

*Taxation*

the most expeditious and sensible way to deal with this particular issue involving the legality of ownership was to put a joint reference, a Canada-Newfoundland reference, before the Supreme Court of Canada.

Unfortunately, subsequent to the date of that agreement in late 1977, Mr. Peckford changed his mind. The Government of Canada, acting on the agreement reached at that particular meeting of the two ministers, forwarded the draft wording of a reference to Mr. Peckford. The government is still waiting for the response, five years later, because there was a change of heart in the interim. There was a change of mind. Well, that is everyone's right.

The next time the issue emerged as the subject for court adjudication was a year or so ago, not at the initiative of the Government of Canada and not at the initiative of the government of Newfoundland, but, rather, at the initiative of a third party, the Seafarers' International Union. The SIU had been in the process of attempting to gain certification to represent some offshore workers in the Newfoundland area. In May of 1980, a couple of years ago, the SIU applied to the Newfoundland Labour Relations Board for certification as bargaining agent for the unlicensed employees of the Crosbie fleet of vessels supplying the oil rigs. Access to the fleet was denied to the SIU by the Newfoundland board; its application was turned down in 1980. So later that year, in September, the union applied to the Canada Labour Relations Board for certification. The board rejected the SIU application on the grounds that it did not have constitutional jurisdiction. The SIU did not accept that particular decision and placed it before the Court of Appeal. That is how the issue concerning the offshore, although it was a fairly limited issue at its outset, was introduced into court. It was at the behest or initiative of the Seafarers' International Union. In April, 1981, that union filed its memorandum of fact and law with the Court of Appeal. In it the union alleged that the Canada board had jurisdiction in these certification proceedings because Canada had exclusive jurisdiction over resource development on the continental shelf.

● (1640)

I am surprised that the union memorandum contained that kind of assertion. My view, and I believe that of most Newfoundlanders and many Canadians, is that no one knows for sure who owns the offshore, whether it is Canada or Newfoundland. I have some very strong views. I believe Newfoundland has a very strong case with regard to ownership. I may have time to get back to that issue later, but I was surprised that anyone would put in writing the kind of thing that showed up in the SIU memorandum of fact and law as far as jurisdiction over resource development is concerned.

I will deal briefly with the conclusion of the SIU case which had the effect of putting offshore jurisdiction before the courts. The SIU case was set on the court calendar for the hearing of argument by the Court of Appeal in February, 1982. Before that could be done, one preliminary but very important issue had to be dealt with by the court. At the opening of the argument on February 8, the Newfoundland government requested that the hearing be adjourned because Canada and

Newfoundland were negotiating in an attempt to resolve the natural resource issue. That was a legitimate request by a party in the case, the government of Newfoundland, which had a vested interest in the matter at hand, a very clear vested interest.

It is interesting to note what the other parties to the dispute did at that time. None of the other parties supported the motion of the Newfoundland government that the hearing be adjourned. Crosbie Offshore Services, which had been the ally of the government of Newfoundland throughout the proceedings, remained neutral on the issue. The Attorney General of Canada was instructed neither to oppose nor support Newfoundland's request that the hearing be adjourned. The SIU and the Canadian Merchant Service Guild, the other parties in the case, opposed having the proceedings adjourned. The court ultimately ordered that argument proceed and it did a couple of days later, on February 10.

I have given the sequence because it is important in light of some of the allegations now being made. To review, the SIU put an issue in court on a fairly narrow question, whether labour jurisdiction was federal or provincial. In the process the SIU—not the federal government or the provincial government—introduced the larger issue of jurisdiction over offshore development. The SIU introduced that important wrinkle.

There was a motion by the government of Newfoundland to have the matter adjourned because of ongoing negotiations between the two governments. The Government of Canada neither opposed nor supported the motion. Two other parties opposed the motion. The presiding judge in his wisdom decided to proceed with the argument and to allow the case to follow through to its conclusion.

I believe there was a very happy conclusion for all who have an interest in the offshore issue. I believe, as does the government of Newfoundland and the Government of Canada, that this issue of offshore ownership is not one that you should approach by the back door. The issue of ownership is so crucially important that it should be addressed in its own right and not as an adjunct, subparagraph or tangent to a labour jurisdiction issue or any other issue before the courts.

On March 5 of this year the court decided in favour of federal labour jurisdiction. It said it decided that on the basis of the navigation and shipping power which is vested in the federal government. The court said it could do so without having to decide the much larger offshore resource question.

I said there are a number of misconceptions about the Newfoundland offshore. That is understandable. However, it does not help find a solution when there are so many misconceptions.

One misconception is that it was the federal government which put the offshore issue before the courts. If you accept what I said as far as the SIU case is concerned, you will see that the federal government did not introduce it in the court at that time. That is clear. Not only did it not introduce it, but it made no effort to expand the issue to include offshore after it