

Legislative Assembly of Alberta

Title: **Wednesday, March 5, 2003** **8:00 p.m.**
 Date: 2003/03/05
 head: **Government Bills and Orders**
 head: **Committee of the Whole**
 [Mr. Tannas in the chair]

The Chair: Please be seated. Good evening. I'd like to call the Committee of the Whole to order.

Bill 11 Auditor General Amendment Act, 2003

The Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for Edmonton-Beverly-Clareview.

Mr. Yankowsky: Thank you, Mr. Chairman. I rise to move Bill 11, the Auditor General Amendment Act, 2003, in committee. We had three opposition members speak to the bill in second reading, and I have read through *Hansard* and pulled out all the questions that they had asked, and I would like to answer those questions at this time. The three members that spoke were Edmonton-Centre, Edmonton-Strathcona, and Edmonton-Gold Bar.

The first question was from Edmonton-Centre, and it was also followed up by Edmonton-Gold Bar, and it had to do with legislated oath of office. The question was, specifically: why will the oath be only similar to oaths of other offices but not exactly the same? I would like to answer that. Essentially, the oath would be the same as the oaths required of the Information and Privacy Commissioner and the Ethics Commissioner. So I just can't see that there's going to be any great amount of difference except in name, but we will have to wait and see till that is published.

The second question that Edmonton-Centre had was: what's the concern in asking that the Auditor General not disclose any information? I would like to answer that in some detail. Information in the custody or under the control of the Auditor General should not be disclosed outside the provisions of the Auditor General Act. The ability to maintain strict control over confidential client information allows the Auditor General to properly consider and vet his recommendations and reports before they are disclosed to the public.

Recently, attempts have been made under the *Alberta Rules of Court* and the federal Bankruptcy and Insolvency Act by private parties to gain access to confidential information held by the Auditor General. In one case the Court of Queen's Bench has ruled against disclosure; however, this decision may be appealed. Future cases are anticipated, so these applications underscore a need to make it clear that the Auditor General maintains strict confidence over client information obtained during audits and special duties subject to the Auditor General's duty to report to the Assembly under the Auditor General Act. The Auditor General should not be compelled to disclose confidential audit information in any court proceeding. Information supplied to the Auditor General in confidence should be privileged similar to information obtained by the Ombudsman under section 25 of the Ombudsman Act.

Another question that was asked by Edmonton-Centre was in regard to: does Bill 11 restrict the Auditor General's power or duty to provide information to the Public Accounts Committee? I would have to answer: no. Bill 11 does not restrict the Auditor General's power or duty to provide information to the Public Accounts Committee. Section 26 of the Auditor General Act ensures that the Auditor General will continue to provide information to the Public Accounts Committee.

Another question by Edmonton-Centre was: why are the warrants for the fiscal year in which the special warrant is signed to be deleted from section 12(5) of the Auditor General Act? Well, currently a special warrant can be issued for the office of the Auditor General only after the beginning of the fiscal year to which a special warrant relates. In some cases after an election special warrants for government departments may be issued for interim supply a few days before the beginning of a fiscal year. This is a technical amendment that will harmonize the office of the Auditor General with government departments.

Another question from Edmonton-Centre. It was more of a comment, but I did pull a question out of there I think. It had to do with: does the amendment to section 14 of the act give the Auditor General additional access to information held by a Crown controlled organization or a delegated administrative organization? Section 14 ensures that the Auditor General has access to audit information held by all organizations of which he is auditor whether he is appointed auditor by statute or by other means as permitted under the act. These organizations currently include regional health authorities and several other organizations closely associated with RHAs or public postsecondary institutions. This could include other Crown controlled organizations and delegated administrative organizations if the Auditor General was appointed as their auditor, but that is not presently the situation.

The second-last question from Edmonton-Centre, and again it was more of a comment than a question, but I think there was a question in there: does the proposed section 14(2) exclude previous Auditors General or employees of the office of the Auditor General from giving audit evidence to the current Auditor General? Important evidence from these individuals is likely already in the Auditor General's possession but, yes, the amendment will allow the current Auditor General to consent to the examination under oath of a former Auditor General or employee of the office of the Auditor General. As I mentioned earlier, the main purpose of the proposed section is to prevent the disclosure of confidential audit information to others when it would be inappropriate to do so; for example, a private, civil litigation trying to get information from a former Auditor General or staff member.

Another question from Edmonton-Centre: does Bill 11 make the Auditor General auditor of more Crown corporations? I would have to say: no. The Auditor General would continue as the auditor for ministries, departments, regulated funds, provincial agencies, and other organizations as permitted under the act. These amendments do not change the organizations which are audited by the Auditor General.

