

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

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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 Daily Province*, 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 *Land Act*, one of the laws designed to stop the export of logs from British Columbia.

Consistently opposed by a majority of the population, raw log exports have been controversial throughout the province's history. Governments have responded to this opposition by creating legislation designed to restrict the practice. Legislation, however, is only effective if enforced, and as we shall see, these same governments regularly found themselves with neither the ability nor the inclination to enforce the laws they had passed in the legislature. In fact, they often broke the law themselves by allowing log exports even when lacking legal authority to do so. This thesis will examine the history of the raw log export question between 1865 and 1930, a period in which British Columbia's forest industry developed rapidly and governments were particularly

¹ "Sleet and Rain Astonishes City," *Vancouver Daily Province*, 3 April 1929, 32.

² Statement of Claim, 4 April 1929, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03746, "Timber - Exp. Tax." no. 086011, British Columbia Archives, 5-12.

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 *Clearcutting the Pacific Rain Forest: Production, Science, and Regulation*, 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 *Green Gold: The Forest Industry in British Columbia*, and in *Logging the Globe* writes that "The sale of logs [has] never been...a major part of BC's forestry export economy."⁴ In terms of volume this statement is correct, but it overlooks the larger-than-life role log exports have played in popular discourse, and the lens into government and governance that this history provides. "Forest Policy and Administration in British Columbia, 1912-1928," Stephen Gray's often referenced master's thesis includes a chapter covering log exports but he addresses a relatively narrow time frame and relies too heavily on archived departmental memoranda. He overlooks the early years of export restrictions as portrayed by contemporary accounts in trade journals and newspapers, resulting in an overstatement of the government's efforts to prevent the trade.⁵ Gordon Hak's *Turning Trees Into Dollars: The British Columbia Coastal Lumber Industry, 1858-1913*, devotes only four pages to the subject, necessarily simplifying export-related events during his period of focus.⁶

³ Richard Rajala, *Clearcutting the Pacific Rain Forest: Production, Science, and Regulation* (Vancouver: UBC Press, 1998), 84.

⁴ Patricia Marchak, *Green Gold: The Forest Industry in British Columbia* (Vancouver: UBC Press, 1983); Patricia Marchak, *Logging the Globe* (Montreal: McGill-Queen's University Press, 1995), 92.

⁵ Stephen Gray, "Forest Policy and Administration in British Columbia, 1912-1928," (MA thesis, Simon Fraser University, 1982), 118-153.

⁶ Gordon Hak, *Turning Trees into Dollars: The British Columbia Coastal Lumber Industry, 1858-1913* (Toronto: University of Toronto Press, 2000), 100-103.

Much of the existing scholarship provides contradictory or inaccurate information. For example, Robert Cail's *Land, Man and the Law: The Disposal of Crown Lands in British Columbia, 1871-1913*, a posthumously published version of his 1956 master's thesis, is a foundational text commonly cited by any work examining the early years of British Columbia's resource sector.⁷ Unfortunately, the chapter concerning timber legislation contains several errors. Cail writes that timber leases first appeared in 1870, when in fact they appeared in 1865.⁸ He identifies R.J. Skinner as British Columbia's first timber inspector but D. McRae held the position for nearly a year before Skinner's appointment in May 1888.⁹ Cail also states that, for timber leaseholders, "the operation of a sawmill ceased to be required in 1897." Though it is true that the *requirement* for a sawmill was converted to a *financial incentive* for a sawmill in that year, it is also true that the *Land Act Amendment Act, 1899* restored the requirement that remained on the books until 1908.¹⁰ Cail is not alone in making mistakes when writing about the early days of forestry. *Lost Initiatives: Canada's Forest Industries, Forest Policy and Forest Conservation*, by Peter Gillis and Thomas Roach, incorrectly describes the export restrictions contained in 1901's *Land Act* amendment, and claims that Skinner "lost his job" after trying to enforce log export restrictions in 1905.¹¹ Skinner, in fact, not only remained in government employ until his 1909 death, but in 1907 was given the additional responsibilities of Assistant Commissioner of Lands and Works

⁷ H.V. Nelles, review of *Land, Man and the Law: The Disposal of Crown Lands in British Columbia, 1871-1913*, by Robert Edgar Cail, *BC Studies* no. 24 (Winter 1974/75), 98; Robert Edgar Cail, "Disposal of Crown Lands in British Columbia, 1871-1913," MA thesis, University of British Columbia, 1956.

⁸ Robert Edgar Cail, *Land, Man and the Law: The Disposal of Crown Lands in British Columbia, 1871-1913* (Vancouver: UBC Press, 1974), 95; British Columbia, *Ordinances Passed by the Legislative Council of British Columbia during the Session from January to April, 1865* (New Westminster: Government Printing Office, 1865), 6; British Columbia, "Return of Timber Leases," in *Sessional Papers, First Session of the Second Parliament of the Province of British Columbia, Session 1876* (Victoria: Government Printer, 1876), 706.

⁹ Cail, *Land, Man and the Law*, 101; British Columbia, *Public Accounts for the Fiscal Year Ended 30th June, 1888* (Victoria: Queen's Printer, 1889), 19.

¹⁰ British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1899*, 107, <http://heionline.org>; British Columbia, "An Act to Amend and Consolidate the Laws Affecting Crown Lands," in *Statutes of the Province of British Columbia, 1908*, 151-208, <http://heionline.org>.

¹¹ R. Peter Gillis and Thomas R. Roach, *Lost Initiatives: Canada's Forest Industries, Forest Policy and Forest Conservation* (New York: Greenwood Press, 1986), 137, 139, 320.

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 *Report of the Commissioner Relating to the Forest Resources of British Columbia*, and 1891 has been regularly cited since.¹³ However, a close reading of the *British Columbia Gazette*, amendments to the *Land 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 *Land 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 that drove provincial log export policy. These errors vary in significance, but their cumulative effect is to undermine the reader's faith in the scholarly record and to obscure a complete understanding of the relevant events. While these writers have revealed parts of the story, none have constructed an accurate and comprehensive narrative. It is clear that their work must be combined with a re-examination of available primary source material in order to stitch the

¹² "Personal News and Business Notes," *Canada Lumberman & Woodworker* vol. 29, no. 22 (15 November 1909), 25; British Columbia, *Order-In-Council 355/1907* (13 May 1907), <http://www.bclaws.ca>; British Columbia, *Report of the Minister of Lands for the Province of British Columbia for the Year Ending 31st December, 1911* (Victoria, BC: King's Printer, 1912), 22.

¹³ Richard Yerburgh, "An Economic History of Forestry in British Columbia," (MA thesis, University of British Columbia, 1931), 99; Gordon Sloan, *Report of the Commissioner Relating to the Forest Resources of British Columbia* (Victoria: King's Printer, 1945), 92; Duncan Kenneth Davies, "Log Export Restriction in British Columbia: An Economic Examination," (MA thesis, University of British Columbia, 1977), 8; Craig W. Shinn, *British Columbia Log Export Policy: Historical Review and Analysis* (Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station, 1993), 4; Bill Dumont and Don Wright, *Generating More Wealth from British Columbia's Timber: A Review of British Columbia's Log Export Policies* (Victoria: British Columbia Minister of Forests and Range, 2006), 21.

¹⁴ British Columbia, *British Columbia Gazette for the Year 1890*, <http://hathitrust.org>; British Columbia, *British Columbia Gazette for the Year 1891*, <http://hathitrust.org>; British Columbia, *British Columbia Gazette for the Year 1892*, <http://hathitrust.org>; British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1891*, 49-54, <http://heinonline.org>; orders-in-council available at <http://www.bclaws.ca>.

various pieces together. Fortunately, as universities, governments, public archives, and private organizations continue to create and expand their online digital collections, scholars today are provided with a wide range of documents that previous generations would have found much more difficult to access.

Integrating these primary source materials with existing scholarship reinforces and refines the historical narratives presented by Rajala and Gray. Where both scholars see the relationship between government and the forest industry evolving into partnership during this period, it is evident that this partnership existed from the province's earliest days. The government's need for revenue encouraged accommodation from the outset. The forest industry gained influence as it grew, but it was able to set the terms of its relationship with the provincial government as early as the 1870s, when, as we shall see, companies routinely refused to pay the rent owing on their government timber leases. Discussing log export controls, Gray writes that "what had originally been...designed to promote maximum manufacture within the province had evolved into a complex issue concerning local supply and price, access to the American...market and the general problem of overcapacity in the logging industry," but this was less an evolution than a description of the landscape when the controls were introduced.¹⁵ There was no golden age which saw a principled government guarding the public's interest and preserving forest resources for future generations. Policy was driven by little more than political expediency and a desire to satisfy competing sectors within the forest industry while extracting as much wealth as quickly as possible from it.

Background

Before discussing log exports, it is important to gain some understanding of the structure and language of the forest industry in British Columbia. A common point of departure is

¹⁵ Gray, "Forest Policy and Administration," 133.

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 earth's magnificent temperate rain forests.¹⁶

