

Taxation

Canada or an enterprise active in Canada. These rules were put in place because the government obviously felt they would be adequate to deal with the amount of control and taxation that was required for energy.

All of a sudden we have had a major change in the rules as a result of the National Energy Program. What the companies find frustrating is that the rules were changed in the middle of the game. They were changed arbitrarily by government to suit the purposes of government that had been controlling all of their activities up to that time for their own purposes.

Whether you call it unfair or not, it is at least a grand confusion and a grand difficulty. A great deal of insecurity has arisen because the rules were changed in the middle of the game. As a result of Bill C-112, there are some specific changes.

I would like specifically to mention two changes that should be questioned on the grounds of constitutionality. The first is raised by Clause 3(1). Referring to the natural reservoir in Canada, the bill provides:

"'offshore area' means Sable Island or any area of land that belongs to Her Majesty in right of Canada or in respect of which Her Majesty in right of Canada has the right to dispose of or exploit the natural resources and that is situated in the submarine areas adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is greater;"

This same type of clause is included in other bills, specifically Bills C-106 and C-103. The important point on the question of the appropriateness of that clause is whether or not, at a time when the Supreme Court of Newfoundland has been given this question of control to decide upon on behalf of the province, and also when the federal government has put the same question before the Supreme Court of Canada, we have a right to incorporate a clause like this in this or any of the other energy bills we have before us now. That is a major question. It is certainly a major concern of the government of Newfoundland. I would think it is a major concern of the Government of Canada, which has given the Supreme Court of Canada the job of making a decision on who does control those offshore resources.

• (1530)

Until that decision is made, what we have here now, in this and other bills, is almost a prejudgment on what that decision will be. A bill that is really predicated on the basis that the Government of Canada will control all those resources in their own way cannot but be offensive to the people of Newfoundland. It cannot but be a difficulty if the Supreme Court of Canada looks at it and says, "What are we doing here? We have statutes of the federal government already in place which already assume the decision that we are going to make." I think that is the first question to ask in terms of constitutionality.

The second question is a little more technical. Equally as important probably for the purpose of the bill is Clause 10. Under Clause 10, new Section 47.1(1) says:

Where any marketable pipeline gas has been exported after September 30, 1981 and before January 1, 1987, from Canada for use outside Canada pursuant

to a licence issued under Part VI of the National Energy Board Act or pursuant to any other authority under that Act and the tax imposed by Part IV.1 has been paid in respect of the gas, the Minister may—

And here is the important portion:

—on application by the exporter in such form and manner as the Minister prescribes, made to the Minister within four years from the time the gas was exported, pay to the exporter an amount equal to that tax.

The important point here is that the money that has been garnered through the tax revenue going through the Department of Energy, Mines and Resources will in fact enter the consolidated revenue fund. By entering that general revenue fund, the minister is then losing control over it. In order for the minister to pay back or return those quantities which are described in this section as amounts of money, he really has to have a royal proclamation in order to give him that authority. That is not included in this bill.

As I understand it, that is a legal requirement before the minister has that right or that authority to do it. That should be questioned on the grounds of constitutionality. That is something that one of the government speakers might answer on behalf of the government when they respond during this debate.

When we come down to the real nuts and bolts of the bill, Mr. Speaker, and what really happens in terms of this taxation device, we have three parts. We have two parts that can be discussed separately, the natural gas and gas liquids tax. For the sake of identifying how important this is or what it really means, I have an estimate of what the revenue from this tax to the Government of Canada will be. This means that by taxation imposed on natural gas and on gas liquids, the Government of Canada—these are estimates, now—stands to gain in 1981-82 slightly over \$1 billion; in 1982-83, approximately \$1.5 billion; in 1983-84, approximately \$2 billion; and then by 1984-85, \$2.5 billion in that year. That is the amount of money that will come from this specific tax.

In fact, through specific measures in the bill, the minister is given the discretionary ability to provide the maximum allowable tax of approximately \$4 billion permitted to him, which will allow the government to receive a maximum of \$8 billion in one year from the revenue from this taxation. That is a massive amount of money. That is an imposition on the pricing machine that may have a lot to do with how competitive we are, how much gas we are able to export, how much of the market we will have or be able to develop for our natural gas.

The provision for the government by order in council to levy this tax—and many speakers have made mention of this—was one of the critical aspects of the opposition's position at the time the government brought in the omnibus bill. The order in council is a unique and unusual way of levying tax. The power that they will have to do this will not give us the opportunity in the future, until we pass this \$8 billion per year mark, of scrutinizing or questioning the government on the appropriate level of taxation or indeed on what use the government is making of those tax dollars.