No. 11

May 1985

Sharing Natural Resources Revenues: Three Perspectives

Introduction: Second Banff Conference on Natural Resources Law

The Second Banff Conference on Natural Resources Law was convened by the Institute April 17 to 20 at the Banff Centre. Focusing on the theme, "Natural Resources Management in a Federal State", the Conference drew approximately 130 participants from Canada, the United States and Australia. Speakers included representatives from nine Canadian provinces and territories, four American states, and Australia.

The past decade has been an eventful one for Canada's evolution as a federal state. This is especially true for the management of natural resources. Indeed the ability of the federal system to accommodate both national and regional aspirations has been tested no more severely than in this area. Management of the offshore, sharing of natural resource revenues, aboriginal claims, energy pricing – all have achieved high profiles as issues of national concern. Additionally the ability of a federal system to resolve interprovincial conflicts, while a less-discussed issue, has been tested on a number of occasions, most recently in the Churchill Falls dispute between Quebec and Newfoundland.

The Banff Conference explored some of the recurrent problems that have confronted professionals working in the field of natural resources management and facing the constraints imposed by a federal structure – whether Canadian, American or Australian. The programme included sessions on environmental management, revenue sharing, northern and offshore resource management, federal conservation areas and reserved lands, interprovincial cooperation on resource management, the federal state in an international community, and comparative analysis of different federal systems.

The Institute gratefully acknowledges the support provided to the Conference by the Social Sciences and Humanities Research Council and the Government of Alberta, Department of Public Affairs.

In this extended issue of *Resources*, three participants in the session on revenue sharing offer brief commentaries on issues addressed by them in greater detail at the Conference. The perspectives are those of a political scientist and former public servant, an economist and a lawyer.

Peter Meekison is currently Vice-President (Academic) of The University of Alberta, and as Alberta's Deputy Minister of Federal and Intergovernmental Affairs from 1977 to 1984 was intimately involved with federal-provincial negotiations on energy during that period.

Jean-Paul Lacasse is Professeur titulaire, Faculté de droit (Droit civil), Université d'Ottawa, and has published in the area of natural resources law, taxation policy and constitutional law.

Robin Boadway is Professor and Head, Department of Economics, Queen's University at Kingston, and has written extensively on taxation policy generally and natural resources revenues specifically.

Negotiating a Revenue-Sharing Agreement

J. Peter Meekison
Vice-President (Academic)
The University of Alberta

Canadian energy agreements are shaped by many factors. Chief among them are the federal nature of the country, the geographic distribution of natural resources, Canada's reserves, the mix of domestic production and imports, our proximity to the United States and, of course, international events. Historically, Canada's reliance on imports and its proximity to the United States have been the chief determinants of policy, but more recently the federal structure and its implications for the distribution of revenues have predominated. Central to the federal-provincial policy debate are the ownership of, and the division of legislative powers over, resources. The two aspects – ownership and legislative jurisdiction – are

The opinions presented are those of the authors and do not necessarily reflect the views of the Institute.

not synonymous and the difference between them is the basis of most federal-provincial disputes over resources.

The energy crisis of 1973 came at a time when a number of other crucial conflicts between Ottawa and the provinces were brewing. It could not be dealt with in a vacuum, but only as part of the larger picture of intergovernmental strife in Canada. During the eight-year period in which the energy question was debated (1973-1981), serious conflicts surfaced in a number of other areas. Principal among them was the issue of the Constitution and the question of its patriation. In addition, finance ministers met on several occasions – with varying degrees of success – to review the problems associated with anti-inflationary measures, fiscal arrangements, shared-cost programs, and equalization. Finally, there was the fundamental question of Quebec's future in Canada, which was tied to the 1980 referendum. All in all, the federal system was clearly put to the test throughout this entire period. That it survived is a reflection of the ability of Canadians to compromise and resolve their differences through negotiation.