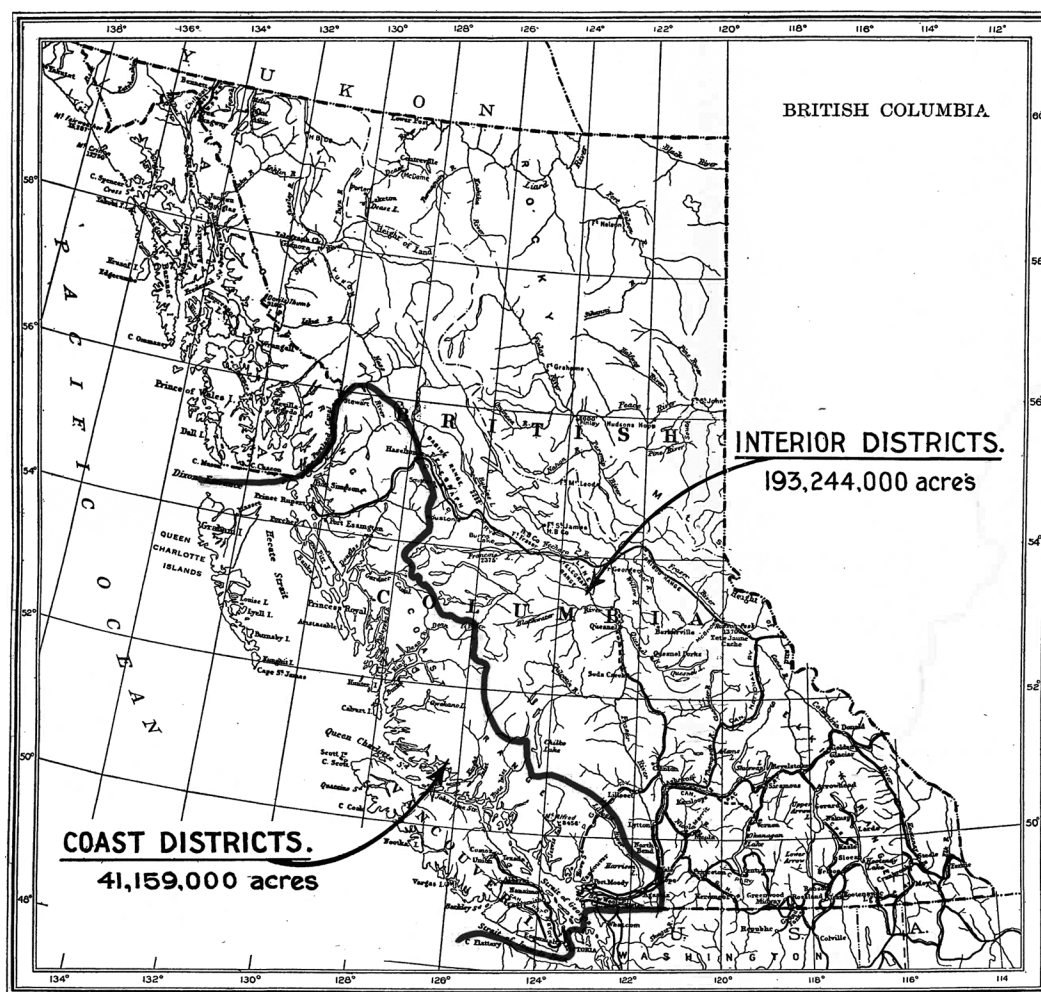


Figure 1. Forestry Districts. source: Gordon Sloan, *Report of the Commissioner Relating to the Forest Resources of British Columbia* (Victoria: King's Printer, 1945), 17.

The bulk of the logs exported came from the Coast region, largely due to the ease with which logs could be towed in booms to mills in Washington State. On the Coast, logs were transported

¹⁶ Rajala, *Clearcutting the Pacific Rain Forest*, xvii

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 to export the surplus as at present, this [unprocessed] lumber must be left to the mercy of the teredos which in a very short time render a boom of logs totally unfit for any purpose.”¹⁸ Lumber in this case refers, confusingly, to logs that could be sawn into lumber, not lumber that has been sawn from logs. The industry often refers to logs as timber, lumber, unmanufactured timber, or unmanufactured logs, it being assumed that the audience will understand that the ultimate product is sawn lumber.

At this point it seems worthwhile to discuss by what means loggers gained the legal authority to cut down trees and sell either logs or lumber. Rights to forest resources are referred to as tenure. There were five main types of tenure during the period under consideration. The first, direct sale of forest land, dates back to 1859, when British Columbia colonial governor James Douglas issued a proclamation claiming ownership of all the land in the colony for the Crown and outlining terms for the sale of that land. The proclamation made clear that “unless otherwise specially announced at the time of sale, the conveyance of the land shall include all trees.”¹⁹ Land that has been sold by the Crown is referred to as Crown granted land. Under this form of tenure government receives little benefit other than the initial payment.²⁰ Privately held

¹⁷ Gillis and Roach, *Lost Initiatives*, 133.

¹⁸ “Timbermen Back Government Log Export Policy,” *Victoria Daily Times*, 27 November 1923, 8.

¹⁹ James Douglas, “Proclamation, 14 February 1859,” University of British Columbia Open Collections, <http://open.library.ubc.ca>; Cail, *Land, Man, and the Law*, 92.

²⁰ Gillis and Roach, *Lost Initiatives*, 131.

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 restriction due to a lack of administrative staff and public indifference, however, the province did ultimately manage to retain control of all but four percent of this land.²³ The second change ended the inclusion of timber in Crown grants. After this date, "all timber upon the land" was reserved for the Crown, meaning that ownership of that timber would be retained by the government, and not transferred with the sale.²⁴ Unfortunately, grants predating this amendment contained vast timber resources,

²¹ Ibid.

²² British Columbia, "An Act to Amend the Land Act, 1884," in *Statutes of the Province of British Columbia, 1887*, 45, <http://heinonline.org>.

²³ Cail, *Land, Man, and the Law*, 93-95. Although Cail dates the first attempt to end the sale of forest land to 1884, an examination of his source [British Columbia, "An Act to Amend and Consolidate the Laws Affecting Crown Lands in British Columbia," in *Statutes of the Province of British Columbia, 1884*, 71-97, <http://heinonline.org>] reveals that he is mistaken and that this restriction was introduced in 1887; Ibid., 106.

²⁴ British Columbia, "An Act to Amend the Land Act, 1884," in *Statutes of the Province of British Columbia, 1887*, 45, <http://heinonline.org>.

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

²⁵ Gordon Sloan, *Report of the Commissioner*, 82.

²⁶ British Columbia, "No. 27. An Ordinance for Regulating the Acquisition of Land in British Columbia," in *Ordinances Passed by the Legislative Council of British Columbia, during the Session from January to April, 1865* (New Westminster: Government Printing Office, 1865), 6; Gillis and Roach, *Lost Initiatives*, 131, Gillis and Roach refer to "annually renewable leases," however the leases were not required to be renewed annually.

²⁷ British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1901*, 137-142, <http://heionline.org>; British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1903*, 189-196, <http://heionline.org>.

²⁸ Cail, *Land, Man, and the Law*, 95.

²⁹ British Columbia, "Return of Timber Leases," in *Sessional Papers, First Session of the Second Parliament of the Province of British Columbia, Session 1876* (Victoria: Government Printer, 1876), 706; British Columbia, "An Act to Amend the 'Land Act, 1884,'" in *Statutes of the Province of British Columbia, 1888*, 46, <http://heionline.org>; British Columbia, *Report of the Chief Commissioner of Lands and Works of the Province of British Columbia for the Year Ending 31st December, 1889* (Victoria: Government Printer, 1890), 172.

³⁰ British Columbia, *Report of the Chief Commissioner of Lands and Works of the Province of British Columbia from the 1st Day of January to the 30th Day of November, 1873* (Victoria: Government Printer, 1873), 66.

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 *Land Act* required that lessees already be engaged in the business, it was difficult for new entrants to qualify.³⁴ Seeking to broaden participation in the industry, in 1884 the government introduced timber licences, a third form of tenure.³⁵ For the purposes of this discussion it is not necessary to examine the complex evolution of these licences in depth, except to note their more significant features. They did not require the licensee to operate a

³¹ British Columbia, "Return of Timber Leases," in *Sessional Papers, Third Session, Second Parliament, and First Session, Third Parliament of the Province of British Columbia, Sessions 1878* (Victoria: Government Printer, 1878), 627; Cail, *Land, Man, and the Law*, 98.

³² British Columbia, "Timber Leases," in *Sessional Papers, Second Session, Third Parliament of the Province of British Columbia, Session 1879* (Victoria: Government Printer, 1879), 393; Cail, *ibid*.

³³ British Columbia, "Return of Timber Leases," in *Sessional Papers, First Session of the Second Parliament of the Province of British Columbia, Session 1876* (Victoria: Government Printer, 1876), 706.

³⁴ British Columbia, "Report of Select Committee - Timber Leases," in *Sessional Papers, First Session of the Second Parliament of the Province of British Columbia, Session 1876* (Victoria: Government Printer, 1876), 739; Cail, *Land, Man, and the Law*, 100.

³⁵ British Columbia, "An Act Relating to the Cutting of Timber upon the Provincial Lands, and for the Purpose of Deriving a Revenue Therefrom," in *Statutes of the Province of British Columbia, 1884*, 173-177, <http://heinonline.org>; Cail, *ibid*.

sawmill, were for smaller areas of land than timber leases, were valid for shorter periods of time, initially restricted individual holdings to a single licence, and were non-transferable. In 1905 the Conservative government of Richard McBride changed the terms of these licences radically in an effort to make them more attractive to investors. A detailed discussion of these changes will follow in the section examining early policy setbacks. The first licences offered were known as general licences, later renamed special timber licences to distinguish them from a fourth type of tenure, hand-logger's licences. These tenures, introduced in an 1888 amendment to the *Land Act*, were intended for use by individuals working alone, equipped only with hand tools. The amendment stated that they were "personal, and shall only grant authority to the person named therein to cut timber" but hand-logging quickly evolved into a type of sharecropping system which saw mills pay licence fees for and equip loggers who then cut for them under contract.³⁶

Hak writes:

Hand-loggers were tied to the sawmills. Mills provisioned hand-logger outfits and guaranteed to take their logs...sawmills often paid the [hand-loggers'] licence fee. Hand-loggers, then, were not independent entrepreneurs, but rather employees roaming the coastal shores in search of small pockets of good, accessible, unclaimed Crown timber.³⁷

As we shall see, the hand-logger's licences would become increasingly problematic for the government in the early twentieth century. These new licences: general, special, and hand-logger's, divided the forest industry. There were now manufacturers who owned sawmills, shingle mills, or other processing facilities, loggers who did not, and integrated companies who both logged and manufactured. These groups would find themselves at odds over the log export question. Manufacturers favoured log export controls as they lowered the cost of logs by removing foreign purchasers who might be willing to pay a higher price for them. Loggers

³⁶ British Columbia, "An Act to Amend the 'Land Act, 1884,'" in *Statutes of the Province of British Columbia, 1888*, 49, <http://heinonline.org>.

³⁷ Hak, *Turning Trees into Dollars*, 98.

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 British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1905*, 183-186, <http://heionline.org>; British Columbia, *Order-In-Council 901/1907*, 23 December 1907, <http://www.bclaws.ca>; British Columbia, "An Act respecting Forests and Crown Timber Lands, and the Conservation and Preservation of Standing Timber, and the Regulation of Commerce in Timber and Products of the Forest," in *Statutes of the Province of British Columbia, 1912*, 81-132, <http://heionline.org>; British Columbia, *Report of the Forest Branch of the Department of Lands for the Year Ending December 31st 1929* (Victoria: King's Printer, 1930), 27; Hak, *Turning Trees into Dollars*, 110; British Columbia, *Report of the Minister of Lands for the Province of British Columbia for the Year Ending 31st December, 1913* (Victoria: King's Printer, 1914), 62.

