to gain an accurate picture of non-resident holdings.

This Act should be made more effective. Although it is possible to track non-residents through mailing addresses in the assessment file, as done for this thesis, the mailing address is not a fault-free indication of a person's permanent residence. Many people who live in the province part-time have their tax bills sent to a Nova Scotia address. As well, scanning for non-residents by mailing address catches everyone with an out-of-province address, including the local shoe store with a head office in Montreal, the forest lands of J.D. Irving Ltd., and people who have inherited land from residents. Most people interviewed for this thesis did not think that all those categories of non-resident owners should be lumped in one group. The reason why and how the land is acquired is important

To ensure that accurate knowledge about permanent addresses and use of land is being recorded, the *Land Holdings Disclosure Act* and the *Registry Act* (R.S.N.S. 1989) should be amended to collect disclosure information from all individuals who are buying properties. If disclosure forms were required to accompany a deed transfer transaction, compliance with the *Act* would reach nearly 100 percent — especially if the Crown did not have to prove *wilfull* non-compliance with the Act as is currently the case. Deeds without the form would simply not be registered. Requiring a disclosure or deed transfer form to accompany all deed transfers would not single out purchasers from outside the province and would ensure that accurate information is available for all land purchases.

As well, some of the concerns raised about non-resident ownership stem from Nova Scotians who live in one area of the province and have cottages in another. If non-residents could be categorized as non-residents from within the province but outside the municipality, from outside the province but within Canada, and from outside the country, it would create a more comprehensive picture of land ownership and help in choosing the appropriate land management tools. Accurate knowledge about the different categories of ownership will ensure that appropriate planning decisions are made.

The only information provided by the disclosure form which currently does not accompany deed transfers is the declaration that the owner is indeed a non-resident and the purpose for which the land was acquired. That data could be collected solely from non-residents of the municipality, or non-residents of the province, if that option proved more politically viable.¹⁹ An amended disclosure act should also ensure that information is collected from non-resident owners who have already purchased property. Owners who do not submit forms within a certain period of time could be fined and the fine could be registered as a lien against the property (*Antoft pers. comm.*).

Non-resident businesses should also disclose the reason why the land was acquired. If the intent of knowing about non-resident ownership is to make better land management decisions, omitting businesses does not make sense. As well, purchases by all non-residents in urban areas should be recorded. All purchasers — resident and non-resident — could indicate on the disclosure form whether or not their new land purchase falls within the boundaries of a town or city.

Some people feel that the government has no business knowing the residency of land buyers and their reasons for the purchase. However, information on residency is required for many other public purposes; why not for land purchases too? A high concentration of non-resident owners could indicate the need for better public access and allow planning strategies to be tailored for the ownership situation. For example,

¹⁹It would seem that there is some responsibility under the *Assessment Act* to have accurate information on owners from outside the municipality, which suggests that a declaration of residency should be currently required of all land owners.

municipalities with a high degree of non-resident owners may want to allow public access in subdivisions, especially those on the water. They may want to acquire additional parklands or set up special development districts.

8.2.4 Information on Planning

Information from the property owners alone is not enough to provide information about non-resident ownership. Subdivision plans for rural areas give some indication of the pace of development planned for a municipality and identify targeted areas. These plans do not always go to municipal councils for approval. If they fall within the guidelines set up by the municipal subdivision bylaw, subdivision plans are handled by a municipal planning or development officer (Bain). This process may leave elected officials unaware of the scale of development planned for their municipality. When a high number of lots are approved for a municipality with a low permanent population, it is evident that these lots are not intended for the local market.

Municipal officials and rural residents need to know more about planning alternatives. A proposed development should not be treated as an all-or-nothing situation. Some information on planning is discussed in section 8.3: Tools to Mitigate the Impacts of Non-Resident Ownership.

8.2.5 Coordination of Land Information

The Deputy Ministers' Land Use Committee, which was disbanded a couple of years ago, shared information among government departments. Nothing has taken its place. The formation of this Committee was one of the tangible results of the 1974 Select Committee on Non-Resident Ownership (Land Use Committee 1977). Broad issues such as land ownership, coastal land use, and transportation policy still need to be discussed in an interdepartmental (and perhaps even an intergovernmental) venue focussed on land. Even without a committee on the land, the creation of a provincial land use secretariat of some sort, which would share information on land use among departments, would help to

coordinate land use decisions. This secretariat could also be charged with gathering material and promoting discussion on non-resident ownership.

8.3 Tools to Mitigate the Impacts of Non-Resident Land Owners

8.3.1 Conclusions

Through the increased demand for land and the increased rate of development, non-resident ownership affects the environment and communities. Other jurisdictions have recognized this fact and developed policies and legislation on land ownership. The effect of non-residents in Nova Scotia is seen as both positive and negative by the people interviewed for this study. The positive effects were generally seen to be economic; the negative effects were more wide-ranging. Some of the negative effects could be mitigated although they do not change the basic fact that land is being transferred to people who do not live in the area year-round.

The location of the non-resident purchases is just as important as the amount of land held by non-residents. Purchases of popular waterfront properties, land that has been used for access or for community activities, or land that is currently in resource use will have a greater effect than purchases of isolated pieces of property. However, the sheer scale of non-resident purchases will also determine how out-of-province land ownership will affect the community, especially in areas with a high amount of land held by the Crown or by forestry companies. When non-residents hold a different attitude towards land than local people, their impact on the community is increased.

Most people interviewed for this thesis were not concerned with the environmental impacts of non-resident ownership; their concerns centred around rising assessments and access to land for Nova Scotians. However, activities that are carried out on the land and the scale of development will affect the environment and the quality of life. Purchases by non-residents may also force residents to build homes or businesses in less than ideal areas, since other land has been taken. Although provincial regulations and municipal bylaws are intended to mitigate the worst results of development, they may unintentionally exacerbate some effects such as the fragmentation of wildlife habitat,

agricultural land, and forests. As well, many rural areas do not have municipal planning strategies and are reluctant to tackle comprehensive planning.

Any steps taken to mitigate the effects of non-residency will require a great deal more discussion and consultation in Richmond County and any other area of the province. However, some actions would be relatively non-controversial and would alleviate some of the concerns.

8.3.2 Education

Information on land use legislation needs to be better disseminated throughout the province. Many people are not well informed of the legislation and regulations affecting land use and property. An educational project could be carried out to inform non-residents of legislation such as the *Angling Act* and the *Protection of Property Act*, and of local traditions of access. It should also remind people crossing private property of their responsibility to treat their neighbour's land with care. An educational program on preserving habitat — for both residents and non-residents — could reduce impacts on shoreline areas and throughout natural areas.

Material on the regulations affecting private land should be made available to the general public at an accessible location. This should include regulations from all provincial government departments. The land information centres and registries of deeds could be a good location for educational material — people registering deeds could also pick up other information relating to their rights and responsibilities as land owners. Besides notices about trespass laws and septic systems, information on preserving the natural environment and relevant resources and contacts could be included.

An organization like the Nova Scotia Nature Trust could develop material targeted at land developers. Many developers may wish to leave more undeveloped or open space land within subdivisions, yet are unwilling to remain responsible for the land themselves or to set up a homeowners' association to look after the property. If that land has relatively high ecological value, it could be transferred to the Nature Trust with a tax break for the developer.

8.3.3 Taxes

Actions beyond education would require much more public discussion in the province. An income-based property tax rebate for residents of the municipality would alleviate some of the problems caused by localized high assessments, for example, for residents who own and live year-round in properties near the Bras d'Or Lake. This rebate does not explicitly fall within municipal jurisdiction; however, Richmond County had a similar rebate a few years ago. The proposed *Municipal Government Act* would allow counties to have income-based property tax rebates (Dept. of Housing 1997: 47). Although this Act might never be passed, the existing *Assessment Act* could be amended to allow for property tax rebates.

A rebate would affect people from Nova Scotia with second properties as well as people from outside the country and outside the province. However, if municipalities are seriously concerned that rising assessments are negatively affecting people on reduced incomes, such a bylaw would provide some relief. A tax rebate would enable people on fixed incomes to keep living on their properties. If the intention of the rebate is to help people on low incomes whose properties have increased in value, it should only be available for primary residences.

Any kind of differential taxation would require a fair amount of education. It should be recognized that foreign land owners pay few taxes other than the property tax: they pay no income tax unless they run businesses in Canada and they can be reimbursed for sales tax. Canadian non-resident owners do pay income and sales taxes and could resent not being eligible for a property tax rebate. On the other hand, Canadians who own second homes would seem to have a better ability to pay than people who live in the same residence year-round.²⁰

Although a surtax on deed transfers to non-residents has been suggested as another possible option, it would not address the concerns that have been raised by local

²⁰Since property taxes on undeveloped properties are already very low, it is unlikely that Canadians who own resource land would be adversely affected by a property tax rebate.

residents. It could be defended on the grounds that non-residents pay few taxes in Nova Scotia yet benefit from environmental and other programs paid for by Canadian taxpayers. Defending the surtax on foreign purchasers may be easier to defend than one on all out-of-province owners. The province and the municipalities would both like to receive the income from this tax.

8.3.4 Planning

Municipalities may want to target the areas where they want development concentrated by designing a municipal planning strategy. Developing a strategy may seem an insurmountable challenge to municipal officials. However, municipal planning strategies can help control the location and scope of development. Although some rural residents are not comfortable with land use controls, many of the ill effects of development can only be alleviated with controls. Municipalities have more flexibility in the bylaws they can pass if they develop a municipal planning strategy. For example, they can require up to 10 percent of the area of a subdivision to be transferred to the municipality for public use, as opposed to the 5 percent limit for municipalities without planning strategies.

