

e Log Export Question in British Columbia, 1865-1930.

by

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Introduction

Wednesday April 3rd, 1929, was an unseasonably miserable day on British Columbia's lower mainland. "Sleet and Rain Astonishes City," wrote the *Vancouver Sun*, describing the "sharp cold" which had brought snow earlier that morning.¹ But it wasn't just the weather that was stormy, there was a legal squall brewing as well. Ewart V. Munn, son of the McDonald Murphy Lumber Company's managing director A.E. Munn, was preparing to challenge one of the province's log export laws. Arriving at the Forest Branch office in Vancouver, he presented the paperwork required to export four booms of logs to Washington State. This was nothing unusual; McDonald Murphy was a large firm and a regular exporter. Munn paid a portion of the fees owing but then departed from the usual routine. He refused to complete export form FB 38 and pay the \$2025.24 in timber tax that was due upon export, arguing that this requirement was *ultra vires* or beyond the province's authority.² The ensuing court battle ended in victory for the loggers, resulting in the repeal of Section 58 of the *Forest Act*.

involved with this and other areas of forest policy.

Despite the issue's resonance with the public, opposition politicians, and the press, the history of the raw log export question has attracted little scholarly attention. Works addressing the forest industry focus most of their attention elsewhere. In

Richard Rajala describes British Columbia as a client state that was "highly dependent upon the revenues generated by resource corporations for financial health, [and] tended to define the public interest in terms of the corporate interest," but he does not apply this model to an examination of log exports.³ Patricia Marchak does not mention log exports in

and later had a forest service launch named in his honour.¹²

A consistently problematic area for scholars concerns dating the appearance of the first legislative log export restrictions. It is often written that these controls began in 1891. Richard Yerburgh was one of the first to present this date in his 1931 master's thesis, Gordon Sloan followed suit in his 1945 *History of the Forestry Department of British Columbia*, and 1891 has been regularly cited since.¹³ However, a close reading of the *Forest Act* amendments to the *Forest Act*, as well as orders-in-council from the early 1890s reveal no trace of log export prohibitions.¹⁴ In addition, newspaper accounts from 1901 consistently report that year's *Forest Act* amendment as the first restriction on the export of logs from British Columbia. Backdating export controls from 1901 to 1891 removes them from their historical context, obscuring their relationship with forces such as changes to American tariffs

various pieces together. Fortunately, as universities, governments, public archives, and private organizations continue to create and expand their online digital collections, scholars today are

geography. From a forestry perspective, the province can be divided into two main regions, the Coast and the Interior. The Coast region, made up the area west of the Cascade mountain range, is smaller geographically but produces more timber. As Rajala writes:

West of the Cascade Mountains that divide the coastal and interior regions of British Columbia, Washington, and Oregon, the interaction of heavy precipitation, mild climate, and favourable soil conditions after the ice ages produced one of the

from the logging site by being felled, dragged, or dumped into the water and formed into booms for towing to their destinations by tugboats. Puget Sound ports like Seattle, Tacoma, Anacortes, Blaine, and Bellingham were all within easy reach. This cheap method of moving logs had one significant drawback. While stored in saltwater, logs became vulnerable to a species of saltwater clam commonly referred to as a teredo worm.¹⁷ Loggers frequently used the threat posed by these parasites when lobbying for access to foreign markets, arguing that “if we are not permitted

land is more difficult for the government to control and tax, since the province's culture and legal system hold private property rights as a powerful counter to the rights of the state. Crown grants had drawbacks for the purchaser as well. Early loggers wanted the trees on the land more than the land itself and, having cut the timber, had little desire to retain the much devalued property.²¹

The province regularly used Crown grants to pay for the construction of railways. Two of the most significant grants were issued to the Canadian government as part of British Columbia's entry into Confederation, one to help defray the costs of the Canadian Pacific Railway (CPR) and the other for the Esquimalt and Nanaimo (E&N) Railway on Vancouver Island.

As the economy grew following Confederation and the arrival of the CPR, the British Columbia government began to recognize the value of the timber that Crown land contained, and it altered the terms of Crown grants. On 7 April 1887 an amendment to the *Land Act* made two important changes.²² The first required that all purchasers of Crown land make a declaration that it was not chiefly valuable for timber. This signaled the province's intention to stop the sale of forest land. Cail notes that it was difficult to enforce this

Sloan's 1945 royal commission report revealing that between 1934 and 1943, they accounted for 33.2 per cent of the timber cut in the province. In return for that 33.2 per cent the government received a pittance in property taxes, while the remainder provided over \$3,000,000 annually in fees and royalties for the public purse.²⁵

