

The Fruit Wars*

There are many acts, and still a greater number of forbearances, the perpetual practice of which by all is so necessary to the general well-being, that people must be held to it compulsively, either by law, or by social pressure.¹

John Stuart Mill

Have none of you heard of zoning before? Have none of you heard of land use before? Is this such an entirely new concept in the Province of BC, or is this the first time you think the government really means it?²

Dave Stupich, Minister of Agriculture
Address to the British Columbia Fruit Growers' Association
1973

The continued deterioration of grower returns into the 1970s, exacerbated by the 1969 freeze, was pushing the BCFGA into an increasingly reactionary position regarding the conversion of orchard land. For the association, the unencumbered right of the individual growers to dispose of their property was to be jealously guarded as it was all that was buttressing the industry from a more serious, internal crisis. Growers who had replanted only three years earlier were particularly hard-hit as their investment in new trees was completely erased by the 1969 frost, while surviving trees could not be relied upon to provide a decent level of income. Economic distress was swelling the ranks of growers peddling fruit to the coast in contravention of Fruit Board regulations. The industry was finding itself in a precarious position: any change to restrict the sale of orchard land, or any further increase in the numbers of growers peddling fruit to Vancouver, would destabilize traditional marketing patterns. The end-result of either scenario – land-use restrictions, or the stringent enforcement of Fruit Board rules –

* The term "Fruit War" was commonly used in the British Columbia press during the 1973 cherry season to describe the confrontation occurring between dissidents and the BC Fruit Board. "The Fruit Wars" is also the title of a poem published by Harold Rhenisch in *Out of the Interior: The Lost Country*, Cacanadadada, Vancouver, 1993, p. 109. Harold Rhenisch is the son of Hans Rhenisch, founder of the Okanagan United Growers and one of the more prominent dissidents fighting against compulsory marketing in the early 1970s. Harold Rhenisch's poem appears in Appendix A.

¹ John Stuart Mill, quoted in John Gray, *Mill on Liberty*, Routledge and Kegan Paul, London, 1983, p. 64.

² Dave Stupich, quoted in *BC Orchardist*, February, 1973, p. 12.

opened the possibility that growers, in a desperate attempt to remain solvent, would bid to remove the monopoly status of BC Tree Fruits and undertake their own, individual marketing. It is almost ironic then, that it took a provincial election fought substantially on the issue of farmland preservation in 1972 to make the BCFGA enunciate a position on land-use issues. A newly elected administration was determined to fulfill an election promise to halt the conversion of agricultural land, while the Association was equally determined to minimize any such changes. For growers, the potential that a farmland freeze would limit their long-term options fragmented opinion, spurring the re-emergence of a more militant group of dissidents determined to exploit the unrest. Over the summer of 1973, the actions of these rebels and the political calculations of the provincial government isolated the BC Fruit Board, throwing the future of the single-desk into question. A compromise solution to this turmoil, income subsidies introduced in the fall of 1973 designed to gain support for the government's farmland preservation program, ultimately precipitated the abandonment of the orderly marketing system.

For the better part of a decade, dissidents opposed to the compulsory requirements of the single-desk had remained marginalized within the fruit industry. The defeat of Alfred Beich at the 1962 Convention had marked an ebb of their influence. Thereafter, acts of protest against the marketing system remained confined to the individual sphere, generally taking form in a grower's own decision to peddle fruit illegally. Less radical growers, however, who found themselves unable to continue under the existing arrangements, could still pursue the option of exiting the industry through the unfettered sale of their orchards: an option many were to employ, effectively confining the appeal of

the dissidents to a small core of growers composed of ardent individualists. Entering the new decade this balance would be upset as a result of a second major freeze that impacted the valley in less than five years. The arctic air masses experienced throughout the winter of 1968-69 brought temperatures only ever recorded during the great freeze of 1949-50. The timing of the freeze could not have been worse as the young, unbearing trees planted after the 1965 kill-off sustained the greatest casualties.³ The loss of so many trees, which had yet to yield any return on investment, left many growers facing a daunting economic challenge. The lucrative, but delicate soft-fruit crop was simultaneously wiped out, leaving only the apple – representing seventy-nine percent of the overall crop that year – to sustain the industry.⁴ For all growers, the prospects were bleak. Increased production in Washington State had created a regional surplus in apples and, reflecting the depressed market prices, apples sold through BC Tree Fruits that year only fetched 3.4 cents per pound.⁵ At this rate of return the costs of packing and marketing the crop were not being met, leading some packinghouses to issue charges to their membership for handling their product instead of paying them for it. All told, growers had been dealt a financial blow that was nothing short of a disaster.

By 1970, an increasing number of growers found themselves falling afoul of Fruit Board regulations as they attempted to obtain a return on their fruit outside of legal marketing channels. The inability of the industry or the *Crop Insurance Act* to mitigate the economic losses encouraged some growers — growers who would have never otherwise challenged the single-desk — willfully to bootleg fruit to the coast. The

³ Jeannette C. Boyer, *Human Response to Frost Hazards in the Orchard Industry, Okanagan Valley, British Columbia*, Waterloo: Department of Geography, University of Waterloo, 1977, p. 41.

⁴ *Ibid.*

⁵ The return for 1969-70 was a mere 3.4 cents a pound, compared with 7.2 cents a pound the previous year and 6.8 cents a pound in 1967-68. British Columbia, Department of Agriculture, *An Economic Study of the Tree Fruit Industry of British Columbia*, S.C. Hudson, Victoria: Department of Agriculture, 1973, pp. 5-6.

desperate situation began to cast the practice of illegal peddling in a different light, as no longer the domain of those strictly out to profit at the expense of their neighbours. For true dissidents, however, the low returns fueled an escalating animosity towards the BCFGA, the Fruit Board, and the monopoly status of BC Tree Fruits. In their eyes, this industry triumvirate was slowly legislating the average orchardist into poverty, an extreme view, but one that nevertheless held the potential to attract more adherents during a period of turmoil. Such a dynamic had been demonstrated in the mid-1950s when isolated, individual discontent was galvanized into a somewhat broader, organized opposition to the prevailing status quo favoured by the BCFGA executive. Dissidents had sought to exploit the fragmented grower opinion to push their own agenda beyond any relation to their representation within the industry. By the early 1970s, all that remained to trigger further dissent was another divisive or “wedge” issue similar to the appointment of the Royal Commission in 1956.