Municipalities could also require public access to the water in new subdivisions on the waterfront. For example, they could require so many metres of public access for so many metres of waterfrontage in the subdivision. This could be done through an amendment to municipal subdivision bylaws. In fact, non-residents may prefer having public access points in subdivisions rather than having people crossing back and forth on their properties.

Municipalities may also want to conserve valuable resource land. Areas with a high dependency on farming or forestry may want to set up agricultural or forestry districts where non-resource related land uses are minimized, like the agricultural districts of Kings Counties. Currently, there is a tax on transferring land classified and assessed as agricultural out of agricultural production; a similar penalty could be set up for productive forest lands.

People with valuable pieces of undeveloped land could be encouraged to preserve them through tax breaks, similar to “heritage building” designations in urban areas. This designation would be most appropriate for areas facing development pressures or lands especially valued by the community and would likely be a voluntary designation. Owners of the land would benefit through reduced property taxes, and would have to pay a penalty should they decide to change the use of that land. This incentive would be appropriate for lands that are locally significant, since municipal coffers would be affected by the rebate.

Municipalities could also encourage subdivisions with smaller lots and more open space. Clustering cottage developments and placing septic systems on the best drained lands would minimize the environmental effects of development. Municipalities could demand on-site sewage disposal systems for subdivisions over a certain number of lots, and support innovative sewage disposal systems that use less land and are not detrimental to the water supply. Finally, higher road standards for subdivisions will prevent erosion and lessen the likelihood that subdivision roads will become a burden for the municipality.

8.3.5 Limits on Land Holdings

Limiting the amount of land that non-residents can purchase will require provincial legislation. This seems unlikely to happen anytime soon and certainly will not occur unless the provincial government believes it has accurate information on land ownership. It should be noted that even then, the information will not establish a critical point of non-resident ownership. Other parts of the world with limitations or prohibitions on non-resident ownership also have a broad vision of what the land means to residents and what limitations will accomplish. The limitations on non-resident ownership are usually accompanied by legislation on land use, comprehensive planning, and other tools. In many areas it is possible for aliens to get a special permit to hold land or to hold land above the limit.

Simply limiting the amount of land that non-residents can hold will likely push down the market price for large pieces of property. This will make it cheaper for developers who could simply buy the large acreages, subdivide it, and sell it to non-residents. If some areas are trying to encourage a higher density of non-resident owners, limits could help them meet that goal. Limiting land holdings could also make land cheaper for local residents, businesses needing large properties for resource use, conservation organizations, and the Crown. People who have large properties would likely not approve because the value of their properties could suddenly drop.

Limits with the possibility of special permits would make it possible to target certain types of properties, if the appropriate guidelines are established. The guidelines may state that special permits are not available for waterfront properties beyond the legislated limit, for agricultural land, or in areas where there is already a high concentration of non-resident ownership. This system would require an administrative structure and establishing guidelines for permits is just as likely to be as contentious as setting the actual limits. Pursuing the land limitation option would be controversial since there is no agreement on the value of such limitations among government officials, let alone among the general public.

The government would also have to determine which group of non-residents should have limitations on ownership. Should everyone from outside the province be targeted? Non-Canadians without permanent residence status? Should limits be placed only on waterfront land? Many people who grew up in Nova Scotia still own land here, have inherited land, or have bought land here in order to spend their vacations near their families. These non-residents are likely to be perceived differently than Canadians with no family connections to the province. Saskatchewan legislation has recognized this by allowing exemptions for persons who have inherited land.

Any consideration of land limits would (and should) require extensive public consultations. Although the option of limiting the amount of land that could be held was popular with many of the Richmond County study participants, actually setting limits and implementing them would take several years and be a very contentious political issue.

8.3.6 Community Groups

In Kingsburg, Nova Scotia, a land conservancy has been set up to preserve land in the area for public access as well as for conservation purposes. Land trusts have been set up throughout North America to preserve certain types of land use. Campaigns such as these led by community groups have the advantage of not being dependent on government intervention.

8.3.7 Crown Land

To ease concerns about access to the water and natural resources, the provincial government could purchase land in critical areas or designate available Crown lands for public access. For example, the Crown owns 200 acres on the Bras d'Or Lake at Hay Cove, Richmond County. That land is currently designated a park reserve, pending further consideration of its potential for recreation, public access, or ecological purposes. Considering the access concerns that have been brought up in the County, it would seem logical that the land would remain available for public access with a suitable management plan. There are other, smaller parcels of Crown land on the Bras d'Or which may be suitable for public recreation.

The government has purchased important properties in the past, but budget constraints and the high price of land may make this a less feasible option right now. However, if the government does not make land available for recreation or traditional activities in areas where access is being reduced, resentment towards non-residents, national parks, and certain protected areas will only increase.

8.3.8 Federal Interventions

Most of the Richmond County residents who brought up concerns about non-resident ownership would prefer to see the non-residents become permanent residents. Quite a few Europeans have recently immigrated to Richmond County and started successful businesses. Most immigrants to Canada settle in large urban areas; few come

to Nova Scotia and of those most settle in Halifax. Richmond County, and perhaps other rural areas too, would like to see some targeted immigration.

Trade agreements may eventually make it more difficult for the provinces to take action on foreign land ownership. The *Citizenship Act* has a clause that gives the provinces the power to distinguish between permanent residents of Canada and Canadians, and non-resident foreign nationals. However, international trade agreements can require federal governments to repeal legislation that runs contrary to the agreement. Provinces who wish to ensure their ability to make legislation on foreign land ownership should make certain that trade negotiators are aware of this.

8.4 Questions Raised

This thesis only briefly touches on the problems caused by Nova Scotia urbanites buying recreational properties in other parts of the province. This trend can cause many of the same problems as out-of-province land owners. However, the government databases do not tell whether or not a property is a primary residence, thus the extent of second or third property ownership by Nova Scotians is difficult to determine. This trend of land purchases by Nova Scotians outside their local area is also a more difficult one for formulating policy and legislation since provincial residents must be treated equally under the law. Nova Scotians also contribute through income taxes, sales taxes, volunteer activities, and other actions that benefit the province as a whole. Nonetheless, land use decisions would be better informed if there was knowledge of the areas where Nova Scotians are buying recreational properties.

Cottage developments have a greater impact on the environment than is generally known. Although a thorough study carried out in Ontario demonstrated those impacts, Nova Scotia has no such comparable study. Such a study would demonstrate to cottage owners that their escape to the countryside is not as benign as they thought and would reinforce the need for individual land stewardship initiatives .

Many other questions have come forward as a result of this study. Why are people buying land here as opposed to elsewhere in the world? A few hypotheses have

been proposed — cheap land, clean environment, stable society — but these have not been thoroughly investigated. It has also been hypothesized that many of the non-resident owners have a strong stewardship ethic. Is this really true? The impact of the non-residents in the community warrant further investigation. How can cottage developments be better integrated with local communities? What are the impacts of pursuing seasonal residents as a form of rural economic development? What other choices do rural areas have?

While the tools described in this chapter can mitigate the effects of non-resident ownership, it will not change the essential fact. Land in Nova Scotia is being transferred to people who live here for only part of the year and who have no real stake in the local community. If we take the example of Richmond County, the question remains: if the full-time residents of Richmond County were well-off, had secure retirement funds, and higher per capita incomes, would they be selling their lands?

Appendix A.

List of Interviews and Personal Communications

List of Interviews

This list includes only those people who have agreed to be identified. Another seven interview participants wished to remain anonymous.

Bain, John. Executive Director, Rural Cape Breton Planning Commission, Port Hawkesbury, Nova Scotia.

Bouman, Rolf. President, Canadian Pioneer Estates Ltd., Cleveland, Nova Scotia.

Bourque, Gerry. Field Assessor, Eastern Regional Assessment Office, Nova Scotia Department of Housing and Municipal Affairs; and Councillor, District 4, Richmond County, Nova Scotia.

Cotton, Richard. Councillor, District 6 and Warden, Richmond County, Nova Scotia.

Gray, Daniel. Regional Manager, Halifax Land Information Centre/Registry of Deeds, Nova Scotia Department of Housing and Municipal Affairs.

Johnson, Gail. Councillor, District 10, Richmond County, Nova Scotia.

MacKay, John. Executive Director, Assessment Services, Nova Scotia Department of Housing and Municipal Affairs.

MacKenzie, Charles. Director of Assessment, Eastern Regional Assessment Office, Nova Scotia Department of Housing and Municipal Affairs.

MacPhee, Joseph. Councillor, District 7, Richmond County, Nova Scotia.

McNamara, Shirley. Councillor, District 5, Richmond County, Nova Scotia.

Parker, Donald. Regional Manager, New Glasgow Land Information Centre, Nova Scotia Department of Housing and Municipal Affairs; and former Registrar of Land Holdings, Nova Scotia Department of Natural Resources.

Penfound, Rosalind. Executive Director, Land Services Branch, Nova Scotia Department of Natural Resources.

Simpson, Ken. Executive Director, Union of Nova Scotia Municipalities.

Smith, Anne-Marie. Land Officer, Island Regulatory and Appeals Commission, Prince Edward Island.

Steeves, Dave. Registrar of Land Holdings, Provincial Crown Lands Record Centre, Nova Scotia Department of Natural Resources.

List of Personal Communications

Aaen, Eva. Civil Law Division, Civil and Police Department, Ministry of Justice, Denmark. Letter to author, 27 July 1998.

Antoft, Kell. Information during conversations with author, 12 November 1997 and 14 July 1998.

