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Excerpts from

**Forest Policy in Nova Scotia: The Big Lease, Cape Breton Island, 1899-1960**

L. Anders Sandberg

**(1899 Lease Act)**

"In the late 19th century, the government of Nova Scotia began to cast envious glances at industrial forest development in Ontario, Quebec and New Brunswick where large areas of Crown forest were used to attract pulp and paper mills through long-term lease arrangements. In Nova Scotia, much of the forest land had been sold off in fee simple to settlers and lumbermen; only an estimated 1,500,000 acres of relatively poor-quality and difficult-to-access Crown forest remained. Provincial politicians lamented this situation, but argued that if Nova Scotia had a lease system similar that of New Brunswick, the revenue of the Crown Land Office could increase fivefold.' In response to such arguments, provincial forest policy was changed in 1899. A new act, intended to promote forest management and raise revenue from Crown lands, stipulated that timber lands could be leased for 20 years, with an option for renewal, for a rental fee of 40 cents per acre. Under these arrangements, cutting was limited to trees at least 10 inches in diameter. But a special provision, included to accommodate the burgeoning pulp and paper industry permitted a reduction of the diameter limit to five inches upon payment of an additional 10 cents per acre.

No stumpage fees were charged for trees cut, an omission criticised almost from the inception of the Act.' Yet despite such generous terms, when the Chief Forester of Nova Scotia reviewed the system in the mid-1920s, he found that the diameter limits on Crown leases were not enforced, lessees disregarded them, and the rent was consequently "ridiculously small".' And although the annual rental fee was increased over the years, one later observer concluded that, whether judged on a conservation or a revenue basis, the act was a "short-sighted and costly blunder".'

Nevertheless, the 1899 Lease Act constituted the beginning of a provincial policy toward pulp and paper industry development. The most significant clause in this regard offered even more generous terms to lessees interested in marginal timber land and to those who were prepared to improve and build manufacturing facilities. This clause was inserted to allow the lease of the only extensive, contiguous block of Crown land left in the province, the so-called Big Lease, covering about 620,000 acres, located in the counties of Inverness and Victoria on Cape Breton Island, to a group of New England financiers for a period of 30 years'. In return, the lessees agreed to pay an annual rental of \$6,000, to build two pulp mills, expending \$10,000 on each within two years, and to refrain from exporting unmanufactured wood. If, after four years, two pulp mills, each with a daily capacity of at least 50 tons had not been established, the lease would be void.' ..."

**The Cape Breton Pulp Company:**

"...It was generally known, however, that Frank John Dixie Barnjum, an industrial promoter and operator, who would later become a self-styled forest conservationist, was the leading player in the consortium. Barnjum controlled two industrial ventures in Victoria and Inverness counties, the North American Paper and Lumber Company, which had been granted the Big Lease ,and the North River Lumber Company, which owned 8,000 acres of forest lands in the area."

“...(In 1915) the Big Lease was assigned to the Cape Breton Pulp Company Limited, which had been formed in 1913 by a merger of the North American Pulp Company and the North River Lumber Company.”

“...In January 1917, Barnjum finally succeeded in selling the lease, realizing a “commission” estimated at \$1.5 million, 250 years worth of rental fees at \$6,000 per year! The purchasers, Hugh J. Chisholm and his wife Sarah, sold it, later in the same day, to the Cape Breton Pulp and Paper Company of which Hugh was president. In April 1920, the Big Lease changed hands for the last time when the Cape Breton Pulp and Paper Company was sold to the Oxford Paper Company, over which Hugh Chisholm also presided. Oxford retained the lease until it was bought back by the government in 1957. By peddling the lease between the Cape Breton Pulp and Paper Company and the Oxford Paper Company, Hugh J. Chisholm also realized a handsome personal profit, receiving 3,000,000 common shares, \$500,000 in bonds and \$651,996 in cash.” And, through these financial transactions, the province realized its own objective of selling the Big Lease to a large American pulp and paper company. “