The Annual Report of the Fruit Board presented at the January convention of the BCFGA could always be counted upon to be a rather routine summation of activities conducted over the year. As policeman to the industry, the Fruit Board could also be counted on to draw the ire of dissidents, and 1973 proved no different as the board’s Report drew “heavy fire.”⁶ Many of the complaints voiced in public revolved around the board’s perceived preoccupation with restrictive regulations and a lack of any clearly stated objective for securing better returns for the grower.⁷ Dissidents chafed under increased oversight as the board sought to stem the tide of growers who “in desperation have decided they could do better by themselves.”⁸ Some of the more prominent and

⁶ *BC Orchardist*, March 1973, p. 8.

⁷ *Ibid.*, p. 8.

⁸ Hans Stoll, Vice-Chairman of the Fruit Board, quoted in *BC Orchardist*, March 1973, p. 8.

outspoken critics present were Hans Rhenisch, a Keremeos grower who opened “debate” on the board’s report by querying whether “any legislation the Fruit Board brings in will not simply be good for the Fruit Board, but will in the final end make more money for the grower.”⁹ Bert Hume followed with the rather telling statement that

In no way will I co-operate in a scheme that is not returning me my cost of production ... Why is this board concerned so emphatically with controls and regulations and ignoring the real issue of returning the price to the grower?¹⁰

Even Alfred Biech was present, re-fighting old wars:

If you talk about controlled marketing, that’s fine. Mr. Stoll [Hans Stoll, Vice-Chairman BC Fruit Board] says we are going to ruin it and everything else. We are not ruining anything. We want the Marketing Board to operate to our advantage but if it is only going to operate to the advantage of the wholesalers it will be down the drain.¹¹

Such arguments against the single-desk and orderly marketing, however, were long-familiar ones within the industry and, alone, did not strike any chords with the majority of growers. If the dissidents were to further their cause at all, a greater degree of dissatisfaction amongst growers with the current state of affairs was required.

The announcement of a provincial general election for September of 1972 would ultimately provide the opening that dissidents required to influence grower opinion towards their own end. For twenty years the land-use policies of the Social Credit administration had sustained the evolution of the BCFGA into a one-dimensional marketing agency. In this period, the sanctity of private property and the virtues of continuous economic development had ensured that the sale of farmland was executed without any undue restrictions. However, the degraded ecosystems resulting from increased urban sprawl and industrial expansion had slowly begun to alter public opinion

⁹ *Ibid.*

¹⁰ *Ibid.*

on environmental issues. A greater public awareness surrounding the integrity of the province's agricultural and natural resources ensured that their long-term preservation became a central facet of the campaign. The Socreds' platform was one that simply rested on their past record, the cornerstone of which proved to be a piece of legislation passed only the year before. The expropriation of four thousand acres of prime farmland on the urban fringe of Vancouver, needed to build the Roberts Bank Superport in 1967, had greatly discredited the government. Despite a surprisingly strong election victory in 1969, the Socreds felt it necessary by 1970 to placate public opinion regarding the Superport's construction by passing the *Environmental and Land Use Act*. Novel in its design, the *Act* subjected all regions of the province to the authority of a single Environment and Land Use Planning Committee (ELUC).¹² Due to the traditional form of cabinet employed by the Socreds, however, the committee was used only as an advisory body in a governing structure dominated by the executive. With no effective oversight of changing land-use patterns, the Socreds approach to preserving agricultural land actually accorded with that enunciated by the British Columbia Federation of Agriculture (BCFA).

The BCFA's basic position was that the unclouded ownership of farmland was fundamental to the long-term survival of the province's agricultural community.¹³ The Federation's position reflected the predominant view of its membership, who believed that it was farmers who had preserved the land in the first place, not society; and that state regulation would impose an undue hardship by essentially tying them to their land. Barring the ability to dispose of their property freely, farmers firmly believed it to be

¹¹ *Ibid.*, p. 10.

¹² Edward W. Manning and Sandra S. Eddy, *The Agricultural Land Reserves of British Columbia: An Impact Analysis*, Ottawa: Environment Canada, Lands Directorate, 1978, p. 9.

¹³ It is important to note that at this time Charles Bernhardt, an Okanagan fruit grower and Vice-President of the BCFGA, also headed the British Columbia Federation of Agriculture. Bernhardt would also shortly be elected to the presidency of the BCFGA at the 1973

essential that any zoning plan be accompanied by a reasonable compensatory factor that took full account of underlying development rights.¹⁴ The unknown variable in the continuation of these ineffectual land-use controls was the opposition New Democratic Party (NDP).

The NDP entered the election favouring a direct bureaucratic regulation of the landscape through a land-zoning program. If elected, an NDP government would rely upon a land bank to provide liquidity in an inevitably soft real-estate market for agriculturally zoned properties.¹⁵ While providing voters with a clear alternative to the governing Social Credit Party, the NDP's platform was problematic in that it did not specify how a land bank would determine the value of farmland.¹⁶ It is unlikely that it would have assessed the true market value of the land based on the potential for subdivision, or other non-agricultural uses, as such an approach would have undoubtedly bankrupted the province. For producers who had invested a lifetime of work in agriculture, usually with little else to show for their efforts than the value of the land itself, the NDP's proposed zoning plan was anathema. In the Okanagan, the electorate largely rejected the NDP and its policies, voting in overwhelming fashion to support the status quo by returning all three local Social Credit MLA's.¹⁷ The rest of the province

Convention. It should not be surprising that there was a close affiliation between BCFGA and BCFA policy on this issue of farmland zoning.