Borland, Bill. Director, Environmental Affairs, J.D. Irving Limited. Letter to author, 9 March 1998.

Chernick, Jim. Manager, Farm Ownership, Farm Land Security Board, Saskatchewan Justice. Information during telephone conversation, 13 July 1998.

Comeau, Pat. Lands and Trust Services, Atlantic Region, Indian and Northern Affairs Canada. Fax to author, 28 July 1998.

Crossett, Fred. Homeowner Grant Administration Branch, British Columbia Ministry of Municipal Affairs. Information during telephone conversation, 7 July 1998.

Day, Douglas. Professor, Geography Department, Saint Mary's University, Halifax, Nova Scotia. Information during telephone conversation, 10 September 1997.

Eidt, Dan. Forest Management, Crown Lands, Nova Scotia Department of Natural Resources. Faxes to author, 26 and 29 June 1998.

Fuller, Henry. The European Colonization of the Bras d'Or Lake. Brief presented to author, 10 February 1998.

Gray, Daniel. Regional Manager, Halifax Land Information Centre, Nova Scotia Department of Housing and Municipal Affairs. Information during conversation with author, 10 December 1997.

McLeod, Margaret. Communications Officer, New Brunswick Department of Natural Resources and Energy. Information during telephone conversation, 5 December 1997.

Montgomery, Andrew. Nova Scotia Department of Environment, (formally with Land Use Committee Secretariat, Nova Scotia Department of Housing and Municipal Affairs). Information during telephone conversation, 10 November 1997.

Peters, Gerald. Manager, Forest Management Planning, Stora Port Hawkesbury Ltd. Telephone conversation with author, 20 July 1998.

Reid, Glen. Real Estate Division, Public Works and Government Services Canada. Telephone conversation with author, 10 July 1998.

Steeves, Dave. Registrar of Land Holdings, Provincial Crown Lands Record Centre, Nova Scotia Department of Natural Resources. Fax to author, 8 July 1998.

Appendix B.

Nova Scotia Property Accounts

Table 1. Nova Scotia Properties				
County or Regional Municipality	Total number of pids	Total Number of Tax Accounts	Tax Accounts with Adequate Property Information	% of Properties with no tax account or no property information
Annapolis	20227	18132	16879	16.55
Antigonish	12742	12803	9534	25.18
Cape Breton	66888	57318	54000	19.27
Colchester	33897	31541	26388	22.15
Cumberland	31904	27260	22838	28.42
Digby	25409	22536	20880	17.82
Guysborough	12698	12320	9087	28.44
Rural Halifax ¹	82225	74364	63866	22.34
Urban Halifax ²	61530	59723	54432	11.54
Hants	26307	24034	21659	17.67
Inverness	21719	17546	14402	33.69
Kings	33929	31519	27279	19.60
Lunenburg	45448	38363	17259	62.02
Pictou	31945	30576	27593	13.62
Queens	16828	13761	5315	68.42
Richmond	12548	9960	8326	33.65
Shelburne	15357	14792	4821	68.61
Victoria	9257	7997	6630	28.38
Yarmouth	22157	21105	6318	71.48
Other ³	41	n/a	n/a	100.00
Totals	583046	525610	417506	28.39

1 "Rural Halifax" means most properties outside the former cities of Halifax and Dartmouth and the town of Bedford, as the boundaries stood before municipal amalgamation.

2 "Urban Halifax" includes Halifax, Dartmouth, and most of the Bedford-Kearney Lake area.

3 "Other" includes properties without any information on municipal jurisdiction.

Bibliography²¹

1. Books, articles, unpublished and electronic documents

American Society of Planning Officials. 1976. *Subdividing Rural America: Impacts of Recreational Lot and Second Home Development*. Washington, DC: The Council on Environmental Quality.

Antoft, K. 1972. Acquisition of Nova Scotia Shoreland by Non-Residents. In *Shoreland: Its Use, Ownership, Access and Management — Proceedings of a two-day seminar*. Halifax, NS: Dalhousie University Institute of Public Affairs; p. 12 - 20.

Antoft, K. 1977. Interventionist Pressures in a Pragmatic Society: A Policy Study of the Non-Resident Land Ownership Issue in Nova Scotia. M.A. Thesis, Dalhousie University, Halifax, Nova Scotia.

Antoft, K. 1992a. Symptom or Solution: The Nova Scotia Land Holdings Disclosure Act of 1969. In L. A. Sandberg, ed., *Trouble in the Woods: Forest Policy and Social Conflict in Nova Scotia and New Brunswick*. Fredericton, NB: Acadiensis; p. 198 - 211.

Antoft, K. 1992b. Taxation and Non-Resident Property Ownership. A Report for the Department of Finance, Province of Prince Edward Island. 19 April.

Antoft, K., Brown, P., Henson, J., Mendeleson, G., Tadros, M., Zive, G. and Antoft, S. 1971. *Matters Related to Non-resident Land Ownership in Nova Scotia*. Halifax, NS: Dalhousie University Institute of Public Affairs.

Appalachian Land Ownership Task Force. 1980. *Who Owns Appalachia?* Lexington, Kentucky: University Press of Kentucky.

Arendt, R. 1993. *Rural by Design: Maintaining Small Town Character*. Chicago: American Planning Association.

Ashton, B. and Bruce, D. with May, A. 1994. *Defining Rural and Measuring Rurality in Atlantic Canada*. Sackville, NB: Rural & Small Town Programme, Mount Allison University.

Background Studies for the Municipal Development Plan, Richmond County. n.d. [c. 1981], n.p.

²¹Detailed information on interviews and personal communications can be found in Appendix A.

Berkes, F., Feeny, D., McCay, B. J. and Acheson, J. M. 1989. The Benefits of the Commons. *Nature* 340 (6629): 91-93.

Berkes, F., George, P. and Preston, R.J. 1991. Co-Management: The evolution in theory and practice of the joint administration of living resources. *Alternatives* 18 (2): 12-18.

Berleant-Schiller, R. 1987. Ecology and Politics in Barbudian land tenure. In Besson, J. and Momsen, J. eds. *Land and Development in the Caribbean*. London: MacMillan Caribbean: p. 116-131.

Besson, J. 1987. A paradox in Caribbean attitudes to land. In Besson, J. and Momsen, J., eds. *Land and Development in the Caribbean*. London: MacMillan Caribbean; p. 13-45.

Boshken, H. L. 1974. *Corporate Power and the Mismarketing of Urban Development: Boise Cascade Recreational Communities*. New York: Praeger.

Boschken, H. L. 1982. *Land Use Conflicts: Organizational Design and Resource Management*. Urbana, IL: University of Illinois.

Brick, P. D. and Cawley, R. M. 1996. Knowing the Wolf, Tending the Garden. In Brick, P. D. and Cawley, R. M. eds. *A Wolf in the Garden: The Land Rights Movement and the New Environmental Debate*. Lanham, Maryland: Rowman & Littlefield; p. 1 - 12.

Buditz, M. 1994. "Lex Mundi: A Lawyer's Guide to Doing Business in Denmark." [<http://www.hg.org/guide-denmark.html>]. 12 July 1998.

Bulger, D. P. 1991. Annapolis County Land Ownership Study. Prepared for Planning Course. College of Geographic Sciences, Lawrencetown, Nova Scotia.

Calhoun, S. 1978. Our island sellout to Germans. *The [Halifax] Barometer*. 30 Nov: 1, 4.

Cameron, H. 1982. Lakeland Retreats. Prepared for Planning Course, Nova Scotia Land Survey Institute, Lawrencetown, Nova Scotia.

Chan, A. B. 1983. *Gold Mountain: The Chinese in the New World*. Vancouver: New Star.

Charles, W. H. 1972. Comparative Legal Approaches to Non-Resident Land Tenure. In *Shoreland: Its Use, Ownership, Access and Management — Proceedings of a two-day seminar*. Halifax, NS: Dalhousie University Institute of Public Affairs; p. 21- 37.

Chisholm, J. D. 1990. Margaree River Development Study. Prepared for Planning Course. College of Geographic Sciences, Lawrencetown, Nova Scotia.

Cloke, P. J. and Park, C. C. 1985. *Rural Resource Management*. London: Croom Helm.

Committee on Land Acquisition and Land Transfer to Non-Resident Corporations and Private Individuals. 1971. Report. Charlottetown: n.p.

Community Planning Division. 1993. *Model Land Use Bylaw*. Halifax, NS: Department of Municipal Affairs (Nova Scotia).

Conrad, M., Finkel, A. and Jaenen, C. 1993. *History of the Canadian Peoples*, vol. 1. Toronto: Copp Clark Pittman.

Corbett, D. C. 1957. *Canada's Immigration Policy*. Toronto: University of Toronto.

Craton, M. 1987. White law and black custom: The evolution of Bahamian land tenures. In Besson, J. and Momsen, J., eds. *Land and Development in the Caribbean*. London: MacMillan Caribbean; p. 88-114.

Davis, D. S. and Browne, S. 1996a. *Natural History of Nova Scotia Volume I: Topics and Habitats*. Halifax, NS: Nimbus Publishing and Nova Scotia Department of Education and Culture.

Davis, D. S. and Browne, S. 1996b. *Natural History of Nova Scotia Volume II: Theme Regions*. Halifax, NS: Nimbus Publishing and Nova Scotia Department of Education and Culture.

Dearden, P. and Rollins, R. 1993. The Times they are A-Changin'. In Dearden, P. and Rollins, R., eds. *Parks and Protected Areas in Canada: Planning and Management*. Toronto: Oxford University; 1-16.

