

**December 13, 1999 HOUSE OF ASSEMBLY PROCEEDINGS Vol. XLIV No. 51**

The House met at 2:00 p.m.

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

**Statements by Ministers**

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

**SOME HON. MEMBERS:** Hear, hear!

**MR. MATTHEWS:** Thank you, Mr. Speaker.

I am pleased today to read a statement that stands in the name of the hon. the Premier.

Sir Robert Bond stood in the Colonial Building to announce the construction of the Newfoundland Museum in 1905. It was in 1955 that the hon. Joey Smallwood stood in our former House of Assembly to announce the creation of the Provincial Archives of Newfoundland and Labrador. It was in 1961 that he stood in the same House of Assembly to announce the creation of the Art Gallery of Newfoundland and Labrador.

It is mindful of these historic precedents that I am proud to stand in this House today to announce that, a full ninety-four years after the first announcement and thirty-eight years after the last, the Government of Newfoundland and Labrador will construct a new facility to house our three heritage institutions: the Newfoundland Museum, the Provincial Archives of Newfoundland and Labrador and the Art Gallery of Newfoundland and Labrador.

**SOME HON. MEMBERS:** Hear, hear!

**MR. MATTHEWS:** This new building will be constructed at a cost of \$40 million and will be financed by the Province of Newfoundland and Labrador. It will be a state-of-the-art facility which will draw upon the latest technology, while its architecture will be rooted in our vernacular. We have decided to call the building The Rooms in order to reflect the tradition of building our fishing structures close to the water, close to the resources which has sustained Newfoundland and Labrador for centuries.

Mr. Speaker, the existing buildings which house our three institutions are no longer adequate to store and exhibit our heritage treasures. Many of these structures were built prior to the development of modern museum standards and others were never built to serve as heritage institutions. This is placing our natural specimens, our material artifacts, our archival documents, our films and photographs and our work of art in danger of deterioration and loss. This is cheating the residents of Newfoundland and Labrador. They deserve to have these treasures preserved for their children and their grandchildren. They deserve to be better able to enjoy these treasures today.

That is why we have taken this bold step to consolidate all these three heritage institutions into one building. This building will be constructed at Fort Townsend in St. John's on the site of the former military fort. I will draw your attention to one outstanding feature, among many others, and that is the building will have an archaeological dig taking place inside, even after the building is constructed, making it a rare and unique museum in North America for this type of archaeological program.

I would like to offer a special thank you to the Advisory Committee on Cultural Infrastructure, co-chairs Mary Pratt and Robert Jenkins and their dedicated team including Wayne Trask, Dr. Phil Warren, Art May, Robert Thompson, Clyde Granter, and Aileen O'Rafferty. This group consulted widely with the cultural community of this Province and developed the proposal we are announcing today.

**MR. SPEAKER:** The hon. the Minister of Education.

**MS FOOTE:** Mr. Speaker, I have no difficulty whatsoever meeting with the Avalon East School Board, just as I would meet with any other school board in the Province. I have met with the Avalon East School Board. I have met with the Chair of the Avalon East School Board. I will not meet with individual trustees. I will meet with those trustees as long as the Chair of the board is there because at the end of the day whatever I say I want on the record and not someone else's interpretation of what I have said.

I have no difficulty meeting with either school board in this Province, discussing with them what their needs and wishes are, but I will make it very clear to them that as long as we have a declining student enrolment, as long as we have needs in rural Newfoundland as well for money for windows, doors, roofs and you name it, then I am certainly going to consider that as much as I would consider building a new school in an area of this Province where we also have a significantly declining student enrolment, and where there is a perfectly good structure that already exists that can accommodate the students in the West End.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** A supplementary, the hon. the Leader of the Opposition.

**MR. E. BYRNE:** Thank you, Mr. Speaker.

I want to say to the minister that the school board will be happy to hear today that you will meet with the entire board, not the Chairman at certain conventions or here or there, but that you will meet with the entire board, I say to the minister.

**SOME HON. MEMBERS:** Hear, hear!

**MR. E. BYRNE:** I spoke to school board members today before I came here who said that the minister has not met with the school board since the spring, and that a committee of the board went in to meet with minister. She did not come to the meeting. She sent her officials to it. So I can take it from you, minister, is this the case?

**MR. SPEAKER:** Order, please!

The hon. member is on a supplementary. I ask him to get to his question.

**MR. E. BYRNE:** I can take from you today that you will meet with the school board as soon as possible to try to work out a viable solution for the people in the Avalon East School Board and, in particular, in St. John's West?

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Minister of Education.

**MS FOOTE:** Mr. Speaker, I have never had a request from the school board to meet with the entire school board since the request came in last spring when I met with them. I have met with the Chair of the board. I had a request to meet with one trustee from the school board which I refused to do without the presence of the Chair there. So yes, if the board requests a meeting with me to meet with the entire board, of course I will meet with them.