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

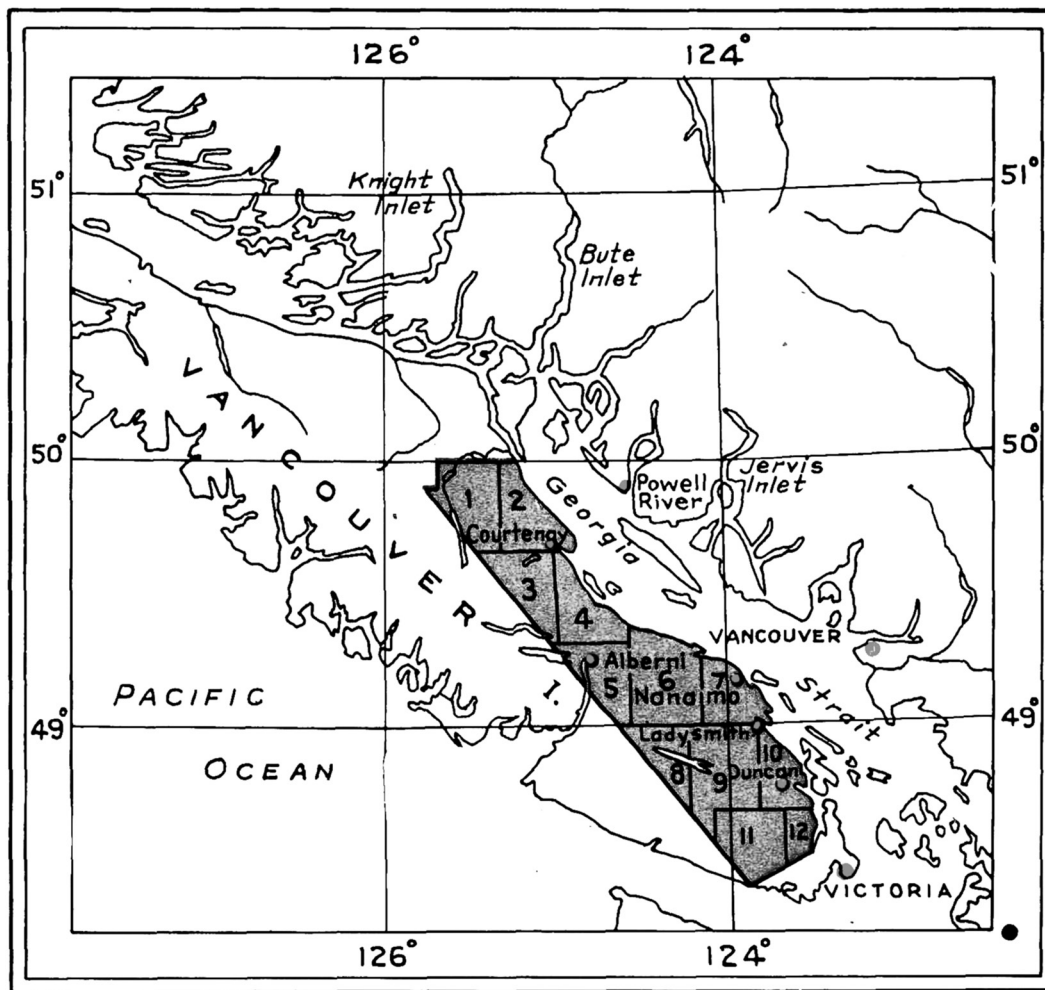


Figure 2. The Esquimalt & Nanaimo Land Grant. source: Gordon Sloan, *Report of the Commissioner Relating to the Forest Resources of British Columbia* (Victoria: King's Printer, 1945), 181.

³⁹ Gordon Sloan, *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.⁴⁰

British Columbia's other great resource bounty in the mid-nineteenth century came from Fraser River gold rushes. Between 1858 and 1864 an annual average of \$2.5 million worth of the precious metal was mined. Unfortunately, almost all of it also left the colony.⁴¹ As Jean Barman writes, "British Columbia started life with a massive debt and falling revenues."⁴²

Confederation presented a solution to province's financial woes: "the light from the east offered immediate relief," Joseph Roberts observed in 1937.⁴³ Canada agreed to assume responsibility for British Columbia's \$1,045,000 debt and when the Dominion also offered a railway link to the other Canadian provinces, the impoverished colony couldn't resist.⁴⁴ All it had to do was give Canada a swath of land extending twenty miles on each side of the railway's route to help offset the cost of construction. Land was something that the future province had plenty of. Nearly three times the size of the United Kingdom, the area held a population of just 36,000, of whom roughly eight thousand were of European descent.⁴⁵ British Columbia joined Canada on 20 July 1871 but it wasn't long after Confederation that the province and the federal

⁴⁰ Jay Allen Sherwood, "A Political and Economic History of British Columbia 1871-1903," (MA thesis, University of Montana, 1976) 4-7.

⁴¹ *Ibid.*

⁴² Jean Barman, *The West Beyond the West: A History of British Columbia*, 3rd ed. (Toronto: University of Toronto Press, 2007 [1991]), 96.

⁴³ Joseph Roberts, "The Origins of the Esquimalt and Nanaimo Railway: A Problem in British Columbia Politics," (MA thesis, University of British Columbia, 1937), 10.

⁴⁴ Margaret A. Ormsby, *British Columbia: a History* (Macmillan of Canada, 1958), 247, 245.

⁴⁵ Barman, *The West Beyond the West*, 429.

government were embroiled in conflict over the railroad. Most British Columbians expected the CPR to terminate in Victoria by following a route out of the Coast mountains through Bute Inlet, crossing Seymour Narrows to Vancouver Island, then proceeding south to the province's capital. However, it was much easier and cheaper to terminate the railway in Burrard Inlet on the mainland. After much political wrangling a solution was found. The CPR would not extend to Victoria, but the federal government would help fund the E&N Railway on Vancouver Island. Part of British Columbia's contribution to this project was the E&N Railway Grant, a plot of two million acres on south east Vancouver Island.⁴⁶ Prominent local coal baron Robert Dunsmuir was chosen to build the railway, the federal government agreeing to transfer the E&N Railway Grant, and all its resources, to him upon its completion.⁴⁷ According to Sloan, this grant contained "some of the finest Douglas fir stands on this continent."⁴⁸ Dunsmuir was more interested in the land's coal than trees, eagerly selling portions of the grant to those with money to spend. By 1905, when the CPR acquired the E&N Railway, six hundred thousand acres of the original grant had been purchased, much of it by forestry concerns like the Victoria Lumber and Manufacturing Company, a largely American owned firm based in Chemainus.⁴⁹ Lumbermen taking timber from former E&N land made it more difficult for the government to regulate forestry on Crown land, since these regulations were viewed as unfair by timber lease or licence holders who gazed covetously at the freedom with which those possessing Crown granted land operated.

The next significant challenge also rose out of British Columbia's continued financial

⁴⁶ Donald F. MacLachlan, *The Esquimalt & Nanaimo Railway, the Dunsmuir Years: 1884-1905* (B.C. Railway Historical Association, 1986), 53.

⁴⁷ *Ibid.*, 52.

⁴⁸ Sloan, *Report of the Commissioner*, 87.

⁴⁹ MacLachlan, *ibid.*, 53; Fred W. Field, "Capital Investments in Canada," *Monetary Times* vol. 46, no. 20 (20 May 1911), 2012.

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 revenues. The 1905 *Land Act* amendment made several significant changes to special timber licence terms that increased their appeal to investors. The new policy removed restrictions on the number of licences one person could hold, made them transferable, and renewable for up to 21 years.⁵¹ Sales increased rapidly, both to speculators and to lumbermen looking to secure forest land as timber in eastern North America neared exhaustion. In a 1907 article titled "Selling Our Birthright," the *Canada Lumberman & Woodworker* reported that:

More than once our attention has been drawn to the fact that desirable timber lands in Canada, when advertised for sale, are almost invariably snapped up by enterprising Americans...We endeavored to discover where these American enquiries originated and were not surprised to learn that they came largely from the States of Michigan, Wisconsin and Minnesota, a territory where timber is becoming extremely scarce, and which for years has been one of the busiest of American lumbering centres. Lumbermen there realize that the time must ere long arrive when the buzz of the saw will be silent in the land, and agriculture and commerce will have displaced entirely the great tracts of forest which once were. In anticipation of this, the far-sighted lumberman is casting about for a future field of operations. Today British Columbia is being overrun with American "speculators," as they are called; in reality shrewd, far-sighted business men, capable of anticipating the future of an industry which must grow with the advance of commerce and the adoption of correct methods of reforestation.⁵²

Between 1904 and the end of 1907 money poured in. The number of special timber licences

⁵⁰ Abraham E. Smith, "Financial Stringency in British Columbia," *Consular Reports* no. 283 (April 1904): 194.

⁵¹ British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1905*, 183-186, <http://heionline.org>; Hak, *Turning Trees into Dollars*, 102.

⁵² "Selling Our Birth Right," *Canada Lumberman & Woodworker* vol. 27, no. 10 (October 1907): 20.

skyrocketed from 1,451 to 17,700, covering nearly 9,000,000 acres of land.⁵³ On 23 December 1907, public pressure, and the fact that most of the forest land worth getting had now been gotten, caused the government to issue an order-in-council canceling the party and halting the issuance of these licences.⁵⁴ British Columbia's immediate financial problems had been solved. Reflecting in 1910, Price Ellison, the Chief Commissioner of Lands and Works, boasted of the growth in government revenues during the preceding decade:

In 1900 there were cut from licensed lands, leased lands and Crown granted lands in the province, 250,647,493 feet; in 1909 - a space of but nine years having elapsed - this has grown to the enormous total of 579,310,960 feet. In 1900 the total revenue from timber was \$145,766, being nine percent of the revenue of the whole province; while in 1909 the total revenue from this great asset of timber was \$2,343,907, or 43 percent of the entire revenue of the province. During the same period the total acreage under license showed a growth from 143,000 in 1900 to 9,500,000 acres in 1909.⁵⁵

While fiscal catastrophe had been averted, a new problem loomed. A powerful lobby group, the British Columbia Timber and Forestry Chamber of Commerce, was formed on 27 November 1907 to advocate on behalf of "owners of timber lands," which included those holding Crown grants as well as special timber licencees, who had come to view themselves as owners rather than tenants.⁵⁶ This group proved adept at wresting industry-friendly concessions from government.

The E&N land grant and the 1905-07 licencing bonanza made an enormous amount of timber available for harvest. This increased demands for the right to export logs, since other than flipping special timber licences for a speculative profit, cutting trees was the only way to realize

⁵³ British Columbia, *Report of the Minister of Public Works of the Province of British Columbia for the Fiscal Year 1908-09* (Victoria: King's Printer, 1910), 56; H.N. Whitford and Roland D. Craig, *Forests of British Columbia* (Ottawa: Commission of Conservation, 1918), 90; Richard Rajala, "'Streams Being Ruined from a Salmon Producing Standpoint': Clearcutting, Fish Habitat, and Forest Regulation in British Columbia, 1900-45," *BC Studies* no. 176 (Winter 2012/13): 106; Hak, *Turning Trees into Dollars*, 106.

⁵⁴ British Columbia, *Order-In-Council 901/1907* (23 December 1907), <http://www.bclaws.ca>; Hak, *Turning Trees into Dollars*, 109-110.

⁵⁵ "Discussion of B.C.'s Timber Bill," *Canada Lumberman & Woodworker* vol. 30, no. 6 (15 March 1910): 29.