Denhez, M. 1987. The National Picture in Heritage Conservation. In *Development and Conservation: Community Choices for the Built Environment*. Proceedings of the 1987 Nova Scotia Planning Seminar. Halifax, NS: Department of Municipal Affairs and Department of Culture, Recreation, and Fitness; p. 7-14.

Department of Development (Nova Scotia). 1986. *Nova Scotia Resource Atlas*. Halifax, NS: Department of Development.

Department of Housing and Municipal Affairs (Nova Scotia). 1997. *Municipal Government Act: A Working Paper in Legislative Form*. Halifax, NS: Nova Scotia Department of Housing and Municipal Affairs.

Department of Natural Resources (Nova Scotia). 1997. *Keeping the Wilderness Wild: Nova Scotia's Protected Areas Strategy*. Belmont, NS: Department of Natural Resources.

Department of Natural Resources (Nova Scotia). n.d.a. *Forest/Wildlife Guidelines and Standards for Nova Scotia*. n.p.: Department of Natural Resources.

Department of Natural Resources (Nova Scotia). n.d.b. Sites of Ecological Significance and Designated Nature Reserves, Parks Division, Department of Natural Resources. Belmont. Nova Scotia.

Dickie, A. 1971. Valuable Canadian land is 'friendly invasion' target. *The [Halifax] Mail-Star*. 19 Aug.: 9.

Downing, J. 1996. The cottager's lament: Overtaxed, underserviced. *Toronto Sun*. 1 Sept.: 3.

Dudley, N., Madeley, J. and Stolton, S., eds. 1992. *Land is Life: Land reform and sustainable agriculture*. London: Intermediate Technology Publications.

Dunn, R. S. 1989. Discussion Paper: Non-Resident Ownership of Land. Prepared for Provincial Crown Lands Record Centre, Halifax, Nova Scotia.

Eckholm, E. 1979. *The Dispossessed of the Earth: Land Reform and Sustainable Development*. Worldwatch Paper 30. Washington, DC: Worldwatch Institute

Faculty of Law (University of Oslo). 1975. "Lesesals-eksemplar." [<http://www.ub.uio.no/ujr/ulovdata/lov-19740531-019-eng.pdf>]. 22 July 1998.

Finkel, A., Conrad, M. and Strong-Boag, V. 1993. *History of the Canadian Peoples*, vol. 2. Toronto: Copp Clark Pittman.

Foshay, R. 1970. Americans come north to take titles south. *The [Halifax] Chronicle-Herald*. 15 May: 7.

Gaventa, J. 1995a. The Political Economy of Land Tenure: Appalachia and the Southeast. Paper Commissioned for *Who Owns America? Land and Natural Resource Tenure Issues in a Changing Environment*, Conference held at University of Wisconsin-Madison, June 1995.

Gaventa, J. 1995b. There's Honey in the Rock for All God's Children. Paper Commissioned for *Who Owns America? Land and Natural Resource Tenure Issues in a Changing Environment*, Conference held at University of Wisconsin-Madison, June 1995.

Gilg, A. 1985. *An Introduction to Rural Geography*. London: Edward Arnold.

Girard, D. 1995. Taxes threaten cottage paradise. *Toronto Star*. 2 May: A1.

Gloade, M. A. 1990. A Survey of Laws and Policies Regulating Foreign Ownership of Land in the West Indies: Guarding Against Foreign Domination. *New York Law School Journal of International & Comparative Law* 10: 223 - 248.

Gordon, R. 1984. Europeans pay out \$20 million to buy N.S. mystery lands. *The [Halifax] Mail-Star*. 5 July: 2.

Harriss, C. L. 1997. Ethical Issues in Land Policy. In Brown, H. J., ed. *Land Use & Taxation: Applying the Insights of Henry George*. Cambridge, MA: Lincoln Institute of Land Policy; p. 71 -79.

Henman, C. A. 1974. Non-resident ownership of land is valuable. *The [Halifax] Mail-Star*. 14 Jan.: 7.

Hiss, T. 1990. *The Experience of Place*. New York: Alfred A. Knopf.

Hogg, P. 1992. *Constitutional Law in Canada*. Toronto: Carswell Thomson Professional Publishing.

Home Owner Grant Program (British Columbia). 1998. "What is the Home Owner Grant?" [<http://www.marh.gov.bc.ca/HOG/whatis.html>]. 7 July 1998.

Hylton, T. 1995. *Save Our Land, Save Our Towns: A Plan for Pennsylvania*. Harrisburg, PA: RB Books.

In Canada, how will the rural David confront the global Goliaths? 1996. *Catholic New Times* 20 (3): 10 - 11.

Jarvis, F. D. 1993. *Site Planning and Community Design for Great Neighbourhoods*. Washington: Home Builder Press.

Jones, D.P. 1976. Constitutional Law—Rights of Canadian Citizens—Aliens—Non-Residents—Discrimination—Role of Supreme Court of Canada—Stare Decisis. *Canadian Bar Review* 54: 381 - 391.

Keith, T. L. 1993. Conserving Private Land: A Role for a Provincial Nature Trust in the Protected Areas System of Nova Scotia. Master of Environmental Studies Thesis, School for Resource and Environmental Studies, Dalhousie University, Halifax, NS.

Kemmis, D. 1996. Community and the Politics of Place. In Brick, P. D. and Cawley, R. M., eds. *A Wolf in the Garden: The Land Rights Movement and the New Environmental Debate*. Lanham, Maryland: Rowman & Littlefield; p. 235-248.

King's County (Nova Scotia). 1997. *Municipal Planning Strategy*. Municipality of the County of Kings.

Kunstler, J. H. 1993. *The Geography of Nowhere: The Rise and Decline of America's Man-Made Landscape*. New York: Touchstone.

Land Policy: Land ownership, land use and landscapes. 1990. *Parliamentarian* 71 (1): 66 - 68.

Land Research Group. 1990. Whither Our Land? *New Maritimes* 8 (6): 14-25.

Land Use Committee (Nova Scotia). 1977. Nova Scotia Deputy Ministers' Committee on Land Use Policy. Halifax, NS: n.p.

Land Use Service Centre (P.E.I.) and the Maritime Resource Management Service, Council of Maritime Premiers. 1978. *Non-resident Land Ownership, Legislation and Administration in Prince Edward Island*. Ottawa: Lands Directorate, Environment Canada.

Leopold, A. 1949. *A Sand County Almanac and Sketches Here and There*. New York: Oxford University Press.

Leslie, S. ed. 1997. Issues in Protected Areas Management: The Kingsburg Peninsula. Report prepared for Protected Areas Management Course, School for Resource and Environmental Studies, Dalhousie University, April 1997.

MacDonald, A. 1998. Who Owns Nova Scotia? *The [Halifax] Daily News*. 28 June: 25, 28.

MacDonald, D. 1982. Foreign interests buy 80,000 acres. *The [Halifax] Chronicle-Herald*. 6 May: 1.

Manitoba battles free-trade pact with foreign land-ownership bill. 1988. *The [Montreal] Gazette*. 13 Feb.: A8.

Manning, E. W. 1986. *Toward Sustainable Land Use: A Strategy*. Working Paper 47. Ottawa: Lands Directorate, Environment Canada.

Maritime Noon. 1998. CBC Radio One, Halifax, Nova Scotia. February 18. 12 noon - 2 p.m.

Mason Jr., J.R. 1994. 'PSSST, Hey Buddy, Wanna Buy a Country?' An Economic and Political Policy Analysis of Federal and State Laws Governing Foreign Ownership of United States Real Estate. *Vanderbilt Journal of Transnational Law* 27: 453 - 488.

Maxwell, J. W. 1972. Continental Pressures on Shoreland. In *Shoreland: Its Use, Ownership, Access and Management--Proceedings of a two-day seminar*. Halifax, NS: Dalhousie University Institute of Public Affairs; p. 1 - 11.

McCay, B. J. and Fortmann, L. 1996. Voices from the Commons: Evolving Relations of Property and Management. *Cultural Survival Quarterly* 20(1): 24-25.

McKay, L. 1987. Tourism and changing attitudes to land in Negril, Jamaica. In Besson, J. and Momsen, J. eds. *Land and Development in the Caribbean*. London: MacMillan Caribbean; p. 132- 152

Meyer, P. 1976. Land Rush: A Survey of America's Land. *Harper's* 258 (January): 45-60.

Millmore, P. H. 1994. "Heritage Coasts" - A British Approach to Managing Undeveloped Coastlines. In Wells, P.G. and Ricketts, P.J. eds. *Coastal Zone Canada '94: Co-operation in the Coastal Zone*. Dartmouth, NS: Coastal Zone Canada Association, Bedford Institute of Oceanography; p. 1126.

Millward, H. and Allen, D. 1994. *The Scenic Resources of Nova Scotia: A Macro-Scale Landscape Assessment*. Rural Studies Working Papers, No. 10. Truro, NS: Nova Scotia Agricultural College.

Ministry of Natural Resources (Ontario). 1997. "Managed Forest and Conservation Land Tax Incentive Programs."
[<http://www.mnr.gov.on.ca/wwwmnr/mnr/csb/news/aug8fs97.html>]. 8 July 1998.

Municipal Development Plan, Richmond County, n.d. [c. 1981], n.p.

Nelessen, A. C. 1994. *Visions for a New American Dream: Process, Principles, and an Ordinance to Plan and Design Small Communities*. Chicago: American Planning Association.

Nicoll, C. 1996. Grits shouldn't sell N.S.—NDP. *The [Dartmouth, N.S.] Daily News*. 6 Mar.: 3.