We had a question from Edmonton-Strathcona in regard to noncompellable witnesses and, more specifically, the reason behind the proposed section 14(2) in regard to noncompellable witnesses. In 1999 and 2000 private parties attempted to gain access to confidential audit information held by the Auditor General. In one case the courts ruled against disclosure. In the other case issues were resolved without disclosure by the Auditor General. The proposed amendment would ensure that the Auditor General maintains strict confidentiality over client information obtained during audits and special duties subject to the Auditor General's duty to report to the Legislative Assembly under the Auditor General Act.

So I want to thank the opposition for their comments, their questions, and I hope that I have answered them sufficiently.

8:10

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Thank you very much, Mr. Chairman. I would

like to express gratitude to the hon. Member for Edmonton-Beverly-Clareview for his clarification on the questions not only from myself but also from the hon. Member for Edmonton-Centre. I appreciate it.

Certainly, when we look at this bill section by section and the fact that in section 2 we're establishing that the Auditor General must take an oath of office which is administered by the Speaker of the Assembly or in the absence of the Speaker, I believe, the Clerk, one can certainly live with that. The Auditors General, whether it's the present one or previous Auditors Generals or an Auditor General yet to be named at some point in the future, are all bound by a professional code of ethics, and certainly I think that is necessary, but if this Assembly feels that an oath of office would make everyone more comfortable, then fine.

Now, section 3 is clarification of language, as I understand it, and we are removing the Lieutenant Governor in Council, and we're replacing that directly with the Executive Council and the president of the Executive Council. That is our hon. Premier, the Member for Calgary-Elbow. So, you know, there doesn't seem to be much of a change there, Mr. Chairman, but some of the other changes that have been made: I think one should go on the record and talk about them at this time and see if there are any other questions from anyone.

Before there are questions from anyone, I should say, Mr. Chairman, particularly in dealing with section 7 . . . This section adds new reporting provisions. Now, the Auditor General in performing special duties as required by the Assembly is required to give the report to the chair of the committee, who must lay the report before the Assembly immediately if it is in sitting or within 15 days after the session starts. The president of the Executive Council also gets the report and on three days notice to the Speaker will give all members a copy of the report. When distributed to the members, the report is then made public.

There are similar provisions, I believe, in the Ethics Commissioner's governing legislation. I would like to know if this has been followed letter for letter. Are these the same steps that the Ethics Commissioner would make in a report, or is there something different? What would be the reason that we need this, because certainly in section 20 of the current Auditor General Act

the Auditor General may prepare a special report to the Assembly on any matter of importance or urgency that, in the Auditor General's opinion, should not be deferred until the presentation of the Auditor General's annual report under section 19.

Also, section 20 here, Special Reports, subsection (2):

A report under this section must be presented by the Auditor General to the chair of the Select Standing Committee who shall lay the report . . . forthwith if it is then sitting or, if it is not sitting, within 15 days after the commencement of the next sitting.

Now, this has to be an addition or a strengthening of the current section 20, as I'm reading this. I see the hon. Member for Edmonton-Beverly-Clareview nodding his head, and that is quite interesting, and I believe it is noteworthy.

There are certainly already provisions in the act for the establishment of audit committees, the meeting of audit committees, the scope and the results of an audit, and the Auditor General in this province certainly has a lot of work to do with the increase in spending that has gone on, Mr. Chairman. It is noteworthy that we have seen a 50 percent increase in spending in this province. We've seen the cabinet expand from 16 to 24. It wouldn't surprise me to open the *Edmonton Journal* or any other paper – the *Edmonton Sun*, as a matter of fact – on a Saturday morning and see where the Auditor General is looking for more staff because there is going to be a lot of work to do. [a computer sounded] I believe that computer agrees with that last statement, by the noise it's making at least.

The office of the Auditor General is perhaps, Mr. Chairman, one of the most important offices, and when we look at the role the Auditor General can play in ensuring that every tax dollar is spent wisely, it not only applies to other governments in other jurisdictions but this government in this jurisdiction as well. The Auditor General has to be, certainly, independent, but the Auditor General's office has to have respect from all citizens of this province, and I think this bill as proposed will enhance that respect even further. We have to ensure that there is accountability to the taxpayers.

In conclusion, Mr. Chairman, the Auditor General is no different than the former president of the United States of America, Harry S. Truman. The buck always stops on the desk of the Auditor General, and I think that through the efforts and the initiative put forward by the hon. Member for Edmonton-Beverly-Clareview, the Auditor General will have an easier job of making the buck stop at his or her desk.

