

Canada Oil and Gas Act

Of course, Nova Scotia, New Brunswick, and Upper and Lower Canada were the four original partners. We all know that. The section continues to read:

—and all sums then due or payable for such lands, mines, minerals or royalties, shall belong to the several provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof and to any interest other than that of the province in the same.

Section 7 of the British North America Act states:

The provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this act.

In terms of Nova Scotia, what were the limits at the passing of the act in 1867? Where does one get that? One has to go way back to the original charter given by King James the First to Sir William Alexander, dated September 10, 1621. I have a single-spaced typewritten copy of part of the definition, which I will not bore the House with reading, though it is very interesting and has a lot of old history in description; but I am going to read a part of the definition to show Your Honour that the reason we feel aggrieved, threatened and a little angry is that in current times we define the boundaries of Nova Scotia and talk about the promontory of Cape Breton in this manner. The definition says, amongst other things:

—all the lands upon the continent with the rivers, torrents, bays, shores, islands or seas lying near to, or within six leagues (approximately 21 miles) from any part thereof, on the western, northern or eastern parts of the said coasts . . .

—and to the southward thereof where Cape Sable lies, all the seas and islands to the south within forty leagues (approximately 140 miles) of the said shores, including the great island commonly called the Isle of Sable on Sablon, lying south-south-east in the ocean about thirty leagues (approximately 105 miles) from Cape Breton aforesaid—

Then listen to these interesting words. The people back in 1621 must have been genuises to know that we would be so immature as to get involved in a dogfight like this, because it was written in very interesting English. Actually, it was Latin. They did not write English or French in those days. They were a little retarded. They wrote Latin, and this is the translation. This is why, of course, I have a private bill respecting the name of Nova Scotia, because I believe the proper name is Nova Scotia, or New Scotland. However, we will not get into that for the moment; not yet. Listen to what it says at the end of the definition. It reads as follows:

—and if any questions, or doubts shall hereafter arise upon the interpretation or construction of any clause in the present letters patent contained, they shall all be taken and interpreted in the most extensive sense, and in favour of the said Sir William Alexander, his heirs and assigns aforesaid.

Of course, Sir William Alexander was the fellow who got the whole chunk of Nova Scotia, and that was the start of it. I already read the section of the BNA Act which gave a smaller definition and, in effect, said there was no change. However, it goes on much further than that. As we all know, there have been a few wars in Atlantic Canada, in New York, and also in North America. In every war and in every treaty since the treaty of New Trent and the Treaty of Paris, Nova Scotia has been defined to include the lands and seas, and depending on what definition one adopts, it is either 40 leagues off sea—it always includes Sable Island—or 30 leagues for those who are not nautical. I am not the most nautical person, but 30 leagues is 105 miles. That gets one pretty far into the adjacent lands

offshore. The French, under the Treaty of New Trent in 1713, acknowledged that. It has always been acknowledged.

In terms of Nova Scotia, and there is another claim. One can talk about statute law. No one objected for 115 years that Nova Scotia was passing statute law to control Sable Island or to make sure the fishermen did not throw, in the words of one law, “awful” or “offal” into the sea.

Some hon. Members: Awful!

Some hon. Members: Offal!

Mr. Nowlan: That was one of the first pollution bills, way back in 1770. Fishermen were allowed to throw awful offal into the sea, and no one objected to that. Under the statute law of Nova Scotia in 1700, revenue officers of Nova Scotia could go on to Sable Island and haul in those people who did not pay taxes. There are all sorts of laws which apply to the sea, and also, in particular, to Nova Scotia.

There have also been many royal commissions on boundaries. Every commission in Nova Scotia starting in 1846, as well as the governors of the day who redefined parts of the boundaries, has cited not only Sable Island, but 21 miles or 140 miles contiguous to the shore line, once one sorts out the phraseology of the legal description. The interesting thing is that in the description of 21 miles and 40 leagues, or 140 miles, the 140 miles is very relevant, because that is the distance to Sable Island. Sable Island is within 40 leagues of Nova Scotia's coast.

The most interesting thing in this whole problem of section 3 and the amendment of my friend is to come right down to something which is most relevant and which has not been answered. For over 100 years we in Nova Scotia have been giving leases for mining coal in offshore areas which extend much farther than six miles. The interesting little twist to this is that the federal government itself passed a statute, when Your Honour and I were hon. members in this House, creating Devco. Who was it that assigned the mine leases to the government of Canada in the name of Devco? Was it the Government of Canada, in the name of Canada, which assigned the mineral leases to Devco, a creature of this federal House?

I see the very stimulating and distinguished Minister of State for Mines (Mrs. Erola) here tonight. She is from Sudbury where mining is most relevant. She knows my brother who works in mining part of that area. Perhaps she could answer my question.

It was not the federal government that ceded leases to Devco. It was the province of Nova Scotia, which had legally assigned the leases years earlier, which ceded those leases to the Devco Corporation.

Mrs. Erola: Why?

Mr. Nowlan: Why would they, under the purport of section 3, if they owned the area, cede and give to themselves that