¹⁴ British Columbia Federation of Agriculture, submission to Cabinet, quoted in *Country Life in British Columbia*, January, 1973, p. 2.

¹⁵ The NDP proposed a "land-zoning programme to set aside areas for agricultural production," and the creation of a land bank to "purchase existing and re-zoned agricultural land for lease to farmers on a long term basis." Baxter, p. 8. The land bank would be offered as a compensatory mechanism in lieu of the purchase of development rights.

¹⁶ Much has been made about an ideological debate that occurred within the NDP Cabinet between Dave Stupich, Minister of Agriculture and Bob Williams, Minister of Resources, and the issue of compensation towards farmers for the loss of development rights. Stupich is purported to have been a more traditional "socialist," favouring government control of the means of production and control of the economy. He was also reconciled to the view that government acquisition (i.e., the development value of land) required government compensation. Williams, however, influenced by the political philosophies of Henry George, believed that land was a public resource/asset not requiring compensation, and that zoning was a right of government. This view was reinforced by Williams' experience as a municipal planner with the Lower Mainland Regional Planning Board and its ability to zone land for agricultural use (i.e., the 1963-67 LMRPB farmland plan) without providing compensation. For more information, see Andrew Petter, "Sausage Making in British Columbia's NDP Government: The Creation of the Land Commission Act, August 1972 - April 1973," *BC Studies*, No. 65, Spring 1985.

¹⁷ Elections BC, http://www.elections.bc.ca/elections/electoral_history/30ge1972-1.html (November 9, 2001).

was not as ready to return the incumbents and, in the end, the NDP won the election with thirty-eight of fifty-five seats.¹⁸ How the new administration proceeded to fulfill its election promise has become one of the defining moments in the agricultural history of British Columbia.

Less than a month into office, the new Minister of Agriculture, Dave Stupich, spoke before growers in Kelowna to inform them that the preservation of farmland was going to be the top priority of his department and government. As someone who openly supported the principle of compensation for expropriated development rights, Stupich was not representative of a majority viewpoint within his party.¹⁹ The plan that the minister came to favour was one drafted by his own department but which had been rejected by the Socreds in 1971 in favour of the *Environment and Land Use Act*.²⁰ It advocated the active regulation of farmland, restricting usage to farm purposes only, while also endorsing the principle of development rights and the obligation upon government to compensate farmers adequately for the removal of said rights.²¹ The plan had been developed by the department to address the issues of urbanization in the Fraser Valley, but Stupich sought to have it applied broadly across the whole of the province.²² Irrespective of the minister's enthusiasm, there still remained the fact that cabinet approval was required and that not all of Stupich's colleagues shared his belief that compensation was a prerequisite for a successful plan. Other options existed, such as the commitments presented in the party's election platform towards a land bank. Of even more significance were the internal dynamics of policy formulation within the NDP

¹⁸ *Ibid.*

¹⁹ Petter, p. 12.

²⁰ *Ibid.*, p. 7.

²¹ *Ibid.*

²² *Ibid.*, p. 12.

cabinet.²³ Having opted to maintain the traditional cabinet-level structures of the previous administration, and lacking an authoritarian leader similar to Bennett, the NDP's policy agenda quickly dissipated to the point that the dominant factor in the decision making process became the political entrepreneurship of the more forceful ministers.²⁴

Seeking to ensure the adoption of his own plan, Stupich used the venue of the BCFA's Annual Convention in November of 1972 to make a formal announcement that would limit his government's leeway on the issue of farmland preservation. He declared that the NDP had not permitted any rezoning of farmland since taking office that September, and that anyone would be ill-advised to invest in farmland for the purposes of developing it for industrial or residential purposes.²⁵ The aftermath of the convention remarks was a rush by developers and farmers alike to have their land rezoned in anticipation of the government legislation that Stupich had so clearly hinted was coming. Chaos at the municipal level forced the cabinet to introduce an order-in-council on December 21st, 1972 freezing all rezoning applications — a move that Stupich was purportedly able to orchestrate by imparting to the cabinet the impression that the premier, who was out of town at the time, had endorsed the move.²⁶ To reverse the order-in-council at a later point would have been to jeopardize any hope of rationally preserving the province's farmland, and as Stupich's farmland plan was the only one on the table it became the de facto template – for better or worse.²⁷

²³ The definitive piece in this literature is Paul Tennant's "The NDP Government of British Columbia: Unaided Politicians in an Unaided Cabinet," *Canadian Public Policy*, Volume 3, Autumn 1977, pp. 489-503. The core of Tennant's argument is that by adopting the traditional form of Cabinet practiced by the Socreds, and in the absence of strong leadership, the NDP Cabinet became nothing more than a "bargaining centre" in which the political entrepreneurship of the more forceful Ministers decided the policy agenda. Other works include Petter's "Sausage Making," and Christopher Dunn's *The Institutionalized Cabinet: Governing the Western Provinces*, Kingston: McGill-Queen's University Press, 1995.

²⁴ *Ibid.*, p. 492.

²⁵ *Vancouver Sun*, November 30, 1972, p. 1.

²⁶ *Vancouver Sun*, December 27, 1972, p. 2. See also, Petter, p. 13.

