

Newfoundland wants rights on b

By Dennis O'Brien,
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Newfoundland's claim to royalties from the potential oil deposits on its continental shelf is the subject of close study across Canada. In a time of high oil and natural gas prices, it is very profitable if a government can benefit from these resources.

It is only since the end of World War II that there has been any active exploitation of resources underneath the seabed. Large scale off-shore development is even more recent.

With the high demand the industrial nations put on energy resources, the time of reckoning has come; the oil rich nations which are for the most part underdeveloped now demand higher prices for their products. Higher prices and the continual need for more energy has forced the industrial nations of the world to look for new deposits.

The potential for resource development on Newfoundland's continental shelf has made the province a point of interest for the oil companies and the federal government. The oil companies want to get at the oil and gas thereby making large profits, while the federal government wishes to greatly reduce Newfoundland's claims to oil royalties.

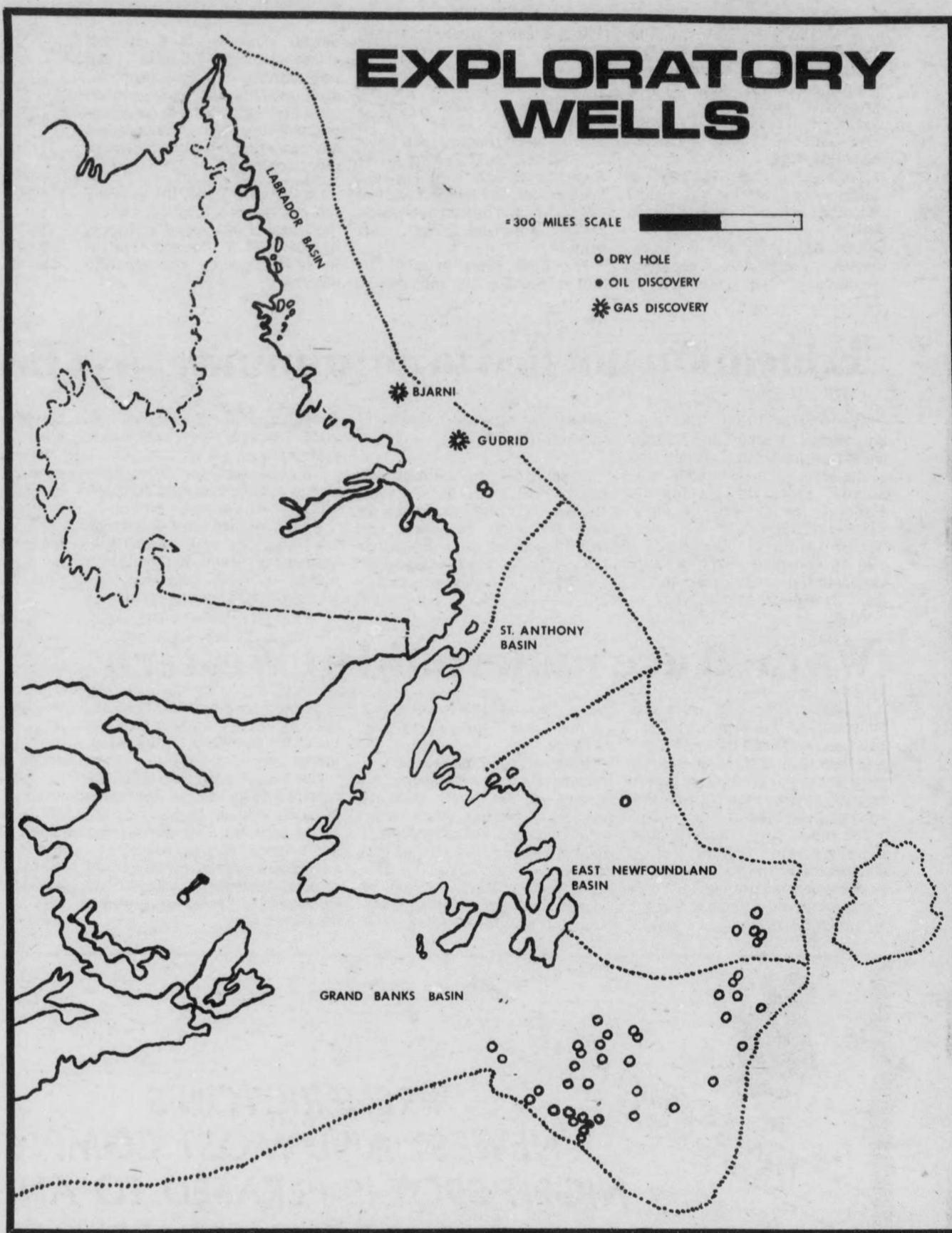
The position of the provincial government is that royalties obtained from the off-shore drilling would greatly help the province's poor economic position. The federal government stresses that the benefits of oil should be shared by the whole confederation, not just a particular province, in this case Newfoundland. Provincial officials have, in the past, pointed to oil as the possible way for Newfoundland to put itself on an equal footing with other provinces. Oil would help the province get out of the trap of being a "have not province."

