

NOTES FOR A STATEMENT BY QUEBEC

OFFSHORE RESOURCES

I- The problem

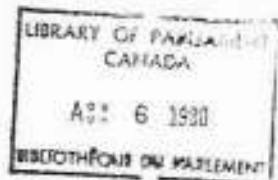
The B.N.A. Act does not deal specifically with offshore resources, that is, resources which are not on dry land. Such resources can be enormous. The federal government has claimed that offshore land under water is the property of the federal government and it obtained, through a Supreme Court decision, recognition of its legal claims on under-water mineral rights off British Columbia. Since then, it has maintained similar positions with respect to the resources in the Gulf of the St. Lawrence and off the eastern provinces.

II- Quebec's position

Quebec borders on the sea in the Gulf of the St. Lawrence and also at James Bay, Hudson Bay, Ungava Bay and Hudson Strait. The offshore areas have always been very important to Quebecers, so much so that there has traditionally been a deep and close relationship between the Gulf of the St. Lawrence and the population of the lower North Shore or the Gaspé, just as there has been between Quebec's northern seas and the Inuit people in New Quebec.

Quebec's position with respect to the Gulf of the St. Lawrence is easy to state: Quebec believes that its territory extends, in the gulf, to a median line. As the commission on territorial integrity stated in 1972, this position corresponds to that of successive Quebec governments which have refused to accept federal proposals granting administrative agreements.

With respect to minerals and other resources on the continental shelf or within the 200 mile limit, Quebec, while accepting that Canada has concurrent jurisdiction, believes that the constitution should recognize provincial paramountcy as regards legislation. Mineral rights should be divided among the provinces through interprovincial agreement, and, in the meantime, continue to fall under federal authority.



The change in the constitution required by Quebec seems necessary to decrease the problems arising as a result of the federal government's broad powers. Although certain underwater coastland may have belonged to the coastal provinces in 1867, later developments in international law have only been advantageous to the federal government. Furthermore, according to Ottawa, a problem need only be of international interest to justify federal intervention, even in areas under provincial jurisdiction.

The increase in federal jurisdiction offshore has also benefited the federal government rather than the provinces, considering residual federal authority. For this "residual" authority to be exercised, a matter need only not have been expressly mentioned in the 1867 distribution of powers. Ottawa then feels justified in intervening in a determinant manner where the matter in question is concerned.

The solution proposed here has advantages not only for Quebec, but also for Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and British Columbia.