

The House met at 2:00 p.m.

MR. SPEAKER (Dicks): Order, please!

On behalf of hon. members, I would like to welcome to the public galleries, twenty-eight Grade VI students from St. Mary's Elementary School in the District of St. John's South, accompanied by their principal, Mr. Eric Hiscock and their teacher, Mrs. Matilda Cluett.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Accompanying this class, are ten students from St. Peter's School, Black Tickle, Labrador in the District of Eagle River, accompanied by their teacher, Sister Barbara Kenney.

SOME HON. MEMBERS: Hear, hear!

Oral Questions

MR. SPEAKER: The hon. the Member for Humber Valley.

MR. WOODFORD: Thank you, Mr. Speaker.

My question is to the minister responsible for Municipal and Provincial Affairs.

Every year, Mr. Speaker, his department usually has a capital works program. I would like to now ask the minister if he will have this regular capital works program this year consisting of approximately \$57 million to \$59 million for infrastructure for municipalities in the Province, or if the money used in that regular program every year will be used for the so-called new infrastructure program?

MR. SPEAKER: The hon. the Minister of Municipal and Provincial Affairs.

MR. REID: Let me correct the hon. member's last comment. He made the comment that for the past number of years we have had \$56 million approximately in the budget for capital works. Well, I quite agree with the last couple of years, in fact, since 1989, we have gone from \$53 million to as high as \$63 million in the budget in comparison to the previous years of \$28, \$32, \$25, \$25, and \$25, so we have not done too badly. This particular government has put a tremendous amount of money into capital works and as the hon. gentleman is aware, because I suppose of his experience in Cabinet himself, we are presently into the budgetary process and I am not at liberty yet to say whether, or how much money, we will have in the capital works budget this year. I will say though, Mr. Speaker, that the government is planning to put a sizeable amount of money towards the infrastructure program this year. The basis of that infrastructure program and the criteria will be made available to municipalities and other agencies across the Province by the end of next week, giving them ample opportunity to apply for money under the other program called the Canada-Newfoundland Infrastructure Program.

MR. SPEAKER: A supplementary, the hon. the Member for Humber Valley.

MR. WOODFORD: Yes, Mr. Speaker, the minister is right, they are putting more money into the capital program. They put in exactly what they took from municipalities over the last five years.

Mr. Speaker, the minister didn't answer my question. My question was: Will there be a regular capital works program this year - whatever it is, whether it is fifty, sixty, seventy, one hundred or whatever - or will that same funding be the total allocated by the Province for the new infrastructure program? That is the question I asked the minister and I would like to have an answer.

MR. SPEAKER: The hon. the Member for Municipal and Provincial Affairs.

MR. ROBERTS: Mr. Speaker, if I may raise one other point. Today is Thursday and our rules provide for the procedure which we call the Late Show. I have had a word with my friend for Grand Bank and he raised a point with which I concur, let us assume by 4:00 or 4:15 - it is now 2:37 - the Premier is entitled to speak for an hour, and let us assume he takes the hour. The Leader of the Opposition may not be finished by 4:30 so my suggestion is that we have unanimous consent to postpone the start of the Late Show until the Leader of the Opposition has finished, if that is acceptable to the House.

MR. SPEAKER: All those in favour of the motion to postpone the commencement of what is called the Late Show until after the Leader of the Opposition has completed his speech today, all those in favour of the motion "aye", those against "nay," carried.

MR. ROBERTS: Would you call Motion 1 before you call the bill?

MR. SPEAKER: Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The Automobile Insurance Act," carried. (Bill No. 8)

On motion, Bill No. 8 read a first time, ordered read a second time on tomorrow.

Order 2.

Second reading of a bill, "An Act To Regulate The Electrical Resources Of Newfoundland And Labrador." (Bill No. 2)

The hon. the Premier.

PREMIER WELLS: Thank you, Mr. Speaker.

In introducing this legislation I want to take a little bit of time to lay out, not only the content of the bill and what the bill proposes to do, but to spend some time explaining the basis on which the bill is being brought forward, the reasons why this particular bill is being brought forward at this time.

First, the Strategic Economic Plan provides for a restructuring of the economy of this Province. The electrical production, transmission, distribution, and delivery is a significant part of our economy. In the process of restructuring the economy we want to create the most favourable climate we possibly can for the private sector, and this bill is intended to provide for the putting in place of a regulatory climate that will do two things that will ensure that the interests of the citizens of the Province in having a good, adequate, and reliable supply of hydro-electric power available to them at the lowest possible cost, at the same time that it maintains a reasonable regulatory regime to enable the private sector that is engaged in the provision and transmission and distribution of electric power to earn a reasonable return, and so make it an attractive climate for investment. That is really the purpose of this bill.

Secondly, I might point out, Mr. Speaker, that the bill is needed and sensible legislation without regard to privatization. Even if we were not privatizing Hydro this bill could be brought forward on merit anyway. It puts forward a sound and rational basis for regulating the management of hydro-electric power in the Province. So it is important in itself, quite apart from its significance as far as the privatization of Hydro is concerned.