For the western provinces, successful resolution of pricing agreements was crucial to their continuing economic development. To Alberta, it was at the heart of federal-provincial conflict. However, while not attracting the same degree of publicity, it was clear that the constitutional debate was also a significant and related issue – especially insofar as permanent safeguards with respect to provincial jurisdiction over natural resources might be entrenched.

In 1974, discussions on energy were primarily multilateral. All governments had an opportunity to express their views on energy policy. Thus it was entirely reasonable for the eleven governments to discuss matters such as uniform price, markets, alternative sources, self-sufficiency, transmission, equalization, and effects on the economy. But they could not be expected to set collectively the price of a provincially-owned resource in every instance. They could state their views, and frequently did, but they could not determine specific prices – other than perhaps to argue that the Canadian price should be below the world price.

By 1975 it was clear that an energy-pricing agreement could only be successfully developed by negotiations between the producing provinces and the federal government. Such an approach was easier at this stage because many guidelines for energy policy had been established and, if not agreed to, at least understood. Moreover, the federal government was faced with potential shortages; it was not a time for a prolonged dispute with the producing provinces. Once the bilateral trend was established, succeeding negotiations took place primarily at the ministerial level; First Ministers were held in reserve – just in case.

The introduction of the National Energy Program (NEP) in 1980 represented a significant change in the approach to formulating energy policy in Canada. The period 1973 to 1980 saw the federal government develop a series of policies, some of which were finalized through cooperative efforts and negotiations between the provinces and the federal government. With the NEP, the federal government directly challenged the provinces and pitted provincial ownership rights against federal powers to tax and to regulate interprovincial commerce.

The federal government, under the NEP, unilaterally established the price for oil and gas without consulting the owners of the resources (*i.e.,* the provinces) and carved out significant new taxes for itself, including for the first time an export tax on natural gas. With the NEP, the federal government sought to control energy, to gain revenues and to Canadianize the industry. Central to the policy were the concerns over windfall revenues which had accrued to Alberta, Alberta's low taxation rates, and the basic inequalities in the distribution of resource revenues. As asserted by the federal government: "The resulting inter-regional transfers of wealth are now so large, and growing so rapidly, that they have become a national issue." (Canada. Dept. of Energy, Mines and Resources. Energy Policy Sector. *The National Energy Program, 1980,* Ottawa, Report EP 80-4E, October 28, 1980, at 11 to 12.)

Alberta's reaction to the NEP was blunt and to the point. In a televised address to the people of the province, Premier Lougheed reviewed the effects of the policy on provincial economic development and the options available to the province, and argued that the people would not want the provincial government to surrender. Alberta responded to the NEP in three ways:

1. It challenged the constitutionality of the proposed natural gas export tax on the grounds that, under the Constitution, property of the province was immune from taxation by the federal government. (In the summer of 1982 the Supreme Court of Canada upheld the provincial position.)

2. The province announced a staged cutback in crude oil production. In developing this policy, it was recognized that adequate notice had to be given, and that if shortages developed Alberta would restore production. As a result, Alberta gave ninety-days notice and put the cutbacks into effect in three stages of 60,000 barrels/day, three months apart. This contemplated a total reduction of 180,000 barrels/day, but since the last stage was never implemented, the actual reduction was 120,000 barrels/day.

3. Approval was withheld on the development of further oil-sands plants. At that time, both the Alsands and Cold Lake megaprojects were well into the planning stages. Moreover, their completion formed an important component of the federal government's strategy for self-sufficiency.

The battle lines were drawn and it soon became clear that a negotiated settlement was essential if there was to be a resolution to the dispute. The same elements which had dominated the earlier discussions surfaced again – the price of oil and natural gas, the division of revenues, and the means whereby these revenues were to be generated. There was a variety of categories to be considered under the general heading of pricing – including conventional oil, new oil, tertiary recovery,

synthetic oil, and the relationship between the price of natural gas and oil. On the revenue side there were the level of provincial royalties, industry's share of revenues, and a variety of new federal taxes – the natural gas and gas liquids tax, the Petroleum and Gas Revenue Tax (PGRT); the Petroleum Compensation Charge, and Canadian ownership charges. In addition, the entire question of oil-sands economics (including the costs to Alberta of providing the infrastructure) and approval required assessment.