⁵⁶ "Owners of Timber Lands to Gather," *Vancouver Daily Province*, 27 November 1901, 13; Hak, *Turning Trees into Dollars*, 109; "Timber Owners Will Present Petition," *Vancouver Daily Province*, 11 December 1907, 1.

a return on these investments. The E&N timber could be liquidated at its owners' pleasure, and, as Gray notes, "the Conservatives' timber allocation policy had facilitated overcapitalization of licenced timberlands, putting tremendous pressure on a rather limited log market."⁵⁷ If the local market was limited, then the only other option was to gain access to the export market.

Provincial Export Restrictions

The action taken of preventing the export of logs cut from Crown lands, whether the license was held by an American or a Canadian, was one which could not well have been avoided; it would have been an acknowledgement of utter helplessness to have permitted Americans to come here, cut down our forests, raft the logs to their mills in the United States free of export duty, while our own mills were closed down, our workmen idle, and the demand lost for all the subsidiary work and supplies required in running a saw mill.⁵⁸

- *Canada Lumberman*, 1898

The above quote outlines the difficult situation Canadian lumbermen found themselves trapped in at the end of the nineteenth century. Their manufactured products were restricted from entering the United States by American import duties, but the logs they required to make lumber and shingles were freely exportable. To add insult to injury, American products made from those same logs were then allowed back into Canada duty free. Thus, American lumber had an advantage in both Canada and the United States while Canadian manufacturers were forced to compete in their own country with the Americans for raw materials. It wasn't long before governments reacted by imposing a "manufacturing condition" that restricted the export of logs.⁵⁹

Canadian industry tended to favour free trade with the United States, known as reciprocity. This offered the Canadians a larger market for their manufactured goods and a cheaper source for the manufactures they needed for their own businesses.⁶⁰ Both Canada

⁵⁷ Gray, "Forest Policy and Administration," 151.

⁵⁸ "The Outlook for Lumbermen in Ontario," *Canada Lumberman* vol 19, no 2 (February 1898): 8.

⁵⁹ Gillis and Roach, *Lost Initiatives*, 85.

⁶⁰ H.V. Nelles, *The Politics of Development: Forests, Mines & Hydro-Electric Power in Ontario, 1849-1941*. 2nd ed., (Montreal: McGill-Queen's University Press, 2005 [1974]), 48.

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 United States, Department of Commerce and Labor, *Manufactures 1905: Part 3 Special Reports on Selected Industries* (Washington: Government Printing Office, 1908), 623; A.R.M. Lower, *The North American Assault on the Canadian Forest: A History of the Lumber Trade between Canada and the United States* (Toronto: Ryerson Press, 1938), 156.

⁶² Canada, *Order-In-Council 2362/1890* (11 October 1890), <http://www.bac-lac.gc.ca>; Lower, *North American Assault*, 156; Nelles, *Politics of Development*, 63.

⁶³ United States, *Manufactures 1905: Part 3*, 623; Lower, *North American Assault*, 156.

⁶⁴ Lower, *North American Assault*, 157; Nelles, *Politics of Development*, 66.

⁶⁵ Nelles, *Politics of Development*, 73-74; Gillis and Roach, *Lost Initiatives*, 85-86.

⁶⁶ Nelles, *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 *Province* 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

The following year, the paper, now known as the *Vancouver Daily Province*, described the “marvelous changes” that the laws had brought to Ontario’s lumber and pulp industries which had “forged rapidly ahead since the Ontario government prohibited the exportation of saw logs.”⁷⁰ As news of Ontario’s policy success continued to spread, groups in British Columbia

⁶⁷ Ontario, “An Act Respecting the Manufacture of Pine Cut on the Crown Domain,” in *Statutes of the Province of Ontario, 1898*, 31-33, <http://heinonline.org>; Nelles, *ibid.*; Ontario, “An Act Respecting the Manufacture of Spruce and Other Pulp Wood Cut on the Crown Domain,” in *Statutes of the Province of Ontario, 1900*, 29-31, <http://heinonline.org>; Nelles, *Politics of Development*, 87, Although Nelles says this was achieved by order-in-council, the statute does exist; Hak, *Turning Trees into Dollars*, 101.

⁶⁸ “The Ontario Timber Law,” *Canada Lumberman* vol. 20, no. 12 (December 1899): 9; “Timber Legislation Again Sustained,” *Canada Lumberman* vol. 21, no. 5 (May 1900): 9; “Editorial Notes,” *Canada Lumberman* vol. 21, no. 9 (September 1900): 8; Nelles, *Politics of Development*, 63.

⁶⁹ *Province*, 15 April 1899, 4, This article is untitled.

⁷⁰ “Marvelous Changes,” *Vancouver Daily Province*, 1 August 1900, 9.

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 *Canada Lumberman*, which reprinted a letter from the Hastings Shingle Mfg. Co. explaining why they had opened a new mill in Washington State, adding sympathetically:

The manufacture of lumber in British Columbia is so handicapped by the free import of the United States product (while the Canadian product is shut out of the United States by an import duty), that some manufacturers have already removed their mills to the United States, where they may enjoy the advantages of both markets.⁷²

Another voice pressing for export restrictions was the province's Lieutenant Governor, Henri-Gustave Joly de Lotbinière. De Lotbinière, a Quebecer with a forestry background, and founding member of the Canadian Forestry Association in March 1900, had long argued for a halt to log exports. As early as 1886 he had penned a letter to the *Canada Lumberman* urging action to curtail the flow of logs south from Canada:

A heavy export duty on logs would prevent the cutting down of our forests by the American lumbermen, and it would secure work for our people and keep them here. It appears little short of madness, when we have got the raw material here and thousands of willing men to work it, that we should send away to our neighbors both the raw material and the men who can work it here. It is a suicidal policy, and it would be difficult to find a parallel for it in any other country.⁷³

Shortly after taking office in Victoria in June 1900, de Lotbinière was promoting Ontario's policy to the British Columbia Board of Trade, calling upon the audience, which included several

⁷¹ "Requisition for Import Duty," *Canada Lumberman* vol. 21, no. 3 (March 1901): 5-6.

⁷² "Justice for Canadian Lumbermen," *Canada Lumberman* vol. 21, no. 3 (March 1901): 8.

⁷³ "Mr. Joly on the Timber Trade," *Canada Lumberman* vol. 6, no. 4 (15 February 1886): 1.

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 *Vancouver Daily Province* 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.⁷⁷ Passage of an amendment to the *Land Act* on May 11 added the following "manufacturing condition" to the sections concerning timber leases:

All timber cut from lands leased in accordance with this section must be manufactured within the confines of the Province of British Columbia; otherwise the timber so cut may be seized and forfeited to the Crown, and the lease cancelled.⁷⁸

British Columbia's first attempt at log export restrictions came during a tumultuous period in provincial politics. Politicians of this era, known as "loose fish," did not adhere to a formal party system, preferring instead to work as independent operators who formed coalitions to govern. In 1901, Premier James Dunsmuir, son of the E&N's Robert Dunsmuir, had been in office for less than a year. Martin Robin writes in *The Rush for Spoils: The Company Province 1871-1933*, that "the Dunsmuir ministry was born at a time of extreme industrial discontent and the government

⁷⁴ "Importance of Northern Trade," *Daily Colonist*, 14 July 1900, 1, 6-7.

⁷⁵ "Business of 1900," *Vancouver Daily Province*, 17 January 1901; "Provincial News," *Victoria Daily Times*, 24 October 1901, 7.

⁷⁶ "Provincial Legislature," *Daily Colonist*, 22 March 1901, 5.

⁷⁷ "Hon. W.C. Wells," *Canada Lumberman* vol. 25, no. 4 (April 1905): 21

⁷⁸ British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1901*, 137-142, <http://heionline.org>; Gillis and Roach, *Lost Initiatives*, 137; Hak, *Turning Trees into Dollars*, 101.

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 Times* 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 *Canada Lumberman*, reporting that “this legislation is generally approved by the public and lumbermen of British Columbia,” summed up the argument for export controls neatly:

⁷⁹ Martin Robin, *The Rush for Spoils: The Company Province 1871-1933* (Toronto: McClelland & Stewart, 1972) 75.

⁸⁰ “Loggers Will Lose Money on Cedar,” *Vancouver Daily World*, 17 May 1901, 1; British Columbia, *Order-In-Council 194/1901* (7 May 1901), <http://www.bclaws.ca>.

⁸¹ “Provincial Parliament,” *Victoria Daily Times*, 8 May 1901, 6; “Provincial Parliament,” *Victoria Daily Times*, 11 May 1901, 3; “Provincial Legislature,” *Daily Colonist*, 11 May 1901, 6.

⁸² “Sites Are Secured,” *Vancouver Daily World*, 17 May 1901, 3.

⁸³ “British Columbia Timber,” *Vancouver Daily Province*, 16 May 1901, 4; “The Export of Logs,” *Vancouver Daily Province*, 27 May 1901, 4.

⁸⁴ “International Unions,” *Victoria Daily Times*, 26 July 1901, 4.

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 well as its own extensive logging operations, offered to buy one million feet of logs immediately.⁸⁷ Undeterred, the loggers swiftly arranged a meeting with the Chief Commissioner of Lands and Works to plead their case. Wells gave the loggers a sympathetic hearing, assuring them that he would instruct the timber inspectors to "allow all logs in the water at the present time to be delivered at their originally intended destination," effectively delaying the implementation of the law.⁸⁸ This concession was eventually extended to any logs exported before 31 December 1901.⁸⁹ Wells granted this extension despite having no legal authority to do so. No clause in the *Land Act* allowed him to suspend export restrictions at will, but unless someone challenged his decision in the courts, the press, or the legislative assembly, he was free to do as he pleased. The Chief Commissioner's decision set two precedents that would come to define the relationship between

⁸⁵ "The British Columbia Timber Policy," *Canada Lumberman* vol. 21, no. 12 (December 1901): 10; "The Canadian Timber Policy," *Canada Lumberman* vol. 21, no. 7 (July 1901): 10.

⁸⁶ "The Loggers' Complaint," *Vancouver Daily Province*, 17 May 1901, 2; Hak, *Turning Trees into Dollars*, 102.

⁸⁷ British Columbia, *Report of the Chief Commissioner of Lands and Works of the Province of British Columbia for the Year Ending 31st December, 1900* (Victoria: King's Printer, 1901), 52; "Sites Are Secured," *Vancouver Daily World*, 17 May 1901, 3.

⁸⁸ "Concessions Are Granted," *Vancouver Daily Province*, 25 May 1901, 6.

⁸⁹ "Will Enforce Export Law," *Daily Colonist*, 1 January 1902, 1.

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, governments would suspend or enforce log export bans as political and economic pressure dictated, whether they possessed the legal means to do so or not.