The second form of tenure, introduced in 1865, allowed lumbering interests to lease forest land. Such leases were available to "any person, persons or corporation duly authorized in that behalf, for the purpose of cutting spars, timber or lumber, and actually engaged in those pursuits, subject to such rent, terms and provisions, as shall seem expedient to the Governor."²⁶ Between 1901 and 1903, leases were available for harvesting pulpwood as well.²⁷ The requirement that the lessee be "actually engaged in those pursuits" was designed to thwart speculators.²⁸ Requirements for construction and operation of a sawmill were included in the terms of these early leases, which could be for large areas of land. For example, the Moodyville Saw-Mill Company at Burrard Inlet leased 11,410 acres for twenty one years in 1870 and a further 10,162 acres for the same length of time in 1875.²⁹ Leasing land was significantly cheaper than buying it. In 1873 the average price of an acre of Crown land sold at auction was \$1.09 while the annual rental rate included in leases averaged one cent per acre.³⁰ Leases were made even cheaper by the

26 "Report of the Commissioner of Lands and Timber, British Columbia, 1945", p. 10. #

27 "Ordinances Passed by the Legislative Council of British Columbia, during the Session from January to April, 1865", p. 10. #

28 "Statutes of the Province of British Columbia, 1901", p. 10. #

29 "Statutes of the Province of British Columbia, 1903", p. 10. #

30 "Cair, Land, Man, and the Law", p. 10. #

31 "Sessional Papers, First Session of the Second Parliament of the Province of British Columbia, Session 1876", p. 10. #

government's indifference to collecting these rents. In 1876 the total leased area was 29,413 acres, but the rental fees collected totaled just \$52.27, or .0177 cents per acre.³¹ There was a marginal improvement in 1878. With 64,749 acres leased, the government managed to collect \$175.83 in rent, raising its per acre income to just over two tenths of a cent per acre, approximately one-fifth of what was owed.³² Although the leases were subject to forfeiture if rents were not paid, the government took no action. From the start then, the forest industry did largely as it pleased, and governments enforced the rules only when pressured by opposing politicians, or publicly embarrassed by open defiance of the law. This one-sided relationship continued throughout the period examined by this thesis.

The government's bargaining position may have been undermined by the lack of interest in timber leases. In 1876 there were only eight in effect, the four largest overshadowing the others.³³ A committee of MLAs recommended lowering the barrier to entry for timber leases, noting that since the

opposed controls for the same reason. Integrated companies supported whichever position best served their interests at the moment.

In 1912, the new *Forest Act* introduced another type of tenure: timber sales. The issuance of timber leases had been discontinued in 1905. At the end of 1907, for reasons to be discussed in the following section, the government stopped issuing special timber licences. Although existing leases and licences were eligible for renewal, and hand-logger's licences continued to be issued throughout the period under examination, additional forest land was made available only through timber sales, which were essentially auctions for the right to cut trees on a specific piece of land.

The stated purpose of these sales was not to increase the supply of land available, but to allow cutting on "fractional areas adjoining existing logging operations."³⁸

Government received revenue from each of these types of tenure in a variety of ways.