In early August 1981, it appeared that the two sides were still far apart, although a number of issues had been resolved. Early in the negotiations, Alberta had made it clear that "no agreement was better than a bad agreement." What started out as a one-day meeting on the 26th of August, ended six days later with a comprehensive energy agreement being signed in Ottawa.

To gain support for their position, the energy-producing provinces used every available opportunity at interprovincial meetings of Premiers to present their case. While the results of these conferences were often thought to be of little consequence, Alberta used this demonstration of provincial support to buttress the provincial position during federal-provincial negotiations. The federal government was well aware of the significance of this support and could not dismiss it out of hand. The interprovincial forum also provided an excellent means of bringing the other provinces into the debate, which had shifted towards bilateral negotiations over this period.

Initially, because of federal budget measures, discussion focused on resource taxation. Over the period 1974-1983, other issues were added to the agenda as provinces explored the implications of energy policy for both their economies and the national economy. Non-producing provinces used this opportunity to explain and develop their own range of concerns, whether it was expansion of hydro-electric power, tidal power, or control of the resources offshore. With the development of constitutional discussions, another dimension was added to the debate; thus, as energy issues became more contentious, it was evident that one way to avoid disputes was to strengthen, or at least to protect, provincial rights with respect to natural resources.

Throughout this period Alberta was defending its ownership of natural resources and their importance to provincial economic development. This message came through time and time again in the Premier's speeches and the provincial position. While revenues were important and were to be maximized, just as important was the principle that the ownership of the resources had to be respected.

The energy discussions were contemporaneous with the constitutional discussions, and certainly concern for provincial proprietary rights, for example, was reflected in the Alberta position on the amending formula. However, there was never any suggestion that a compromise on the Constitution would generate agreement on energy or vice versa. While to some degree entwined, they were viewed as separate issues by both governments. Gains on one front would not be offset by losses on the other. As it turned out, the two matters were resolved within months of each other, bringing to a close a period of intense federal-provincial conflict.

Oil and Gas Revenue Sharing: Beyond Legal Foundations and Constraints

Jean-Paul Lacasse
Professeur titulaire
Faculté de droit (Droit civil)
Université d'Ottawa

Constitutional Distribution of Powers Relating to Natural Resources Taxation

Before the 1980s, the division of federal and provincial powers over natural resources taxation, although complex, was at least decipherable. Only the federal level, for example, could levy indirect taxes on resources. (This has changed, of course, with the Natural Resources Amendment to the Constitution in 1982, so that provinces also have indirect taxing powers over natural resources revenues now.) Similarly, provinces were the sole beneficiaries of such non-tax revenues as royalties. Now, innovative methods have been found which enable the federal government to collect "royalty-type" revenues – methods such as the petroleum and gas revenue tax.

The rights of the provinces to natural resources revenues arise both from the exercise of their taxation powers and from their proprietary interests. The federal level of government is able to tax the resources industry by any mode or system of taxation, which includes, of course, excise taxes. Thus, the two levels, given their respective wide taxation powers, are more or less condemned, notwithstanding their differences, to agree to some form of revenue sharing.

Oil and Gas Revenue Sharing in Canada

Federal and provincial governments have battled over resource revenues since 1973, with each attempting to capture what it considers as its own fair share. With the escalation of world prices, the federal government established a well-head price far below the world level and imposed an oil export tax in order to capture the difference. Also as a reaction to increased commodity values, provinces increased royalties and mining taxes in 1974; the federal government responded by eliminating the right to deduct royalties and mining taxes from income – although it later *de facto* restored part of the deduction through the resource allowance.