Nova Scotia Nature Trust. n.d. Land Conservation Options for Landowners.

Ogilvie, R. 1984. *Important Ecological Sites in Nova Scotia, Curatorial Report Number 49*. Halifax, NS: Nova Scotia Museum, Department of Education.

Ontario Fair Tax Commission. 1992. *Searching for Fairness*. Toronto: Fair Tax Commission.

Palmer, H. 1982. *Patterns of Prejudice: A History of Nativism in Alberta*. Toronto: McClelland and Stewart.

Pannozzo, L. 1998. Log jam. *Shunpiking* 3(2): 11, 14-15.

Paquette, W. G. 1984. The Adoption of Policies on Alien and Non-Resident Land Ownership by Three Provincial Governments. M.A. Thesis, University of Alberta, Edmonton, Alberta.

Pastel, S. J. 1991. Community Land Trusts: A Promising Alternative. *Journal of Land Use & Environmental Law* 6: 293 - 320.

Pinkerton, E. W., ed. 1989. *Co-operative Management of Local Fisheries*. Vancouver: University of British Columbia.

Pollard, D. E. E., Anderson, W., Forde, N.M., LaCorbiniere, P.V., Joseph, C. and Christie, D. 1991. *Environmental Laws of the Commonwealth Caribbean: Analysis and Needs Assessment*. Bridgetown, Barbados: Caribbean Law Institute.

Powelson, J. P. 1988. *The Story of Land: A World History of Land Tenure and Agrarian Reform*. Cambridge, MA: Lincoln Institute of Land Policy.

Prince Edward Island Special Legislative Committee on the Lands Protection Act. 1993. Final Report. March. n.p.

Province of British Columbia. 1997. "Quick Facts—The Land."
[http://www.bcstats.gov.bc.ca/data/QF_LAND.HTM#geography]. 5 December 1997.

Racey, G. D. and Euler, D. L. 1982. Small mammal and habitat response to shoreline cottage development in central Ontario. *Canadian Journal of Zoology* 60: 865-880.

Racey, G. and Euler, D. 1983. An Index of Habitat Disturbance for Lakeshore Cottage Development. *Journal of Environmental Management* 16(2): 173 - 181.

Raymond Commission (Royal Commission on Land Ownership and Land Use). 1973. *Report*. Charlottetown, PEI: Queen's Printer.

Redpath, D. K. 1974. *Landowners and Land Use in the Musquodoboit Valley, Nova Scotia*. Geographical Paper No. 55. Ottawa: Environment Canada Lands Directorate.

Redwood, D. 1998. Putting land in the bank. *Nova Scotia Open to the World Summer*: 22.

Reynolds, B. 1974. County threatened by 'alien' hands. *The [Halifax] Chronicle-Herald*. 7 Sept.: 7.

Round Table on Resource Land Use and Stewardship (Prince Edward Island). 1997. *Cultivating Island Solutions*. Charlottetown: Queen's Printer.

Royal Commission on the Land, Chairman, D.B. Boylan. 1990. *Everything Before Us*. vols. 1 and 2. Charlottetown: Queen's Printer.

Rutan, G. F. 1977. The Ugly Canadian: Canadian Purchase and Ownership of Land in Whatcom County, Washington. *Social Science Journal* 14(1): 5-15.

Shoreland: Its Use, Ownership, Access and Management — Proceedings of a two-day seminar. 1972. Halifax, NS: Dalhousie University Institute of Public Affairs.

Sim, R. A. 1988. *Land and Community: Crisis in Canada's Countryside*. Guelph, ON: University of Guelph.

Singleton Jr., R., Straits, B.C., Straits, M.M., and McAllister, R.J. 1988. *Approaches to Social Research*. New York: Oxford University.

Spencer, J. 1973. The Alien Landowner in Canada. *Canadian Bar Review* 51: 389 - 418.

Statistics Canada. 1996. *Canada Year Book 1997*. Ottawa: Minister of Industry.

Statistics Division. 1997. *Nova Scotia Statistical Review*. Halifax, NS: Nova Scotia Department of Finance.

Sutherland, B. 1996. Enhancing Nature Conservation on Private Land in Nova Scotia: A Case Study. Master of Environmental Studies Thesis, School for Resource and Environmental Studies, Dalhousie University, Halifax, NS.

- Teleki, G. C. and Herskowitz, J. 1986. *Lakeshore Capacity Study Integration: A Simulation Model for Predicting the Impact of Lakeshore Cottages on the Environment*. Toronto: Research and Special Projects Branch, Ministry of Municipal Affairs.
- Terrio, D. 1997. System Proposal: Land Holdings Register. Prepared for Don Parker. Nova Scotia Department of Natural Resources, November 20.
- Terman, M. R. 1997. Natural links: Naturalistic golf courses as wildlife habitat. *Landscape and Urban Planning* 38: 183-197.
- Thomas, C. Y. 1988. *The Poor and the Powerless: Economic Policy and Change in the Caribbean*. New York: Monthly Review Press.
- Tibbets, J. 1990. Buying up Nova Scotia. *The [Halifax] Chronicle-Herald*. 21 Aug.: B1, B2.
- Voigt, D.R. and Broadfoot, J.D. 1995. Effects of Cottage Development on White-tailed Deer, *Odocoileus virginianus*, Winter Habitat on Lake Muskoka, Ontario. *Canadian Field Naturalist* 109 (2): 201-205.
- Ward, E. N. 1984. *Foreign Ownership of Land and Real Estate in Canada*. Working Paper No. 30. Ottawa: Lands Directorate, Environment Canada.
- Weinberg, B. 1991. *War on the Land: Ecology and Politics in Central America*. Atlantic Highlands, New Jersey: Zed Books.
- Whyte, W. H. 1968. *The Last Landscape*. Garden City, NY: Doubleday & Company.
- Wildlife Habitat Issue Group. 1995. *Nova Scotia Wildlife Habitat Conservation Manual*. Halifax, NS: Nova Scotia Land Use Committee.
- Wilmshurst, B. and MacNeill, L. 1974. *Nova Scotia Salt Water Frontage: Ownership and Classification*. Halifax, NS: Nova Scotia Department of Lands and Forests.
- Wong, T. 1997. Cottagers win tax rebates after waging appeal battle. *Toronto Star*. 25 July: A4.
- Wood, K. S. 1990. *Shoreline Development in Nova Scotia: Planning and Policy Issues*. Halifax, NS: Oceans Institute of Canada.
- Yaro, R. D., Arendt, R.G., Dodson, H.L. and Brabec, E.A. 1990. *Dealing With Change in the Connecticut River Valley: A Design Manual for Conservation and Development*. Amherst, MA: Lincoln Institute of Land Policy and the Environmental Law Foundation.

Yin, R.K. 1984. *Case Study Research: Design and Methods*. Applied Social Science Research Methods Series, Volume 5. London: Sage Publications.

Young, D. 1975. Jurisdiction over Aliens: Does *Morgan* Clarify the Law? *Osgoode Hall Law Journal* 13: 354 - 367.

2. Cases, Statutes and Legislative Materials

Canada. *Citizenship Act*. R.S.C. 1985, c. C-29.

Canada. *Foreign Investment Review Act*. S.C. 1973-74, c. 46, rep'd by S.C. 1985, c. 20, s. 46.

Canada. *Investment Canada Act*. S.C. 1985, c. 20

McCarten et al. v. PEI. 1994. 117 Nfld. & P.E.I.R. 1, 365 A.P.R. 1 (PEI S.C.A.D.), aff'd. (1993), 104 Nfld. & P.E.I.R. 334, 329 A.P.R. 334 (S.C.T.D.).

Morgan v. Prince Edward Island and Blacquiere. 1974. 42 D.L.R. (3d) 603, 5 Nfld. & P.E.I.R. 129 (P.E.I.S.C.).

Morgan and Jacobson v. Prince Edward Island. 1975. [1976] 2 S.C.R. 349, 55 D.L.R. (3d) 527.

North American Free Trade Agreement. 17 December 1992. In force 1 January 1994. Canada-Mexico-United States, Can. T.S. No. 2.

Nova Scotia House of Assembly. *Journals and Proceedings*. 22 November 1974. p. 224 - 239.

Nova Scotia. *Angling Act*. R.S.N.S. 1989, c. 14.

Nova Scotia. *Assessment Act*. R.S.N.S. 1989, c. 23.

Nova Scotia. *Beaches Act*. R.S.N.S. 1989, c. 32.

Nova Scotia. *Beaches Regulations*. Order in Council 89-580, May 16, 1989.

Nova Scotia. *Land Holdings Disclosure Act*. R.S.N.S. 1989, c. 248.

Nova Scotia. *On-site Sewage Disposal Systems Regulations*. Order in Council 97-297, May 20, 1997.

Nova Scotia. *Planning Act*. R.S.N.S. 1989, c. 346.

Nova Scotia. *Protection of Property Act*. R.S.N.S. 1989, c. 363.

Nova Scotia. *Registry Act*. R.S.N.S. 1989, c. 392, as am. by S.N.S. 1992, c. 16.

Ontario. *The Conservation Land Act*. R.S.O. 1990, c. 28.

Ontario. *The Land Transfer Tax Act*. R.S.O. 1990, c. L.6.

Ontario. *Land Speculation Tax Act*. S.O. 1974, c. 17.

Ontario. *Non-Resident Agricultural Land Interests Registration Act*. R.S.O. 1990, c. N-4.

Prince Edward Island. *Lands Protection Act*. R.S.P.E.I. 1988, c. L-5, as am. by S.P.E.I. 1995, c. 22.