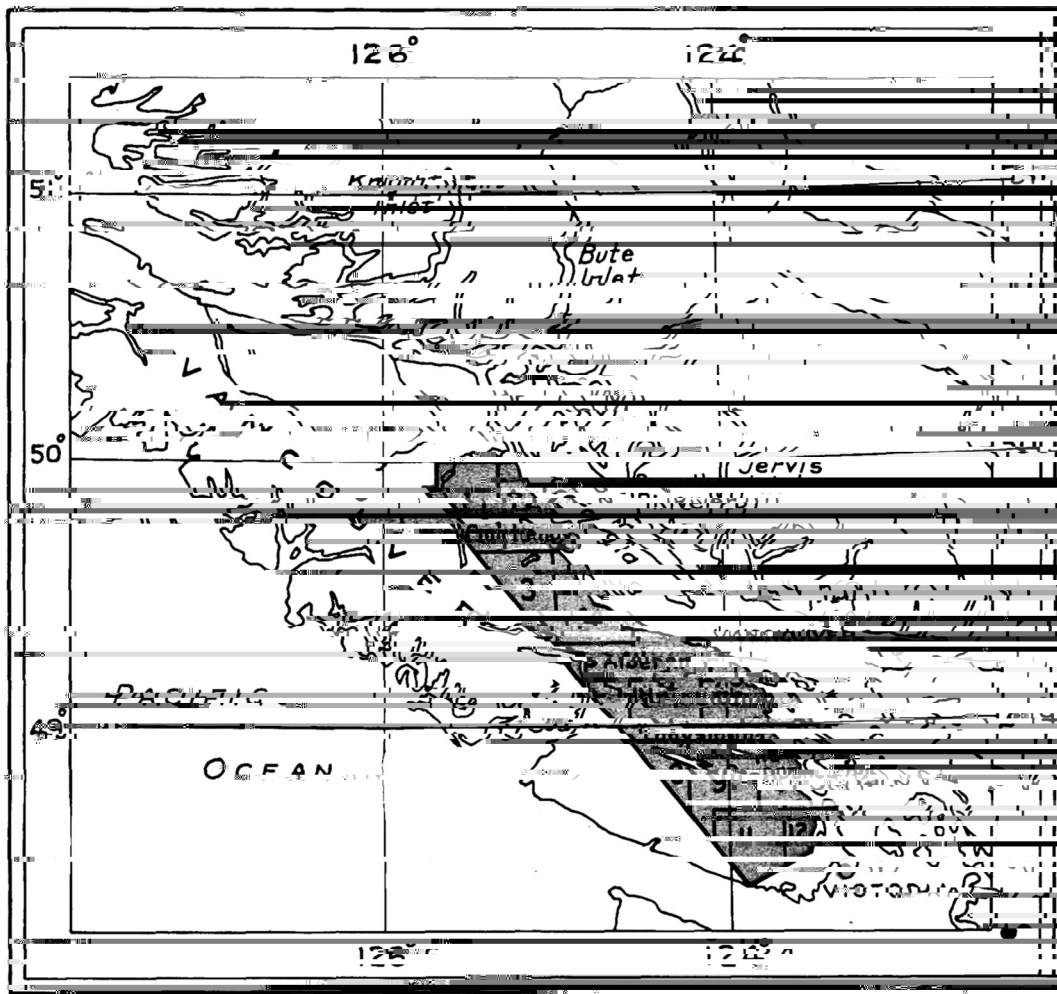
The most significant were: initial licence or timber sale fees; annual rents or renewal payments; stumpage, involving a per tree fee paid when the trees were cut; and royalty payments based on the volume of timber cut. The volume was determined by measuring, or "scaling" logs according to an agreed upon formula, known as the scale. All timber in the province, after 1903 including that cut from Crown granted land, had to be scaled before processing or export. The unit of measurement for scaling was a board foot, the equivalent of a piece of wood one foot wide by one foot long and one inch thick. Tenure is an important part of the background of the log export question. As Royal Commissioner Gordon Sloan wrote, "the subject of log exports demands

³⁸ " # O *Statutes of the Province of British Columbia, 1905*
" # *Order-In-Council 901/1907*) "

some understanding of the various forest tenures of the Province.”³⁹

Early Policy Setbacks

The subject of log exports also demands some understanding of two significant events in the history of British Columbia which undermined forest policy almost from the start. The first was the great land giveaway known as the Esquimalt & Nanaimo (E&N) Railway Grant in 1884. The second was the speculative timber licencing rush that Premier Richard McBride’s Conservative government unleashed between 1905 and 1907. Both were controversial solutions to the same problem. Late nineteenth and early twentieth century British Columbia governments



7 u - V 0 8 source: 8 0 Report of the Commissioner Relating to the Forest Resources of British Columbia † M h

³⁹ 8 0 Report of the Commissioner, 77.

ran structural deficits that could be not overcome. These financial challenges dated to the colonial period when the area was governed by the Hudson's Bay Company. Very little of the profit from the lucrative fur trade had been reinvested in the colony. Nor was the British government willing to invest in developing its remote possessions. Jay Sherwood explains:

Although Britain had established the colonies and professed interest in her possessions, she gave little assistance to [British Columbia governor James Douglas], for Britain did not want to assume the colonies' financial burdens.

government were embroiled in conflict over the railroad. Most British Columbians expected

difficulties. Despite the initial financial benefits of Confederation, by the early twentieth century the province again faced financial crisis. In 1904, it was so deeply in debt that banks refused to extend further loans.⁵⁰ The Conservative government of Richard McBride found a solution by updating forest policy to increase revenue.

and the United States eased their tariff restrictions incrementally during the 1890s. In an uncharacteristic move, the strongly protectionist Republican party of president Benjamin Harrison reduced the import duty on Canadian lumber with the McKinley tariff, enacted on 1 October 1890.⁶¹ Ten days later Canada removed its export duties on logs in return for this concession.⁶² When the anti-protectionist Democratic party under president Grover Cleveland came to power in 1892, import duties on Canadian lumber were removed entirely via the 1894 Wilson tariff.⁶³ Both logs and lumber moved across the border freely until another protectionist Republican president, William McKinley, was elected in 1896. The Republicans enacted the Dingley tariff on 24 July 1897, restoring import duties on Canadian lumber, but allowing Canadian logs to enter the country duty free.⁶⁴ Fearing American tariff retaliation, the Canadian government was reluctant to reimpose export duties on logs, leaving the provinces to their own devices. Pressure began to build in Ontario first, with that province's Lumbermen's Association calling for both a reimposition of federal export controls and a provincial ban on the export of unmanufactured sawlogs on 16 October 1897. According to H.V. Nelles, Ontario premier Arthur Hardy was hesitant but his government now faced "the situation it dreaded most - an unequivocal call for action from the trade and a rising tide of public opinion in its favour."⁶⁵ While the government was privately reluctant, officials vowed publicly to "protect Canadian industry and workmen against American aggression."⁶⁶ Despite its misgivings, the Hardy administration enacted a log export prohibition from Crown land on 17 January 1898, banning