More recently, the National Energy Program (NEP) provided for, among other controversial measures, a petroleum and gas revenue tax that resembled a royalty. Reaction to the NEP from the producing provinces was swift, with production cutbacks, a prolonged acrimonious debate, and court battles over the proposed natural gas and gas liquids tax (NGGLT). This latter situation in all probability spurred the Canada-Alberta agreement of September 1, 1981 – providing a political accommodation to a conflict which had previously been pursued through legal fora. Rather than have the courts decide who

could or could not impose what levies, both levels of government agreed on the sharing of revenues.

The 1981 Canada-Alberta agreement on energy pricing and taxation was reached after considerable bickering. In a way, it was a "peace treaty" that ended ten months of conflict that had begun with the unveiling of the NEP. In February 1985, an energy agreement between the federal government and Newfoundland was reached as an aftermath of a long legal battle. Finally, a new agreement on oil and gas pricing and taxation between the federal government and the governments of Alberta, Saskatchewan and British Columbia – the Western Accord – was reached on March 28, 1985. It calls for the phasing out of the petroleum and gas revenue tax and the elimination of a number of other federal taxes on oil and gas.

Revenue-sharing agreements typically have been the result of compromise, in order to resolve past, present or potential legal and/or political battles. However, these agreements, along with the implementing legislation, have left us with an unacceptably complex tax system. For instance, in the case of a typical Alberta oil producer prior to the implementation of the Western Accord of 1985, there were, excluding oil export charges and retail and sales taxes, seven types of royalty and taxation:

- Provincial royalties
- Federal corporate income taxes
- Provincial corporate income taxes
- The federal petroleum and gas revenue tax (PGRT)
- The federal incremental oil revenue tax (IORT)
- The petroleum compensation charge
- The Canadian ownership special charge

The Western Accord fortunately provides for the phasing out or elimination of four of these charges.

Other impediments to stability and rationalization in this area include certain contradictory statutory provisions in the federal *Income Tax Act,* the great array of powers that each level has available to unilaterally increase its own share, changing economic conditions, and the unwillingness of governments to share their own royalty revenues.

Toward More Flexible Revenue Sharing

In any formula of revenue sharing, three essential goals must be borne in mind:

- Continued provincial sources of revenue
- Protection of the federal tax base
- Industry cash flow, profit expectations and incentives for investment.

Revenue sharing evolves in a dynamic way, in response to changing economic situations. Prior to the Western Accord of 1985, these changes have resulted in such complex solutions as the revenue-sharing formula proposed by the NEP of 1980, modified by the energy pricing and taxation agreements of 1981, themselves amended by an NEP Update in 1982 and new agreements reached in 1983.

The number of potential forms of taxation and the ensuing complexity for the industry, the fact that two levels of government have broad taxing powers, the fact also that these powers are sometimes used with no regard to the producer's capacity to pay but primarily in order to protect or increase a tax base, the difficulties that arise when negotiating new revenue-sharing agreements where revisions are required by changing economic conditions – all suggest the need for a simple and straightforward solution.

Keeping the foregoing in mind, one possible route would be for both levels of government to arrive at what could be called a General Agreement on Resources Revenue Sharing. The 1985 Western Accord is a giant step in this direction, but such a general agreement would go a few steps further in the unwinding of past events. The Western Accord already provides for the phasing out of the PGRT and for the elimination of the NGGLT, the IORT, the Canadian ownership special charge, the petroleum compensation charge and the oil export charge, along with crude oil price deregulation.

An immediate and complete elimination of the PGRT would leave room for the producing provinces to increase their income from royalties. This in turn would enable them to share part of their production income with the federal government perhaps through *ex gratia* transfer payments. (This same type of royalty-income sharing would also apply on the Canada lands, with all provinces as recipients.) The federal tax base having thus been protected, the federal government could reinstate the deductibility of royalties for income tax purposes and abolish the resource allowance.

The producing provinces, of course, are not ready, at the outset, to share their royalty income with the federal government. But if the voluntary payments preserve provincial ownership and jurisdiction, and if provinces could receive, under the proposed General Agreement, revenues equivalent to what they are getting now, they may be more receptive to the idea. As far as the industry is concerned, part of the presumably-increased provincial royalties should be based on ability to pay.