### **The Department of Lands and Forests:**

After over 44 years of Liberal rule, the Conservative government of E.N. Rhodes gained office in 1925...In 1926, the new government merged the Department of Crown Lands with the Department of Forests and Game to form the Department of Lands and Forests. Ironically, F.J.D. Barnjum, who had switched party affiliations and was now a Conservative MLA, had a major influence on the new department.” Barnjum was instrumental in the appointment of Otto Schierbeck, whom he had previously employed as a “public forester” for Nova Scotia, as Chief Forester of the Department of Lands and Forests and in the appointment of W.L. Hall, legal representative for his own extensive timber holdings and a former leader of the Conservative party, as Minister of Lands and Forests. Once established, the new department faced two major and conflicting objectives: on the one hand, how to remedy the shortfalls of past forest policies, and, on the other, how to attract wood-producing industries to the province. Hall and Schierbeck, with Barnjum’s support, became ardent opponents of the Big Lease. Schierbeck argued that not only were the larger provincial freeholds and Crown leases held by United States corporations, but also that they were, in most cases, “idle, kept by the Company as a reserve.”

### **The Mersey Paper Company:**

“...Upon its election in 1925, the new government was deluged with proposals for pulp and paper industry development. Local as well as international promoters sought guaranteed access to pulpwood from the province’s Crown lands, but, given the very limited amount of Crown lands available, only one enterprise could be considered. The successful bidder was the Royal Securities Corporation. I.W. Killam, the company’s major investor, started building the Mersey Paper Company’s newsprint mill at Liverpool in 1928. The company, which received generous concessions in the supply of power to the mill, was guaranteed 1,000,000 cords of pulpwood, at an initial rate of \$1 per cord stumpage, from selected Crown lands in Guysborough County and on Cape Breton Island. Hugh J. Chisholm, the holder of the Big Lease, and one of the unsuccessful bidders, expressed no hard feelings.”

### **Cape Breton Highlands National Park:**

“In 1914, a group of “prominent citizens” had begun lobbying for the establishment of a federal park in Nova Scotia. The year 1928 brought the first proposal that a national park be established on Cape Breton Island, but plans were suspended in 1932 because of the troubled finances of the federal government. By January 1934, the Yarmouth Fish and Game Protective Association, headed by Seymour Baker and supported by other conservation-minded organizations, rekindled the lobby for a national park in Nova Scotia. The Ministry of Interior sponsored a series of talks on the advantages of national parks in several cities and towns in Nova Scotia. In May 1934, Premier Angus MacDonald requested that the ministry inspect areas suitable for a park; three areas were chosen and a Cape Breton site was recommended and agreed upon in February 1935.

In 1936, the federal government and the province negotiated the boundaries and the area delineated for park purposes included Crown lands under the terms of the Big Lease and some 300 private holdings, including 70 homes. The expropriation of part of the Big Lease was not a mere matter of passing Orders in Council.

The Oxford Paper Company engaged experts to cruise the property to determine the potential financial loss which would be caused by the expropriation. Based on forest inventories provided by the reputable Maine forester and cruiser, James Sewall, and its own calculations, the company claimed compensation amounting to a fantastic \$10.17 per acre." In response, the provincial Department of Lands and Forests engaged its own experts to check the company's figures. The re-lease was settled in 1940 after six weeks in court, presided over by Judge John Doull, the man who had, in his previous capacity as Lands and Forests Minister, renewed the Big Lease in 1933. The expropriated area was 178,648 acres, a little less than one third the original lease. The settlement was \$398,500, of which \$346,500 was for lands expropriated and \$52,000 for lands injuriously affected." The compensation translated into a price of \$2.23 per acre, far from the amount requested by the Oxford Paper Company. But at a time when the Department of Lands and Forests was charged to buy back Crown lands for no more than 25 cents per acre, it was a very good price."