⁶¹ y o) # O 'Manufactures 1905: Part 3 Special Reports on Selected Industries' ‡ '8 h \ " k U O 'The North American Assault on the Canadian Forest: A History of the Lumber Trade between Canada and the United States' u 'k h

⁶² Canada, Order-In-Council 2362/1890 \ O 'North American Assault' V 'Politics of Development', 63.


⁶³ y o 'Manufactures 1905: Part 3, O 'North American Assault'

⁶⁴ O 'North American Assault' V 'Politics of Development', 66.

V 'Politics of Development' '8 'k 'Lost Initiatives'

⁶⁶ V 'Politics of Development', 74.

pulpwood exports from the same on 30 April 1900.⁶⁷ Once the laws survived court challenges launched by upset timber lease holders, the benefit of these “manufacturing conditions” became quickly apparent, as Michigan lumbermen who were unable to source logs from Ontario began establishing sawmills in that province. Export restrictions were working. H.V. Nelles writes that “all along the Lake Huron and Georgian Bay shorelines new sawmills were either under construction, or already in production.”⁶⁸

Ontario’s move to conserve raw materials for domestic production would be noticed in British Columbia, which faced a similar trade problem. As mentioned earlier, logs were easily formed into booms and towed south to Washington State by tugboats for processing at American sawmills, while British Columbia’s lumber was excluded from Washington by the American import duty. Looking east, Vancouver’s  newspaper praised Ontario’s export restrictions:


The despatches from Washington which deal with the lumber question indicate that the action of the Ontario legislature in prohibiting the exportation of logs cut in the province has had the desired effect...It has long been a crying scandal that American owners of Canadian timber berths would send their men over to Canada, take out their logs and float them over to the American side, where the sawing was of course done.⁶⁹

began to call for the government to take action. The British Columbia Lumber and Shingle Manufacturers' Association complained that:

Instead of the manufacture increasing in our own country, the tendency is towards establishing new plants in adjoining United States territory, and this has already been done, the raw material being derived from British Columbia, manufactured in the United States, and thus has the advantage of the United States and Canadian markets.⁷¹

Support for that position came from the *British Columbia Lumber and Shingle Manufacturers' Association*, which reprinted a letter from the Hastings Shingle Mfg. Co. explaining why they had opened a new mill in Washington State, adding sympathetically:

prominent lumbermen, to use the province's natural resources to develop its own manufacturing industries, employing "our young men" so they might "raise their families here." He reminded the audience that "all logs produced on Crown lands in Ontario must be manufactured in that province."⁷⁴ Support for export restrictions continued to grow. In January 1901 the

 reported that logs were becoming scarce on the coast, while a later article estimated that twenty million feet would be exported that year.⁷⁵ On 22 March 1901, Vancouver Conservative MLA J.F. Garden told the legislature that "Ontario had placed an export duty on logs, and it might soon be necessary to follow her example."⁷⁶

Within weeks of Garden's speech, British Columbia's Chief Commissioner of Lands and Works W.C. Wells, a former sawmill owner from Ontario, introduced the first provincial legislation containing log export restrictions.

was assailed on all sides by pressing petitioners.”⁷⁹ It is possible that Wells’ bill was intended to curry favour with coalition politicians or some of these “pressing petitioners,” but neither the scholarly record, nor newspaper and trade journal accounts shed much light on the origin of the export controls. Contrary to one newspaper account which claims that they had been slipped in surreptitiously while the bill was in committee, specific wording was present in the first draft of the amendment forwarded to the legislature on 7 May 1901.⁸⁰ According to the newspaper record, the measure drew surprisingly little comment in the legislature, which is ironic considering the amount of attention it received after the story broke. The act passed with very little debate and became law on 11 May 1901.⁸¹ Timber inspectors were instructed to begin enforcement on 16 May 1901.⁸²

The press in British Columbia praised the government’s move. The *Vancouver Daily Province* wrote that log exports had “long been a crying evil,” and that the new law was “merely a case of legitimate protection for a British Columbia industry against unfair competition from a rival country.”⁸³ The *Victoria Daily Colonist* lent its support by describing the positive changes the Ontario laws had brought:

