

on black gold found off coast

and Newfoundland. The first point he makes in regard to the continental shelf is that until the time of the Second World War the concept was almost non-existent.

After the end of the war President Truman of the United States made a proclamation in support of the claim that the seabed and subsoil beyond the territorial sea of a state be under the control of that state. In part he said that "... having concern for the urgency of conserving and prudently utilizing its natural resources, the government of the United States regards the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control..." Though the United States did not declare a larger territorial sea, it did claim the right to its continental shelf and the resources existing there.

Martin revealed that before making that statement the Government of the United States consulted with both Newfoundland and Canada. There were even attempts by the U.S. government to arrange a tripartite agreement and proclamation. Thus both Canada and Newfoundland were well aware of the plans of the U.S., even before Truman proclamation. Therefore the concept did exist before the confederation of Newfoundland and Canada. Since the concept did exist before confederation, the thing to prove is to what degree did Newfoundland and Canada accept the proclamation.

There is no evidence that either Newfoundland or Canada protested the action of the United States. "In International Law," Martin indicated, "if a country does not agree with the actions of another country it should protest those actions." If it does not protest it is understood that that country accepts those actions as being right and just.

Since Canada did not protest the Truman proclamation, Martin says, this indicates mute acceptance of the concept that a coastal state had claim to the mineral resources of its continental shelf. Martin carries the point further to suggest that acceptance of American claims indicates that Canada felt the same way. That is if Canada accepted that the U.S. could control its continental shelf it had only two alternatives in regard to its own continental shelf. Either it wished to have control over its continental shelf or it took the rather illogical alternative of accepting the U.S. claims while not agreeing with the concept.

Newfoundland was in much the same position as Canada. It did not protest and therefore accepted the claims of the U.S. To consolidate this argument, Martin points out, that since both Canada and Newfoundland were party to discussions which were held in regard to the formulation of this policy by the United States, both countries had ample time to protest. Therefore it is illogical to suggest that the concept did not exist and it is just as illogical to suggest that the United States, Canada and Newfoundland did not accept the concept.

Referring to International Law, Martin points out that acceptance by Canada and Newfoundland of the U.S. claim implied that they felt the same way about their continental shelves. If they did not want control of these resources they should have said so at the time of the Truman proclamation. Since Canada did not protest before confederation Newfoundland entered into union with the implied right to control its continental shelf. In short the onus was neither on Newfoundland nor Canada to say that they too proclaimed the rights of a coastal national as defined by Truman but

to say that they did not claim them.

Martin sets aside any argument by the Federal government that was not common practise until the late fifties. He points out that since all three states were involved in discussions leading to the declaration by the U.S. they must have recognized each other's claims. Therefore Canada must have accepted that Newfoundland had control over its continental shelf.

With the foundations of the case based in International Law, Martin has prepared a multitude of arguments to complement the province's case. Despite the fact that he believes that the case is solidly argued in international law, the province does not rest its case on that alone. Comparisons with other situations in Canada are made, as well as arguments in the realm of provincial autonomy.

Martin questions why the seabed and the subsoil underneath territorial waters which lie in the ocean should come under different jurisdiction that territorial waters which lie in inland lakes.

He points out that oil drilling takes place in Lake Erie. It is the Ontario government which controls the revenues from such operations; it is not the federal government. Lake Erie like the territorial waters off Newfoundland is bounded by territorial waters of another state. Therefore they are both areas where disputes can arise over the passage of ships. Since Lake Erie is a seaway used by ships of other nations and especially those of the United States it should be subject to the same federal jurisdiction as the waters and the

continental shelf off Newfoundland.

Another very important point made by Martin is that if the federal government does get control of the royalties, the major part of the benefits will go into federal spending, while Newfoundland will be left taking the full impact of an oil boom. He likened federal control to the annexation of a new territory to the east of the province; Newfoundland would have no control over the territory. Therefore the province would be subject to the impact of the industry while being unable to do anything directly to control its growth.

It would be unreasonable for the federal government to expect the province to act as a dormitory for workers while at the same time permitting it only a minor role in the decisions of development and the collecting of royalties.

In short, Martin indicated that the province wants any potential oil industry to be subject to provincial control, just as any other mineral resource. Since the people of Newfoundland will have to suffer or enjoy the effects of development, be they short term or long term, the provincial government wants to plan the industry to the benefit of the people. The risk taken in allowing the industry to lie in federal hands is that the pressure to supply oil to the richer provinces of the confederation might lead to the disregarding of the rights of Newfoundland. The development might come too quickly and with a lot more ill effects than good effects, if the province is not the major decision maker.

Who has the right to hand out permits?

An indicator of the importance of the region under debate is its total area; the continental shelf off the coast of Newfoundland and Labrador covers an area of about 360,000 square miles. Presently the federal government oversees most of the drilling permits for this entire area and they vary in the period of lease. Each permit which has been granted covers an area of between 100 and 150 square miles. The cost of each permit area when sold to the original purchaser was between 3200 and 4800 dollars. In short though the revenues to date have not been great, they do indicate a considerable interest on the part both the oil industry and the federal government. The real proof of the value of the potential oil and gas finds is that despite the fact that no new permits have been sold since 1970 there is still a demand. Martin says, that there have been quite a few people made rich by buying up federal permits when they first went on sale and selling them when the price on the open market was high.

The provincial government grants permits for exploration, which unlike the federal permits give no right to production of any oil found. That the province does give permits conflicts with federal policy; a company could possibly hold a permit of exploration from both levels of

government. According to information from the provincial government their permit regulations are more stringent than federal regulations. The province demands that a company give a plan of action for exploration; the company must also indicate its plans for the future in the event they are granted production rights.

Martin concedes that the present situation of dispute is causing the oil companies to be careful in what action they take. Yet, the companies are not afraid to invest in the industry. The dispute is possibly delaying the start of production for the oil companies can't start production until the dispute is settled. This delay could be costly if the volume of discoveries increased very much.

Martin indicated that the companies could not afford to go into production and start paying royalties only to discover that they were paying them to the wrong government. Part of the federal plan is in this light understood as stalling, for federal officials would gain if they delay a confrontation. As it now stands, Martin says, that the province has a much stronger case than the federal government and that the stalling on the federal government part indicates a fear by Ottawa that Newfoundland can win its case.