Thank you, Mr. Chairman.

[The clauses of Bill 11 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

8:20

Bill 13

Government Organization Amendment Act, 2003

The Chair: We should ask the hon. Member for Calgary-Bow to speak to the questions that were asked in second reading. I think that is the usual.

Ms DeLong: Thank you very much, Mr. Chairman. There was a request during second reading for more information on the security of the identification cards, so I have some information here for the House. The current identification card is identical to the current driver's licence and has the same security features. The only difference is in the title of the card and the colour of the background. To obtain an identification card today, a person must prove their identity by producing one primary and one secondary piece of identification. If a person does not have primary identification, then two pieces of secondary identification will be required. Examples of primary identification are a passport, government identification card – provincial, territorial, or federal – and citizenship certificate. Examples of secondary identification are birth certificate, credit card, social insurance card, work visa, or marriage certificate.

Registry agents who suspect that fraudulent identification is being presented will not provide services and may notify the police. A person cannot have multiple identification cards nor can they have an identification card if they hold a subsisting driver's licence. This way, there is control over the number of cards in circulation, making it difficult for anyone to create multiple identities. Law enforcement supports this security precaution.

Hopefully, this will answer some of the questions that were raised during second reading. Thank you very much, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. Appreciate the opportunity to make a few comments about Bill 13 at the committee stage. The

whole notion of identity cards has drawn a lot of attention the last number of months from a number of different aspects.

One, there was the problem of high school students being able to secure identity cards and in some cases even drivers' licences through false means and to use those cards to enter bars, primarily, and I wonder if the mover of the bill feels that the security surrounding the issues of the cards is stringent enough to prevent that kind of fraud from happening. It's an issue with respect to, as I said, high school students and the kinds of activities that they use those cards for.

A second issue surrounds the whole business of the registries and how secure their operations are. We had the example in Edmonton of a registry being broken into twice within weeks of each other and the machinery and equipment for producing cards being stolen, and again it seemed to point to some weakness in the security system surrounding the issuance of those cards at the registries. So I have a question about the security with respect to that.

One of the clauses that, again, I wouldn't mind some comment on is the Crown absolving itself from any liability or loss or damage arising from card issuance. I would appreciate some comment on that and the relationship between the government and the issuing of the cards. It seems to me that with the amendment the government washes its hands of any responsibility for what might happen, and I wonder if that's really an appropriate action for the government to take with respect to the issuing of photo identification cards to Albertans who don't drive. I know that the government can't possibly be held responsible for the misuse of the cards, but I think they can and should be held responsible for making sure that in the first instance the cards are not produced and not issued to individuals that inappropriately try to obtain such an identification card. So those are a couple of issues that were raised as I looked through the bill.

I guess one of the other things that would have been interesting to see is the kinds of regulations that are being put in place around the bill, and again it's I think unfortunate that the committee on law and regulations no longer exists in this Assembly, as it does in many others across the land, where there would be an opportunity for those regulations to be presented to the committee and examined. As I said, the whole notion of identity cards has come into the spotlight since September 11 of last year, and I think there are more and more questions being raised about the possible abuses of those cards.

Thanks very much, Mr. Chair.

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Thank you very much, Mr. Chairman. I have a few observations I would like to get on the record in regard to Bill 13, the Government Organization Amendment Act, 2003, but at this time I would like to express my thanks to the hon. Member for Calgary-Bow and her staff for taking the time the other day to bring myself and the research staff up to speed in regard to the purpose of this bill, to allow Alberta Government Services to continue issuing photo identification cards to Albertans who don't drive. Certainly, Alberta Government Services is having a little bit of difficulty with providing that service to those who do drive. I hope this goes without any wrinkles because in my view there are problems that need to be addressed. I think the hon. minister is working very hard to address them, but I do have my concerns about some of the money and how it's being spent and whether or not we're going to have a tamper-proof driver's licence whenever all this is said and done.

At this point in time I think that whenever we consider having photo ID cards for people who don't drive, we think of students or we think of – one group that we do not think of is seniors, and some

seniors have for whatever reason never had a driver's licence. Certainly, if this ID is going to be sufficient, then I think this is necessary. I had some concerns – and they have been addressed – regarding the sale of bogus IDs. If we can be selling bogus drivers' licences, there's no reason why these cards, for instance, couldn't be sold at some point with alterations to underage drinkers, and the hon. Member for Calgary-Bow and the staff have assured me that they have programs and regulations that will take care of my concerns. If people are caught once at this, I think the entire licence of the registry office should be just simply pulled if this sort of action is going to be going on. That was one concern I had. One cannot be, I think, too zealous in protecting personal information.