When enforcement of log export restrictions began in 1902, the logging industry established the British Columbia Loggers' Association (BCLA) to combat them and set about refining their counter arguments.⁹¹ BCLA president W.H. Higgins appealed to conservationists by explaining that the poor market for lower quality logs meant they would be left in the woods to rot if not sold out of the province. Reflecting the virulent racism that was present at the time, he also wrote that the sawmills did not deserve support as they employed "oriental cheap labor."⁹² However, with the *Canada Lumberman* reporting the revival and expansion of sawmills in Ontario, as well as American plans to establish new mills in British Columbia as a result of the export controls, neither the public nor the legislature was inclined to repeal the law.⁹³ In fact, the platform developed in 1902 by Richard McBride's Conservatives as he set about introducing party discipline to provincial politics adopted a resolution supporting log export controls, stating:

It is advisable to foster the manufacture of raw products of the Province within the Province, as far as practicable, by means of taxation on the said raw products subject to rebate of the same in whole or part when manufactured in British Columbia.⁹⁴

Nevertheless, Wells assured loggers that if they were unable to sell their logs in the province, "exceptions [would] be made in as many instances as are brought to the notice of the

⁹⁰ "Bowser Sees Injury to the Lumbermen," *Cranbrook Herald*, 18 March 1920, 4.

⁹¹ "Association of Loggers," *Canada Lumberman* vol. 21, no. 12 (December 1901): 11

⁹² W.H. Higgins, "The British Columbia Export Law," *Canada Lumberman* vol. 22, no. 3 (March 1902): 9.

⁹³ "Home Manufacture of Timber," *Canada Lumberman* vol. 22, no. 3 (March 1902): 10; "The News," *Canada Lumberman* vol. 22, no. 4 (April 1902): 15; "The Timber Policy Vindicated," *Canada Lumberman* vol. 22, no. 5 (May 1902): 10.

⁹⁴ J. Castell Hopkins, *The Canadian Annual Review of Public Affairs, 1903* (Toronto: Annual Review Publishing Company, 1904), 219.

department.”⁹⁵ Thus, even as politicians were declaring their public commitment to export controls, they were signaling their willingness to undermine them in negotiations with industry.

Not that the law was difficult to undermine. The intentions of its authors are unclear, but by accident or design 1901’s *Land Act* amendment had required only logs cut from *leased* lands to be manufactured in the province. Logs from the vast expanse of *licenced* lands were not covered.

The *Canada Lumberman* attempted to explain the confusion:

It was supposed that the law in the first instance covered all the lands in the province over which the Government has supervision. This was doubtless the intention of the Government, but it was found that timber taken from certain Crown lands could still be exported legally. Three methods for the disposal of timber are adopted in British Columbia, namely, first, by lease; second, special license; and third, hand-loggers’ license. It is claimed that nearly one-half of the logging operations are carried on under lease, and one-half under special permit, the operations of hand-loggers being of small account and chiefly by Indians. The law as first passed prohibited the exportation of timber taken off lands held under lease, not making any reference to timber cut from licensed lands.⁹⁶

Quickly seizing on the opening, loggers announced an intention to challenge the law in the courts.⁹⁷ The government, realizing its mistake, passed *Order-In-Council 324/1902* on 10 July 1902, extending the manufacturing clause to “all timber cut from Provincial lands under special licences.”⁹⁸ However, log exports continued and the *Vancouver Daily Province* reported in September that “a good deal of timber is still being exported to Washington in spite of the restrictions of the log export law.”⁹⁹

There were several possible sources for these logs. Wells may still have been granting export exemptions on a case by case basis. Another potential source was the hand-logger’s licence.

Since it was unclear whether such logs were or were not covered by the government’s export

⁹⁵ “Permits for Lumber Export,” *Vancouver Daily Province*, 20 March 1902, 1.

⁹⁶ “The Timber Situation in British Columbia,” *Canada Lumberman* vol. 22, no. 9 (September 1902): 10.

⁹⁷ “Loggers Will Test the Act,” *Daily Colonist*, 5 July 1902, 1.

⁹⁸ British Columbia, *Order-In-Council 324/1902* (10 July 1902), <http://www.bclaws.ca>; Hak, *Turning Trees into Dollars*, 102.

⁹⁹ “Logs for American Mills,” *Vancouver Daily Province*, 9 September 1902, 9.

restrictions, some were exported until the question was resolved in 1906. Companies that wanted to export restricted logs routinely claimed they were cut under a hand-logger's licence.¹⁰⁰ Timber marks at the time did not identify the type of tenure the log was harvested from, an oversight not rectified until 1910, making it difficult to prove where logs originated, and enabling this deception.¹⁰¹ Finally, and more significantly, Crown granted land, since it was not yet covered by log export regulations, was another source. The McBride government took steps to discourage Crown grant exports on 12 December 1903.¹⁰² An amendment to the *Land Act* imposed a graduated tax on all timber cut from land Crown granted prior to 7 April 1887. This graduated tax applied a higher rate to better quality logs than lower grades. Other than a non-refundable fee of one cent per thousand board feet, it was rebated if the logs were manufactured in British Columbia. Crown grants made after this date had not included timber rights and so timber from them was covered by existing export restrictions. On a separate note, the amendment also removed the sections of the *Land Act* that enabled the award of pulp leases, although existing leases remained in effect. Removing these sections created yet another wrinkle in the log export situation. Pulp leases, granted originally to promote processing of coastal hemlock stands, also contained Douglas fir timber that was suitable for lumber products. Since the clauses allowing the pulp leases also contained the export restrictions for those leases, loggers now claimed they should be allowed to export saw logs cut from these tenures as well.¹⁰³

During this confusing flurry of activity, J.S. Emerson stepped onto the stage. Elected vice-president of the BCLA in 1903, the stereotypically pugnacious Irishman had been logging

¹⁰⁰ Gillis and Roach, *Lost Initiatives*, 137.

¹⁰¹ British Columbia, "An Act to Amend the Timber Mark Act," in *Statutes of the Province of British Columbia, 1910*, 429, <http://heinonline.org>.

¹⁰² British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1903*, 189-196, <http://heinonline.org>; "Privy Council Appeal No. 115 of 1929," Canada. E.F. Newcombe - Ottawa, Ontario - McDonald Murphy Lumber Co., Ltd. v. Attorney General of British Columbia - Timber Export Tax of British Columbia, RG13-A-2, vol. 338, no. 1930-646.

¹⁰³ "Embargo on Export of Logs Partly Removed," *Vancouver Daily Province*, 11 April 1905, 1.

on the west coast since 1890, and fiercely resented government interference in his operations.¹⁰⁴ He was to become the most outspoken critic of log export restrictions, learning to his chagrin that although the government's enforcement of the law was often half-hearted, it had the ability and authority to push back effectively when challenged publicly. In the summer of 1903 Emerson traveled to Victoria with association president W.H. Higgins to "interview" the government and demand that controls be suspended until 1 July 1904.¹⁰⁵ When their efforts proved unsuccessful, Emerson decided to ignore the law.¹⁰⁶ The *British Columbia Lumberman* reported in March 1904 that he was "one of the few loggers not affected by the recent amendments to the *Land Act* in the matter of exporting logs to the Sound. His camps are all busy, and he has demand for more logs than he can supply."¹⁰⁷

In 1905 Emerson became the president of the BCLA and began to escalate his fight against export restrictions.¹⁰⁸ The industry still believed that logs cut under authority of hand-loggers' licences were not covered by the law, so he had been purchasing large amounts of these logs for export. When the new Chief Commissioner of Lands and Works, R.F. Green, denied export permission, Emerson was apoplectic.¹⁰⁹ He threatened to shut down his operations and leave the province, but then changed his mind and announced his intention to stay and fight. On 1 September 1905 the *Vancouver Daily Province* printed an interview with Emerson where he issued a direct challenge to the government:

When the trouble over the hand-loggers' booms and their export came up I told the timber officers that I had some booms on Jervis Inlet, and with respect to one in particular I told them that I intended to export it no matter what they said.

¹⁰⁴ "Prominent Lumber Operator Called by Death," *Western Lumberman* vol. 18, no. 2 (February 1921): 46; "The News," *Canada Lumberman* vol. 23, no. 2 (February 1903): 20; Gillis and Roach, *Lost Initiatives*, 138.

¹⁰⁵ "Want Permit to Export Logs," *Vancouver Daily Province*, 4 July 1903, 1.

¹⁰⁶ Gillis and Roach, *ibid.*

¹⁰⁷ "Vancouver and Vicinity," *British Columbia Lumberman* vol. 1, no. 3 (March 1904): 12.

¹⁰⁸ "British Columbia Letter," *Canada Lumberman Weekly Edition* vol. 11, no. 51 (18 January 1905): vi.

¹⁰⁹ "Say Order Kills Hand-Logging," *Vancouver Daily Province*, 29 August 1905, 1.

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 *St. Clair*, a 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. The *Vancouver Daily Province* 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

¹¹⁰ "Will Inspector Seize Log Booms?" *Vancouver Daily Province*, 1 September 1905, 1.

¹¹¹ "Seizure of Boom Signal for Fight," *Vancouver Daily Province*, 2 September 1905, 1.

¹¹² "Says Loggers Will Attack Lumbermen," *Vancouver Daily Province*, 18 September 1905, 1.

¹¹³ "Mills Alleged to be Exporting Logs," *Vancouver Daily Province*, 23 September 1905, 1.

¹¹⁴ "Six Booms Have Been Seized," *Vancouver Daily Province*, 7 October 1905, 1; "Booms Belong to Emerson," *Vancouver Daily Province*, 10 October 1905, 12.

¹¹⁵ "Government Seized Tug," *Vancouver Daily Province*, 3 November 1905, 1.

¹¹⁶ *Ibid.*

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 *American Lumberman* reported that "far from seeing their way to removing the export embargo, the government will take steps to remove any flaws 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 "Steamers, Logs, Engines and Gear Under Seizure," *Vancouver Daily Province*, 6 November 1905, 1.

¹¹⁸ "Can Government Seize Any Logs?" *Vancouver Daily Province*, 11 November 1905, 1.

¹¹⁹ "Calls Emerson a 'Piker,'" *Vancouver Daily Province*, 25 September 1905, 1.

¹²⁰ "Judge Stops Bowser In Examination of Emerson," *Vancouver Daily Province*, 18 July 1907, 1; "Emerson Lost and B.C. Loggers Won," *Vancouver Daily Province*, 19 July 1907, 7.

¹²¹ "From the Canadian Southwest," *American Lumberman* no. 1600 (20 January 1906): 49; "Three Sawmills to Be Built on Coast," *Vancouver Daily Province*, 10 January 1906, 8.