Mr. Speaker, if the viable solution is an additional \$2 million, \$3 million, \$4 million, \$5 million, or \$6 million, I don't have it to build a new school in the West End of St. John's.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for St. John's East.

**MR. OTTENHEIMER:** Thank you, Mr. Speaker.

Last November, Mr. Jim Thistle, the Province's chief negotiator on the Churchill River Development, told the CBC that agreements reached in negotiations with Quebec or Quebec Hydro, up to that time, were all subject to getting the transmission line. The words he used were, and I quote: Certainly contemplating having to have the transmission line. End of quote.

Is that still the position of government? I ask the minister: Will there be a deal with the Province of Quebec if there is no transmission line to the Island?

**MR. SPEAKER:** The hon. the Minister of Mines and Energy.

**MR. GRIMES:** Thank you, Mr. Speaker.

I apologize for a poor voice today. I have a little bit sore throat. I will probably keep my answers a little briefer as well.

The issue in the Labrador Hydro project discussions of a potential in-feed to the Island has never ever been a concern of the Government of Quebec and the Government of Newfoundland and Labrador. It is an issue that has been dealt with between the Government of Newfoundland and Labrador and the Government of Canada. There are still ongoing joint assessments being done by officials from the Government of Canada and our own government, looking at particular models to see whether or not it is going to be viable or feasible to construct an in-feed at this point in time for a cost of some \$2.1 billion or \$2.2 billion.

Mr. Speaker, the understanding from the very beginning is that the project itself would not pay for itself unless we can come up with some kind of a significant contribution from the Government of Canada. That is where the issue still lies, between the Government of Canada and the Government of Newfoundland and Labrador, but it has nothing to do with whether or not the rest of the deal is finished with the Province of Quebec.

**MR. SPEAKER:** A supplementary, the hon. the Member for St. John's East.

**MR. OTTENHEIMER:** Thank you, Mr. Speaker.

One of the great embarrassments for this Province with the Upper Churchill contract was that the contract was made subject to Quebec law and the Quebec courts. In terms of the law, we surrendered sovereignty over our own resource.

You promised at the beginning of the current negotiations that all agreements and contracts would be subject only to the law, to our law, and to our courts. Is that still your position, I ask the Minister? Will any part of the agreements being negotiated with Quebec and Quebec Hydro be subject to Quebec law and/or the Quebec courts?

**MR. SPEAKER:** The hon. the Minister of Mines and Energy.

**MR. GRIMES:** Thank you, Mr. Speaker.

That remains the position of the government in these discussions. Any particular arrangement, such as the guaranteed winter availability contract or the recall of the 130 megawatts of power which has already occurred and already benefitted the Province some \$60 million in cash over the last couple of years and over the life of the existing power purchase contract, will benefit the Province an additional \$1 billion above and beyond what was contemplated in the 1960s contracts.

When there are adjustments to the existing power purchase agreement, they continue to be judged by the current prevailing law, which is the laws of Quebec. For any new arrangements, the understanding is fully that for any new arrangements the law applying will be the laws of Newfoundland and Labrador.

Here is part of the bill that to this day, I believe, the Province of Quebec and Quebec Hydro have a problem with. It is called the allocation and reallocation of power. Part II of the bill applied to all power purchase in the Province and to all contracts for power generated in the Province, whether the contracts were entered into before or after the coming into force of this act, where or where authorized by or entered into under the act. In other words, that the Upper Churchill contract would not supercede this legislation. Right? The Public Utilities Board would have all power over the allocation and reallocation of power. The Public Utilities Board, when on, could allocate any or all power produced in this Province, or reallocate power from one producer to another, on terms and at rates set by the board if it determined that a utility may not be able to meet the current or anticipated demands of its customers in the Province.

So if there was a need for more power in Labrador then the Public Utilities Board would have the power, according to this act, to take back power from the Upper Churchill, basically negating - according to this act, what we passed here, according to the wisdom and the logic of the day - any existing contracts with Quebec Hydro, and that it could reallocate that power within the Province where it saw fit, and that the supply of electricity may not meet the current or anticipated amount of power in the Province, et cetera.