A full decade of battles between the two levels of government ill-becomes Canadian federalism. The search for a comprehensive General Agreement on Resources Revenue Sharing is therefore worth a try, if only because it could lead to rationalization, simplicity and, most important, federal-provincial peace. As mentioned, the Western Accord of 1985 is in harmony with this approach.

Perhaps some thought could also be given to building on the Western Accord in order to arrive at a nation-wide agreement on oil and gas revenue sharing. Perhaps also it might be possible to extend such an agreement to embrace revenues arising either from other forms of energy or from natural resources generally. Given the impact of present currents of political activity on energy policy, the timing is perhaps right to permanently replace the wars of the past with common sense and reason.

The Economic Implications of Revenue-Sharing Alternatives

Robin Boadway
Professor and Head
Department of Economics
Queen's University

The broad question of revenue-sharing concerns both the manner in which resource revenues are divided between the private and public sectors and the division of the public sector share between the federal and provincial governments. These issues are interdependent and this comment, while emphasizing the former aspect, touches on both issues. Under the existing fiscal system, although the provinces nominally "own" the property rights to resources, both levels of government have independent access to the return from resource production through a variety of instruments. The provinces obtain revenues from the sale of Crown leases, royalties, mining-profits taxes, corporate income taxes, and a variety of excise taxes on resource products. The federal government has its own set of taxes, including the corporate income tax, various oil and gas production taxes, excise taxes on resource products, and export taxes. In addition, the federal government, through the use of price controls, indirectly diverts part of the rents of resource production to domestic consumers. These various devices for collecting resource revenues, in conjunction with existing federal-provincial agreements on revenue-sharing, jointly determine the total benefits captured for the public sector and the division of these benefits between federal and provincial governments.

There are three fundamental difficulties with the existing set of arrangements. First, the manner in which revenues are extracted for the public sector is highly inefficient. They do more than simply collect rents – they also distort decision-making in the resource-producing sector and lead to inefficiencies. Second, the manner in which the revenues are collected is administratively complex. It varies from one resource to another and from one government to another. Third, the sharing of revenues between the federal and provincial governments leads to inefficiencies of resource allocation across provinces and to the inequitable treatment of residents according to the province in which they reside.

This note discusses some alternative means of sharing revenues in an efficient, administratively simple, and equitable manner. Various means are suggested for extracting rent from the resource sector in an efficient or neutral way. Additionally, methods of coordinating federal and provincial rent collection are discussed.

The proposals can be conceptually divided into two stages. At the first stage, some of the rents of resources are captured by the public sector. Of concern here is the desire to collect the rents in a way which is non-distortional and simple to administer, and, if possible, to avoid unnecessary duplication and competition between levels of government. At the second stage, any further sharing of rents between federal and provincial governments that is necessary should be accomplished in a manner consistent with the efficient and equitable allocation of the economy's resources as discussed above.

Neglecting for the moment the matter of which level of government ought to be collecting the rents, let us consider the abstract question of how the rents should be collected. In principle, the design of neutral rent -collecting devices is well-known to economists. There are at least three ways of doing it. The first is by means of Crown corporations whose rents, by definition, accrue to the public sector. To some extent this vehicle is used now. The drawback for economists is that the managerial incentives usually associated with Crown corporations do not lead to an efficient production of rents.

The second means of collecting rents is the auctioning to the private sector of leases to explore for and develop resource properties. These are widely used in oil and gas but are less common for other resources. If lease auctions operate on a truly competitive basis, they should collect 100% of the expected future rents, appropriately discounted and taking account of a risk premium associated with the resource.