#### **The Oxford Paper Company Buy-back:**

"In 1956, after 23 years of Liberal rule, the Conservatives, under Robert Stanfield, gained power in Nova Scotia... The previous government had failed to entice a pulp and paper company to establish a mill in the province." And the promotion of industrial development had been a key plank in the Conservative election platform. Determined "to do something" for the province, the government decided to pursue a Swedish pulp company, Stora Kopparberg (hereafter Stora), one of several companies which had already been approached by the previous government. But if this effort was to be successful, a major tract of Crown land had to be made available for lease to the Stora venture. The government buy-back programme of Crown lands, begun so cautiously in the 1930s, had, by 1957, resulted in the recovery of almost 25 per cent of the province's forest lands.

The ungranted portions of these lands, however, were still not sufficient. The Big Lease was an obvious additional source. The government now played an active role in repossessing the lease. Negotiations with the Oxford Paper Company, initiated in March 1957, were concluded in May of that year. Although Stora's promoter and the provincial officials had kept their negotiations secret in order not to affect the negotiations with Oxford, the desire to attract Stora placed the government under considerable political pressure to settle with Oxford. The difference between the 1940 expropriation agreement and the 1957 negotiated settlement reflects that pressure; in 1940 the government paid \$5.84 per acre while in 1957 the rate was \$12.02 per acre, despite the elapse of a further 17 years on the lease." When the government reported to the local legislature that they had agreed to pay the Oxford Paper Company \$3,750,000, they faced strong criticism. In response, Premier Stanfield echoed a now familiar theme: "We took the position from the start... that it was essential to the good name and good reputation of the province of Nova Scotia that we must regard any rights of the Oxford Paper Company as legal rights which could be terminated or modified only by agreement, or under the provisions... of our law which relates to property rights in Nova Scotia".

#### **Stora Kopparberg:**

In July 1957, Karl Clauson, the sales representative of the Stora Kopparberg Corporation in New York, formed the Nova Scotia Pulp Limited (NSP). The company was capitalized at \$2,000 Canadian and wholly owned by Clauson, who acted both as Chairman of the Board and President. Clauson's solicitors in Nova Scotia, Arthur Gordon Cooper and Hector McInnes, were also partners in NSP. NSP and the Nova Scotia government signed the Nova Scotia Pulp Limited Agreement, leasing 1 million acres (520,000 ha) of Crown lands on Cape Breton Island and the three eastern counties of Pictou, Antigonish and Guysborough to the company. The agreement was remarkable in that Stora made no formal commitment to build a pulp mill in Nova Scotia until July 1959, when the company took over NSP." By that time Clauson had wrested several concessions from the government. Cooper, serving as mediator, formulated the agreement, virtually rewriting the tax laws of Nova Scotia in response to Clauson's requests. Stumpage rates were set at \$1 per cord, the same rate given the Mersey Company 30 years earlier, and \$2 per cord less than Clauson had been prepared to pay." The government also acquired a 323 acre (131 ha) site for the mill and undertook, at a cost of \$30,000, to carry out special surveys for NSP. Spending under the provisions of the Nova Scotia Pulp Limited Agreement Act exceeded \$2.27 million from 1959 to 1962."

The assurance of transferability of the new lease was another feature which the government approved." The premier considered himself forced to comply with this concession to Stora: "It seems to me it's going quite

a distance, but the solicitors of the mortgagee are insistent that the provision is essential". The premier's major concern during this period was to secure a commitment from Stora and the content of the agreement seemed secondary. The opposition predicted "that the type of agreement, as regards to the price, which was negotiated with NSP will be a millstone about the necks of the people of Nova Scotia for many years to come, and will serve to depress, not only the price received for pulpwood off the Crown lands of the province, but by analogy off the lands owned by small woodlot owners in the province, for 30 years to come, because that's the duration of the agreement".

#### **Government Timidity:**

Throughout its history, then, government timidity and extreme dependence on business coloured the changing terms and conditions of the Big Lease. Yet the property rights of the leaseholders could have been changed or modified. At various times local companies called upon their government to make the foreign absentee pulp and paper companies work their idle leases and freeholds. Chief Forester Schierbeck's policy proposals in the 1920s similarly challenged such property rights. The establishment of the Cape Breton Highlands National Park showed that expropriation could be invoked. In a different context, Conservative MP John Haggart stressed that governments had the legal power to interfere with existing, almost perpetual leases; "the question of whether or not to use the power was solely a moral issue". Other countries, and even other provinces, had introduced effective forest management legislation to regulate both private and public forests."