Continued skirmishing over what logs were and were not covered by the export restrictions of the *Land Act* led to passage of the *Timber Manufacture Act* in 1906. Seeking a comprehensive resolution to the question, this act broadly applied the export restriction to all “ungranted lands of the Crown, or on lands of the Crown which shall hereafter be granted,” eliminating challenges based on tenure type and restricting the export of timber cut from timber leases, special timber licences, timber sales, or hand-logger’s licences.¹²² Timber exported from existing Crown grants was still subject to taxation under provisions of the *Land Act* passed in 1903. Taking steps to close another loophole, in 1907 the government passed *Order-In-Council 699/1907* which required that an affidavit be completed verifying the logs’ origin at the time of scaling.¹²³

W.I. Paterson, who became president of the BCLA in 1908, knew that the way to secure the right to export was not to publicly challenge the government, but to pledge support for the restrictions, while requesting exemptions justified by unusual business conditions. That spring, with the *Canada Lumberman and Woodworker* reporting “a lumber glut,” the latest Chief Commissioner of Lands and Works, F.J. Fulton, suspended export controls citing the “practical failure of the market in British Columbia for logs of the poorer grades.”¹²⁴ It is not clear exactly which laws were suspended, as there was absolutely no legal authority for Fulton’s actions. No legislative amendments or orders-in-council were passed by the government. Fulton simply decided that a suspension was justified and stopped enforcing the law. He assured the public that only logs “now in the water” would be eligible for export.¹²⁵ In the summer he restated his pledge, saying that these logs would be marked with a special brand, and that only logs so branded

¹²² British Columbia, “An Act respecting the Use and Manufacture, within British Columbia, of Timber Cut on Lands of the Crown,” in *Statutes of the Province of British Columbia, 1906*, 377-378, <http://heinonline.org>.

¹²³ British Columbia, *Order-In-Council 699/1907* (17 September 1907), <http://www.bclaws.ca>.

¹²⁴ “Loggers Will Unload Surplus Output on Sound,” *Vancouver Daily Province*, 24 March 1908, 1.

¹²⁵ *Ibid.*

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 World* 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 Daily Province* 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 Past the point of patience, the McBride government brought the hammer down, taking the unprecedented step of passing an order-in-council canceling four of his timber licences, worth an estimated \$150,000.¹³³ Emerson fumed and vowed another court challenge, but each of his attempts to find a new loophole in the law was countered by the

¹²⁶ “Branding B.C. Logs,” *Canada Lumberman & Woodworker* vol. 28, no. 12 (15 June 1908): 27.

¹²⁷ Hak, *Turning Trees into Dollars*, 103.

¹²⁸ “Heavy Losses of Timber Men,” *World*, 22 August 1908, 8.

¹²⁹ “Embargo On Logs Catches Americans,” *Vancouver Daily Province*, 22 August 1908, 1.

¹³⁰ “Export of Logs Again Permitted,” *Vancouver Daily Province*, 9 September 1908, 1.

¹³¹ “The Export of Logs,” *Canada Lumberman & Woodworker* vol. 28, no. 17 (1 September 1908): 19.

¹³² British Columbia, *Order-In-Council 237/1910* (10 March 1910), <http://www.bclaws.ca>; “Western Canada,” *Canada Lumberman & Woodworker* vol. 30, no. 6 (15 March 1910): 43; “Emerson Licenses Cancelled By Executive,” *Vancouver Daily Province*, 12 March 1910, 1.

¹³³ “Western Canada,” *Canada Lumberman & Woodworker* vol. 30, no. 7 (1 April 1910): 45.

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 This case marked the end of his crusade against export controls. Where Patterson's lobbying brought success, Emerson's defiance forced the government to respond by tightening restrictions and brought him heavy financial losses. The next significant public challenge would not appear for nearly twenty years.

The forest industry in British Columbia continued to expand rapidly as the first decade of the twentieth century drew to a close. In 1909, with special timber licence holders pressing hard for legislation to make their licences renewable in perpetuity, the McBride government called the province's first royal commission on forestry. It was tasked with "making inquiry into and concerning the timber resources of the Province."¹³⁵ However, as Robert Marris points out, the commission, led by F.J. Fulton, ended up being little more than a "rubber stamp" endorsement of the government's acceptance of these demands for renewable licences.¹³⁶ The commission did spend some time reviewing log export restrictions. Witnesses largely supported a relaxation of controls on lower grades of cedar, citing a limited market for this material in British Columbia.¹³⁷ There was some suggestion that the current rules were being ignored. Neil McKinnon, cruiser and timberman since "he was old enough to hold a compass," referred to rampant smuggling of logs. He said he was personally aware of at least 15 million feet of cedar that had been illegally exported in 1907. Nobody on the commission seemed to be surprised or upset by his

¹³⁴ "Western Canada," *Canada Lumberman & Woodworker* vol. 30, no. 9 (1 May 1910): 47; "Government Seizes Boom of Logs," *Vancouver Daily Province*, 26 July 1910, 1; "Suit Brought Against Minister of Finance," *Victoria Daily Times*, 27 June 1913, 3; "In the Law Courts," *Sun*, 7 October 1913, 6.

¹³⁵ British Columbia. *Final Report of the Royal Commission of Inquiry on Timber and Forestry 1909-1910* (Victoria: King's Printer, 1910), 2.

¹³⁶ Robert Marris, "Pretty Sleek and Fat": The Genesis of Forest Policy in British Columbia, 1903-1914," (MA thesis, University of British Columbia, 1979), 34.

¹³⁷ Gray, "Forest Policy and Administration," 121.

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 *Land 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 continue to address log exports through negotiations conducted out of public view.

The next requirement for such negotiation arrived quickly and once again involved American trade policy. The United States tariff of 1909 imposed a retaliatory duty on paper and newsprint imported from any jurisdiction that restricted the export of the raw materials required to manufacture those products. British Columbia's pulp and paper industry pressured the provincial government for amendments to the *Forest Act* that would help them escape the retaliatory tariff.¹⁴⁰ Anxious to defend an industry that relied heavily on access to American pulp and newsprint markets, the McBride government agreed to the necessary changes. The first came on 12 July 1912, when *Order-In-Council 810/1912* exempted two pulp leases from export restrictions. The following year, the *Forest Act Amendment Act, 1913* granted the Lieutenant-

¹³⁸ "Logger and Cruiser at Opposite Poles," *Vancouver Daily Province*, 30 September 1909, 1; British Columbia, Royal Commission on Timber and Forestry, 1909, Originals 1905-1911, GR-0271, box 880340-1660, file 27, Transcript of Hearings (pp. 1171-1148), British Columbia Archives, 1272.

¹³⁹ British Columbia, "An Act respecting Forests and Crown Timber Lands, and the Conservation and Preservation of Standing Timber, and the Regulation of Commerce in Timber and Products of the Forest," in *Statutes of the Province of British Columbia, 1912*, 81-132, <http://heinonline.org>.

¹⁴⁰ Gray, "Forest Policy and Administration," 121.

Governor in Council the authority to permit the export of pulpwood, and retroactively made *Order-In-Council 810/1912* 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, *Order-In-Council 895/1913* 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 British Columbia, *Order-In-Council 810/1912* (12 July 1912), <http://www.bclaws.ca>; British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1913*, 113-122, <http://heinonline.org>;

¹⁴² British Columbia, *Order-In-Council 895/1913* (23 June 1913), <http://www.bclaws.ca>; Gray, “Forest Policy and Administration,” 123.

¹⁴³ Memo to the Hon. the Minister of Lands, 24 August 1914, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03221, “Order in Council,” no. 03678-2, British Columbia Archives, 5-7; British Columbia, *Order-In-Council 1050/1914* (26 August 1914), <http://www.bclaws.ca>; Gray, “Forest Policy and Administration,” 123-129.

¹⁴⁴ “Bowser Sees Injury to the Lumbermen,” *Cranbrook Herald*, 18 March 1920, 4.

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 *Forest 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 debate, positions taken by both sides of the argument, and recent export levels. Grainger suggested increasing the tax on exported logs, and setting up a committee to monitor the export situation and make recommendations.¹⁴⁷ With manufacturers complaining about the price of logs throughout 1917, Pattullo, seeing the wisdom in Grainger's advice, called a meeting for 20 March 1918.¹⁴⁸ At this “Round Table Conference” all parties agreed to reintroduce export restrictions on the highest grades, and to set up a War Advisory Committee (WAC) consisting of representatives from government, the manufacturers, and loggers, which would approve or deny applications to export based on their understanding of the current log market. There was to be no investigation into the cause of log surpluses, or how they might be avoided in the future. The committee's task was simply to determine if a surplus existed, and if it did, then to allow export. Of course, when the market made export of logs worthwhile, loggers were sure to create a log

¹⁴⁵ British Columbia, *Order-In-Council 1095/1914* (16 September 1914), <http://www.bclaws.ca>; Gray, “Forest Policy and Administration,” 125. Gray mentions the debate but does not report that the export tax was reduced.

¹⁴⁶ British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1916*, 69-71, <http://heionline.org>; Gray, “Forest Policy and Administration,” 129.

¹⁴⁷ Memo., to the Hon., the Minister of Lands, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03222, “Export - Logs,” no. 03681-2, British Columbia Archives, 67-128.

¹⁴⁸ Gray, “Forest Policy and Administration,” 132.

surplus. However, loggers also agreed to ensure that manufacturers had access to the raw material they needed, gaining the reluctant support of mill owners for the new system. After the war this committee became known as the Export Advisory Committee (EAC).¹⁴⁹

The EAC brought stability to the log export question that had been lacking previously, largely removing negotiations from the public eye and reducing export related headlines as the committee made its decisions in the conference room. In many ways, the committee facilitated rather than frustrated log exports. Applications were first assessed by an “Emergency Committee” made up entirely of Forest Branch staff, with only those applications that were denied being forwarded on to the EAC. Thus, every log approved for export was one that government staff thought should be processed in the province. Although the best grade of logs were not to be exported, committee records show that they were.¹⁵⁰ In addition, committee members themselves were often the most frequent export permit applicants.¹⁵¹ In 1920 the government moved to extend the authority for this arrangement until 1930. After significant debate in the press and the legislature, the *Forest Act Amendment Act, 1920* was passed.¹⁵² Once the committee system was established, legislative development slowed. Although log exports became an issue again during the election in 1924, regulations remained essentially the same throughout the 1920s, regardless of who occupied the Premier’s chair. Export volumes rose rapidly during this period, increasing from 11,608,267 feet in 1918 to 211,947,231 feet ten years later.¹⁵³ The EAC did not safeguard the public’s interest or promote the development of

¹⁴⁹ Gray, “Forest Policy and Administration,” 132.

¹⁵⁰ Memo to the Export Advisory Committee, 7 January 1922, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03236, “Committees - Export Advisory,” no. 04932, British Columbia Archives, 14; Minutes of Log Export Advisory Committee Meeting, 24 January 1922, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03236, “Committees - Export Advisory,” no. 04932, British Columbia Archives, 15-17.