The transformation is marvellous...four years ago the Soo was a town of 3,000 people; today it has at least 8,000. Four years ago Blind River had 210 people; now it has 1,100, and the increase of population was directly due to the prohibition of the export of logs.⁸⁴

The *Vancouver Daily Province* also

It is evident that the business of the logger will be injured by the legislation, but on the other hand the more important industry of the manufacture of lumber and shingles will be longer perpetuated. As to the advantages of the two industries little need be said. The logger expends a small sum for the cutting of the timber and exports it to a foreign country to be manufactured. The mill-man expends an equal sum in cutting the timber, and a much greater sum in manufacturing it into lumber, shingles, and other more finished products.⁸⁵

Independent loggers were understandably less enthusiastic. They complained that the provincial market was not large enough to absorb their output, that local mills wouldn't buy lower grades of logs, and that the new legislation had taken them by surprise.⁸⁶ Mill owners disputed the loggers' claims of a weak market. C.M. Beecher, of the British Columbia Mills, Timber, and Trading Company, Ltd., one of the largest firms in the province with three mills as

the state and the loggers.⁹⁰ First, each time the loggers secured temporary permission to export logs already cut, they would cut more logs and press for the right to export those as well. Second,

department.”⁹⁵ us, even as politicians were declaring their public commitment to export

Now Timber Officer Murray is on Jervis Inlet looking for that boom that he may seize it. I received advices from a tugboat captain this morning that he saw Mr. Murray looking for the boom. I don't intend to submit tamely, and will fight. I have consulted legal opinion, and was informed that my contentions were quite correct, and that the law the Government expects to use to stop me exporting is too foolishly constructed to merit intelligent discussion. I can win in the courts, and I am going to do so.¹¹⁰

The government accepted his challenge and seized the logs the following day.¹¹¹

While waiting for the case to come to trial, Emerson lashed out at sawmill owners who supported export restrictions, and announced plans to open a mill that would manufacture rough lumber from the logs he was not allowed to export. He threatened to price the lumber so low that it would draw down the market, hurting his enemies even if it meant hurting himself by selling at a loss.¹¹² A week later, he promised to identify hypocritical mill owners who he claimed had also been illegally exporting logs.¹¹³ Undaunted by the government's first seizure, he continued to export logs, which the government continued to seize.¹¹⁴ In November, the tugboat which had taken some of Emerson's export restricted logs across the border, was also impounded.¹¹⁵ Emerson called this "nothing less than a high-handed outrage" and, in a rare moment of prescience, suggested that he was being singled for attention as a result of antagonizing the Chief Commissioner of Lands and Works.¹¹⁶ There was more to come as less than a week later the Lands and Works department seized Emerson's entire camp at Broughton Island. He tallied the score:

The tugs Shamrock and Uno, owned by Emerson, his donkey engines, all his camp gear and his booms of logs, were plastered with notices informing all who could read

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that the property was under seizure and that on no account must it be interfered with.¹¹⁷

Emerson scored a partial victory when his case came to trial on 11 November 1905. The judge ruled that although the export of logs cut by hand-loggers was prohibited, the government could not seize them simply because they suspected that they were going to be exported illegally.

This ruling was problematic. Once the logs entered American waters they were out of the province's jurisdiction and so could not be seized.¹¹⁸ Eventually the federal customs authorities agreed to deny tugboats exporting logs outbound customs clearance unless crews produced provincial export permits.

None of this controversy was making Emerson any friends. Fred J. Wood, manager of the Bellingham branch of the vast American E.K. Wood Lumber Company, frustrated by Emerson's threats to undermine the market and expose fellow log exporters, dismissed him as a "piker," a cheap, small time operator who could not be trusted.¹¹⁹ To make matters worse, loggers in British Columbia were not rushing to join his crusade. In fact, the BCLA, perhaps frustrated by his inability to leave well enough alone, forced him from the association's presidency early in 1906.¹²⁰ While Emerson continued his battle with the province, the *Vancouver Daily Province* reported that "far from seeing their way to removing the export embargo, the government will take steps to remove any laws in the act which render it difficult to convict for offenses against the regulations," adding that the law had convinced several U.S. investors to open new mills north of the border.¹²¹

¹¹⁷ O. J. ... 8 y o *Vancouver Daily Province* V

8 o O *Vancouver Daily Province* V

¹¹⁹ # h *Vancouver Daily Province* o

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" # O ‡ *Vancouver Daily Province*, K

¹²¹ 7 # o *American Lumberman* K u o "

