

**ORAL QUESTION—KEVIN O'REILLY, MLA FRAME LAKE**

**QUESTION 419-18(3):  
LIABILITY CAPS IN OIL AND GAS REGULATIONS**

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**October 18, 2018**

**MR. O'REILLY:** Merci, Monsieur le President. My questions are for the Minister of Industry, Tourism and Investment, who sets regulations for onshore oil and gas development and aggressively promotes that development. The Oil and Gas Spills and Debris Liability Regulations set absolute liability limits between \$10 and \$40 million, depending on the location of spill or debris. As I said, the Deepwater Horizon disaster resulted in fines and settlements more than 200 times that maximum amount. I know it's offshore, but onshore can cost us a lot of money, as well. Can the Minister explain why there are these liability caps in our regulations and what public purpose they serve? Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Minister of Industry, Tourism and Investment.

**HON. WALLY SCHUMANN:** Thank you, Mr. Speaker. I'm going to try to do the best I can to answer this Member's questions, because this is a very complicated area within the PRA.

One thing we have to make clear on this is we have mirrored the regulations. That was part of devolution and that's what we have right now. That's why it's clearly stated out there as laid out.

We are working on oil, OGOA; I guess we can call it the Oil and Gas Operations Act. That's going forward. We are having a look at it. OROGO is the other side of this issue, which is handled by the Minister of Justice. From my understanding, OROGO is going out for public consultation at a very high level on this Act, on what's going on. There are some concerns there for our department as well. I think some of them are very similar to what the Member is going to raise here today. We will continue to look at it, but the reason that these are there right now is because of devolution, and we mirrored the process.

**MR. O'REILLY:** I don't think it's actually all that complicated. The Office of the Regulator of Oil and Gas Operations is currently consulting on managing potential cost for spills and debris associated with oil and gas activities or infrastructure. Can the Minister confirm whether the scope of that review includes changing the Oil and Gas Spills and Debris Liability Regulations or eliminating the liability caps set in those regulations? That's something that Cabinet does.

**HON. WALLY SCHUMANN:** No, this is very high-level consultation. They are out there doing this right now. The Member will probably have an opportunity to actually go to that and participate in that. I want to advise this House that ITI, like the MLA, we will be

invited to make our comments on this, on this consultation. We are very concerned as well about the liability and the responsibility. That is one of our big concerns around this whole thing. As well, we want to see more certainty and transparency built into this thing. We will be commenting on it, as well.

**MR. O'REILLY:** I want to thank the Minister for that. So it's very clear, the work that OROGO is doing has nothing to do with the caps that are set in Cabinet's regulations. Earlier today, I recounted the massive costs that can be associated with spills or debris from accidents relating to oil and gas exploration and development. Greenland and Norway have eliminated all liability caps in relation to such accidents. The Auditor General of Canada recommended that such caps for offshore development be reviewed and changed. Would the Minister agree that the liability caps in our regulations put our government at some financial risk?

**HON. WALLY SCHUMANN:** To be clear, these caps are addressed in the regulations, and we are dealing with the act. That's what we are dealing with. The Member is talking like we are opening up the NWT to liabilities, and that is not what we are doing. In fact, what we are trying to do is close that loop that exists around suspended wells and clarifying responsibilities that operators in the NWT have. These changes that we are proposing do not change the fact that, in the NWT, when they are at fault, the polluter pays.

**MR. SPEAKER:** Masi. Oral questions. Member for Frame Lake.

**MR. O'REILLY:** Merci, Monsieur le President. Thanks to the Minister for that. We are actually talking about the regulations. That is something the Minister has direct control over. He can take this to his Cabinet colleagues and get those regulations changed next week if he wants. So the liability caps in place through the Cabinet-approved regulations are identical to the ones in federal offshore regulations that have not been changed in over 30 years. These caps fly in the face of the polluter-pays principle which has been endorsed by our government. Does the Minister agree that the liability caps in our regulations are out of date and should be eliminated immediately?

**HON. WALLY SCHUMANN:** I would agree with the Member that they are out of date, but I am not going to go out and get rid of them immediately. These things are in place. We have mirrored devolution. This is significant change for our government. If we were to do this, we would have to go out and engage all stakeholders in the Northwest Territories. Like I have said, we are only looking at the act right now, not the regulations, but we do have some concerns. I have clearly laid those out and agreed with the Member, but I am not prepared to go out there and just change this on a whim, without engaging all stakeholders in the Northwest Territories. Thank you, Mr. Speaker.

**QUESTION 422-18(3):  
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**MR. O'REILLY:** Merci, Monsieur le President. I would like to pursue the issue of the liability caps a little bit further with Minister of Industry, Tourism and Investment. To be really clear here, the review that is being carried out by OROGO is about proof of financial responsibility. It's not about the liability caps. OROGO doesn't even set the

liability caps. Those are in the regulation. Is the Minister clear that the OROGO review has nothing whatsoever to do with the liability caps? Mahsi, Mr. Speaker.

**MR. SPEAKER:** Masi. Minister of Industry, Tourism and Investment.

**HON. WALLY SCHUMANN:** Thank you, Mr. Speaker. I believe that's right. Thank you, Mr. Speaker.

**MR. O'REILLY:** Thanks to the Minister for that. We are starting to get on the same page here. I would like to ask the Minister: why have the caps not been reviewed in the four-and-a-half years since devolution?

**HON. WALLY SCHUMANN:** As I have said, we are moving forward with the mirrored legislation on devolution. We are looking at the Gas and Oil Operations Act. That's what we are working on. We are going to look at the rest of it in the 19<sup>th</sup> Assembly, should this bill pass here.

The Member is not going to like this comment, but you know, we have 200-and-some mandate commitments within this Government of the Northwest Territories. To zero down on a regulation here where there's exactly no activity going on in our territory wouldn't be a good use of my time and the department's time. I'm not shunning that responsibility. We are continuing to work on the act going forward, and regulations will be looked at in the 19<sup>th</sup> Assembly.

**MR. O'REILLY:** Thanks to the Minister for that. Interestingly, a couple of days ago, we had the Premier saying that we are going to go and negotiate an entire offshore co-management regime when there is nothing happening with offshore oil and gas. I think there is a more likely prospect of onshore, and we have to make sure that we protect our citizens and our taxpayers and our government from liability. When will these regulations be reviewed? The Minister could do it next week if he wishes, but when is the Minister going to review these regulations?

**HON. WALLY SCHUMANN:** As I said, should this bill to amend the act pass in this Legislative Assembly, in the 19<sup>th</sup> Assembly we will review and modernize the regulations under this act.

**MR. SPEAKER:** Masi. Oral questions. Member for Frame Lake.

**MR. O'REILLY:** Merci, Monsieur le President. I'm not very happy with the response from the Minister. These regulations are less than four pages long. In fact, I believe they are actually one page long, and the limits are just set here. I don't understand what the difficulty is in reviewing these caps.

What sort of process does the Minister envision going through to review a one-page regulation? Mahsi, Mr. Speaker.

**HON. WALLY SCHUMANN:** As we sit here and deliberate this conversation around the Oil and Gas Act and the regulations, the Member has raised a lot of concerns, and I agree with a number of his concerns. This is not something that we are just going to go out and do at a snap of our fingers. We have a lot of different players in this territory. We have committed to deal with all the Aboriginal and Indigenous governments in this

territory, and the public. I am not just going to change the regulation before we change legislation on the Act, and I suspect it will be the way we do our full consultation within the Northwest Territories. Thank you, Mr. Speaker.