

MALCOLM STOPANI-THOMSON- Died 01/02/15

Standing Committee on Finance and Economic Affairs - 2000-Feb-09

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Pre-budget consultations

The Chair: Our next presenter is Malcolm Stopani-Thomson. Could you please state your name for the record?

Mr Malcolm Stopani-Thomson: Malcolm Stopani-Thomson. I'm a retired engineer and private citizen.

The Chair: On behalf of the committee, welcome, and you have 15 minutes for your presentation this morning.

Mr Stopani-Thomson: Mr. Chairman, members of the committee, the constitutional taxation belief system is expressed in the article from the Ottawa Citizen, "6,000 Years of Feeding the Dragon," of Monday, February 7, 2000, at page A15, by Randall Denley. It states, "In Canada, taxpayers were cooked from day one, when the **British North America act** gave the federal government unlimited taxing powers." This is not so, but it is the belief system.

There are six sections in the Constitution of interest; five major, one minor. The sections are **91, 92, 102, 126 and 107**, and the minor one is **130**.

09:30

On the handout sheet, you will see that the word "**generality**" occurs within **section 91**. If you go to the **Concise Oxford Dictionary**, which is the official dictionary of the federal government, you will find out that generality means "**being general**." If you go down to the bottom and look at the last trailing paragraph, **91**, you'll see that local and private matters are assigned to the provinces.

If you go to **102 and 126**, you'll find the word "**special**," and special in the dictionary means "**not general powers of the legislatures of the provinces,**" ie, Ontario. If you look carefully within the Constitution, you will find the words "**assigned exclusively**." They occur in **section 91**, the introductory paragraph, head 29, and the trailing paragraph. They also occur in **section 130**, and they'll always occur with "**assigned exclusively to the legislatures of the provinces**."

If you look up the word "**assigned**," it still means-and it's on the second page; you can see it-"**allotted as a share to; made over (especially personal property)**." "**Exclusive**" means "**shutting out**." So we have four times in the Constitution the words "**assigned**

exclusively to the legislatures of the provinces," and this basically states that personal property belongs to the provinces. So why is the federal government taxing personal property?

What I said was about the generality. You look at "**general**," being general; you look at "**local**," assigned to the provinces. Local and private are also in **section 92.16**.

If you want to look up the word "**act**" in any of the dictionaries-in this case I've given you the one that comes out of Black's Law Dictionary-it says an act is "**public general**," "**local**," "**private**," and "**special**" equates to local. We have a situation here where continuously through the Constitution you uphold that you as the provinces have total control of personal property.

If you go down to **section 107**, you'll find the words "**all stocks cash**." You look in the dictionary and cash is "**ready money**," and yet with the **GST** you are taxed on the ready money when you walk into a store. **Cash is defined within the Constitution** as "**property**," the third line down in **107**. Property is exclusive to the provinces under **section 92.13** and there's many a court case that says so.

If you go back to the handout on **section 91**, you will find the word "**exclusive**" right at the top. **That is the one and only exclusive** given to the federal government. **There are seven other exclusives that apply to the provinces**. All have been ignored by attorneys, courts, etc. Those exclusives are two in the heading of **92**; one in the title, one on top. You'll find "**exclusively**" occurs **four times**. The last exclusive is education. The gentleman before me was talking about education funded by the federal government, yet it's **exclusive to the provinces**.

You'll find also, as you look down here under **section 91.29**, the words "**expressly excepted**." The word "**expressly**" is also in the dictionary and "**excepted**" also. If you look carefully at that and you substitute these into the actual one, you will find that **section 91.29** then reads, "Such classes of subjects as are "**definitely stated, not merely implied as excluded from enumeration**" in the enumeration of the classes of subjects made over (especially personal property)"- that's **section 92.13** - "**to the legislatures of the provinces**", such as the **class of direct taxation in 92.2**.

The aim of the Constitution was to have **personal property assigned to the individuals** who lived within Upper Canada and that was to be **taxed under 92.2**. When you get to the **Caron case**, which turned around and didn't understand the basic structure of the Constitution, **they find the right to direct taxation to the federal government for purposes of the Dominion**.

In **1887, Bank of Toronto v Lambe** was the first case in which an imperial Parliament had to decide what direct taxation was, because the imperial Parliament had all powers. They could do anything they liked, including hang old guys who wrote with their left hand if they wanted to. They turned around and decided that John Stuart Mills' definition was to be the one accepted, and it's still today being used by the Canadian government

as the standard. However, you'll see in the handout on the Bank of Toronto that the bar turned around and decided that the word "**general**" that John Stuart Mills wanted to add to direct taxation did not fit the description of income tax. So basically now, under **section 91**, we have a government with general statutory powers only levying, and not general tax.

The "**assigned exclusively**": Like I said to you before, you can go through and look it up. But when you start getting into the definition of an individual-that's you, me and everybody else around this table-you are single, particular, special, opposite to general. The federal government has only general powers. When you are special, you are not general. That's what the dictionary calls it. **General is universal**, but not local, particular, partial or sectional. So we tolerate the Clarity Act being written by the federal government, dealing with Quebec, which is a local act passed by a general government, and it deals with one province only. The word "**general**" means not particular and they've got an act for a particular province.