Governments at all levels, certainly, may have the best interests of the citizens at heart, to protect the citizens from terrorist attacks, but to gather large amounts of private, personal information on individuals under the guise of protection from international terrorism, we have to observe this very closely. I would caution any government, whether it's the current provincial government or the federal government, to be very, very careful about this and not be tempted because a person's personal information – and that includes health information – is their business and no one else's. A computer hacker or anyone else, it doesn't – that's the hon. minister's business and not mine. I certainly am at this point, after the explanation I've had, confident that this photo ID system will not be abused, that it will not be abused in any way. I certainly hope that time will prove me right in this because it's apparent to me that the staff have done their work on this one.

With those remarks at committee, Mr. Chairman, I will cede the floor to another hon. member of this Assembly. Thank you.

8:30

The Chair: The hon. Member for Calgary-Bow.

Ms DeLong: Thank you very much, Mr. Chairman. Regarding a few of the comments from the Member for Edmonton-Mill Woods – you had questions about whether or not there would be sufficient security. This is always, you know, a question that people are struggling with, and it is something that we really do pay an awful lot of attention to. Unfortunately, it's true that registries have been burglarized just as banks have been burglarized. There are bad people out there, and all we can do is make sure that our security is as good as possible.

In terms of liability this is an optional card. It's not something that anyone has to get. It is very much just an optional card. It is very much a government card in that it's just an ID card. It's not something that we are sort of putting out there in the marketplace at all, so that's why we're limiting the liability on it.

Oh, in terms of the regulation, the regulation will be very similar to a driver's licence card, essentially all of the same regulations in terms of the identification that's required to be able to get it. It will be pretty well exactly the same as a driver's licence card.

I think that's about it. Thank you, Mr. Chairman.

[The clauses of Bill 13 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 3
Electric Utilities Act

The Chair: Are there any comments, questions, or amendments to be offered with respect to this act? The hon. Member for Edmonton-Riverview.

Dr. Taft: Thank you, Mr. Chairman. This my first opportunity to rise to address Bill 3, the Electric Utilities Act. Among the many bills that have been introduced so far in the Legislature, this is one of the biggest and most important, and it's one that will be getting a lot of attention, I think, from us and from the general public, so we might as well hunker down and get into the details here.

I suppose we should start the debate with a bit of perspective on the situation we're in now because Bill 3 is an attempt to get us out of a problem. It's too bad that we're in the problem in the first place, but we need to know how we got into the situation so that we can reflect on whether Bill 3 will actually help us get out of the situation.

Electricity, as all of us will see tonight as we look around the legislative Chamber and our offices and go to our homes and condominiums, where the heat is flowing and the light is on, keeps the modern world going. Without electricity there's no modern life. There are no computers; there's no electric light; there's no modern commerce: there's nothing like that. So we're dealing with something here that is of fundamental importance. We're also dealing with something that is unique. Electricity is a fantastically complicated thing, a fantastically complicated form of energy, and for us to manage it in the way that we do as a society is actually a great achievement for all of us.

The electrical grid in North America has been called the world's largest machine. We are linked across this country, across the continent, throughout Canada and the United States and into parts of Mexico, on one enormous grid that's divided into particular zones, but it is all interlinked one way or another, and the linkages and flows through that system are both enormous and extraordinarily sensitive. They're enormous enough so that they power huge factories. They draw from enormous power plants – coal-fired power plants, hydro dams, and so on – and they pour this electricity out across the continent through an incredibly complex grid system. That system, as large as it is, is very, very sensitive too, so when a factory, for example, gears up its equipment, drawing on the electrical grid, that draw can be sensed on the grid thousands of miles away.

The trick and the great achievement of the modern electrical industry is to keep that grid in balance. We all know that if we get too much power going onto a circuit, we can blow the circuit and it can all shut down. It's also the case that if there's too little power on a circuit, it will collapse as well, and of course a collapse, especially on a night like this when the temperatures are terribly cold, I think, right across Canada, could be catastrophic.