While lease auctions are an attractive and potentially efficient method of collecting rents, there are some compelling reasons why policy-makers may not wish to rely on them entirely. First, the auction process may not be fully competitive if there is a small number of potential bidders who can possibly collude (implicitly or otherwise) in the bidding process. If non-competitive bidding occurs, resources may not be exploited efficiently. Second, the sale of leases takes all of the future rents (exclusive of risk premiums) and it does so up front. The public sector may want to reserve only a proportion of the rents to itself, and it may wish to gather them in a more gradual fashion. To collect them all at the start of the production process may cause financing problems, especially for small firms with limited access to capital markets. Finally, the collection of rents *ex ante* effectively places all the risk of resource production with the private sector. This could preclude all but the largest firms from being successful in the bidding, as the latter are able to pool risks more effectively than smaller firms (due to access to capital markets and diversification within the company).

The final, and most widely used, method is taxation. The existing method of taxing resources is highly inefficient, since its base does not correspond with economic rents. Economists have long known how to design, in principle, a tax base which corresponds exactly with rents. Such a base would include as taxable income all revenues on an accrual basis. All accrued economic costs would be deductible, including current costs, true replacement depreciation, the replacement value of inventories, accrued depletion, and the real cost of finance whether from debt or equity and with an allowance for the cost of risk-taking. Such a tax would fall on the economic profits or rents of the firm and would not distort decision-making, regardless of the tax rate chosen. There would be no need to integrate the tax with the personal tax system, for to do so would undo the effects of the tax.

A tax on pure rents thus defined would be very difficult,

if not impossible, to implement. Fortunately, an alternative exists which is much easier to implement, and which is equivalent to a rent tax in present-value terms. It also has attractive properties from the point of view of financing the firm. This alternative is the so-called "cash flow" tax. The tax base for the cash flow tax is current revenues from the sale of goods and services on a realization basis, less all current and capital expenditures as the expenditures are made. Moreover, it is easy to implement in the sense that all items to be included or deducted are readily observable on markets. Since the present value of the tax base is equivalent to rents, it is a neutral tax. For this to be completely the case, negative cash flows must be treated symmetrically with positive cash flows; that is, the tax must have full loss-offsetting, or in other words be fully refundable. This implies that, as compared with a tax on rents, tax payments are postponed for firms, so much so that they can be negative for new and growing firms. This refundability of taxes is advantageous, since it provides a source of financing for firms which might otherwise be strapped for funds to finance expansions.

This discussion of the ideal way of collecting rents from resources abstracts from the issue of which levels of government should do the collecting. In the absence of cooperation in a decentralized federation, presumably both levels of government would carry out their own rent collection. It is not obvious that this makes much sense. A more sensible way to proceed, which could avoid duplication of activities, would be to extend the Tax Collection agreements so as to apply to resource taxes.

The Tax Collection agreements could be readily so extended, and could provide a vehicle for unifying the existing "tax jungle" of resource taxes. Ideally, a neutral tax base – such as the cash flow base – would be chosen. The tax would be levied uniformly across all provinces and all resources, and tax room would be apportioned appropriately. The tax would take the place of the existing plethora of taxes and royalties at the federal and provincial levels.

The final question to be addressed is how the public share of resource revenues should be divided between the federal and provincial governments. The issue of how exactly that is to be done is of secondary importance. It could be through bilateral revenue-sharing agreements, through independent revenue-raising by the two levels of government, or by a centralized system of tax collection under which the provincial share is negotiated. In any of these cases, the same arguments as to ultimate sharing of revenue apply.

The federal government could presumably justify its claim to a share of resource revenues as a means of financing equalization payments – payments owing to the have-not provinces precisely because of such revenues. For reasons that I have explored elsewhere, the ideal equalization scheme is a "net" scheme whereby the transfers to the "have-not" provinces are completely financed by transfers from the "have" provinces. Only in that way will the system be equitable. The present scheme in Canada is a gross scheme, since all equalization transfers to the have-not provinces are financed by the federal government. One way to move closer to a net system is for the federal government to obtain a share of resource revenues by negotiation. The amount of sharing appropriate will depend upon the form of the equalization scheme.