While it is good sound electrical management legislation, there is nothing in it that deals specifically with privatization at all, nevertheless this kind of framework is absolutely essential if we are to have two separate private electrical utilities not exactly competing, but to a degree competing, and working cooperatively to provide the entire electrical power supply that the Province needs. We need in place a regulatory regime that can deal with any difficulties that could arise, particularly in circumstances where one of the utilities - Hydro - would be generating about 90 per cent of all of the power consumed in the Province, and the other utility would only be generating about 10 per cent, and that other utility would be distributing to about 85 per cent of the costumers in the Province and Hydro would only be distributing to about 15 per cent of the customers.

So there is a substantial interaction between the two utilities. That of course is why the government felt it best to proceed with a merger of the two first as being in the best interest. When that wasn't able to be achieved readily we proceeded to seek privatization on its own. It is important that we put in place this good hydro-electric legislation in any event, but in fact I believe it is essential if we are to have a good regulatory regime in place to manage the electrical utility industry in circumstances where there would be two competing and cooperating private sector companies delivering the electrical power of the Province.

In order to lay out clearly the scheme and the purpose of this statute members might want to follow along in their copy of the bill. The first three or four pages are just the usual definitions and preliminary provisions. I won't go into that in any detail. They define the terms as they are used in the act.

The area that I want to deal more specifically with is Part I and it starts on page 7 of the bill. In this area we are declaring what will be the power policy of the Province. I should note that this part substantially tracks the Electrical Power Control Act as it presently exists. Incidentally, I should mention at the outset that there was an error in the printing. The short name of the act is going to remain the Electrical Power Control Act, not the Electrical Power Resource Act.

This section 3(a) is to be found in the existing Electrical Power Control Act, so substantially it pretty well tracks what is there. The approach is similar. It declares the power policy that the House determines to be the policy for the Province, and the Public Utilities Board and the electrical utilities involved must manage their affairs consistent with that policy. The first one provides for the way in which the rates are to be charged, and I think that is pretty well verbatim what is in the existing act, so we are not suggesting any change in roman numerals i, ii and iii of paragraph (a).

Item 4 is new. Item 4 in effect says that from here forward it is unfair to the industrial sector in the Province to saddle them with having to subsidize the delivery of rural electrical rates in the rural areas of the Province. At the moment, all of the customers in the Province, acting collectively, with the exception of those in diesel areas, pay the full cost of generating and distributing the power they consume. In the diesel generating areas it costs so much more that it is unfair to people to expect them to pay for it all. So the electrical consumers of the Province generally subsidize it so that customers in the rural areas have exactly the same rates as customers in the general areas, up to 700 kilowatt hours per month, beyond that they still get a subsidized rate. And, when you look at it, the customers in the rural areas of the Province are subsidized to the extent of about - I think, \$28 million is the amount of subsidy in this current year. So it is a fairly substantial subsidy.

Now, in the past, the industrial sector - the paper mills, the Come-By-Chance refinery, and other heavy industry in the Province, subsidized that power. We think that this places an unfair burden, a kind of tax on the industry that is unfair, that places them in a situation where it is more difficult for them to compete. So we are asking the House, as a matter of policy, to separate the industrial customers from the residential and general service customers. Let the residential and general service customers pay their full costs and the industrial customers pay their costs of the power that is generated so that there would be no cross-subsidy. We think that this will help our industries better compete. Everybody knows the pressure that the paper mills are under in the Province today, everybody knows the pressures that the refining operators are under in the Province today. So it is important that we treat our industries fairly for the purpose of protecting the jobs of the people who work there. It is important that we do that.

So item 3(a) is a change from what is there now. It would provide that the rates 'should be such that after December 31, 1999, industrial customers shall not be required to subsidize the cost of power provided to rural customers in the Province and those subsidies being paid by industrial customers on the date this Act comes into force shall be gradually reduced during the period prior to December 31, 1999.' So we phase out their contribution to the subsidy. That is not to say, Mr. Speaker, as the Leader of the Opposition did, that the subsidy is going to be cut out. The subsidy is not going to be altered at all, it will remain. It is just that the industrial customers would not be contributing to it. The subsidy would remain exactly as it was. What the Opposition Leader was saying was that it was going to be cut out altogether.

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Wait until you see the whole picture.

Now, all of us will pay. All of the people in the Province will, in the end, pay more - that's right, all of us. What we are saying is that it places an unfair burden on industry to ask them to do that. We are diminishing their ability to compete. What we want to do is improve their ability to compete and that is the purpose of this. We think that that is a worthwhile purpose, Mr. Speaker, and we are asking the House to endorse it.

Now, paragraph (b), is entirely new. It takes the approach and fundamentally adopts the principle that all of the sources of power in the Province and all of the facilities for the production, transmission and distribution of power in the Province are to be used in the public interest. It puts the public interest first. It doesn't exempt any source of power at all, whether it is generated by Kruger in Deer Lake, Abitibi in Grand Falls, Newfoundland Power somewhere or Hydro somewhere else, all sources of power in this Province are intended to be used for the overall public interest with no other limitation on it except as is maybe spelled out in this act. I'll mention a couple shortly. But that is the assumption under which it operates.