You sit back and you worry about your finances coming in, but you have a situation where you allowed the transfer payments to be put in the Charter of Rights and Freedoms, **schedule B to the Canada Act**. Is it or is it not sectional? They pay Atlantic provinces out of tax rates in Ontario, so you get this mishmash. The basic bottom line is the feds have the general statutory power; provinces have the local, private and special, because those are the acts, the statutory power, that existed in 1867.

When you go back to **section 91** and you look carefully at it, past the word "generality" you have the words "**foregoing terms**." If you look in the Concise Oxford Dictionary, you will find that "foregoing" means previously mentioned terms or conditions. What are the previously mentioned conditions? If you go to the first part, it says "peace, order, and good government."

However, gentlemen, you have a Lieutenant Governor in this province, as of 1867, who is a direct descendant of James Murray, who is the general who took over from Wolfe when Wolfe was killed on the Plains of Abraham. Under the royal proclamation of **October 7, 1763**, he was enjoined to appoint governors that were to look after peace, welfare and good government. So now you have a situation where you have the federal government, with general powers only, dealing with welfare.

I don't have it down for you, but if you happen to look up "**welfare**" in the dictionary you will find: "A satisfactory state, health and prosperity, wellbeing, usually of person, society etc. ... **Welfare state**: one having national health, insurance and other social services."

So now you have Ontario taxes flowing to the federal government from the GST, the Income Tax Act; some \$90 billion from the various provinces, from Ontario usually the most of it, somewhere around \$40 billion most probably, all in not general taxes flowing to a general government and coming back from a government that has peace, order and good government **spending it on welfare**, which is the mandate of the provinces.

You sit here and you don't know this. You most probably never read the Constitution. I read it for eight years, over and over again.

09:40

A tax is defined within the Black's Law Dictionary as "**a rateable portion of the produce of the property and labour of the individual.**" Now, you look up "**private**"- it is within your statutory powers to deal with the private - you can tax my farm, you can tax David's farm or his aunt's. You can do what you like with the person. Then you stand back and allow the federal government to tax the individual too, so you have a double taxation system, because you don't understand what the Constitution says. You can quote all sorts of statutes that were passed prior to 1982, **but the mistake that Trudeau made was he brought this back, made it the written Constitution of Canada with the words still in it.**

I basically wanted an excuse to talk to you on the unemployment insurance. You have a SIN number given to you if you're a private individual. You have the federal government dealing with private individuals. They don't have the statutory power of the private. They're collecting your money and they turn around and they hand it back to you and they'd like you to believe that they have the right to do so. But if you look at **section 118**, especially if you go down in the notes below **section 118** of the Constitution, in the Constitution itself, and you read them carefully, you'll find there was a lump sum payment to all the provinces and there was a universal per-head allowance given.

Paul Martin stands up the other day and talks about the universal baby care program they had. This is fine, but it only applies to babies. That's a partial, part of the provinces. If you want to talk about the territories, don't. The territories fall under **section 146**, and for **section 146** the laws are made as if they came from Westminster (England).

We have a bigger problem in Ontario. **We have a problem where we have all the judges on all your courts appointed by the Governor General.** In 1949, William Lyon Mackenzie King requested permanent letters patent from St James's Palace, and they came from the hand of the king. They came to Canada under the Great Seal of Canada. What statutory power does the Great Seal of Canada hold? Talk to the federal government; they think they've got everything. That's why they've walked over you for the last 120-odd years.

The Great Seal of Canada holds general statutory powers only. That is in accordance with **resolution 28 of the London conference on confederation in 1866**. These principles are brought forward by W.P.M. Kennedy in his article "**Interpretation of the British North America Act, 1867**" that occurs in the Cambridge Law Journal at page 146, 1943.

We have a situation-

The Chair: You have one minute to wrap it up.

Mr Stopani-Thomson: Okay. I hope sincerely that you have an alternative thought on what the Constitution stands for in my presentation, and I sincerely hope you do something about it, because I'm getting sick and tired of being taxed by the federal government. People go to a court and they go to an admiralty or a civil court and it has three things. **If it's an admiralty, it has prize money, it has torts and it has contracts.** If you go to a civil court, it has torts and contracts. When the federal government revenue department stands there with the **T1 generals, they do not produce the original contract.** So all the cases that are being done in the civil law courts are fraudulent.

As far as the appointment of judges, like I said, they're being appointed under the Great Seal of Canada with general statutory powers only. There isn't a single judge in Ontario who has the right to hear local and private matters, because they don't have the power they can delegate.

The Chair: With that, I have to bring it to an end because we have run out of time. On behalf of the committee, thank you very much for your presentation this morning.

Mr. Stopani-Thomson: I tried to pack in as much as possible, gentlemen.

Mr. John Gerretsen (Kingston and the Islands): No time for questions, Mr Chair? I have a few of them.

The Chair: No time for questions, Mr. Gerretsen. I'm sure you do.

Mr. Gerretsen: Have you discussed this with your local member here and with the Attorney General?

Mr. Stopani-Thomson: He phoned me up and suggested I come here.

Mr. Gerretsen: I bet he did.

Mr. Doug Galt (Northumberland): I always suspected those rascals in Ottawa were up to no good, and now I know for sure.

Interjections.

The Chair: Thank you very much. I must bring back order to the committee.

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