Institute Activities

CIRL/Faculty of Law Seminar

On April 16, the Institute and the Faculty of Law co-sponsored a seminar on "Recent Developments in Australian Oil and Gas Law". Attended by about sixty practitioners and others, the seminar featured Michael Crommelin, Sir Zelman Cowen Professor of Law at the University of Melbourne.

Professor Crommelin, who has written widely on resource law matters both in Canada and Australia, stressed a number of legal issues of comparative interest to Canadians (such as Aboriginal rights legislation and offshore arrangements), as well as several recent developments of importance to Canadian companies operating in Australia.

This was the third annual seminar sponsored by CIRL and the Law Faculty. The object of the Seminar Series is to share with members of the practising bar the expertise of eminent visitors we have been able to attract to Calgary.

CIRL Receives Water Law Grant

The Canadian Institute of Resources Law recently received notification of a grant from the Donner Canadian Foundation for a major study of Canadian water law. The study, to be carried out over a three-year period, will produce a series of essays dealing with legal issues relating to water allocation, water quality, extra-jurisdictional effects of water projects, and native water rights. During the course of the study, the Institute also intends to sponsor workshops and seminars designed to share the results of the research with government policy-makers and others most acutely affected by water decisions.

Work has already begun on papers dealing with water allocation and extra-jurisdictional issues, and it is anticipated that the first Workshop will be held late in 1985. In addition, one of the sessions at CIRL's recent Banff Conference focused on the topic of interprovincial cooperation in regard to water. The session featured a paper by Barry Barton, a CIRL Research Associate, entitled "Cooperative Management of Interprovincial Water Resources", and one by Prof. Ralph Johnson, an American water law expert, entitled "Multi-state Management of Rivers: The Colorado and Delaware". Both papers will appear in the Conference *Proceedings*.

The Donner Canadian Foundation, established in 1950, has several fields of interest, two of which are Law Reform and Ocean and Inland Waters.

Postscript

Issue No. 9 of *Resources* (November 1984) contained an article by Alastair R. Lucas entitled "Petro-Canada and Privatization". One of the examples cited in the article was the British Gas Corporation - Enterprise Oil privatization in the U.K. Some clarification and updating may be of interest to readers.

First, it should be noted that while most of the offshore oil assets of British Gas were transferred to Enterprise, British Gas retained some offshore as well as onshore acreage.

Second, with respect to the share offering, Enterprise's total issued ordinary share capital was offered to the public. The government retained one special preference share, the so-called "golden share". Rio Tinto Zinc Ltd. (RTZ) applied for 49% of the shares, through nominees on the floatation. This was cut back by The Secretary of State for Energy to 10%. The total take-up of shares, including RTZ's 10%, was 37%, leaving 63% with underwriters. On the commencement of dealing in Enterprise shares, RTZ conducted a "dawn raid" to increase its stake to 14.7%. RTZ then made a share purchase offer to existing shareholders, in order to procure 29.9% of the shares. Under Stock Exchange Rules, this is the maximum holding that does not trigger a full take -over offer. The government's golden share could be used to defeat a take-over attempt (until the end of 1988) and the government has indicated that it will act to prevent such a bid. RTZ now holds 29.8%. A major cause of the uncertainty and conflict that arose in the U.K. was the government's initial failure to state expressly that it had the authority and would act to limit the holdings of a single purchaser, such as RTZ.

The above information was provided by one of our London readers, Vivien M. Gaymer, Head of Legal Affairs for Enterprise Oil Limited.

CIRL Staff Changes

Mr. Christian Yoder joined the Institute as a Research Associate on January 15, 1985, on an executive exchange program with the Calgary law firm of Macleod Dixon. Mr. Yoder holds an LL.B. from The University of Calgary and recently completed articles with the Alberta Court of Appeal and Macleod Dixon.