Now, from time to time, in the management of an integrated electrical system, you could run into situations where entrenched contracts or contractual positions between a power company and a user or something, gives a preferred position to one or the other group. So what we are providing in this, is that the Public Utilities Board would have the ability to supervise the complete management and control of all power sources and facilities in the Province to ensure that they were managed in a manner consistent with this policy.

Here is what we are proposing be established as the basic power policy for the Province: that all sources and facilities for the production, transmission and distribution of power in the Province should be managed and operated in a manner:

One, 'that would result in the most efficient production, transmission and distribution of power'. They have to operate efficiently. We can't continue to maintain inefficiencies, because that finds its way back to the ultimate consumer in the rate. So where there are inefficiencies we have to try to weed them out, and that will be a task the PU Board will have to deal with.

For example, if there are inefficiencies between the operation of the two power companies, it will be part of the task of the PU Board to see that those two power companies work together in such a way as to provide for the most efficient production and management of that power so as to result in the lowest possible cost.

Secondly, 'that would result in consumers in the province having equitable access to an adequate supply of power'. Now, 'equitable' is intended to ensure that there is fair treatment. 'Equal' is not always necessarily fair, but the principle is, it is to be equitable.

For example, at the moment, all residential customers in the Province pay exactly the same. All those who are on the grid pay exactly the same for their power. That's equal and equitable, both. In the case of the customers in the rural areas, they pay the same for the first 700 kilowatts, but more for the amount beyond that, and the idea is to make sure that we give customers in that area access to the basic power needed to run a household at the same price - at an equal price with everybody else - but not put in prices that would induce them to use electric heat instead of oil or wood, which would be lower cost than electric power in diesel generating areas because it is so costly to run diesel. That's equitable. That ensures equity and fair treatment, at least, if it is not equal treatment. In the circumstances, we believe that, at the very least, should be done to ensure equitable treatment. Well, that's the concept that's enshrined there.

Thirdly, 'that would result in power being delivered to consumers in the province at the lowest possible cost'. That is the specific direction as the power policy of this Province, and the PU Board will have to look at this and interpret it in the future and say: Our mandate is to make sure that we run an efficient operation, people are treated equitably, and we produce the lowest possible cost consistent with reliable service. Now, you can cut corners and have weak systems in equipment, and have blackouts three times a day, and you would have even lower cost, but you wouldn't have a very good power system. So it has to be consistent with reliable service, but

the companies that are engaged in the delivery of power must do so in a way that produces the lowest possible cost.

Fourth, 'that would result in a producer having priority to consume the power it produces, subject to Part III.' Now, let me tell you what the significance and importance of that is.

Two companies, in particular, generate a great deal of the power and energy they consume. Kruger, in Corner Brook, through the Deer Lake Power Plant, generates a great portion of the power it consumes. Abitibi, through its power facilities at Grand Falls and Bishop's Falls, generates a significant portion of the power it consumes. We feel that in terms of ordinarily managing the power for the Province, it would be unfair to take that from them. That's theirs. They built their industry on the basis of that. It would be unfair to say: Well, we can get lower cost power by taking Deer Lake power or Grand Falls power from them and putting it into the general grid, and forcing the two paper companies to pay the same as everyone else. That could well put those two paper companies out of business, and they have been there and operating in that circumstance for fifty or sixty, and - well, more than that - in the case of Abitibi's mill, about ninety years, and in the case of the Kruger mill in Corner Brook, about seventy years. So this provides that a producer would have the priority to consume the power that it produces. The subject to Part III that is mentioned there is emergency situations. In emergency situations, the emergency controller would have the right to access that power too if it were necessary to meet the emergency circumstance. That is what that subject to Part III means in that context.

Fifth, 'where the objectives' - those four objectives that are set out in the first four that I have just read - where those objectives 'can be achieved through alternative sources of power, with the least possible interference with existing contracts' - in other words, where there are existing contracts, if those objectives of the lowest possible cost power, reliable power and so on, can be met through alternative sources, we are saying to the PU Board: Avoid interfering with existing contracts; because you want to try to make life as easy as possible for people without creating unnecessary difficulties. So, no unnecessary interference with contracts, but if it is necessary to achieve the objectives set out in the first four, then it is entirely appropriate to interfere with existing contracts.

Then, the summary direction at the end is: 'where necessary, all power, sources and facilities of the Province are to be assessed and allocated and reallocated in the manner that is necessary to give effect to this policy;' in effect, the Public Utilities Board is in the ultimate control of it, and we think this is the way it should be. All power and facilities in the Province must first and foremost meet the general needs of the Province. That is why they are there. It is the nature of power -

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Well, we didn't exempt any power. Whatever it does, it does. We didn't exempt anything. We didn't exempt Kruger. Kruger has been there since 1924. Abitibi and its predecessor, AND, and Price have been there since 1904. No power is exempt. There is no basis for exempting anything.

AN HON. MEMBER: (Inaudible) taking back control of Churchill?