That is what the legislation is right now. Now in introducing the bill - and this is an opportunity to speak on the title of the bill; we will get an opportunity in clause by clause in a moment, and I am looking forward to hearing what the Minister of Mines and Energy has to say. This legislation that we are looking at now could have easily been brought in a year ago. Government had stated its intention that it was not going to get into privatizing hydro or privatizing rivers, et cetera but now it needs this bill in the last week of the House of Assembly, supposedly, for the fall sitting. I am reminded of what the Member for Cape St. Francis said earlier tonight before supper when he was on his feet. He said: It is in the dying weeks of any session that you have to watch for legislation that has a twist, that has a turn, where all does not seem what it appears to be. I certainly cannot point my finger to this legislation and say that it meets your criteria but it is coming pretty close. For example, in the bill it says in clause 1:

“The Electrical Power Control Act, 1994 is amended by adding immediately after section 5.1 the following: 5.2 The Lieutenant-Governor in Council may exempt a public utility from the application of all or a portion of this Act where the public utility is engaged in activities that in the opinion of the Lieutenant-Governor in Council” - which means in the opinion of Cabinet, which ultimately means in the opinion of the Premier; that is what it means - “as a matter of public convenience or general” - here is an important word - “policy are in the best interest of the province, to the extent of its engagement in those activities.”

What are those activities? We passed this legislation. The Electrical Power Control Act, 1994 is amended, basically negating and putting us back to where we were. It also eliminates, in my view, the contentious point at the negotiating table right now with Quebec Hydro. When this legislation passes, or if it passes, then we have given to Cabinet the opportunity to exempt any or all portions of CF(L)Co., of the operations concerning power control in this Province, the allocation and reallocation of power, to circumvent all of that from the Public Utilities Board and put it in the hands of the Lieutenant-Governor in Council, for which they deem will be in the best interest of the Province. It says: “general policy are in the best interest of the province” - decided by Cabinet - “to the extent of its engagement in those activities.” Engagement in what activities?

There can be only one activity that this bill is talking about, only one, and it is dealing with the current set of negotiations surrounding Quebec Hydro and Newfoundland and Labrador Hydro. The existing framework agreement that was announced in 1998 now is off the table. Major modifications to that. I recall standing in the House a week after that was announced and the Premier pushing everybody on this side: Do you support the framework? We said we could not embrace it at the time nor could we tear it down because we would like to see the final deal. Had we said we supported it today we would be talking about a completely different agreement. There have been revisions on the St. Jean and Romaine, there have been revisions on government's view and stated policy view of a transmission line, but this bill could only be aimed at one set of circumstances: the current set of negotiations between the Province of Newfoundland and Labrador on the Lower Churchill and the Province of Quebec and Quebec Hydro.

Mr. Chairman, I will sit down for a moment and let the minister respond for some time and we will engage others in a clause-by-clause debate, if necessary.

**CHAIR:** The hon. the Minister of Mines and Energy.

**MR. GRIMES:** Thank you, Mr. Chairman.

Again, in the wording of the amendment of the notice of the notion of exempting a public utility from the application of all or a portion of this act where the public utility is engaged in activities, and the key to it, that in the opinion of the Lieutenant-Governor in Council, as a matter of public convenience or general policy, are in the best interest of the Province. The qualifier is, it is not an intention, particularly with the Public Utilities Act, to exempt from full scrutiny of the Public Utilities Board for rates and other purposes; only that if, in fact, now - and the (inaudible) force I think I answered today is that I actually have a written notification from Newfoundland and Labrador Hydro that in the next short period of time they expect there may be a possibility of being short of electric energy in Newfoundland and Labrador and they would like to go ahead in their case with Granite Canal. Fundamentally, under the current legislation, we cannot give approval to Hydro to go ahead with Granite Canal. We would have to go and do a call for proposals again.

**MR. E. BYRNE:** Does the same logic apply to the development of the Lower Churchill that you are using for Hydro's expression of interest on the Granite Canal?

**MR. GRIMES:** Yes, Mr. Chairman, at some point; but you have to remember, with respect to the Lower Churchill, the bringing on stream of the power, if we are successful in signing an MOU this year, meaning in 2000, we would have a project that would start construction in 2003 and would be commissioned in 2008 or 2009. So we certainly would not need any exemption in the short order to look at that and we would not even be in a contractual position to go ahead with the Churchill Falls, the Lower Churchill development, for another couple of years or so. We might sign an MOU, but there would not be any actual commitment to the project for another couple of years while engineering and design was going on.

We are in a circumstance where a couple of things that I have referenced: Hydro itself, in looking at Granite Canal, and a couple of the paper mills, in looking at trying to own source their power, have electrical energy from their own sources with co-generation plants at the mill, the only way we can do that today without this exemption is again to have a call for proposals where anybody and everybody... The notion that we went through the last time, you would have to identify how much electric energy you would like to have produced, whether it is 40 megawatts, 100 megawatts, 200 megawatts, and then give a call to the public to say: Who wants to produce this amount of energy, by what source and mechanism, and let's have a cost analysis done by the PUB.

The notion is that there is certainly an indication from our utility, from Hydro, that they need to have approval to go ahead very early in the next year because it will be a two-and-a-half to three-year construction project for them so they need sanction so they can go ahead and call some tenders and contracts for Granite Canal early in the year 2000 so we can have additional power on stream at the end of 2002 or the beginning of 2003.