Prince Edward Island. *Real Property Act*. R.S.P.E.I. 1951, c. 138.

Prince Edward Island. *Real Property Act*. S.P.E.I. 1964, c. 27.

Prince Edward Island. *Real Property Act*. R.S.P.E.I. 1974, c. R-4.

Prince Edward Island. *Real Property Tax Act*. R.S.P.E.I. 1988, c. R-4.

Prince Edward Island. *Registry Act*. R.S.P.E.I. 1951, c. 143, as am. by S.P.E.I. 1972, c. 41.

Reference re Lands Protection Act (P.E.I.). 1987, 64 Nfld. & P.E.I.R. 249, 197 A.P.R. 249 (P.E.I.S.C.C.A.).

Saskatchewan. *Farm Land Security Act*. S.S. 1984-85-86, c. F-8.01.

Saskatchewan. *Saskatchewan Farm Security Act*. S.S. 1988-89, C. s-17.1, as am. by S.S. 1993, c. 51, Part VI.

Saskatchewan. *Land Titles Act*. R.S.S. 1965, c. 115, as am. by S.S. 1973-74, c. 54.

Saskatchewan. *The Saskatchewan Farm Ownership Act*. S.S. 1973-74, c. 98.

United Kingdom. *Constitution Act, 1982*, being Schedule B to the *Canada Act* (U.K.), 1982, c. 11.

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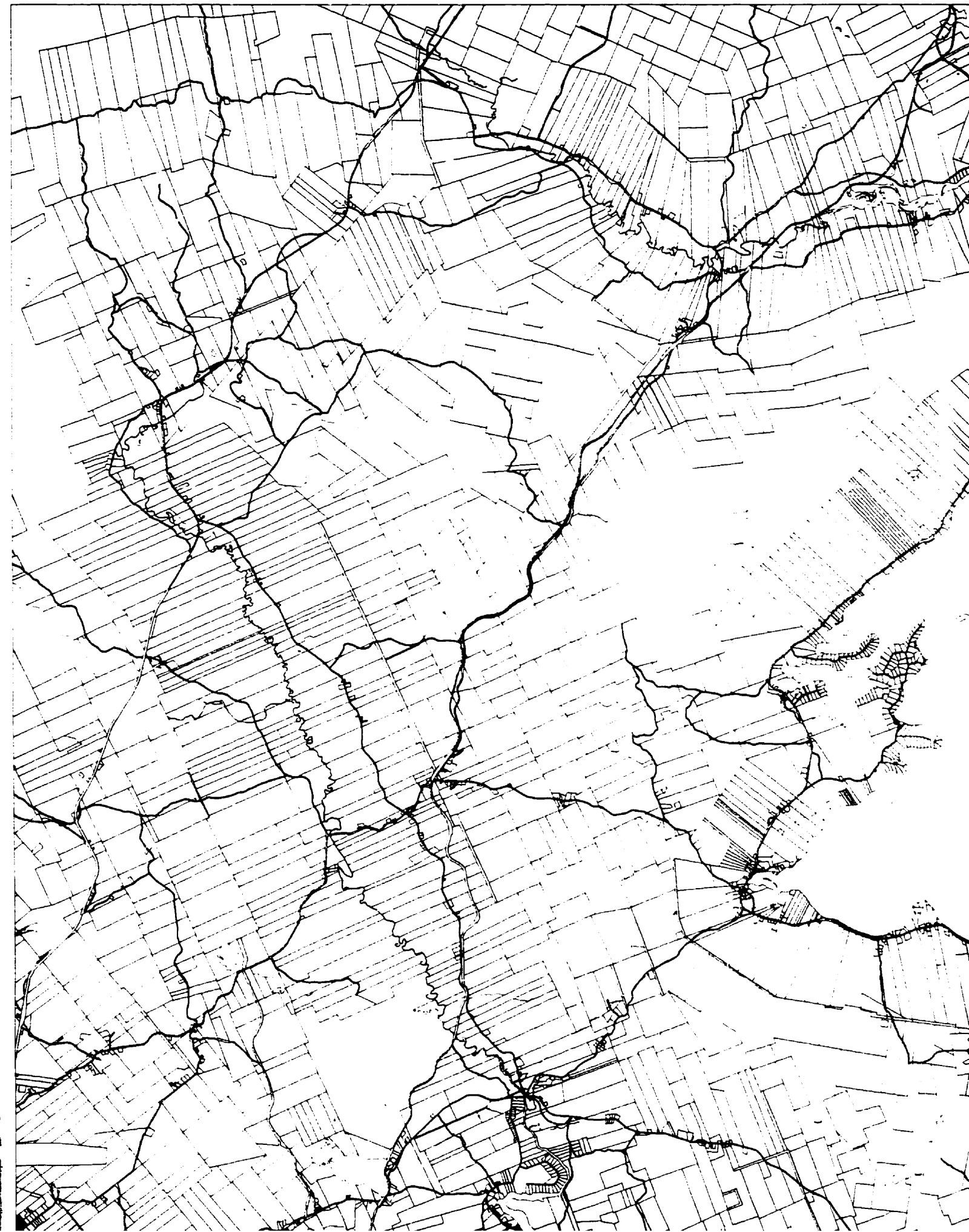
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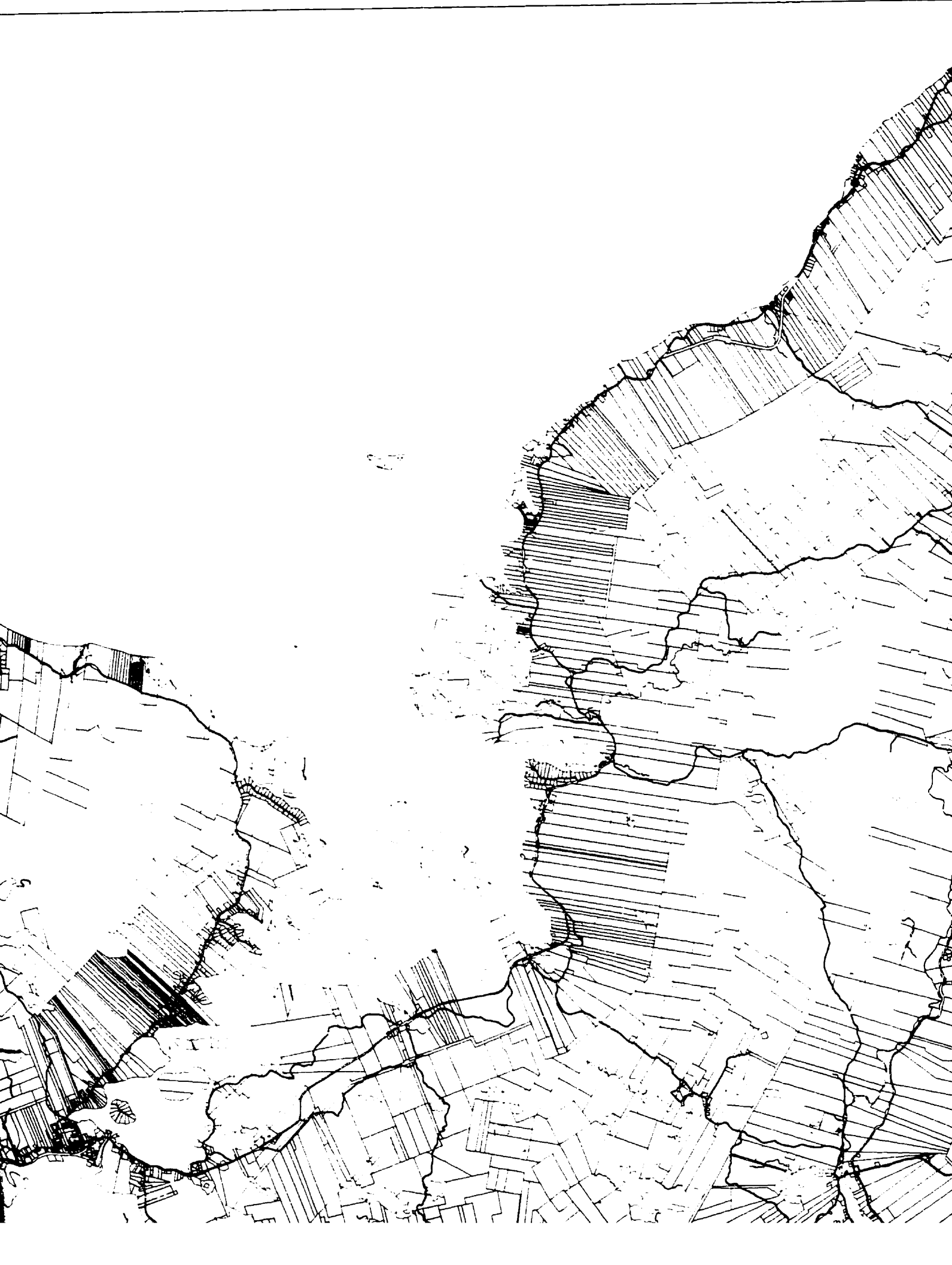
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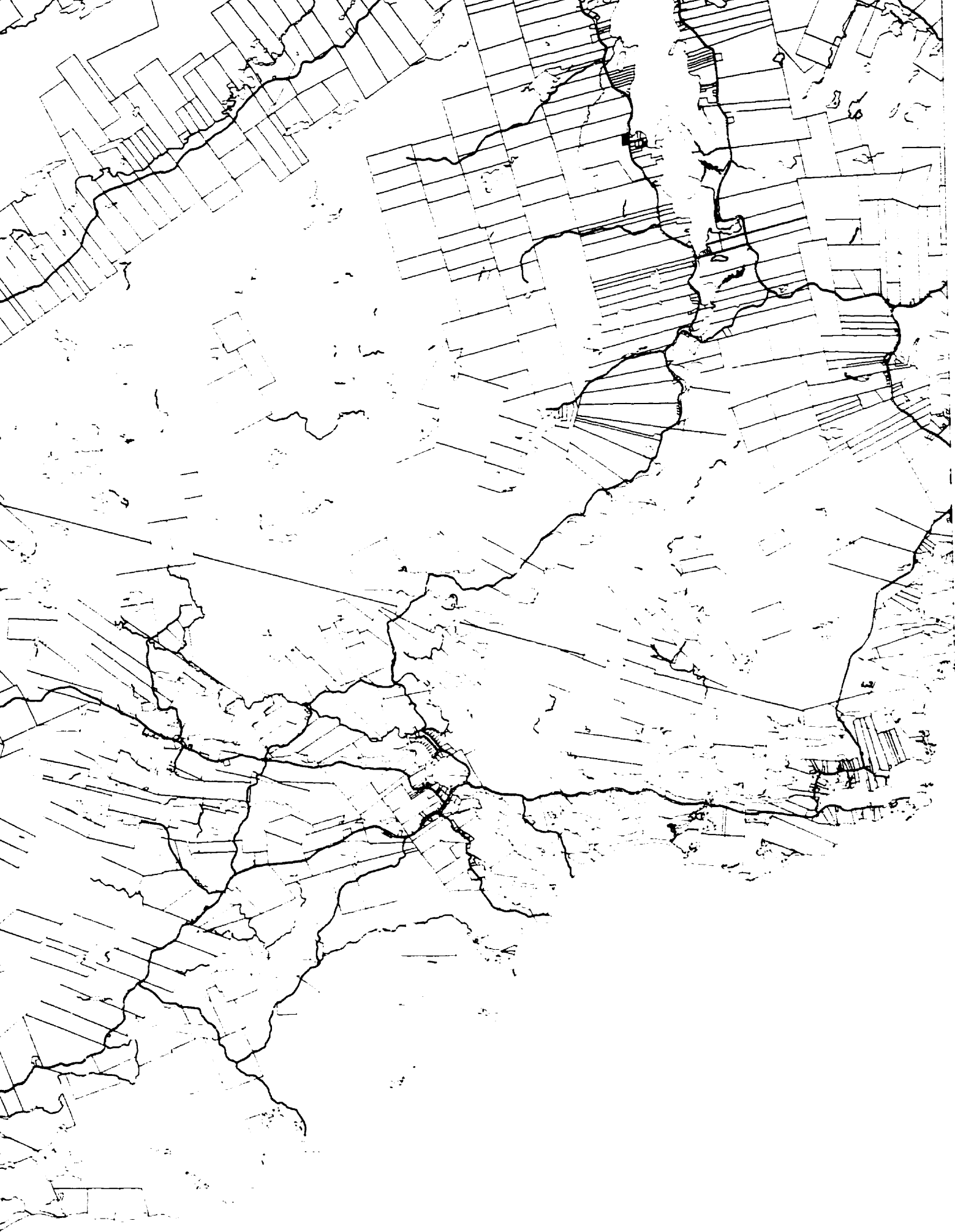
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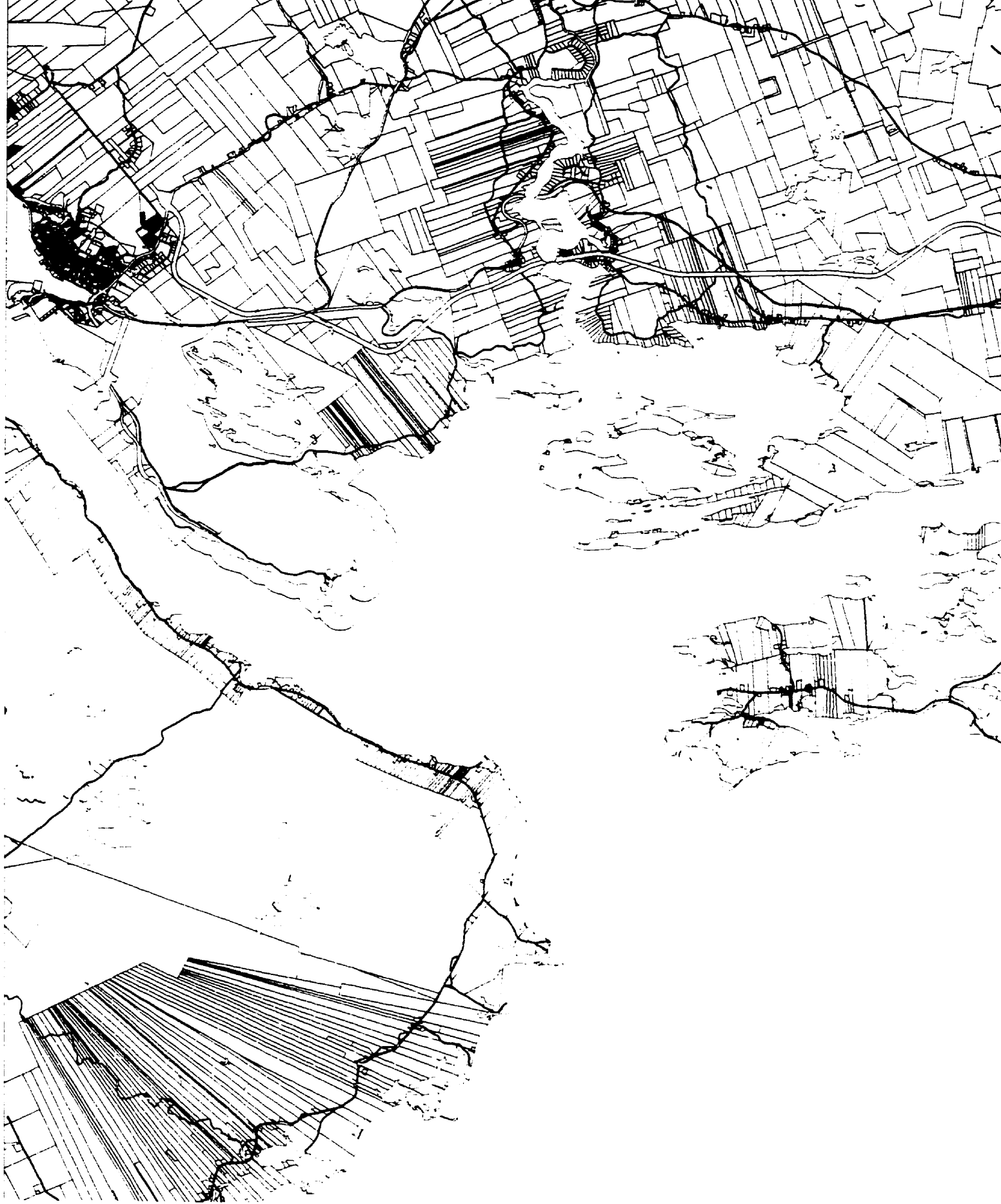