PREMIER WELLS: No, we are not taking back control. Churchill will continue to operate. But whatever is necessary, whatever the PU Board has to do, it will do, with any power in the Province, but this is not taking back control. It is not altering -

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Pardon me?

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: It is not doing anything with the power. It is setting in place a management regime for the Province - all power in the Province. If we say we are not prepared to exempt Abitibi, which has had rights for

ninety years, and we are not prepared to exempt Kruger, which has had rights for seventy years, why should we exempt Churchill Falls which has had rights for only thirty years?

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Whatever it does, it does, sobeit. All power in this Province must ultimately be under the control and management of this Legislature, it doesn't matter where it is or who generates it.

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Well, this legislation is putting in place a general management of power system that will provide for the sound management of power in the Province, all power in the Province. We think the nature of power is such, it is so essential for the orderly running of society and the efficient management of society, and the efficient operation of our economy, that it can't be allowed to be assigned privately or controlled privately. It must be managed in the overall public interest and that is the purpose of this piece of legislation. So you can see why I say that it doesn't matter whether we are privatizing or not, this is good legislation anyway, but it is also essential legislation if two private systems are to work.

Now, Mr. Speaker, to move on.

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Pardon me?

AN HON. MEMBER: All power generated in this Province (inaudible).

PREMIER WELLS: All power generated in this Province. It doesn't matter who generates it or where or by what means. Diesel, wind power, hydro-electric power, all power generated in this Province comes under this control.

AN HON. MEMBER: Peat power?

PREMIER WELLS: Peat, any kind of power. Now let me move on to the next item.

This provides something that in most other statutes - and what I just read - many other provinces have something similar to that in their statutes too. Many provinces have provisions similar to what I just read; many provinces have a provision similar to (c) which we have not had and is a sensible and logical thing to have, it provides for what happens in an emergency. For example, what would we do this afternoon if Bay d'Espoir went out and Bay d'Espoir was not available for power generation in this Province for six months before they could get it up and running again, what would we do? We do not have enough power in the Province to meet all the needs, who would have priority? Would we close hospitals, schools, legislatures, factories, plants, street lights, what would we do?

There is nobody and no means in place at the moment to make a decision. Now it is less of a problem but it is still a problem, that is right it is a real problem, most provinces have emergency provisions, we haven't had any. It is less of a problem where you have a Crown owned utility that you can immediately give directions to the manager to do something if that Crown owned utility got control of enough of the system to regulate it, but what about where you have another private utility that is distributing to 85 per cent of the customers so there is no real means of controlling it or set standards or rules or priorities. Do we give health institutions and schools a priority over businesses and factories, if something catastrophic happens and a major source of our power went out? Well that is what this is intended to deal with.

In the event of an emergency arising from the loss of use of generating facilities, a shortage of water etc., any of these things, it enables the emergency controller to determine the priorities, allocate and re-allocate power available and make all other necessary provisions for the supply and distribution of power so long as the emergency exists. We think it is essential and good sound provision to provide for an emergency.

Paragraph (d), really accommodates the fact that in the case of privatization, the provision for essential employees and the essential employees agreement that presently exists between Hydro and its union, under the Public Service Collective Bargaining Act, when Hydro is privatizing, would come under the Labour Relations Act instead of the Collective Services Bargaining Act, so we felt that this was the best way to make provision for essential employees, and the only employees who are deemed essential under this agreement are those involved with the running of the diesel plants, because you can't leave those exposed. The ordinary Hydro employees are not. I don't think that any of the normal hydro-electric employees are involved in the essential ones, so what we are providing and suggesting is that because of the nature of electrical power and the character of it and the complexity of it, it is really best if the Public Utilities Board be the body that determines who are essential employees, so we are assigning that responsibility to the Public Utilities Board instead of the Labour Relations Board and we are suggesting that that should be part of the policy of the Province.

In (e), this is the one that would authorize, would state as a matter of policy that the Province's position is: all of the income tax that is rebated to the Province under the Public Utilities Income Tax Transfer Act, should go back and be contributed back to cover the cost of power so as to lower the cost of power.

Here is what happens at the moment. Hydro, as a Crown Corporation, pays no tax so the federal government, gets no tax in respect of hydro operations paid back to us. They rebate to the Province the income tax, or 85 per cent of the income tax that is paid by Newfoundland Power is given back to the Province, the Province has kept that as part of its normal, governmental revenues. Now, if Hydro is privatized, Hydro will then be subject to income tax and it would be a significant sum perhaps and it would be paid back to the Province. That could cause an increase in the cost of power so what we are suggesting is whatever income tax Hydro pays to the federal government and is rebated will be paid back, and from now on whatever tax Newfoundland Power pays to the federal government and is rebated would also be paid back to the consumers, in effect. It goes back to the companies but it goes back right to the base charge so that the cost of power to consumers is rebated.

AN HON. MEMBER: (Inaudible)

PREMIER WELLS: The Minister of Finance could probably tell me but he is not here. I will find out. My guess is, I think \$10 million or something we get back, \$10 or \$12 million. Maybe it is more than that.

AN HON. MEMBER: It was \$9.6 last year.

PREMIER WELLS: About \$10 million was right, \$9.6 million.