" # *Vancouver Daily Province* K

would allowed out of the province.¹²⁶ The condition that only logs already cut would be exported had been ignored in 1901, and soon it was ignored again. Hak notes that “the exemption did not only clear logs from the water, it also led to the reopening of camps, some of which were financed by U.S. mills.”¹²⁷ When export restrictions were reimposed on 8 September 1908, the logging industry rose in protest. The Vancouver *Free Press* reported the loggers’ complaints: “Said one timber man this morning: ‘We can’t get any satisfaction from the government. We will know how to act when our turn comes.’”¹²⁸ The *Vancouver Free Press* noted the financial impact of the prohibition on loggers who had entered into new contracts to supply logs to Puget Sound lumbermen but were now unable to deliver the logs they had cut.¹²⁹ Solemn promises proved no match for industry pressure, and Fulton once again relaxed the restrictions, this time until 1 November 1908.¹³⁰ Shortly after this deadline passed, the Department of Lands and Works seized another boom from J.S. Emerson. Now apparently repentant, he agreed to not export the logs in return for their release.¹³¹

Emerson’s public battle with the province over log exports may have ended, but he must have continued illegally exporting logs to some degree, as the province seized yet another of his booms on 28 December 1909.¹³²

Department of Lands and Works. Although he did begin a lawsuit years later, he appears to have dropped it after the court ruled that he would have to pay the government's costs regardless of the outcome of the trial.¹³⁴ His case marked the end of his crusade against export controls.

Where Patterson's lobbying brought success, Emerson's defiance forced the government to

allegations.¹³⁸ When Fulton's final report was released in 1910, it recommended maintaining the status quo, pending further investigation.

The passage of the *Forest Act* in 1912 is often mentioned as a watershed moment in the history of the relationship between the state and the forest industry in British Columbia. Incorporating many of Fulton's recommendations, the act brought together all the forestry related legislation in the province and created its first dedicated forest service, led by new Chief Forester H.R. MacMillan. There was little change concerning export controls, however. Fulton's suggested relaxation on lower grades was not included. The tax on exports from Crown grants was moved from the *Forest Act* to Section 58 of the *Forest Act* and export restrictions covering Crown lands transferred to Section 100.¹³⁹ Both industry and government seemed content to

Governor in Council the authority to permit the export of pulpwood, and retroactively made legal by inserting the following clause: “it is hereby declared that the Lieutenant-Governor in Council was duly authorized under this Act to pass Order in Council No. 810 on the twelfth day of July, 1912.”¹⁴¹ Finally, in an apparent attempt to clarify once and for all the confused tangle of regulations concerning log exports from pulp leases, exempted all pulp wood which “has been or shall be cut” from “any export duty, export licence fee or other export charge of any kind whatsoever.”¹⁴²

Unsettled market conditions following the outbreak of the First World War brought yet another request from the loggers for a suspension of the log embargo, this time for all species and grades of logs during a period of six months. Reading from the now familiar script, loggers promised to export only what was already cut and in the water. Despite protests from manufacturers, MacMillan supported the loggers’ request and recommended approval contingent upon the adoption of a graduated export tax schedule that varied based on the species and grade of log exported.¹⁴³ The McBride government passed an order-in-council adopting MacMillan’s recommendations on 26 August 1914. During later debates in the legislative assembly, W.J. Bowser, attorney general at the time of the order’s passage, admitted that it had been illegal and that “there was a grave question whether the Government had a right to permit that export.”¹⁴⁴ Still not satisfied, the BCLA argued that the export tax was too high to make export profitable and lobbied to have it reduced. Once again a compliant McBride administration obliged,

141 " # Order-In-Council 810/1912 K " #
 " 7 " Statutes of the Province of British Columbia, 1913
 142 " # Order-In-Council 895/1913 K 8 7 h
 143 U = U O " # O " \ o
 # 7 8k " \ # " #
 " # Order-In-Council 1050/1914 8 7 h
 144 " o @ O Cranbrook Herald U

reducing the tax on 16 September 1914.¹⁴⁵ In a depressingly familiar story, once the export privilege was won, more logs were cut, and more extensions were granted. On 31 May 1916, an amendment to the *Timber Act* finally provided the Conservative government with the legal authority to permit the export of “unmanufactured timber...during the continuance of the present War and six months thereafter.”¹⁴⁶

September 1916's provincial election brought a new Liberal government, led by H.C. Brewster, to British Columbia but saw little change in log export policy. Minister of Lands T.D. Pattullo addressed the question shortly after taking office. In December Acting Chief Forester Martin Grainger provided him with an extensive report detailing the history of the

that they might test the issue in court, but the government refused the challenge.¹⁵⁶ While the loggers hoped for a showdown, the government hoped to avoid one. Under continuing pressure, in 1915 the Forest Branch agreed to stop collecting the timber tax on logs manufactured in the province. Once again, there was no legislative authority for the government's actions, given the absence of an amendment to the *Forest Act* or order-in-council. It simply gave the loggers what they wanted. The news stayed out of the papers. Unlike J.S. Emerson, these loggers knew how to keep their mouths shut. All parties involved kept quiet and nobody complained. Between 1924 and 1928 this decision cost the government \$40,949.88 in lost revenue.¹⁵⁷ The timber tax payable upon export was less easily dismissed, the government having no intention of relinquishing this more significant source of revenue. The Forest Branch did not report amounts of timber tax collected separately from other forest revenues during the 1920s, making accurate figures difficult to obtain, but the *Forest Act* suggested that this tax brought in \$200,000 a year.¹⁵⁸ The loggers wanted to keep this money for themselves.

