

RESOURCE OWNERSHIP AND INTERPROVINCIAL TRADE

(1) (present Section 92)

Resources

(2) In each province, the legislature may exclusively make laws in relation to

- a) exploration for non-renewable natural resources in the province;
- b) development, exploitation, extraction, conservation and management of non-renewable natural resources in the province, including laws in relation to the rate of primary production therefrom; and
- c) development, exploitation, conservation and management of forestry resources in the province and of sites and facilities in the province for the generation of electrical energy, including laws in relation to the rate of primary production therefrom,

whether or not the resources or the primary or other production therefrom is exported in whole or in part from the province.

2/6'

*Such laws are valid even if they incidentally affect exports from Canada with trade; but they are subject to full federal immunity*

Export from the Province of Resources

(3) In each province the legislature may make laws:

- (a) in relation to the export from the province to another part of Canada of the primary production from non-renewable resources and forestry resources in the province and the production from facilities in the province for the generation of electrical energy; and
- (b) in relation to the export of such production from the province to other countries but not including [to be determined],

*Part of law as a commercial matter*

*what about supply?*

but such laws may not authorize or provide for prices for production sold for export to another part of Canada that are different from prices authorized or provided for production not sold for export from the province.

Relationship to certain laws of Parliament

(4) Where a law enacted by the legislature of a province pursuant to the authority conferred by subsection (3) conflicts with a law enacted by Parliament in relation to the regulation of trade and commerce, the law so enacted by the legislature of the province prevails to the extent of the conflict except where the law so enacted by Parliament:

- (a) is a law in relation to the regulation of trade and commerce within Canada and the law contains an express declaration that it is necessary to serve a compelling national interest that is not merely an aggregate of local interests; or
- (b) is a law in relation to the regulation of international trade and commerce,

*overriding national interest that is a concern for the whole of the nation*

in which case the law so enacted by Parliament prevails to the extent of the conflict.

Taxation of resources

(5) In each province, the legislature may make laws in relation to the raising of money by any mode or system of taxation in respect of

a) non-renewable natural resources and forestry resources in the province and the primary production therefrom; and

b) sites and facilities in the province for the generation of electrical energy and the primary production therefrom,

whether or not such production is exported in whole or in part from the province but such laws may not authorize or provide for taxation that differentiates between production exported to another part of Canada and production not exported from the province.

Production from resources

(6) For purposes of this section,

a) production from a non-renewable resource is primary production therefrom if

(i) it is in the form in which it exists upon its recovery or severance from its natural state, or

(ii) it is a product resulting from processing or refining the resource, and is not a manufactured product or a product resulting from refining crude oil, refining upgraded heavy crude oil, refining gases or liquids derived from coal or refining a synthetic equivalent of crude oil; and

b) production from a forestry resource is primary production therefrom if it consists of sawlogs, poles, lumber, wood chips, sawdust or any other primary wood product, or wood pulp, and is not a product manufactured from wood.

Existing Powers

(7) Nothing in subsections (2) to (6) derogates from any powers or rights that a legislature or government of a province had immediately before the coming into force of those subsections.