

James Bay

Bourassa's Nemesis

By SUSAN MILLER

Any discussion of the James Bay project is a discussion of party politics.

James Bay was a decision made without complete technical studies, without a basic ecological survey, without consultation with experts who could have foreseen problems and modified the project accordingly. Why was it made at all?

Premier Bourassa had his back up against the political wall in the earlier days of 1971. According to newspapers in Quebec at that time, he was under criticism from both intellectual and nationalist elements for his failure to cut down on unemployment, for the ever present social tensions and economic hardships in the south of Quebec. He needed to excite the people, revitalize the Liberal Party, surprise his opponents and put them on the defensive. One night at a Liberal Party rally, he dramatically broke the news to his party members. The amount of information he subsequently gave to the press, the public and the other political parties was minimal. The amount of information he gave to the native peoples was nil.

He made politically dangerous mistakes from the beginning. His opponents demanded information on financing, and on customers — he had no firm financial backing, no guaranteed customers despite his many trips to the United States. His opponents demanded information on the necessity of the JBDC, questioning the political and legal implications of a municipality under five people covering so much territory, and Hydro-Quebec's lack of controlling interest in the corporation. Again, he had no answers, although speculators quickly supplied some. It was assumed that Bourassa feared Hydro-Quebec; a rich and powerful corporation whose political influence might become unbearable should it gain controlling interest in the JBDC. Most of all, his opponents questioned the value of the hydro project when compared to the economic damage to Quebec resulting from massive influxes of foreign capital.

The commitment of so much money to one remote area was highly questionable, since only temporary jobs would be created, and the resulting power would probably not be competitive in price to either Churchill Falls or nuclear power.

In other words, it promised no long-term benefits to the people of southern Quebec, and a kind of cultural genocide to the people of the north.

Much of the land in northern and central Quebec did not come under provincial jurisdiction until 1971, when the federal government ceded the territory to Quebec under the Quebec Boundaries Extension Act, with the stipulation that settlement or development could not be undertaken until the provincial government obtained "surrenders of Indian rights in the same manner as the Government of Canada" — by treaty. No recognized treaty

concerning any of that land has been negotiated so far.

The Dorion Commission, appointed by the Quebec government in 1971, declared that the Cree Indians have "effective and incontestable rights over the greater part of the territory of Quebec." Recognition of these aboriginal rights meant that the Indians and Inuit could use the land as owners of the property, but could not destroy the land. It was noted, however, that these rights were largely limited to hunting and fishing for subsistence. Negotiations to discuss land rights, based on the findings of this commission, were to start in 1971, but Premier Bourassa announced the project before they could begin.

Premier Bourassa, in the first flush of success during the Quebec election campaign in which he adopted "Bourassa builds" as his slogan and promised Quebecers an extravagant 100,000 jobs, established the James Bay Development Corporation to undertake the systematic development of the natural resources in the James Bay area. The mandate of the Corporation allows it to form subsidiaries for exploring and exploiting the oil, mineral and forestry resources of the region, collaborating with government organizations already present in the area. An administrative subsidiary of Hydro-Quebec, the James Bay Energy Corporation, is charged with developing the La Grande hydroelectric complex.

Upon a closer look, Bourassa's technical triumph of the century appears to be controlled by the corporation of the century. The JBDC's mandate extends to the establishment of transportation and communications networks in the area which covers 135,000 square miles of the province. The responsibility of increasing tourism also falls to the JBDC, with its subsequent requirement of improving existing facilities and creating new ones. Finally, the JBDC is expected to promote small industry in the project area, and is now concentrating upon carved handicrafts and weaving. Yet the Act also requires the JBDC to take all necessary steps to protect the environment, and respect native rights in the area. Herewith we seem to have the Godfather of northern Quebec.

Considering there is an indigenous population of Cree and Inuit in this area, whose previous contacts with the Great White Society have served only to disrupt their cultural continuity and alienate them still more, the effects of such a corporation faithfully executing their mandate without native involvement in the decision-making processes are many, complex and generally negative. This situation will be elaborated later on.

The Indians of Quebec Association had formed a James Bay Task Force in anticipation of negotiations with Quebec concerning the land. They had received \$250,000 from the federal government to research the question. They were

subsequently informed that the land was not negotiable. Upon the intervention of the federal government, talks between the provincial government and the native people were initiated, only to break down in October, 1972.

The Indians of Quebec Association then joined forces with the Northern Quebec Inuit Association, raising approximately \$100,000 from a national campaign to take their grievances to court. It was not their aim to quash the project forever, but to halt construction until a compromise could be negotiated between themselves and Bourassa's government.

Their case was based on two points: 1) that the bill establishing the JBDC (Bill 50) was unconstitutional because it overstepped powers reserved exclusively to the federal government by the British North America Act; 2) that they had title to the land under the Quebec Boundaries Extension Act of 1912. The latter claim had already been substantiated by the findings of the Dorion Commission.

Paragraph 36 of their petition to Quebec Superior Court Judge Albert Malouf states: "Respondents intend to flood some 3,377 square miles in the territory, divert the waters of at least three rivers, alter the seasonal pattern of water flow in the La Grande River, destroy the spawning areas of the fish, flood the nesting sites of the wild fowl and habitats of fur-bearing animals, change the migration routes of the caribou, thus leading to a depletion of the subsistence food resources upon which the petitioners depend."

It amounted to a blanket condemnation of the project, and of the corporation in its present form. Judge Malouf conducted hearings for six months, calling the case one of aboriginal rights and consequently ignoring the cries of financial ruin to the corporation if the project were halted. Yet the corporation was confident enough of the outcome to carry on with construction throughout the proceedings. Five months of deliberation followed the hearings, then Malouf announced his decision.

Bourassa and his pet corporation were stunned at the outcome. It was hailed as a moral as well as a legal victory for all native peoples currently attempting to negotiate their aboriginal rights. Malouf declared that the corporation "cannot develop or otherwise open up these lands for settlement without prior agreement of the Indians and Eskimos." His opinion of the La Grande complex was bitter and succinct — "the land will be devastated, the animals will die, and the way of life of the Indians and Eskimos since time immemorial will be destroyed."

The temporary injunction turned out to be far more temporary than anticipated. The JBDC was losing millions of dollars each day of the injunction, although some reporters present in the project area could see no evidence of a work halt. The case was hastily brought to the Quebec Court of Appeal, which quickly suspended the