That is really what is driving it and I can even share with the Leader of the Opposition the official notification, if he would like to see it, from Hydro, that we may actually be short of power a couple of years out.

**CHAIR:** The hon. the Leader of the Opposition.

**MR. E. BYRNE:** Thank you, Mr. Chairman.

I accept the explanation. If this is not passed, I would like to ask the minister this question: How long would it extend? What sort of repercussions would Hydro and government, as the owner and operator of Hydro - what sort of repercussions does the present legislation, without this being passed... What sort of repercussions would the development of that project, as you just described it - what would happen if the legislation, as it currently exists, is not amended? What would be the process, and what would be wrong with that process, from the point of view of government and from the point of view of Newfoundland and Labrador Hydro?

**CHAIR:** The hon. the Minister of Mines and Energy.

**MR. GRIMES:** Nothing really particularly wrong with the process, Mr. Chairman, because we went through the process a year or so ago before we then brought in a moratorium on small river hydro; because, when the last call for proposals went out, there were something like nine or ten different proponents that came forward. Several of them wanted to do small river hydros. There was a wind power expression of interest as well, and they were all rated by the PUB. The Granite Canal one, which is the current watershed from which Bay d'Espoir operates, the same river system, I think it is around thirty, thirty-two, thirty-five maximum in terms of megawatts, and that is the range they expect they may be short within three years with the current growth rates and predictions.



The notion is that you would have to go through a fairly complex, costly, time-consuming process and then not necessarily end up with Granite Canal, although the last evaluation showed it to be the least cost-effective one.

In the meantime, if there is a shortage between now and then, the only other choice for Hydro, with its mandate to provide electric energy in the Province, is to fire up the Holyrood plant with diesel and Bunker C, which nobody really wants to do except in emergencies as is done now. They have capacity at Holyrood but they certainly do not want to be in a position to use Holyrood for anything more than emergency backup and for superload situations, which is what they use it for today. So really we are trying to accommodate, more than anything else, the request from Hydro to go ahead and short-circuit and go back to what was done before, which would have been done prior to 1994. We just would have said: You have a hydro project on the books. It is almost practically designed. They have indicated to the government they need the power and they would like to go ahead now and do sanction early in the year 2000 so they can have it completed by the end of 2002.

A bill, "An Act To Amend The Electrical Power Control Act, 1994 And The Public Utilities Act." (Bill 51)

On motion, clauses 1 and 2, carried.

Motion, that the Committee report having passed the bill without amendment, carried.

**MR. TULK:** Order 21, "An Act To Amend The Wilderness And Ecological Reserves Act." Bill 30

**CHAIR:** "An Act To Amend The Wilderness And Ecological Reserves Act", Bill 30.

Clause 1?

Order, please!

The hon. the Member for Signal Hill-Quidi Vidi.

**MR. HARRIS:** Thank you, Mr. Chairman.

I am not going to reiterate all the remarks I made at second reading on the report card that this government got on its failure to act on its commitments to the Canadian division of the World Wildlife Fund to set aside nineteen unique ecological zones by the year 2000. Matters that were commented on by the Premier of this Province and by the former Premier of this Province, by the current Minister of Mines and Energy, by the present Minister of Tourism, Culture and Recreation as achievable goals but ones that this government has yet failed to achieve. I wonder, is there anybody on the government side prepared to respond to the remarks that were made, respond to the -

**AN HON. MEMBER:** What was the grade?

**MR. HARRIS:** D+.

Mr. Chairman, perhaps the Member for Twillingate & Fogo would want to go back to school and see if he can get better marks than he got the last time. His government is not doing very -

**AN HON. MEMBER:** (Inaudible).

**MR. HARRIS:** His government is doing poorly. Maybe if he were in the Cabinet the government would be doing better. I will give him that much, but perhaps someone who is in the current government can answer for that government and explain why it is that this government has failed to set aside the areas of unique ecological interests and importance, as they had committed themselves to do. Why is it that this Province is last in the preservation of, or setting aside of wilderness areas? We are at 1.8 per cent of our land mass. Other provinces such as Ontario are 8.8 per cent. British Columbia is at 11.3 per cent. The goal was that countries, provinces and states would set aside 10 per cent of their land mass as wilderness zones for protected areas. This is a laudable goal. It is an achievable goal. We want to make sure that our environment is preserved for generations yet to come, and the only way we can do that is to act now.

I wonder if someone from the government can respond to the concerns that I have expressed on behalf of those interested in preserving our environment for our children and our children's children so that they, too, can have access to wilderness and that we can maintain the unique plant life and preserve and protect the animal species that are threatened by loss of