The industry's response was immediate and uniform as the BCFGA quickly emerged as one of the more militant producer groups opposed to the general intent of the order-in-council. That the Association would threaten strikes and pickets in an attempt to overturn the farmland freeze remains wholly consistent with the unofficial industry policy in the 1960s of non-action on issues of urbanization. Following the inability of the marketing structures to return to growers the minimum costs of production after the 1969 freeze, the unencumbered right to sell orchard land was all that was mitigating the plight of growers. Removing that right would expose the fact that, under the current conditions, orderly marketing was inadequate and the industry was non-viable. The aging demographic profile of the average orchardist in this period also ensured that the government's move would be a controversial one. Many of the growers who had been established after 1945 under either the *Veterans Land Act*, or through immigration to the valley, were now entering the twilight of their career as orchardists. Having invested the majority of their working lives into the land, a change in occupation for these growers was not a real alternative. After years of low returns, the one consolation remained the potential of the land to act as a retirement nest egg, providing a secure source of income in old age that had always remained elusive growing fruit. Scheduled almost a month to the day after the announcement of the order-in-council, the agenda of the 1973 BCFGA Convention was to be dominated by this debate surrounding the proposed restrictions on farmland and acceptable forms of compensation.

In keeping with tradition, the Minister of Agriculture opened the convention, providing the first major forum for the government in which to explain to producers the changes being proposed. While references were made to an improved crop insurance plan

²⁷ Petter, pp. 12-13.

and a loan to the Keremeos packinghouse, the main thrust of Stupich's presentation was a plea for more time in which to formulate a comprehensive legislative package.²⁸ As he stated,

You haven't seen the legislation yet and the Cabinet hasn't seen it yet. I cannot give you the details. I have to go to the Cabinet myself and as I already told you the legislation is evolving.²⁹

To placate growers and forestall some of the protests planned against the farmland freeze, Stupich advised the convention that there would be plenty of opportunities for input and revisions. The NDP was a government that would listen and assist farmers; all they need do was approach the minister and he would work with them. Growers, nevertheless, remained skeptical of Stupich, passing two resolutions asserting the legitimacy of the BCFGa to play a leading role in shaping the government's policy.³⁰ That Bill 42, the *Land Commission Act*, was introduced the following month without any direct consultation from producer groups was a direct rebuke to growers and the marketing structures underpinning their industry. Two sections of the new act were especially galling: the newly constituted Land Commission had the authority to designate, without acquisition, lands suitable for long-term agricultural preservation; lands so designated would not be "injuriously affected by reason of the designation."³¹ During second and

²⁸ *BC Orchardist*, February 1973, p. 12.

²⁹ Dave Stupich addressing the British Columbia Fruit Growers' Association's 84th Annual Convention, January 16, 1973, quoted in *BC Orchardist*, February 1973, p. 12.

³⁰ A total of five specific resolutions were passed in relation to the issue of farmland preservation. They were: 1) The BCFGa demand full participation in, and proper compensation for any restrictions placed on the property of members; 2) the firm opposition of the greenbelt policy as it applies to orchard land unless it is accompanied by surtax protection raising imported fruit to the level of Canadian production; 3) the BCFGa press for adequate compensation or subsidy for all farm lands alienated from normal use; 4) the provincial government to be asked to consult farm organizations so that a satisfactory plan could be established before enacting any greenbelt legislation; and 5) the BCFGa to go on record as being opposed to arbitrary zoning of farm land unless legislation is accompanied by a reasonable compensatory factor of the produce of the land and for the development rights. *BC Orchardist*, February, 1973, p. 10.

³¹ Section 8 of the *Land Commission Act* originally gave the Commission the authority to designate agricultural lands, parks, greenbelts and land banks. This power, however, was seen as too broad in scope and was amended before second reading to apply strictly only on agricultural land. Section 16 was seen by many in the province as the end of private ownership of land, and became a liability for the NDP in its attempt to chart a somewhat moderate, reformist approach to governing the province. By designating land as not injuriously affected, the NDP had closed the door to the possibility of compensation for lost development rights. Fruit growers objected to this measure as it erased the speculation inflated value of their land. David Baxter, *The British Columbia Land Commission Act — A Review*. Vancouver: Faculty of Commerce and Business Administration, UBC, Report No. 8, 1974, p. 12.

third reading of the bill, the only language the government was willing to revise dealt with confusion over the scope of the commission and its ability to expropriate lands.³² The willful omission of any form of economic subsidy or compensation for lost development rights only increased the pressure on growers to find a more profitable means of selling their fruit – thus pitting them against the illiberal restrictions of the single-desk and orderly marketing system.

Only following a massive demonstration on the steps of the legislature by farmers opposed to Bill 42 did the government finally choose to open a dialogue with producers regarding the best methods to strengthen their economic position under the Reserve.³³ The major initiative in this program was a joint study to be conducted by the Department of Agriculture in co-operation with the BCFA. Charged with assessing the long-term prospects of agriculture across the province, the study's recommendations provided the framework for the government's legislative agenda during the fall session. To address the more specific problems of the tree-fruit industry, where opposition to the Land Reserve was still white-hot, an agricultural economist was commissioned to evaluate the structures of the industry and recommend improvements. Finally, Stupich himself struck a Select Standing Committee on Agriculture (SSCA) to tour the province during the summer of 1973 to hear from producers who might not otherwise be afforded a voice in the consultative process. Ironically, the SSCA would actually fan tensions within the orchard landscape as it provided a forum that unwittingly linked the anti-corporativism of the dissidents with the unrest felt by the general grower body following the passage of Bill 42. By convening a series of official hearings to discuss the broad state of

³² *Country Life in British Columbia*, April 1973, p. 1.