Appendix C.
Map of Richmond County
Properties



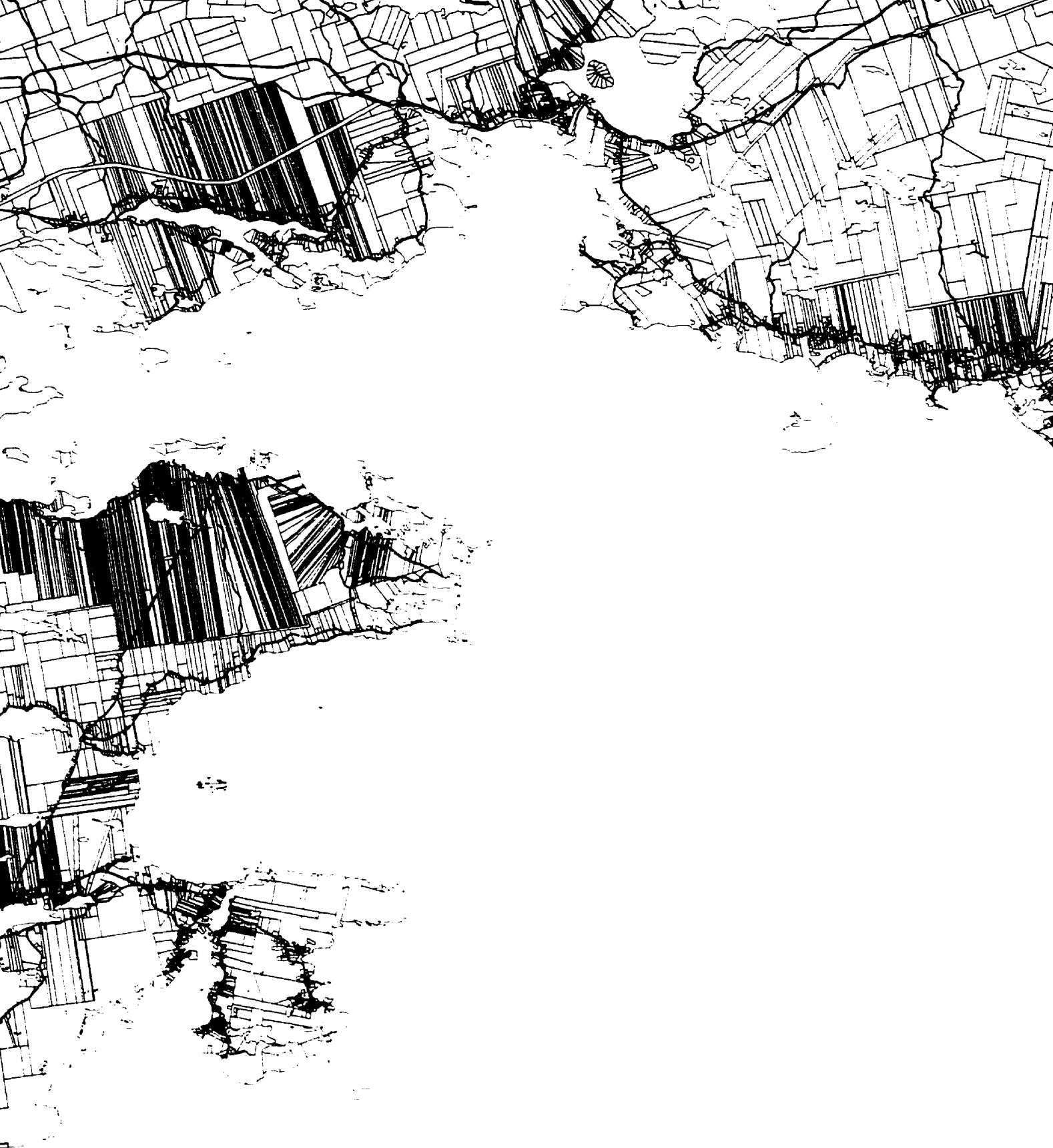
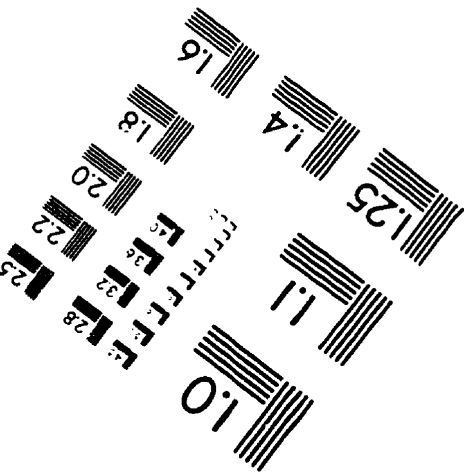
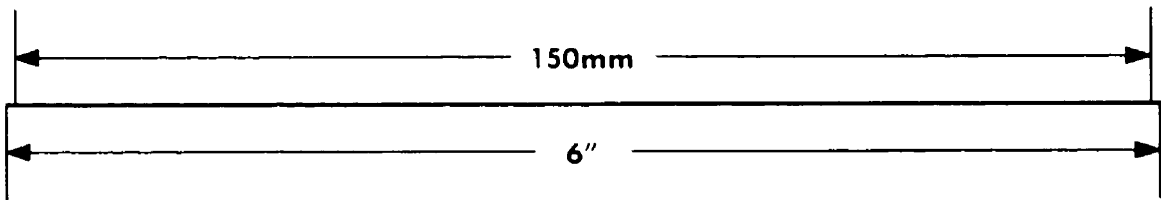
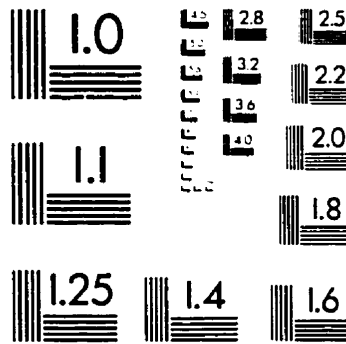
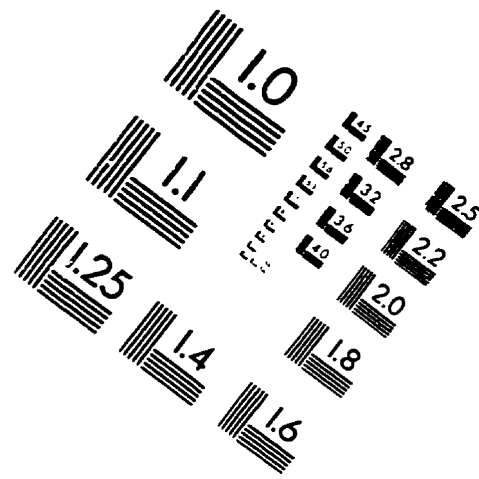
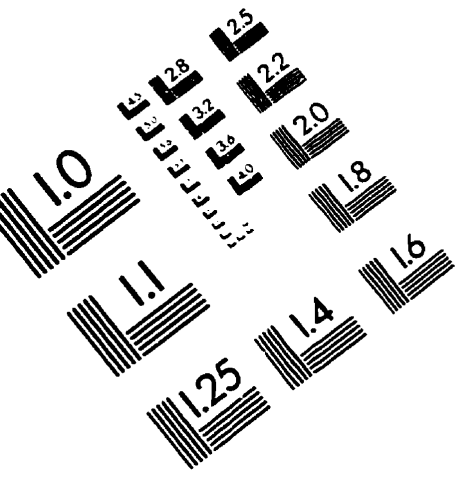






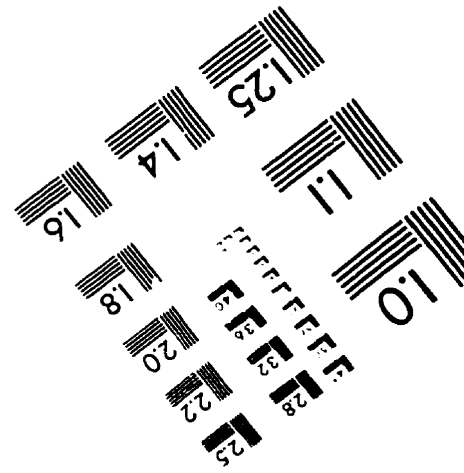


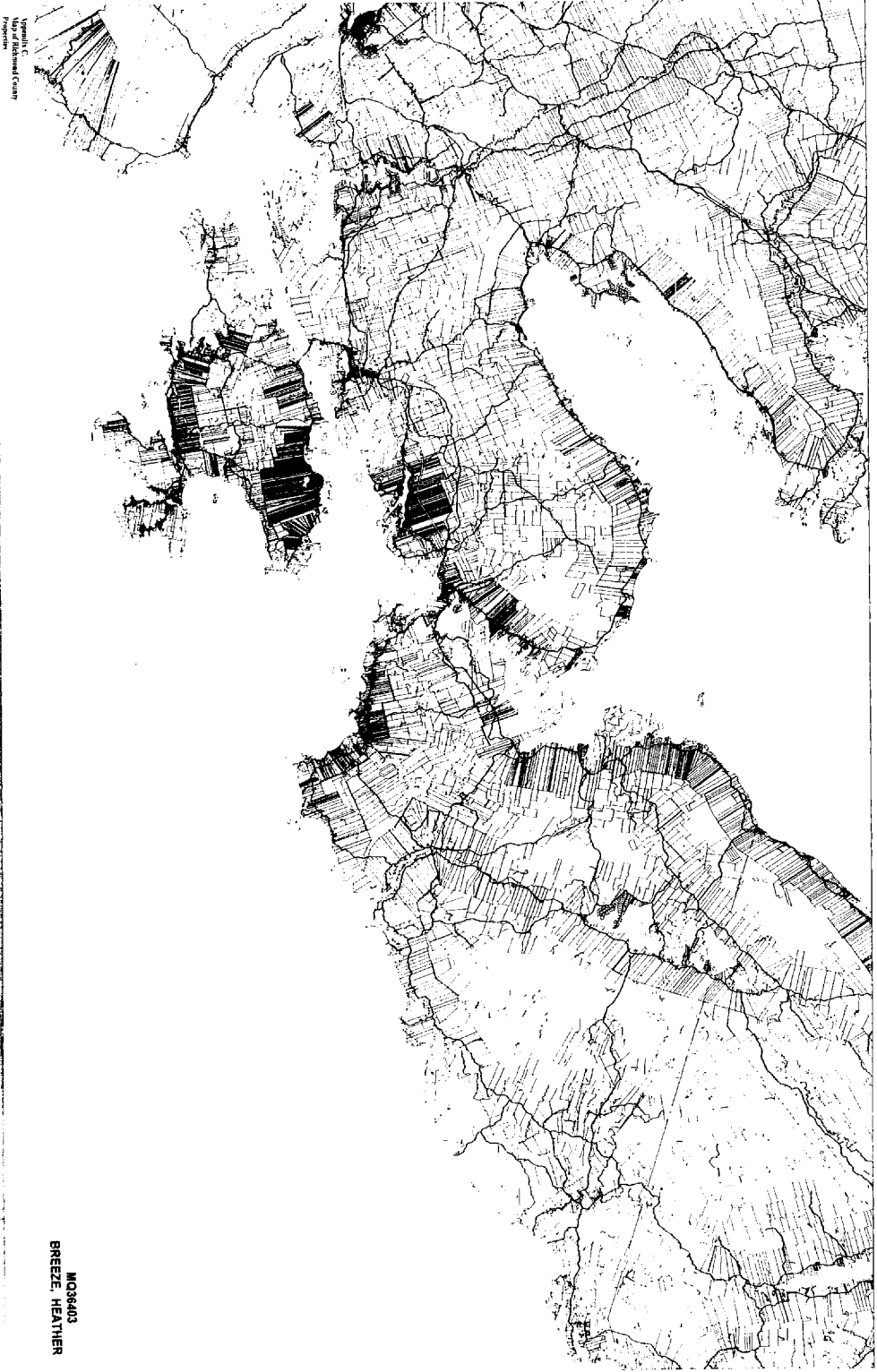
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