While federal officials seem to see the wisdom of allowing Newfoundland to develop its natural resources thereby becoming less dependent upon federal financial aid, the present government in Ottawa see off-shore mineral resources as being very different from those found on the land. The reasoning in Ottawa appears to be that Newfoundland has no jurisdiction over the resources of its continental shelf. Thus the responsibility for suspension and control, it is reasoned, lies in the hands of the federal government. The government of Newfoundland does not agree with the federal assessment of the situation.

Since the start of exploration for oil and gas started off the coast of Newfoundland there has been much controversy about which level of government should reap the major share of the profits from this potential industry.

The present provincial administration is preparing its case in order to prove that Newfoundland does have control of the resources under its continental shelf. Cabot Martin, of the provincial Department of Mines and Energy, is gathering information for the province's legal defense of its position. In a recent interview he indicated that the province has a strong enough case to take the matter to the Supreme Court of Canada if necessary.

Term 37 of the Terms of Union between Newfoundland and Canada is a vital part of the province's case; it states: "All lands, mines, minerals, and royalties belonging to Newfoundland at the date of Union, and all sums that due or payable for such lands, mines, minerals, or royalties, shall belong to the Province of Newfoundland, subject to any trusts existing in respect thereof, and to



The above map shows the area of exploration on the continental shelf off Newfoundland. It indicates the wide area concerned and the relative success of operations to date. Note that the possibilities of large finds of natural gas off Labrador would greatly effect the economy of the coastal area of that part of the province.

any interest other than that of the Province in the same."

Martin is of the opinion that acceptance of this Term of Union by both parties indicates that the understanding existed that the province keep all mineral rights it had at the time of confederation. Unlike other provinces, by the very existence of this term, Newfoundland entered confederation with full control of all its recognized resources. Since at confederation there was no statement officially delimiting the province's resources, the limits of the provinces resources were, in that grey area of law that would be termed, the commonly accepted limits of resource control.

The question that remains to be answered is just what were the commonly accepted limits of a government's control. In terms of land control there can be no doubt about the limits of the Dominion of Newfoundland, for there were no border disputes. The last dispute that took place in regard to Newfoundland territory was the Labrador Boundary Dispute; in that dispute Canada

contested Newfoundland's claims of territory in Labrador. When all was said and done Canada agreed to the Newfoundland claims therefore ending Newfoundland's only border dispute.

Though the province of Quebec has never officially accepted the settlement to a dispute which Canada entered into in its behalf, that boundary was made binding by Newfoundland's confederation with Canada. Thus with Newfoundland's only land boundary consolidated, there can be no question as to what territory belongs to the province.

Since Canada accepted the province's control over its resources of the land mass it must also accept any proven claims to the continental shelf. Newfoundland claims the concept of control over the continental shelf existed and was accepted when confederation with Canada took place, while the federal Government claims that the concept was not accepted at that time.

Martin says he has evidence to prove that the concept was indeed accepted by Canada

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