³³ The demonstration was held on March 15, 1973.

agriculture, the province gave dissidents not only an opportunity to renew their assault upon the single-desk, but an equal stature with legitimate industry representatives in doing so. Although dissidents would be hard pressed to win many converts to the position that BC Tree Fruits should be stripped of its preferred status as sole selling agent, experiences from 1958 had shown that where they could be effective was in casting doubt. Two organizations, the United Fruit Growers of British Columbia and the Allied Growers of British Columbia, were formed specifically to address the SSCA. Contrary to their assurances that they supported marketing boards and the rule of law, both United and Allied argued that BC Tree Fruits had become complacent, top-heavy, and structurally incapable of providing a decent return; their arguments scarcely masked their ultimate objective of doing away with the BC Fruit Board altogether.³⁴

Unlike 1958, however, the size and scope of the SSCA would not match that of the MacPhee Royal Commission, being of a relatively fixed duration and possessing a much broader mandate by touring the entire province. As a platform for dissent, the SSCA's brief interludes through the valley failed to provide the rebel organizations with the public exposure they sought. The limited hearing schedule also allowed newly proactive industry supporters to stack meetings and ensure that individuals unwilling to live with any sort of marketing controls did not present an unbalanced viewpoint. Resistance from committee members to accept the dissidents' argument that the single-desk was, in fact, one of the problems facing agriculture in the Okanagan further reduced the effectiveness of the hearings. Many of the MLAs remained skeptical that a second or third selling agency would indeed improve efficiency and not simply create duplication

³⁴ The United Fruit Growers platform actually stated that one of its objectives was "to assure that any licensed packer-shipper (co-op) will be able to sell to all buyers that are prepared to pay." In practice, this would merely legitimize the practice of peddling fruit to the

and destructive competition.³⁵ Despite the initial legitimacy the SSCA hearings bestowed upon the dissidents and their organizations, the inability to further their cause within official channels led to the decision to begin working outside of the law, and against industry structures. The preferred method of the dissidents in manipulating public opinion would come to be “impromptu” farmers’ markets in Vancouver (which really were not spontaneous events at all), and the subsequent coverage by the major media outlets of the coast. As cherries were the first crop of the season to mature, routinely the most profitable of all the fruit crops, and a relatively small crop by volume (making them easy to transport), their marketing became a natural flashpoint between dissidents and the Fruit Board.

In early July, Allied Growers brazenly challenged the Fruit Board by having it announced in the Vancouver media that a convoy of trucks would be heading to the coast with a shipment of fresh cherries.³⁶ The use of the convoy was designed to exploit the Fruit Board’s limited enforcement capabilities that had evolved over the years to cope with the odd disgruntled grower, or unsuspecting tourist hauling too much fruit out of the valley. When faced with non-co-operation, inspectors only proved able, with the aid of an RCMP officer to detain the lead vehicles, to halt a small percentage of the shipment.³⁷ Once in the Vancouver market, the cherries were sold at forty cents a pound, undercutting local retailers who had gone through legitimate channels and were selling marked BC Tree Fruits product at forty-nine cents per pound.³⁸ As such, the dissidents’ claims of success, duly reported by the Vancouver media, were dubious at best. The ability of rebel

coast, an illegal act most members of the two organizations willfully participated in. United Fruit Growers’ of British Columbia, “Platform,” quoted in *BC Orchardist*, May 1973, p. 8.

³⁵ *Country Life in British Columbia*, July 1973, pp. 1-14.

³⁶ *Vancouver Province*, July 5, 1973, p. 1.

³⁷ *Country Life in British Columbia*, August 1973, p. 1.

³⁸ *Ibid.*

growers to command a price as high as forty cents was entirely predicated on the presence of BC Tree Fruits regulating the flow of its cherries to market. Claims of a direct return of forty cents a pound to the grower were also misleading for this did not take into account the shipping and transit costs the dissidents absorbed in bringing their crop to the coast. Dealing in such small volumes these costs would have undoubtedly been far greater for the dissidents than for those growers opting to sell through legitimate channels. The favourable response to Allied's actions by the Vancouver consumers who purchased the cherries and the media who gave the event fair coverage underscored the ability of the dissidents to shape public opinion.

The Fruit Board's response was an attempt to shift the growing confrontation out of the glare of the media by seizing ten tons of cherries from an Allied Growers' packinghouse.³⁹ By impounding cherries in the Okanagan, dissidents would be denied the opportunity of exploiting possible in-transit confiscation of their crop to the media, or garnering public sympathy in Vancouver through cut-rate fruit prices. Without access to modern storage facilities, the Fruit Board's actions added a sense of urgency to the rebel organization's actions, as neither Allied nor United possessed the ability to prolong the life of their cherry crop. In desperation, an injunction preventing the Fruit Board from seizing, detaining or interfering with the sale of any Allied Growers' fruit was obtained two days after the initial seizure.⁴⁰ Given the maturation of the cherries at this point, and the small window of opportunity afforded by the questionable arguments used to obtain the court order, United Fruit Growers moved to transport fifty tons of fruit quickly to Vancouver. By this point, however, a number of Lower Mainland wholesalers and

³⁹ *Vancouver Province*, July 11, 1973, p. 1.

canners with a long history of dealing with BC Tree Fruits were beginning to challenge the dissidents' claims in the media. In transporting such a high volume of fruit to the coast, the United Fruit Growers' had over-estimated the ability of the Vancouver farmers' markets to absorb their cherries. When approached by dissidents to purchase upwards of eight tons of unsold cherries at prices of twenty cents a pound following the weekend market, the wholesalers and canners reported the proposition directly to the media.⁴¹ That Allied Growers' approached BC Tree Fruits to dispose of 4.5 tons of its cherries a few days later lent credibility to the media reports about United Growers' earlier failure to dispose of their crop.⁴² To the industry leadership, the dissidents' request was seen as an admission of defeat and an indication that the resolve to challenge the Fruit Board was receding. Upon having Allied's injunction overturned, the Fruit Board and BC Tree Fruits attempted to regain the initiative in the "fruit war" by filing writs against the two rebel organizations and thirteen individuals seeking damages and injunctions preventing the continued transportation of regulated fruit.⁴³

The Fruit Board's determination to pursue the dissidents through the court system could not have occurred at a more inopportune time, as the political resolve of the NDP to uphold the more illiberal restrictions of the single-desk was rapidly dissolving. The electoral defeat of the Socreds the previous year had cast the continued viability of the party as the conservative alternative to the NDP into question. The provincial Conservative and Liberal Parties were increasingly vying to assume Social Credit's

⁴⁰ On appeal, it was determined that Allied's lawyer had failed to inform the presiding judge that federal legislation gave the Board power to regulate the inter-provincial sale of BC grown fruit, that Allied was not a license packinghouse, and that BC Tree Fruits was the sole designated agent to market BC fruit. *Ibid.*

⁴¹ *Vancouver Province*, July 17, 1973, p. 8.