I would expect that Hydro would be significantly more than that, so what we are proposing, in order to ensure that it goes back to the consumers in a fair way, what we are saying is, the total amount that comes back to us will be rebated to the power companies in proportion to their extent of generation. In other words if Newfoundland Power generates 10 per cent of the power they get 10 per cent of the rebate and Hydro would get 90 per cent of it because they would generate 90 per cent of the power used in the Province, so in that way it goes right back to reduce the cost of power and goes right back to the ultimate consumer, so that rebate in tax goes right back to the consumer.

Now, on the surface that might make it look like it would cost the Province the loss of that \$10 million in revenue.

MR. SIMMS: It is the same consumer.

PREMIER WELLS: It would look like the provincial government would lose that much in revenue but the fact is a privatized Hydro would pay approximately the same to the Province so that together we would get out of provincial taxes about the same amount we are getting now from Power and the federal rebate in respect to Newfoundland Power at the moment. Give or take it would be neutral, perhaps a couple of hundred thousand less, or a relatively modest amount less. Give or take it would be neutral in terms of the provincial governmental revenue position, but the full rebate would go back to the consumer.

The final paragraph in the policy section - you will note in a subsequent section that the PU board is being given responsibility to ensure that planning for future power supply is done, and we are stating now that as a matter of policy, planning for future power supply of the Province shall not include nuclear power. We are saying to the PU board and those engaged in the electrical utility industry: in planning your power do not plan nuclear because we think the potential risks are too great and the costs are very high at the moment. If the circumstances change in the future that policy can always be changed, but for the moment we are saying to them: from now until you get direction otherwise, do not plan nuclear. Look at what has happened with Ontario Hydro, look at the mess they are in at the moment, partly because of their nuclear circumstances. We are saying to them for the time being there is no need to plan nuclear power, exclude it.

The next couple of clauses are pretty standard. I think they are in the act now. The next significant thing that I want to comment on is Part 11. Part 11 provides for the planning, allocation, and re-allocation of power and facilities. Section 6 is entirely new and it spells out that the Public Utilities Board will have the authority and the responsibility to ensure that adequate planning is done for future power supply. Each utility, it is contemplated, would do its planning and would be required to produce to the Public Utilities Board information on its planning and receive directions on planning from the Public Utilities Board. The whole of Section 6 deals with that.

Section 7 is entirely new and what it provides is that where any producer or retailer is concerned that it may not be able to generate enough power to meet the anticipated power needs of its customers, and its perspective customers, in the manner required by this act, that is the lowest possible cost power, it may request the Public Utilities Board to conduct an inquiry into that matter. The government could request the PU Board to do it, or the PU Board could do it of its own accord under subsection (3).

Then they are required, under 8(1) to hold a public hearing. So the whole matter has to come before a full public hearing so that everybody who has an interest in the cost of power in the Province has a means of expressing a view on how new future power supplies should be developed. That's part of the overall planning. Instead of it being done now, quietly, in Hydro's offices, or in government offices, or in the Department of Mines and Energy, it will be done in a way that has, in the end, to be very public and transparent, and require planning before the Public Utilities Board. This is what 8(1) requires.

Now subsection (2) is a very important section. It is entirely new, and what it provides is that: "Where, after the conduct of an inquiry, the Public Utilities Board is satisfied that a producer or a retailer is not or will not be able under the existing supply and allocation contracts or arrangements to satisfy the current or anticipated demands of its customers for power in the manner required by this Act" - and that's the key phrase, in the manner required by this Act - "the Public Utilities Board may, subject to subsection 11(3)" - and I will get to that in a moment - "allocate and re-allocate any or all power produced in the province and may order another producer or retailer to supply, upon those terms and conditions respecting rates, timing, duration and amounts that the Public Utilities Board determines, to the producer or retailer which would otherwise be unable to satisfy such demands for power that the Public Utilities Board considers to be necessary to implement the power policy... " of the Province; i.e., everybody in the Province having equitable access to power at the lowest possible cost.

Now where you have two utilities, as we would in the case of privatization, operating on an interconnected basis, particularly where one does 90 per cent of the generation and the other only does 10 per cent, and the distribution is reversed the other way, where you have that you have the potential for having great imbalance unless you have this kind of a clause. In any event, even without that circumstance, we think that this is a good, sound, basis for managing hydroelectric power in the Province. It's essential where the two companies will generate in that manner.

Subsection (3) provides also that it can cover facilities as well, distribution, plant, equipment and facilities, and order the use of that.

Subsection (4) would enable a company, not just in connection with getting additional power, but ordinarily to require that another company enable its facilities to be used in order to ensure fair transmission and movement of power throughout the Province on a lowest cost basis.

Subsection (5) is an important one as well. "A producer or retailer directed by an order made under subsection (2) to deliver power to another producer or retailer shall, within the limits of its capacity..."-et cetera-"notwithstanding that the producer or retailer may as a result have to reduce the amount, or cease the delivery altogether, of power then being supplied to another customer or the amount of power then being consumed for its own use." They shall comply with the order, notwithstanding that it may interfere with another arrangement, if the Public Utilities Board determines that that is what is necessary in order to ensure that the power policy that I've already described is met.