¹⁵¹ Gray, “Forest Policy and Administration,” 139.

¹⁵² British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1919*, 177-181, <http://heinonline.org>; Gray, “Forest Policy and Administration,” 134.

¹⁵³ Shinn, *British Columbia Log Export Policy*, 47.

manufacturing facilities that could process lower grades of logs, but it did allow the government to permit their export without attracting unwanted attention. Loggers, however, were still not entirely satisfied with the concessions they had won, and in 1929 set their sights on another type of export control.

McDonald Murphy Defeats Crown Grant Export Restrictions

Loggers had always resisted attempts to regulate or tax Crown granted land on the grounds that the state did not have the authority to infringe on their property rights. In addition, they argued that since the *British North America Act* granted the federal, not provincial, government the authority to regulate international trade, that log export controls covering Crown granted land were *ultra vires*. For years most loggers had refused to provide the Department of Lands and Works with even the most rudimentary information about their Crown grant based operations.¹⁵⁴ As mentioned previously, to discourage the export of logs from these areas, Section 58 of the *Forest Act* applied a tax on the entire cut from Crown grants, then refunded all but one cent per thousand board feet on logs manufactured in the province, those exported being subject to the entire tax bill. Officially, the government called this a timber tax, but even Forest Branch staff found this confusing. The Chief Forester himself, P.Z. Caverhill, mistakenly referred to the province's "right to levy an export duty on timber cut on E&N lands" while sparring with E.J. Palmer, manager of the powerful Victoria Lumber & Manufacturing Company, in 1921.¹⁵⁵ Loggers argued that no matter what the tax was called, it functioned as an export tax and was, therefore, *ultra vires*. Palmer claimed that the company had tried to have booms of logs seized so

¹⁵⁴ see British Columbia, *Report of the Chief Commissioner of Lands and Works* for the years 1888-1902.

¹⁵⁵ P.Z. Caverhill, Chief Forester, to E.J. Palmer, General Manager, Victoria Lumber & Mfg. Co. Ltd., 9 December 1921, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03222, "Export - Logs," no. 03681-3, British Columbia Archives, 113.

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 *Vancouver Daily Province* 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 E.J. Palmer, General Manager, Victoria Lumber & Mfg. Co. Ltd. to Palmer to Hon. T.D. Pattullo, Minister of Lands, 5 December 1921, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03222, "Export - Logs," no. 03681-3, British Columbia Archives, 112.

¹⁵⁷ Memorandum to the Honourable, The Minister of Lands: Timber Tax, 14 June, 1929, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03746, "Timber - Exp. Tax," no. 086011, British Columbia Archives, 83; Compiled by totaling the cut from lands Crown granted prior to 1887 as reported in Forest Branch reports for 1924 and 1928, then calculating the lost revenue. Previous reports do not break out cut by tenure type.

¹⁵⁸ "Will Appeal Judgement on B.C. Log Tax," *Vancouver Daily Province*, 25 May 1929, 25.

the WAC.¹⁵⁹ He was also the committee member who presented the most applications for export.

As Gray explains:

Munn and Kerr Timber Company Ltd. persisted in pushing high-grade booms through the Committee, though regulations prevented Munn from voting on his own applications. During June and July, 1922, 29 accounts were authorized for export by the Emergency Committee. Twenty-one of those had an excess of 50 percent high-grade logs, 14 of which had been logged by Munn and Kerr.¹⁶⁰

Munn had his first run-in with government while he still lived in Ontario. Partnering with MPP J.D. Tudhope, he created the Munn Lumber Company in 1910. The pair then purchased timber rights in Algonquin Park from the St. Anthony Lumber Company and set about trying to sell those rights back to the Ontario government. When the province's first offer did not meet with their satisfaction, Munn began logging near the park's hotel and ranger headquarters. The public outcry forced the Ontario government to pay the Munn Lumber Company \$300,000 to extinguish their claim.¹⁶¹ Reviews of Munn's behaviour were not complimentary. During his next open confrontation with government, he would ensure someone else's name was in the headlines.



Figure 3. A.E. Munn in 1929. source: British Columbia Archives i-83391.

The McDonald Murphy Logging Company began operations in British Columbia as

¹⁵⁹ "McDonald-Murphy Acquire Extensive Holdings," *Western Lumberman* vol. 25, no. 5 (May 1928): 750; "Record Log Production on Cowichan Lake," *British Columbia Lumberman*, vol. 9, no. 7 (July 1925); "Will Log on an Extensive Scale," *Western Lumberman* vol. 10, no. 6 (June 1913): 38; "Loggers' Association in Annual Session," *Western Lumberman* vol. 11, no. 3 (March 1914): 42; "Items of Interest to the Trade," *Western Lumberman* vol. 14, no. 2 (February 1917): 34.

¹⁶⁰ Gray, *Forest Policy and Administration*, 139.

¹⁶¹ "Ontario," *Canada Lumberman & Woodworker* vol. 30, no. 4 (15 February 1910): 38; "Ontario," *Canada Lumberman & Woodworker* vol. 30, no. 3 (1 February 1910): 46; "Algonquin Park Timber May Be Saved," *Canada Lumberman & Woodworker* vol. 30, no. 15 (1 August 1910): 22; "Conserving Canada's Woodland Wealth," *Citizen*, 4 June 1910, 17; "Comment," *Citizen*, 25 May 1910, 6; S. Bernard Shaw, *Lake Opeongo: Untold Stories of Algonquin Park's Largest Lake* (General Store Publishing House, 1998), 15-16; "Algonquin Park Lumber Saved From Destruction," *Canada Lumberman & Woodworker* vol. 30, no. 22 (15 November 1910): 20.

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 *twice* 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 industry wide production curtailment of 20 percent for the month of February. Although the timber tax rate had not been increased since first established in 1903, the sheer volume of logs being exported meant the amount of tax became significant. American tariff policy may have come into play again. With Congress threatening to increase tariffs on Canadian lumber and shingles, press and politicians called for increased provincial log export restrictions.¹⁶⁴ Now in opposition after the 1928 election, former Minister of Lands Pattullo attacked S.F. Tolmie’s Conservative government regularly over the issue, reminding them that they had strongly criticized the Liberal’s export policies while in opposition.¹⁶⁵ In March the *Vancouver Daily Province* printed a letter to the editor from a concerned citizen which read in part:

¹⁶² “Gordon Development Co.’s Manager.” *Western Lumberman* vol. 14, no. 8 (August 1917): 38; “Certificate of Incorporation,” *British Columbia Gazette* vol. 68, no. 23 (7 June 1928): 2209-2211; “McDonald-Murphy Acquire Extensive Holdings.” *Western Lumberman* vol. 25, no. 5 (May 1928): 750;

¹⁶³ British Columbia, *Public Accounts for the Fiscal Year Ended 31st March, 1928* (Victoria: King’s Printer, 1928) xviii.

¹⁶⁴ “Shingle Men May Not Be Badly Hit,” *Vancouver Daily Province*, 24 February 1929, 1.

¹⁶⁵ “Pattullo Raps Sale of Bonds Without Bids,” *Vancouver Daily Province*, 25 January 1929, 2; “Pattullo Says Budget Is a Ruse,” *Vancouver Daily Province*, 23 February 1929, 22.

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 *ultra vires* 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. I find no difficulty in assigning this tax to one of the blocs upon which the province must not trespass. I find that the nature and general tendency of the tax assailed is to pass it on to the purchaser, and is an indirect tax which is *ultra vires* the Legislature of British Columbia.¹⁶⁷

Facing both the loss of \$200,000 a year in revenue and political pressure to take action to stop the export of logs, the Conservatives announced they would appeal the decision to the highest court possible at that time, the Judicial Committee of the Privy Council in England, bypassing the Supreme Court of Canada. The Privy Council again sided with McDonald Murphy on the grounds that the tax was *ultra vires*. With no further legal remedies available, the Tolmie government repealed Section 58 of the *Forest Act* on 25 March 1930. The Conservatives promised that they were working on a legal solution which would reassert control over log exports from Crown granted land, but nothing materialized and these exports continued without restriction

¹⁶⁶ "Canada Should Retaliate Against Tariff Wall," *Vancouver Daily Province*, 3 March 1929, 62.

¹⁶⁷ "Export Tax On Logs is Ultra Vires," *British Columbian*, 25 May 1929, 1.

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 "Will Appeal Judgement on B.C. Log Tax," *Vancouver Daily Province*, 25 May 1929, 25; "B.C. Takes Steps to Legalize Timber Tax as Privy Council Threatens \$200,000 Revenue," *Vancouver Daily Province*, 4 March 1930, 1; British Columbia, "An Act to Amend the Forest Act," in *Statutes of the Province of British Columbia, 1930*, 53-55, <http://heionline.org>.

¹⁶⁹ Gray, *Forest Policy and Administration*, 156.

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 *Land Act Amendment Act, 1901*.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 *Land Act Amendment Act, 1901*.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 United States, Department of Commerce and Labor, *Manufactures 1905: Part 3 Special Reports on Selected Industries* (Washington: Government Printing Office, 1908), 623; A.R.M. Lower, *The North American Assault on the Canadian Forest: A History of the Lumber Trade between Canada and the United States* (Toronto: Ryerson Press, 1938), 156.

¹⁷¹ Canada, *Order-In-Council 2362/1890* (11 October 1890), <http://www.bac-lac.gc.ca>; Lower, *North American Assault*, 156; H.V. Nelles, *The Politics of Development: Forests, Mines & Hydro-Electric Power in Ontario, 1849-1941*, 2nd edition (Montreal: McGill-Queen's University Press, 2005 [1974]), 63.

¹⁷² United States, *Manufactures 1905: Part 3*, 623; Lower, *North American Assault*, 156.

¹⁷³ Lower, *North American Assault*, 157; Nelles, *Politics of Development*, 66.

¹⁷⁴ Ontario, "An Act Respecting the Manufacture of Pine Cut on the Crown Domain," in *Statutes of the Province of Ontario, 1898*, 31-33, <http://heinonline.org>; Lower, *North American Assault*, 157; Nelles, *Politics of Development*, 73.

¹⁷⁵ Ontario, "An Act Respecting the Manufacture of Spruce and Other Pulp Wood Cut on the Crown Domain," in *Statutes of the Province of Ontario, 1900*, 29-31, <http://heinonline.org>.

¹⁷⁶ British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1901*, 137-142, <http://heinonline.org>; R. Peter Gillis and Thomas R. Roach, *Lost Initiatives: Canada's Forest Industries, Forest Policy and Forest Conservation* (New York: Greenwood Press, 1986), 137. Gillis and Roach incorrectly state that special timber licences were covered as well; Gordon Hak, *Turning Trees into Dollars: The British Columbia Coastal Lumber Industry, 1858-1913* (Toronto: University of Toronto Press, 2000), 101.