⁴² *Vancouver Province*, July 18, 1973, p. 27.

⁴³ *Vancouver Province*, July 20, 1973, p. 10.

mantle as the party of free enterprise.⁴⁴ In an attempt to thwart the resurgence of these traditional parties, W.A.C. Bennett stepped aside as the MLA for South-Okanagan in June of 1973. Bennett's strategy was to orchestrate the nomination of his own son to run in his place and assume the leadership, hopefully renewing the party in the process. The by-election that was called for early September would hold, therefore, serious ramifications for the future dynamic of party politics in the province.⁴⁵ Having won only two seats in the 1972 general election, the Conservatives were parachuting their leader into the riding in the hopes of capitalizing on the doubt surrounding the future of Social Credit. For the NDP, the possibility of two, maybe three strong right-wing candidates splitting the vote presented an outside chance for their candidate capturing a seat they had never had a legitimate chance of winning before. A defeat for both the Socreds and the Conservatives held further potential to splinter any organized opposition to the NDP through the next election campaign. As a result, during the course of the summer the government became increasingly sensitive to any situation that would elicit the types of reactions from voters that had accompanied the introduction of Bill 42.⁴⁶ Supporting the fruit industry against the dissidents' open defiance was the manifestation of this dreaded scenario, as the government would invariably be called upon to suppress individual rights as BC Tree Fruits' and the Fruit Board's case made its way through the court system. Through its actions, the industry was unwittingly alienating the government support needed to underpin the legitimacy of the entire Tree Fruit Marketing Scheme.

After hearing arguments from both sides in the dispute, the presiding Supreme Court Justice issued his decision in early August. A bombshell, the Court sided with the

⁴⁴ David Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, Vancouver: Douglas & McIntyre, 1983, p. 426.

⁴⁵ *Ibid.*, p. 430.

⁴⁶ Dave Barrett and William Miller, *Barrett: A Passionate Political Life*, Vancouver: Douglas and McIntyre, 1995, p. 65.

dissidents, stating that nowhere in the *Natural Products Marketing Act* did it appear the Fruit Board had been given the right to appeal to the courts for injunctions.⁴⁷ The Justice further countered that, in his opinion, the board had not suffered any irreparable harm based on the actions of the dissidents.⁴⁸ The direct impact of the ruling closed one of the less confrontational avenues of recourse available to the industry. Section twelve of the *Natural Products Marketing Act* still allowed for the Fruit Board to impose fines and imprisonment on those contravening its regulations.⁴⁹ In appealing the justice's decision, as the penalties outlined under section twelve were much harsher than a restrictive injunction, the BCFGA commenced the first steps needed to begin fining and charging rebels. Members of the Association's executive approached what was thought to be a sympathetic provincial cabinet about issuing an order-in-council allowing inspectors, accompanied by an RCMP officer, to forcibly enter any vehicle suspected of contravening board regulations.⁵⁰ This was an exercise needed to allow for the necessary evidence to be gathered and used against growers peddling fruit to the coast. In a fateful decision, the cabinet turned down the Association's request, a move that simultaneously scuttled the industry's appeal of the Supreme Court decision.⁵¹ Even had an injunction been granted on appeal, without the ability to search vehicles suspected of breaking the law, there would be no meaningful way to enforce board regulations. The BCFGA president aptly summed up the political overtones of the situation when he noted "the

⁴⁷ *Vancouver Province*, August 9, 1973, p. 7.

⁴⁸ *Ibid.*

⁴⁹ *Vancouver Province*, August 10, 1973, p. 4.

⁵⁰ The day after Mackoff's ruling Stupich went on record as being very concerned over what precedent had been established and stating he asked the Attorney General, Alex MacDonald, to review the judgment. *Vancouver Sun*, August 17, 1973, p. 17.

⁵¹ *Ibid.*

Cabinet is not interested in any controversy that would hold it up to criticism in this area.”⁵²

The outcome of the court challenges and cabinet appeals was obviously not what the industry had anticipated as enforcement mechanisms were now suppressed, allowing the illegal movement of fruit to the Vancouver market to resume uninterrupted. The only recourse left to the industry was the Fruit Board’s consistent refusal to sanction the peddling by issuing licenses to the rebel organizations authorizing them to sell in Vancouver. The partisan maneuverings of the NDP throughout August had placed the industry in a highly untenable position. Slight thought had been given to the task of restoring the credibility and authority of the Fruit Board after the by-election.⁵³ Discredited in the media by dissidents and facing uncertain support within the grower body, the long-term functionality of the single-desk was increasingly in doubt. Even more problematic, the questionable status of the BCFGA as a representative voice for growers was jeopardizing the NDP’s major legislative package for the fall session of the legislature.