Section 9 deals with compensation (inaudible). What it provides specifically is that any person being directed to divert power to another user be compensated for the cost of that power, a reasonable allowance for the capital employed in the generation of that power, and the third thing is sort of peripheral, but it has to be fair. A customer of any company that was caused to divert power, or that company itself, may well have to cease to use a section of transmission line or distribution line because it can't any longer send that power, and it may have been designed or put in place simply for that purpose. For example, if the company were directed to divert power from Hope Brook, the cost of building that line into Hope Brook mines was exclusively for Hope Brook, if they were directed to divert that power to some other source then who is going to pay for the cost of that line? Whoever put that line in there is now -

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Well they made a contribution. Alright but I use that as an example assuming the Province didn't. It would be unfair to the owner of that facility simply to have it rendered useless. So they are entitled to be compensated for the un-amortized balance of the cost of that line on such basis as the PU Board would determine. The purpose of the act is to try and be fair. To give priority to the public but also to try and be fair to all parties involved.

Subsection (2), is really only consequential again in relation to the use of facilities and so on.

Subsection (3), deals with another problem. It may well be that where a power company is building a facility, a particular mortgage or security had to be given or assignment of power contracts had to be made, in order to get the money to build that facility. Well if the company were directed to divert that power they may not - this would affect the security and there is no longer a flow of money to protect that or the security, the contracts that were assigned had disappeared and been rendered valueless. So subsection (3), really enables the Public Utility Board to use its discretion and make it a condition of the diversion of power that comparable security be given to the party that lost its security. Again its simply an attempt to be fair to everybody involved.

Section 10, provides that there is no liability for compliance with the order. If somebody breaches a contract or fails to meet another obligation as a result of having to comply with the PU Board order, in this regard, there is no liability if the action is taken in the public interest. If it's essential and fair in the public interest.

Section 11, you will recall that there was an exception to what could be used, what could be re-allocated. It may well be that circumstances may exist that in order to raise the money to build, say, a new generating facility you had to give a mortgage or assignment of contracts are put in place at twenty year contract. In order to build a transmission line to a new paper mill or a new mine or something of that order, you may have to enter into a long- term contract to raise the money to do it. Well if that is necessary and if the Lieutenant-Governor in Council thinks that that is necessary then the Lieutenant-Governor in Council can issue a certificate to that effect or if the Public Utilities Board is of the opinion that it is necessary in order to raise the money to build such a facility, if the Lieutenant-Governor in Council thinks it's necessary in order to establish an industry in the first place to commit to a long-term power then there is a right in the PU Board to authorize a contract in excess of ten years but not exceeding thirty years.

Any such contracts, as may be especially licensed or permitted in that way, power under those contracts are not subject to the re-allocation. That is the only power that wouldn't be subject to the re-allocation. Everything else would be but anything that was done in that way specifically with the specific prior authorization of the PU

Board, where the license was given, that would not be subject to reallocation and management. In any event the term could not exceed thirty years.

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Yes, that would be subject to emergency. That is not exempt from the emergency provision but it would not be subject to general re-allocation for the greater good. If somebody commits, in order to build a new paper mill on the Northern Peninsula, to a supply of power for a twenty year period and people invest in the mill to do that and it is necessary to have that firm power there in order to get the mill there and the Lieutenant-governor in Council certifies it then the PU board can issue a license for that longer term but not exceeding thirty years. The companies can enter into contracts for up to ten years on their own but anything over ten years they have to have a special approval of the PU Board, but in the case of an emergency all that power comes under emergency management.

The next couple of clauses, 12 and 13, are sort of consequential clauses on the operation of those principles. You can see then that section 14 provides that: "This Part applies to all contracts for power generated in the Province whether the contracts for the power were entered into by producers or retailers before or after the coming into force of this act." So it does apply to all power in the Province.

Part III is the part dealing with an emergency. I've pretty substantially indicated the general nature of that. It provides that this Part applies to all power in the Province, whether it was given this special licence under section 11 or not. It is still covered under the emergency provisions and subject to the direction of the emergency power controller.

Section 16(1). Where the Lieutenant-Governor states or declares that a state of emergency exists, then the power controller comes into play and that power controller - and it may be one individual or it may be a committee of two or three. The statute provides for a person, but they tell me "person" includes many persons, or singular includes plural, so it could be a committee of three. So rather than make the act cumbersome with saying 'or a committee,' et cetera, they say all that is necessary is to do that. The Lieutenant-Governor in Council could appoint a committee. We would have to decide in the future which was the best way to constitute the emergency power controller.

That power controller basically has the authority, in 16(2) to: "(a) establish preferences and priorities between different users or classes of users; (b) allocate and re-allocate power and, if necessary, interrupt or decrease delivery of power...; (c) regulate, and if necessary, restrict and prohibit the generation, transformation, transmission..." et cetera; and finally, in (d), "do, or order or direct to be done, any other thing the emergency controller considers necessary for the proper generation, transmission, distribution, supply and use of power in the circumstance." I believe we need that to ensure that if we end up with a catastrophic circumstance at some time we can properly manage the power in the Province.