The fight against Section 58 was led by A.E. Munn, managing director of the McDonald Murphy Lumber Company. Munn was a well connected forestry insider who held a controlling interest in the firm and had been in the lumber business for over thirty years. After moving to British Columbia in 1913, he became involved in the BCLA. First elected to a director position in 1914, he became president of the organization in 1917, and was instrumental in the creation of

¹⁵⁶ "K... 8... U... †... O... U... #... O... h... =... u) h... U... O...)... #... O... \o... #... 7... 8k... "... O... O... #... U... =... u... U... O... u... u... K... "... #... O... "... \o... #... 7... 8k... "... u... -... u... "... #... #... #... #... 7... "... h... †... K... " # O u Vancouver Daily Province U

the WAC.¹⁵⁹

early as 1917. In 1928 it reformed as the McDonald Murphy Lumber Company, incorporating investment capital from the John Schroeder Lumber Company, a large American firm based in Milwaukee, Wisconsin. These funds were used to acquire Block 75, a parcel of E&N grant land near Cowichan Lake, a tract described as “one of the finest and largest stands of timber on Vancouver Island.”¹⁶² McDonald Murphy reportedly invested nearly \$2 million in the purchase.

The scale of this expenditure can be understood by considering that this was just the sum that the provincial government would earn from all the timber licences in the province during that year.¹⁶³

It is unclear why A.E. Munn chose to challenge Section 58 in 1929. Perhaps deteriorating market conditions forced his hand as the global economy drifted towards collapse. On 25 January British Columbia sawmill owners responded to a lack of demand for lumber by agreeing to an

Why not tax all logs and pulpwood and pulp shipped to [America]? I say let them raise their tariff wall as high as Mt. Baker. What minerals and timber there are here we can keep for Canadian citizens.¹⁶⁶

Perhaps Munn was simply in the mood for a fight, having lost his seat in British Columbia's Legislative Assembly in the 1928 election. Regardless of his motivation, and it seems likely that the Block 75 investment made in the hope of unfettered access to the American market played a part; once events were set in motion, they progressed quickly.

McDonald Murphy v. Attorney General was heard in British Columbia's Supreme Court in early May 1929 by Justice Aulay Morrison. Morrison had previously ruled that another provincial tax was invalid, so it was no surprise when he again ruled against the government. Announcing his decision on May 23, Morrison wrote:

Applying epithets does not as a rule disclose the true character of a transaction or of a statutory enactment. Both parties invoke the apposite and well-known clauses of the B.N.A. Act in their contentions as to whether this tax is direct or indirect

until the federal government stepped in during the Second World War.¹⁶⁸

Conclusion

Reviewing the history of the log export question we can see that British Columbia's recurring financial problems encouraged official deference towards business from the province's earliest days. There was no golden age which saw a principled government guarding the public's interest and preserving forest resources for future generations. Export restrictions appeared without much fanfare and were pursued half-heartedly except when governments were publicly pressured into action. Despite evidence that these controls were an important factor in the development of local manufacturing industries, politicians succumbed to industry pressure to ignore or suspend them, even when there was no legislative authority for these suspensions. Stephen Gray describes the evolution of export controls as a fall from grace, as policies designed to encourage local manufacture were watered down by industry pressure, but this is inaccurate.¹⁶⁹ Export controls were not undermined slowly by the forest industry, they were undermined from the outset by both the government and the forest industry who were both in pursuit of short term profits. There was no evolution, this was how the policy functioned from its inception. The creation of the Forest Branch did not stem the tide of exports; indeed, shortly thereafter the wholesale suspension of export controls evolved into a behind the scenes committee system which facilitated record levels of log exports during the 1920s. Desperate for cash, the government did just enough to satisfy its critics, sacrificing the long term well-being of the province for immediate income. The public was assured that "one day" the province would be able to process all the logs it cut, but that day never came as logs flowed out of British Columbia, enriching

¹⁶⁸ "The History of the Province of British Columbia," *Vancouver Daily Province*, "The History of the Province of British Columbia," *Vancouver Daily Province*, "The Statutes of the Province of British Columbia, 1930," *Statutes of the Province of British Columbia, 1930*.

¹⁶⁹ Gray, *Forest Policy and Administration*.

those who lived somewhere else.