Prior to joining the Institute, Mr. Yoder contributed a paper entitled "Offshore Installations and Canadian Law" to the Institute's Continental Shelf Law Project. He will be making further contributions in the area of offshore oil and gas law by completing papers on the federal exploration agreement and liability for offshore oil pollution as part of the Institute's Canada lands project. He will, in addition, participate in Canada lands seminars as well as conduct some preliminary research in the area of international trade law and the resource sector.

Change of Telephone Numbers

The University of Calgary is in the process of installing its own telephone system, which has necessitated a change of numbers for all organizations housed on campus. The system will not be operative until late June or early July, at which time the Institute's number will change to:

(403) 220-3200

Unfortunately, the Institute is not in a position to advise of the exact date of the change. Please note the new number in the event calls can not be completed on the old number.

Natural Resources Law Essay Prize

To encourage student legal research, the Institute offers an annual essay prize in the amount of $1,000.00 for the best paper on any aspect of natural resources law. The prize is open to all students enrolled in a law program at a Canadian university during the year of application. The prize will be awarded only if a paper merits it, and the selected essay may be published by the Institute. A paper which has received another award will not be eligible for this prize.

Interested applicants should submit three copies of their paper to the Selection Committee, Canadian Institute of Resources Law, 430 BioSciences Bldg., The University of Calgary, Calgary, AB, T2N 1N4, by June 30.

Contract Law for Oil and Gas Personnel

The Institute's popular contract law course, conducted by Nicholas Rafferty, who teaches contract law in The University of Calgary's Law Faculty, and Constance Hunt, Executive Director of the Institute, was again presented to a group of Mobil Oil Canada, Ltd. staff in February. The course will be offered to employees of Canadian Superior Oil Ltd. and Gulf Canada Resources Inc. in May and June.

Publications

Public Disposition of Natural Resources, Essays from the First Banff Conference on Natural Resources Law, Banff, Alberta, April 12-15, 1983; Nigel Bankes and J. Owen Saunders, eds. ISBN 0-919269-14-1. 366 p. (Hardcover) $45.00.

Recent years have seen dramatic changes in government policy towards development of natural resources. Provisions for greater Canadian benefits and participation, direct government involvement in exploration and development, initiatives to mitigate social and environmental impacts, new systems for resource disposition – these and other measures have radically changed the regimes under which governments dispose of natural resources.

Certainly, specific measures in different resource sectors have been the focus of analysis and criticism by various constituencies. This volume of essays, drawn from the First Banff Conference on Natural Resources Law, represents an attempt to deal in an integrated way with the larger problem of how these individual changes have together affected the legal climate in which natural resources are exploited.

The essays, together with commentaries, can be divided thematically into six major groups. The initial section on disposition systems provides an overview of both the legal and economic implications of choosing differing modes of disposing of publicly-owned natural resources. This is followed by several papers on the rights and remedies available to those parties holding interests in such resources, including discussion of the nature and limits of ministerial discretion, problems relating to registration of interests, and the consequences of land resource withdrawals by governments.

A third section deals with a number of aspects of public and special interest participation, ranging from a broad consideration of different modes of participation to such practical matters as the application of procedural rules, the allocation of costs, and a case study of a major regulatory board's procedure.

The fourth and fifth sections deal with two relatively recent trends in Canadian resource development – the negotiation of major projects through so-called "single window" approaches, and the increasing role being taken by public resource corporations.

The volume is completed by a discussion of the general problem of resource-use conflicts and their implications for rational resource management.

Resources Law Bibliography.
1980. ISBN 0-919269-01-X. 537 p. $19.95

Environmental Regulation - Its Impact on Major Oil and Gas Projects: Oil Sands and Arctic, by C.D. Hunt and A.R. Lucas. 1980.
ISBN 0-919269-001. 168 p. $10.95

Environmental Law in the 1980s: A New Beginning, Proceedings of a Colloquium, The Banff Centre, November 27-29, 1981; Peter Z.R. Finkle and Alastair R. Lucas, eds. Proceedings 1. ISBN 0-919269-05-2. 233 p. $13.50

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