The cumulative result of the work done by the SSCA, the BCFA, and the Department of Agriculture was the *Farm Income Assurance (FIA) Act*, a companion piece of legislation to the *Land Commission Act*. Income assurance was designed to raise commodity revenues to approximate more closely the production costs faced by farmers, without correspondingly raising the prices paid by consumers at the local supermarket.⁵⁴ The legislation did come with a wrinkle as it had been crafted in such a way as to allow

⁵² *Ibid.*

⁵³ By-election results: Bill Bennett (Social Credit) 9,726 - Bryan McIver (NDP) 6,390 - Derril Warren (PC) 6,023 - John Dyck (Liberal) 2,434. Source: Elections BC, p. 319.

⁵⁴ Wendy Holm, *The Agricultural Land Reserve in the Okanagan: Renewing the Public Policy Prescription*, (report submitted to the B.C. Fruit Growers Association), Bowen Island: W.R. Holm and Associates, 1997, p. 18.

the government to apply the program on a commodity-by-commodity basis, tailoring each application to the specific needs of a given producer group. Traditionally, the BCFGA as the democratic representation of the grower body would have been the natural voice for the tree-fruit industry. The fruit wars, however, had re-exposed old divisions amongst growers, precluding the Association from assuming such a mantle. The ever-quirxotic Minister of Agriculture had even taken to stating publicly that he didn't "know who they (the BCFGA Executive) represent anymore."⁵⁵ Without a definitive reassertion of the grower will, any truly final resolution to the fate of the BCFGA, rebel organizations, the continued operation of the single-desk, and the future of the orchard landscape would be unattainable.

Away from the glare of the media spotlight that had engulfed other aspects of the industry, Dr. S.C. Hudson had spent the summer months quietly evaluating the structures involved in the packing and marketing of Okanagan fruit. Charged with finding ways to restore a degree of profitability to growers, Hudson's final report came to champion the packinghouse reforms and amalgamations Dean MacPhee had recommended fifteen years earlier.⁵⁶ He believed that a major round of consolidation was required in order to cut excess capacity and cost at the local level.⁵⁷ On the issue of the single-desk, with forty-eight percent of BC Tree Fruits sales going to other provinces, and thirty-three percent to offshore markets, Hudson stated that only a central marketing agency had the

⁵⁵ *Vancouver Sun*, November 6, 1973, p. 8.

⁵⁶ MacPhee had originally proposed two approaches to amalgamating packinghouses. One was to create four dominant packinghouses in each of the Okanagan's four geographic regions. The other option was to amalgamate all the packinghouses into one single authority. Hudson formulated his proposal for packinghouse reform as a combination of MacPhee's proposals. He favoured a central packing authority to buy, build, sell, develop and operate fruit marketing facilities, with the creation of new packing associations in each of the Okanagan's geographic regions. British Columbia, Department of Agriculture, *An Economic Study of the Tree Fruit Industry of British Columbia*, S.C. Hudson, Victoria: Department of Agriculture, 1973, pp. 114-116.

⁵⁷ *Ibid.*, p. 94.

capacity to do a satisfactory job of disposing of the entire Okanagan crop.⁵⁸ Having stated his support for the existing system, Hudson went on to comment on the more troubling aspects of his study, including

growers [who] have been making a deliberate attempt to destroy the confidence of other growers and the general public in the concept of orderly marketing as developed in B.C. through the circulation of statements, many of which are half-truths at best.⁵⁹

To resolve the atmosphere of uncertainty, Hudson recommended a plebiscite be arranged in order for growers to confirm their support for the continuation of a centrally controlled industry.⁶⁰ When the Report was released in late September it was to be the plebiscite, the twenty-fifth of twenty-six recommendations, that drew the attention of all sides in the fruit war.⁶¹ Similar to the reception of MacPhee's Report, Hudson's confirmation of central-selling and proposed industry re-organizations was being steadily pushed aside by the all-consuming drama of the vote on the single-desk.

With the support of both the industry leadership and the dissident organizations, Stupich tabled a motion in the legislature in early November, after the *Farm Income Assurance Act* had received final reading, seeking an endorsement for the plebiscite.⁶² In defining the implications of the vote, Stupich underscored the significance of the BCFGA to the government's legislative agenda, giving growers a stark appraisal of what a rejection of the single-desk would entail. Through the medium of the press, the minister stated his concern that, given the BCFGA's one-dimensional evolution into a marketing agency welded to the single-desk, a vote against central selling would, in effect, abolish

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, p. 101.

⁶¹ The Vancouver Sun reported on September 26th that both Hans Rhenisch and the Executive of the BCFGA had endorsed Hudson's call for a plebiscite. Both sides confidently predicted victory as Rhenisch boldly claimed that any vote would go 60% in favour of his group. *Vancouver Sun*, September 26, 1973, p. 39.

⁶² The *Farm Income Assurance Act* received third and final reading in the Legislature on October 17, 1973. *Vancouver Sun*, October 18, 1973, p. 10. The motion for the plebiscite received approval with 39 members of the House voting for, and 5 against. *Hansard*, November 2, 1973, p. 1422. & *Vancouver Sun*, November 3, 1973, p. 10.

the Association.⁶³ In such an eventuality, the government would have no organization representing growers with which to negotiate the establishment of the farm income plan.⁶⁴ A defeat for the Association would have also marked a fundamental turning point in the history of the orchard landscape, for the association was an extension of the growers' accommodation to the limitations of the natural environment. Without some form of economic structure to buttress growers from the vicissitudes of the natural, and a rapidly expanding urban, environment, the small-scale family orchard would recede from the face of the valley. The vote on December 12th proved almost anti-climactic. Information meetings had been conducted throughout the valley, and the dissidents, such as Rhenisch, made occasional statements to the media expressing concern over the wording of the plebiscite question.⁶⁵ The final results conveyed the uncertainty facing the fruit industry as only sixty-two percent of growers opted to retain the single-desk.⁶⁶ This was a victory for the BCFGA, but with support well below the seventy-five percent originally required under the *Natural Products Marketing Act* to have the Tree-Fruit Marketing Scheme enacted. What should have been the last salvo in the fruit war seemed to have been fired, and apart from the obvious need to restructure and address grower concern, the entrenched structures of the industry had emerged victorious.