Appendix - Log Export Timeline

1 October 1890: The United States reduces import duty on Canadian lumber with the McKinley tariff.¹⁷⁰

11 October 1890: Canada removes the export duty on logs via Order-in-Council 2362/1890.¹⁷¹

28 August 1894: The Wilson tariff removes import duty on Canadian lumber.¹⁷²

24 July 1897: The Dingley tariff reintroduces import duty on Canadian lumber.¹⁷³

17 January 1898: Ontario prohibits log exports from Crown lands.¹⁷⁴

30 April 1900: Ontario prohibits pulpwood exports from Crown lands.¹⁷⁵

11 May 1901: British Columbia prohibits log exports from timber leases in the province.¹⁷⁶

25 May 1901: British Columbia's Commissioner of Lands and Works, W.C. Wells, suspends log export prohibition after protests from logging industry.¹⁷⁷

1 January 1902: British Columbia begins enforcement of log export controls contained in the Statutes of the Province of Ontario, 1898.¹⁷⁸

17 March 1902: W.C. Wells promises industry that export permits will be granted "in as many instances as are brought to the notice of the department."¹⁷⁹

¹⁷⁰ York University, *Manufactures 1905: Part 3 Special Reports on Selected Industries*, 8; h. \ " k U O " *The North American Assault on the Canadian Forest: A History of the Lumber Trade between Canada and the United States*, u " k " h

¹⁷¹ Canada, *Order-in-Council 2362/1890* \ " O " *North American Assault*, = † V " *The Politics of Development: Forests, Mines & Hydro-Electric Power in Ontario, 1849-1941*,

¹⁷² York University, *Manufactures 1905: Part 3*, O " *North American Assault*

¹⁷³ O " *North American Assault*, V " *Politics of Development*, 66.

¹⁷⁴ \ " " " k " U " h # " #) " *Statutes of the Province of Ontario, 1898* " O " *North American Assault*, V " *Politics of Development*, 73.

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¹⁷⁶ " # " " " " " O " " *Statutes of the Province of British Columbia, 1901* " k h " 8 " u " k k " *Lost Initiatives: Canada's Forest Industries, Forest Policy and Forest Conservation* V " 8 " h " 8 " k

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¹⁷⁷ # " 8 " *Vancouver Daily Province* " U " = " *Turning Trees into Dollars*, 102.

† - - - O " *Daily Colonist* " K

¹⁷⁹ h " O " - " *Vancouver Daily Province* " U

10 July 1902: The *Timber Act* extends log export prohibition to special timber licences.¹⁸⁰

12 December 1903: The *Timber Act* introduces a tax on timber cut from Crown granted land that is not subject to royalty. This definition includes the Esquimalt and Nanaimo Railway grant and any other land granted after timber from Crown grants was reserved by the *Timber Act* on 7 April 1887. This tax is refundable, except for one cent per thousand board feet, if the logs are manufactured in the province. The 1903 amendment removes provisions for granting pulp leases, which also removes log export restrictions from existing pulp leases.¹⁸¹

12 March 1906: The *Timber Act* clarifies the language of log export controls, applying them to “all timber cut on ungranted lands of the Crown, or on lands of the Crown which shall hereafter be granted.” These restrictions however, apply only to timber cut west of the Cascade mountain range, in the coastal region. Export controls on timber leases are duplicated in the *Timber Act*, which is updated on the same day to apply only to leases in the coastal region.¹⁸²

17 September 1907: British Columbia requires owners of logs to complete a affidavit regarding their origin in an effort to determine appropriate royalties, taxes, and export restrictions via

9 September 1908: Log export restrictions on lower grades of logs again suspended by British Columbia despite there still being no legislative authority for this.¹⁸⁶

1 November 1908: Log export restrictions reinstated by the government of British Columbia.¹⁸⁷

12 March 1909: The Lieutenant-Governor in Council extends export prohibition to cover the entire province. Restrictions on existing leases continue to apply only west of the Cascade Range. The Lieutenant-Governor in Council is given the authority to authorize the export of "piles, telegraph and telephone poles, ties and crib timber."¹⁸⁸

10 March 1910: The Lieutenant-Governor in Council requires loggers to register a "separate and distinct mark or marks for each Crown grant, lease, or licence" being logged enabling the source of logs to be identified and the correct export and royalty regulations applied.¹⁸⁹

27 February 1912: The Forest Act gathers all forestry related legislation, including log export restrictions for both Crown granted and Crown lands, in

12 July 1912:

government to exempt loggers from the requirement that logs be marked before being coated or rafted on the water.”¹⁹⁴

26 August 1914: Citing “unsettled conditions attending the present European War,” British Columbia suspends log export restrictions via [Proclamation No. 100](#). All logs “now cut

Governor in Council to permit export of logs to 31 March 1930.²⁰²

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