In Nova Scotia, by contrast, accommodation rather than challenge characterized government response to the demands of leaseholders...and (was) overshadowed by the establishment of the Mersey Paper Company in 1928, which signified a new era of state support through stepped-up concessions in the forest industry. Mersey received concessions in the supply of power and guarantees of 1,000,000 cords of pulpwood from Crown lands. At the time, the importance of Crown reserves in attracting foreign pulp mills to the province reached new heights, as the province barely possessed enough Crown lands to accommodate Mersey. In Mersey's wake, the government embarked on a programme of buying back Crown lands as a future locational incentive to foreign pulp and paper companies. In 1957, the buy-back of the Big Lease by a newly elected provincial Conservative government, and its re-issue along with an additional 341,252 ha of Crown lands, signified yet another stage in the province's quest for pulp and paper industry development.

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Excerpts from

#### **The Politics of Pulpwood Marketing in Nova Scotia, 1960-1985**

Peter Clancy

#### **Unfair Competition:**

"...As part of a deal to secure a new pulp mill at Port Hawkesbury, the province had leased 1.3 million acres (520,000 ha) of Crown lands to Nova Scotia Pulp Ltd., a subsidiary of the Swedish forest giant Stora Kopparberg. The lease called for a very low stumpage rate of \$1 per cord. This carried serious pricing and supply implications for small private pulpwood producers, who were the most significant source of wood. It raised the prospect that cheap Crown stumpage would set the ceiling for private stumpage sales and force down the roadside prices for privately cut pulpwood. Thus it triggered a campaign by some small woodlot owners, on farm and off, who acted "in anticipation of the unfair competitive situation that would develop as a result of the provincial government's decision to make available to NSFI [Stora] all Crown lands in eastern Nova Scotia on a lease basis". This appraisal proved to be remarkably prescient. Subsequent events confirmed that the woodlot owners were battling the government's timber and industrial policies as much as they were battling the pulp and paper companies."

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Excerpts from

## **The Political Economy of Nova Scotia's Forest Improvement Act, 1962-1986**

Glyn Bissix and L. Anders Sandberg

### **Government Subsidies:**

"...The vulnerability of the provincial government in soliciting foreign transnationals is well illustrated in the coming of the Swedish pulp and paper company Stora Kopparberg AB (Stora) to Nova Scotia in the late 1950s, and Scott Paper in 1965. In the case of Stora, the government failed to check the credentials of its alleged negotiators; it provided extensive Crown leases, totalling 1,283,948 acres (increased by 197,530 acres in 1969), for the same sturmpage rates charged Bowater Mersey in the late 1920s; it awarded subsidies and grants in all phases of the construction of the mill; and it flaunted the opposition to Stora by the sawmill sector and Bowater Mersey."

Scott Maritimes enjoyed tax holidays on its pulp mill site and extensive freeholds. The company received a Crown lease of some of the finest stands of timber in Nova Scotia, 230,000 acres in eastern Halifax County. The provincial government also promised to pick up the expense for treating the effluent produced daily at the pulp mill. The federal government contributed \$5 million and a five-year income tax holiday."

### **Revising Forest Inventories:**

"...An integral part of the use of Crown leases to attract pulp and paper companies to the province was the manipulation of forest inventories. One precondition for the establishment of new pulp mills was documentation that the Nova Scotia forest could support additional pulp mills.' Senior civil servants in the DLF were reluctant to give such assurances. In support, they referred to the wood scarcities forecasted in a recently published forest inventory. Bowater Mersey, fearing competition, supported the position of "forest scarcity". As a result there were powerful forces arguing that Nova Scotia's forests could not sustain a second, let alone a third, major pulp mill.