Unfortunately, victory would prove to be hollow. Even with almost thirty years of hindsight, all that remains clear is that six months after the vote, on July 25, 1974, the course of the fruit industry and the fate of the orchard landscape were forever changed. The Fruit Board issued a regulation that re-affirmed BC Tree Fruits as the sole selling

⁶³ *Vancouver Sun*, November 8, 1973, p. 8.

⁶⁴ *Ibid.*

⁶⁵ *Vancouver Sun*, December 20, 1973, p. 15.

⁶⁶ *Ibid.*

agency in the valley, yet permitted for the first time the operation of independent grower marketers.⁶⁷ Section three of the order specifically provided that;

Any grower or other person marketing any regulated product other than inter-provincial and export trade may elect not to market the same through B.C. Tree Fruits Limited, provided this section shall not impair or affect contractual obligations with shippers or others with respect to such regulated product or the marketing of it.⁶⁸

To the older generation of growers who had spent a lifetime defending the orderly marketing system, the move was akin to a gutting of the BCFGA.⁶⁹ Dissidents had attained the final victory by overturning the majority will of the growers. The official history of the BCFGA, written on the centennial of the association in 1989, records a variety of reasons that led to the policy reversal that allowed the dissidents to achieve their ends. Inflation caused by the oil embargo, a public backlash against marketing boards, and many other factors are identified, but the most prominence is reserved for the prevailing “political climate”.⁷⁰ As the historians wrote:

The Fruit Board needed stronger enforcement powers for the upcoming 1974 growing season, but ... when it became apparent that the requisite amendments [to the Natural Products Marketing Act] would not be made “due to the political climate that prevailed,” the Fruit Board decided to relinquish most of its regulatory powers over the interprovincial marketing of fruit.⁷¹

Testimony given by Stupich during court hearings into an alleged combine to limit dissident access to storage facilities in the mid-1980s seemed to corroborate this view. Based on the former minister’s statement before the court, the presiding justice summarized that the NDP government had even made the provisions of the *Farm Income Assurance Act* contingent upon the industry allowing growers to opt out of compulsory

⁶⁷ British Columbia, Supreme Court, *Regina v. British Columbia Fruit Growers' Association*, Kelowna, B.C., June 28, 1985. (decision), p. 6.

⁶⁸ *Ibid.*

⁶⁹ Arthur R. Garrish, “The Orderly Marketing System,” *Okanagan Historical Society*, 50th Report, 1986, p. 63.

⁷⁰ David Dendy and Kathleen M. Kyle, *A Fruitful Century: The British Columbia Fruit Growers' Association 1889-1989*, Joan McIntyre (editor), Kelowna: British Columbia Fruit Growers Association, 1990, p. 132.

⁷¹ *Ibid.*, pp. 132-133.

single-desk selling “without interference.”⁷² One can only assume that the surprising outcome of the plebiscite changed the dynamics of government support for the industry. With a less than convincing mandate from growers, it is probable that the NDP became reluctant to enforce the more illiberal aspects of the single-desk for the 1974 crop year. To qualify for the government assistance a grower had to belong to the BCFGA; no provisions were made for those who opted for independence, as dissidents had made it clear throughout 1973 they could do better financially outside of the Association.⁷³ Regardless, the removal of the compulsory aspect to the orderly marketing system effectively ended the marketing structure used for over thirty years to ensure the viability of the orchard landscape and of the individual grower.

As a substitute for the legally binding requirements of the Tree Fruit Marketing Scheme, the *FIA Act* proved an unmitigated disaster. In what became known as the Bernhardt Doctrine, growers were told repeatedly that they could not have it both ways: they could not sell their fruit outside of industry structures and at the same time claim membership in the BCFGA, accessing the provisions of income assurance.⁷⁴ Without blanket regulation of all fruit leaving the valley, however, policing such an ordinance was virtually impossible. Growers determined to exploit the system could either under-report or simply not deliver their forecasted tonnage to the local packinghouse, while employing a network of roadside stands and independent truckers to move the remaining volume out of the Okanagan.⁷⁵ To be caught was to risk expulsion from the Association, but the logistics of investigating a suspected “fruitlegger” or determining the origin of fruit

⁷² Supreme Court, p. 7.

⁷³ *Ibid.*, p. 8.

⁷⁴ It was known as the Bernhardt Doctrine after Charlie Bernhardt, President of the BCFGA at the time, who repeated its tenets so often that they became associated with him on an individual level. Garrish, p. 63.

⁷⁵ David Dendy and Kathleen Kyle, p. 133.

moving out of the valley made it difficult for the industry to enforce the rules.⁷⁶ After thirty-five years of mandatory single-desk selling, the industry once again had to contend with a reality in which, given a choice, many growers would always find it to their personal advantage to be half-in and half-out of any co-operatively based marketing venture. The actions of these growers were far more destructive than the continued presence of dissidents, who shunned the system all together. Unable to adequately forecast the amount of fruit to be handled, packinghouses invariably miscalculated product grade and supply requirements – ultimately passing the increased cost of doing so on to their membership. The sales agency was forced to contend with a corresponding reduction in the quality of fruit, the possible scenario of not filling all orders, and the deflationary pressures resulting from unforeseen tonnage flooding the local fresh fruit market. All these developments occurred against the backdrop of a government assistance program that was intended to address chronically low grower returns. In the span of nineteen months, almost two generations of a collective struggle to bring stability to the orchard unit and legitimacy to the conception of an interior fruit industry was erased.

⁷⁶ The term “fruitlegging” or “fruit-rustling” was given by the industry to individuals who misused their membership in the BCFGA this way. *Ibid.*, p. 134.