Section 17 is essentially only an elaboration and a spelling out of detail to ensure that nothing is missed on the powers of the electrical power controllers.

Subsection (2) spells out clearly the only preferences, and this doesn't exclude it absolutely, but it creates a preference. What it says is, notwithstanding subsection (1): "... wherever it is reasonable and practical, taking into account in particular public health, safety and security, consumption by a producer of the power it produces" - like the paper mill in Corner Brook or Grand Falls - "shall be the last, and power being delivered under a contract in respect of which a licence has been issued under section 11 shall be the second last, interrupted by the emergency power controller..." That is not to say they can't interrupt it, they can, but it says, leave those as the last to be interrupted.

Section 18 really only deals with the orders of the emergency controller and provides that they are to be obeyed and who is responsible, and it provides that there is no liability for compliance with the order. Section 20 also provides for fair compensation for disruption of power in those circumstances.

Section 22 really provides for a framework within which the existing situation can continue to exist unless the Public Utilities Board were to order otherwise, and it provides that it is the Public Utilities Board and not the Labour Relations Board that does it. The balance of section 22 is really primarily procedural and consequential.

Part IV deals with the question of governance of the utility companies. At the moment there is no restriction on who can own Newfoundland Power or Fortis, the parent company of Newfoundland Power. Any one individual or group of individuals could, for example, get control of that company tomorrow. There is no restriction on it. What this clause would do is put limitations on them so that there couldn't be control.

When we first talked about the possibility of privatization, the government considered the possibility of putting an absolute limit of 15 per cent on the interest in Hydro shares, that no ownership could exist beyond 15 per cent, and we talked generally about that in public comments that were made. Then, as we looked at it and merger wasn't to take place, we had to look at the situation where only Hydro would be limited in that way and that didn't seem quite the right thing to do, if there were two private utilities, they should both be treated essentially the same, so there should be the same limitation on Power and Fortis as there should be on Hydro. In fact, one shareholder has just over 16 per cent of Fortis shares now; It is OMERS, the Ontario Municipal Employees pension fund.

AN HON. MEMBER: Retirement Services.

PREMIER WELLS: Retirement Services. They have just over 16 per cent of Hydro now, so obviously, we either would have to grandfather OMERS, cause them to be reduced or take some other such action if we were to apply the 15 per cent. We could have said 17 per cent but that was sort of an unusual thing. We discussed it with the two companies and with the financial advisers and they said: Well, look, some provinces have 20 per cent as the control, why don't you simply go to 20 per cent? So we changed it from 15 per cent to 20 per cent.

The second thing that we did differently was, instead of putting an absolute prohibition on it - it is conceivable that maybe ten, fifteen, twenty years from now it may well be in the public interest to allow some investor or group of investors acting together, to own more than 20 per cent, if it is in the public interest, so what we have provided is a prohibition against it unless there is prior leave of the Public Utilities Board. Then we provide that the Public Utilities Board, where they feel that it would not be contrary to the public interest, may permit more than 20 per cent to be held by a person or a group; but it is only after a public hearing before the Public Utilities Board. And then, as sort of a safety, we provided in the end, that the Lieutenant-Governor in Council could override the Public Utilities Board. Because the Lieutenant-Governor in Council, of course, represents the elected body that acts in the interest of the Province, not the Public Utilities Board. But the Lieutenant-Governor in Council could only act after they had been through a full hearing before the Public Utilities Board. So we feel that that is probably, generally speaking, the best of both worlds.

On to section 24. We felt that the actual company that carries on the hydroelectric business should not be able to carry on other businesses or engage in other business activity that might jeopardize its financial security or imperil the assets, the hydroelectric assets. So, sub-section (1) of section 24, provides that 'a retailer shall not engage or invest in or carry on any business or activity other than the business of the production, transmission, distribution or retailing of power and the business or activity that is generally related to it.' So, a power company like new Hydro or like Newfoundland Power could not engage in that business.

Now Fortis could, because, of course, it is the company that owns 100 per cent of the shares of Newfoundland Power, but they couldn't pledge the assets or imperil the assets or put the financial viability of the company in jeopardy by causing it to undertake business activities that -

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Pardon me?

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: I don't know that they are operating in the name of Newfoundland Power, I wouldn't think so - but maybe they are, I don't know.

AN HON. MEMBER: But Newfoundland Power is certainly 100 per cent owned by Fortis.

PREMIER WELLS: Yes.

AN HON. MEMBER: And Newfoundland Power (inaudible).

PREMIER WELLS: Yes, but that doesn't jeopardize the financial security of Newfoundland Power, it is independent. It may jeopardise Fortis if they did, but I think Fortis made money. Some of Fortis' operations may or may not have made money.

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Well, that is not my understanding.

AN HON. MEMBER: (Inaudible).