¹⁷⁷ "Concessions Are Granted," *Vancouver Daily Province*, 25 May 1901, 6; Hak, *Turning Trees into Dollars*, 102.

¹⁷⁸ "Will Enforce Export Law," *Daily Colonist*, 1 January 1902, 1.

¹⁷⁹ "Permits for Lumber Export," *Vancouver Daily Province*, 20 March 1902, 1.

10 July 1902: *Order-In-Council 324/1902* extends log export prohibition to special timber licences.¹⁸⁰

12 December 1903: The *Land Act Amendment Act, 1903* 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 *An Act to Amend the "Land Act, 1884"* 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 Manufacture Act, 1906* 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 *Land 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 affidavit regarding their origin in an effort to determine appropriate royalties, taxes, and export restrictions via *Order-In-Council 699/1907*.¹⁸³

18 March 1908: Log export restrictions on lower grades of logs are suspended by F.J. Fulton, Chief Commissioner of Lands and Works after loggers complain of an unsold surplus. There is no legislative authority for this suspension.¹⁸⁴

8 August 1908: Log export restrictions reinstated by the government of British Columbia.¹⁸⁵

¹⁸⁰ British Columbia, *Order-In-Council 324/1902* (10 July 1902), <http://www.bclaws.ca>; "Timber Licenses in British Columbia," *Canada Lumberman* vol. 22, no. 9 (September 1902): 6; Hak, *Turning Trees into Dollars*, 102.

¹⁸¹ British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1903*, 189-196, <http://heinonline.org>; British Columbia, "An Act to Amend the Land Act, 1884," in *Statutes of the Province of British Columbia, 1887*, 45-47, <http://heinonline.org>; "Privy Council Appeal No. 115 of 1929," Canada. E.F. Newcombe - Ottawa, Ontario - McDonald Murphy Lumber Co., Ltd. v. Attorney General of British Columbia - Timber Export Tax of British Columbia, RG13-A-2, vol. 338, no. 1930-646; "Amended Timber Act Abortive," *Vancouver Daily Province*, 16 December 1903, 1; "Say Hon. Mr. Green Is Only 'Spoofing'," *Vancouver Daily Province*, 11 April 1905, 1.

¹⁸² British Columbia, "An Act respecting the Use and Manufacture, within British Columbia, of Timber Cut on Lands of the Crown," in *Statutes of the Province of British Columbia, 1906*, 377-378, <http://heinonline.org>; British Columbia, "An Act to Amend the Land Act," in *Statutes of the Province of British Columbia, 1906*, 121-126, <http://heinonline.org>; Hak, *Turning Trees into Dollars*, 102.

¹⁸³ British Columbia, *Order-In-Council 699/1907* (17 September 1907), <http://www.bclaws.ca>.

¹⁸⁴ "No More Logs Are to Be Exported," *Victoria Daily Times*, 8 August 1908, 1; "Heavy Losses of Timber Men," *World*, 22 August 1908, 8; Hak, *Turning Trees into Dollars*, 103. Hak dates the suspension of export controls 8 March 1908 but this news is not reported until an article in the *Vancouver Daily Province* on 24 March 1908, which suggests the later date given by the *Victoria Daily Times* and the *World* is correct.

¹⁸⁵ "Government Prohibits Export of Logs to Sound," *Vancouver Daily Province*, 8 August 1908, 1; Hak, *Turning Trees into Dollars*, 103.

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 Timber Manufacture Act, 1906, Amendment Act, 1909* 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 *Timber Mark Act Amendment Act, 1910* 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 *The Forest Act*.¹⁹⁰

12 July 1912: *Order-In-Council 810/1912* exempts two pulp leases from log export restrictions.¹⁹¹

1 March 1913: The *Forest Act Amendment Act, 1913* clarifies timber mark requirements, stating that they must “clearly distinguish one from another the different classes of timber subject to different conditions of tenure, royalty, tax, or manufacture” and prohibiting unmarked logs from being floated or rafted on the water. In addition, Lieutenant-Governor in Council is granted the authority to permit the export of pulpwood. *Order-In-Council 810/1912*, enacted on 12 July 1912, is made legal retroactively.¹⁹²

21 June 1913: *Order-In-Council 895/1913* exempts all pulp leases from log export restrictions.¹⁹³

4 March 1914: The *Forest Act Amendment Act, 1914* simplifies the timber tax applied to exported Crown grant logs, removing surcharges based on log size. This amendment also authorizes the

¹⁸⁶ “Export of Logs Again Permitted,” *Vancouver Daily Province*, 9 September 1908, 1; Hak, *Turning Trees into Dollars*, 103.

¹⁸⁷ Ibid.

¹⁸⁸ British Columbia, “An Act to Amend the Timber Manufacture Act, 1906,” in *Statutes of the Province of British Columbia, 1909*, 191, <http://heinonline.org>.

¹⁸⁹ British Columbia, “An Act to Amend the Timber Mark Act,” in *Statutes of the Province of British Columbia, 1910*, 429, <http://heinonline.org>.

¹⁹⁰ British Columbia, “An Act respecting Forests and Crown Timber Lands, and the Conservation and Preservation of Standing Timber, and the Regulation of Commerce in Timber and Products of the Forest,” in *Statutes of the Province of British Columbia, 1912*, 81-132, <http://heinonline.org>.

¹⁹¹ British Columbia, *Order-In-Council 810/1912* (12 July 1912), <http://www.bclaws.ca>; Stephen Gray, “Forest Policy and Administration in British Columbia, 1912-1928,” (MA thesis, Simon Fraser University, 1982), 123.

¹⁹² British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1913*, 113-122, <http://heinonline.org>.

¹⁹³ British Columbia, *Order-In-Council 895/1913* (23 June 1913), <http://www.bclaws.ca>; Gray, “Forest Policy and Administration,” 123.

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

26 August 1914: Citing “unsettled conditions attending the present European War,” British Columbia suspends log export restrictions via *Order-In-Council 1050/1914*. All logs “now cut within the Province” become exportable upon payment of a tax. No legal authority for this suspension.¹⁹⁵

16 September 1914: British Columbia reduces tax on exported logs after industry complaints.¹⁹⁶

1915: Department of Forests agrees to stop charging timber tax on logs manufactured in the country after protest by manufacturers despite there being no legislative authority for this decision. The *Forest Act* was not updated to reflect this arrangement before the relevant section was repealed in 1930.¹⁹⁷

14 January 1915: *Order-In-Council 40/1915* increases tax payable on export of cut fir to match royalty rates on non-exported fir stipulated in the *Timber Royalty Act*, passed 4 March 1914.¹⁹⁸

31 May 1916: The *Forest Act Amendment Act, 1916* establishes legal authority for the Lieutenant-Governor in Council to permit export of logs during and for six months after the First World War as well as from areas bordering Alberta or the United States when it could be “proved to his satisfaction” that it was not economical to manufacture in the province.¹⁹⁹

20 March 1918: War Advisory Committee with representation from government, manufacturing and logging sectors formed to approve export requests on a case by case basis. This committee would continue after the war as the Export Advisory Committee.²⁰⁰

29 March 1919: The *Forest Act Amendment Act, 1919* extends legal authority for Lieutenant-Governor in Council to permit export of logs to 31 March 1920.²⁰¹

31 March 1920: The *Forest Act Amendment Act, 1920* extends legal authority for Lieutenant-

¹⁹⁴ British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1914*, 161-169, <http://heionline.org>.

¹⁹⁵ British Columbia, *Order-In-Council 1050/1914* (26 August 1914), <http://www.bclaws.ca>; Gray, “Forest Policy and Administration,” 124.

¹⁹⁶ British Columbia, *Order-In-Council 1095/1914* (16 September 1914), <http://www.bclaws.ca>; Gray, “Forest Policy and Administration,” 125. Gray mentions the debate but does not report that the export tax was reduced.

¹⁹⁷ Chief Forester to Minister of Lands, 14 June 1929, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03746, “Timber - Exp. Tax.” no. 086011, British Columbia Archives, 83.

¹⁹⁸ British Columbia, *Order-In-Council 40/1915* (14 January 1915), <http://www.bclaws.ca>.

¹⁹⁹ British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1916*, 69-71, <http://heionline.org>; Gray, “Forest Policy and Administration,” 129.

²⁰⁰ “Shorter Hours and Log Embargo,” *Western Lumberman* vol. 15, no. 4 (April 1918): 24; Gray, “Forest Policy and Administration,” 132.

²⁰¹ British Columbia, “An Act to Amend the Forest Act,” in *Statutes of the Province of British Columbia, 1919*, 177-181, <http://heionline.org>; Gray, “Forest Policy and Administration,” 134.

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

3 April 1929: The McDonald Murphy Logging Company challenges sections of the Forest Act which tax log exports from Crown granted land.²⁰³

23 May 1929: British Columbia Supreme Court Justice Aulay Morrison rules in McDonald Murphy's favour in British Columbia Supreme Court, judging section 58 of the Forest Act to be *ultra vires*, or beyond the powers of the provincial government.²⁰⁴

4 March 1930: British Columbia's appeal of Supreme Court decision is dismissed with costs by the Privy Council in England.²⁰⁵

25 March 1930: The *Forest Act Amendment Act, 1930* repeals the *ultra vires* section of the *Forest Act*, removing controls from logs cut on Crown granted land.²⁰⁶

²⁰² British Columbia, "An Act to Amend the Forest Act," in *Statutes of the Province of British Columbia, 1920*, 259-266, <http://heinonline.org>; Gray, *ibid*.

²⁰³ Statement of Claim, 4 April 1929, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03746, "Timber - Exp. Tax." no. 086011, British Columbia Archives, 5-12; "Export Tax on Logs Attacked." *Vancouver Daily Province*, 1 May 1929, 12.

²⁰⁴ Statement of Claim, 4 April 1929, British Columbia, Lands Branch, O Series Correspondence Files, GR-1441, reel B03746, "Timber - Exp. Tax." 086011, British Columbia Archives, 5-12; "Export Tax On Logs is Ultra Vires," *British Columbian*, 25 May 1929, 1.

²⁰⁵ Privy Council Appeal No. 115 of 1929, Canada, E.F. Newcombe - Ottawa, Ontario - McDonald Murphy Lumber Co., Ltd. v. Attorney General of British Columbia - Timber Export Tax of British Columbia, RG13-A-2, vol. 338, no. 1930-646, Library and Archives Canada; "B.C. Takes Steps to Legalize Timber Tax as Privy Council Threatens \$200,000 Revenue," *Vancouver Daily Province*, 4 March 1930, 1.

²⁰⁶ British Columbia, "An Act to Amend the Forest Act," in *Statutes of the Province of British Columbia, 1930*, 53-55, <http://heinonline.org>.

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