The provincial government, however, turned scarcity into plenty. Premier Stanfield instructed Lands and Forests Minister Haliburton to "get those people of yours 'thick as sweat' down to the [Hotel] Nova Scotian and lock em up until they come up with an answer". G.I. (Ike) Smith, the Minister of Trade and Commerce, played an important part in the meeting. According to Haliburton, it was Smith, a lawyer by profession, who forced the departmental personnel to concede that there was enough wood to support a second pulp mill. The revised forest inventories were subsequently dubbed G.I. Smith's "new forest", pointing to the strong government bias in favour of pulp industry development. The Department of Trade and Commerce clearly prevailed over Lands and Forests. In 1964, on the eve of the establishment of the Scott Paper pulp mill at Abercrombie in Pictou County, a similar revision of forest inventories was made.

The DLF "re-examined" its records and increased the allowable annual cut from 1,375 thousand to 2,400 thousand rough cords, an increase of about 74 per cent. Then, in 1969, when Stora expanded its sulphite mill from 135,000 to 175,000 tons per year, installed a 160,000 ton newsprint facility, and concluded a new management agreement, covering an extra 200,000 acres of Crown lands, the annual allowable cut was increased from 12 to 25 cubic feet per acres per year.

Projected forest scarcities, revised inventories and increased allowable cuts heightened the concern for forest management. The Minister of Lands and Forests put it well: "there's general agreement that with the new demands in our forest industry as a consequence of the establishment of a large new pulp mill in Pictou (Scott Maritimes), and the expansion and modernization of many saw mills, that a more positive policy towards planning and safe-guarding future supplies must be adopted, otherwise the future of our forest industry is bleak".

It was in the context of major pulp and paper industry development, projected forest scarcities and inflated forest inventories that a major debate emerged with respect to provincial forest legislation in the late 1950s. "

**The Small Tree Act and Clearcutting Policies:**

“...The Small Tree Act (STA) was enacted in 1942 and revised in 1946 to deal with the unprecedented demand and indiscriminate cuts of sawlogs during the Second World War. It was enforced on a limited scale from 1947 to 1962. The STA provided a diameter restriction of ten inches on the felling of three targeted species: hemlock, pine, and spruce. The act provided some protection from widespread and indiscriminate clearcutting (and thus helped to preserve sawlogs otherwise destined for the pulp mills) and some educational value by pairing government foresters and woodlot owners together in the woods, but its overall effect was limited.”

“...Parallel to the concern of boosting production and management on small private woodlands, the province also had to respond to mounting demands for the technocentric forest management regime. One important ingredient of this regime was clearcutting. Already in the late 1950s, the STA was under pressure from landowners who wanted to practice extensive clearcutting. The Minister of Lands and Forests complained that the requests for clearcutting had become a heavy bureaucratic burden in light of the expansion of the pulp and paper industry. He also conceded that approvals were given in the large majority of cases.

The records also show that the limited enforcement of the STA stopped completely in 1962. In 1965, Bowater Mersey, long under pressure to adopt clearcutting from corporate headquarters, resorted to clearcutting entirely after the retirement of its chief forester, Ralph Johnson, an advocate of shelterwood cutting.”

As of 1966, Scott Maritimes confined most of its harvesting practices to clearcutting.” The practice of clearcutting was an integral part of the technocentric ideas of forest management advocated by Stora.” One central feature of Stora’s new plans was the clearcutting of mature and over-mature stands as well as so-called “sylvan junk”, degraded and commercially non-valuable forests, before planting and tending more desirable species.”

**The Neutering of Lands and Forests:**

“...In the late 1960s and early 1970s, technocentric harvesting and management methods increased among the pulp and paper companies and a growing dependent group of company contractors. The DLF was profoundly influenced by this trend. This corresponded to international trends but was also paralleled by a generational change within the department. Many of the foresters of the “soft industrial school” who had entered the Forestry School as Second World War veterans and had occupied senior departmental positions in the 1960s and early 1970s, retired and provided room for a new group of pulpwood forest managers, more receptive to the relatively new technocentric position of forest management advocated by the pulp and paper companies. Company and even DLF foresters, with virtually all Crown land leased to the pulp and paper companies, in effect became, despite rhetoric to the contrary, employees and servants of the pulp companies.”