PREMIER WELLS: Yes, I will. Fortis Trust or Fortis Properties may have lost money but Fortis Inc. has not lost money. Fortis Inc. didn't lose money, Fortis Inc. made what Newfoundland Power made, less what they lost in Fortis Properties or Fortis Trust. So, if that is what the directors and shareholders want to do with the shareholders' dividends on their investment, that is up to them. As a matter of fact, I say to hon. members, if that kind of structure exists I have no quarrel with it because they don't imperil the assets, and at the same time, they are using the substantial financial resources of Fortis for business investment in the Province. I would like to see it, and I don't mind if they lose money on their first venture, as long as, in the end, they work to making profits because we would like to collect a little bit of tax, too, from profits they would make. But I would like to see that because it helps strengthen our private sector economy.

AN HON. MEMBER: (Inaudible) Light and Power and they have spent it on all kinds of contributions, in charitable things and everything else within the Province.

PREMIER WELLS: But that is up to them. It is their shareholders' money. It is not the consumers' money. The point is, they could have simply paid out to their shareholders. They had a right to do that, but they didn't, they reinvested some in the Province and I say, well done. I hope they reinvest more, to be honest with you.

MR. ROBERTS: Fortis Inc., according to its statements, made \$30 million a year.

PREMIER WELLS: So that prohibition is there against the company actually engaged in the management of the power facilities from engaging in business that could put the power company into jeopardy.

Section 26 is a quirky thing that arises from the fact that there are a couple of operations in this Province that still have 50-cycle power, and the advisors tell us that there is presently a provision in the Hydro Act that provides for Hydro changing the 'periodicity' - if anybody understands what that means - the periodicity in alternations of current. I don't know why they didn't say 'frequency', but apparently frequency is something different. I don't understand how, but the word they use is the periodicity - that is, those companies that have 50-cycle power. Sometimes a converter is going to give out and they are going to have to change it and this authorizes them to do it and provides for the circumstances. It is essentially an incorporation into this statute of a provision that is presently in the Hydro Act, but it affects both companies, not just Hydro, because Newfoundland Power has a 50-cycle customer, too, in North Star Cement in Corner Brook, a 50-cycle customer of Newfoundland Power, although the power is supplied through Newfoundland Hydro.

The remainder of the act is essentially general provisions that I need not go into in any detail. It can be done in the committee stage. The final provision to which I would draw member's attention is section 34. Section 34 says that this act supersedes every other act ever passed by this Legislature to the extent that any other act may provide anything to the contrary. "An Act or contract, whether enacted before or after the commencement of this

Act relating to a producer or a retailer shall be read and construed subject in all respects to this Act, which in a case of conflict shall, notwithstanding a provision to the contrary contained in another Act or contract, prevail over a general or special Act enacted or a contract entered into prior to the commencement of this Act."

(2) "A contract referred to in subsection (1) includes a contract authorized by or entered into under an Act."

Well, Mr. Speaker, that is substantially it. It remains only for me to say that this statute, itself, in a sense, is not directly related to the privatization of Hydro except we couldn't really efficiently and effectively run two separate power companies in the Province without a controlled system of this nature in place. Whether there were privatization or not this, I think, would be a good piece of legislation, in any event, and I ask hon. members to consider that.

Tomorrow I intend to make my contribution to the second reading of the Privatization Act and I should tell hon. members why. I have to go out of the Province on Monday, Tuesday and Wednesday of next week to meet a prior commitment. The commitment was to address a major group of mining companies from all across Canada, in Toronto, and to address and meet with other companies on a business promotion effort in Toronto that unfortunately was scheduled at this time before the scheduling for this debate took place. So I have to be away and I felt it better to introduce the Privatization Bill even though we hadn't finished second reading on this bill at this stage, if we haven't by then. Assuming we don't, I felt it would be appropriate to get the second reading started on the privatization act while I could take whatever responsibility I have for the proposal by presenting it to the House.

I would ask hon. members to - and ask hon. members opposite to support second reading, to support this bill. I'm pleased to ask them, in moving second reading of this bill, I'm pleased to ask all hon. members to support it, because I think it is in the best interest of the people of this Province. Then, we can debate tomorrow what we do with the privatization of Hydro, and in days after that. That is quite another question. This piece of legislation, I believe, is clearly in the best interest of the Province and I'm pleased to ask hon. members to give it their full and wholehearted support. Thank you.

May I also say something else. Thank you for the very moderate level of interruption and interjection during the debate. I do appreciate it. Thank you, indeed.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Opposition.

MR. SIMMS: Thank you, Mr. Speaker. First of all, I want to apologize to the Premier for not being here for the early part of his comments. I got delayed over at CBC television doing a lengthy television interview about my views of the Premier. We had to do several takes.

AN HON. MEMBER: What was it, you didn't think much of him?

MR. SIMMS: No, I was -

PREMIER WELLS: (Inaudible).

MR. SIMMS: That's right. I'm not a harsh person like that. So I had to get them to do it over again, Mr. Speaker.

PREMIER WELLS: I should say to the hon. member, the media have asked me to come out and do the same, so I will have to leave during his speech to do the same thing.

MR. SPEAKER (L. Snow): Order, please!

I wonder if the hon. member could allow me to introduce the questions for the Late Show before he gets into his debate?