So we're dealing with something here that is essential. It has to be managed moment to moment. It's not at all like things that we consider typical commodities, whether that be grain or natural gas or coal or cotton or coffee or oil. Those things can be stored. We can build up supplies during the low season, draw them down during the high season. They can be shipped from one location to another. In many cases their forms can be changed. Electricity is not like that at all. We can't store it; the use of it has to be balanced exactly with the generation of it. So there's no possibility, for example, for us to generate a whole lot of electricity, say, in the fall or spring, when demand is lowest, and then draw that down in the winter. It just doesn't work that way.

So we have a product that's not a commodity. It's essential to modern life. Do you know what else? There's no substitute for it. We can't power our microwave with gasoline. We can't plug our refrigerator into the propane tank.

8:40

An Hon. Member: Yes, you can.

Dr. Taft: Well, okay; poor example. You can get a propane refrigerator, but you can't plug your television into a propane tank. You can't run your computer or your cash register in a business on anything except electricity. In fact, if you think about it, if you are running a business, whether it's an autobody shop or a dental office or a retail centre like a Wal-Mart, perhaps the one thing you could do without the least – in other words, the one thing that is most necessary – is electricity. If your phone system goes out, whether you're repairing cars or drilling teeth or selling ladies' wear, you can continue to function, but if the power goes out, the whole thing shuts down: your equipment shuts down, your security shuts down, your cash registers shut down. There is no substitute for electricity.

So for those reasons and others this is not a product that ought to be handled in the way that other commodities are handled. This is not a product that lends itself to market forces. In fact, there is a very good reason that we ended up with a regulated market in electricity. When electricity first was being used in North America, it was a free-for-all. Anything went. Anybody could start their own power company, run their own power lines, and as a result there was nothing short of a mess. It was extraordinarily inefficient. There were no standards. There were safety issues. There were supply problems. Prices were unstable; supplies were unstable. And while people recognized that this was an astonishingly useful form of energy, that usefulness was being profoundly compromised because it was just left open to the free market. So there was a public and business demand a hundred years ago to create a regulated electricity market.

You know what? We did a heck of a good job on this continent and especially in this province of developing a very effective, economical, and profitable regulated electricity system, and for decades and decades Canada in general and Alberta in particular enjoyed very fine electrical services. Consumers had low prices, safe services, and high reliability, and the electricity companies were profitable. It was win/win/win.

Alberta had some of the least expensive and most reliable electricity in the industrial world for decades even though our hydro sources are very limited. This was a great benefit for us. This was seen as a pillar of our economic development strategy. It was a policy that was supported actively by the government and by regulators and by consumers and business, and it was trumpeted. I know I read a lot of economic development material from this province which said that one of the great attractions to moving your business to Alberta is reliable, cheap electricity. So it was a building block of the economy of this province. Unfortunately, we've seen that building block pulled out from the foundation of Alberta.

One of the cornerstones of the electricity industry in Alberta was and actually continues to be the municipally owned power companies, especially EPCOR, which historically was one of the big three power companies in Alberta, along with TransAlta and ATCO. To a lesser extent, Enmax, the Calgary-owned utility, was a very significant player. It didn't own generation like EPCOR did, but it did service a large customer base very effectively.

So those companies have a long track record of effectively managing power, in EPCOR's case generating it very well. I don't know how many people are aware here of the farsightedness of

EPCOR and of its predecessor, Edmonton Power. It was in the late 1950s that Edmonton city council actually bought the rights to the coal in the Genesee area even though they knew that that coal and the generating stations they wanted to build there weren't going to be needed for more than two decades. They got ahold of the rights to that coal in the late 1950s and hung on to that through two decades before serious efforts were made to build the Genesee power plant. Thank goodness that city council in the 1950s was so farsighted and that city council in Edmonton in the 1980s was so farsighted to get those coal beds and to build Genesee. So these are companies with fantastic track records. These are companies that are well managed.

Before I became an MLA, I did a number of reviews of EPCOR, and it is – at least it was at the time; I have no reason to believe it's different – fundamentally a very well managed company. One of my concerns with Bill 3 is that these companies are going to be constrained, that these companies are going to be limited. The strength of these companies, which frankly have helped carry Alberta's two largest cities through decades and decades of growth and prosperity, is going to be diminished. I for one think we need to stand up and defend strongly the right of municipally owned power companies. So that's one of my concerns with Bill 3.

I gave a bit of history there, Mr. Chairman. I think we now need to look at the whole issue of what's often called deregulation, although I think that's a bit of a misnomer. The idea of deregulation is in some ways to take electricity back to the economics that existed when power companies were first developed and the whole notion of electrical power was first developed; in other words, back to the time when it was something of a free-for-all for power companies. Now, we all recognize that that's a bad idea, so there are enormous regulations under the so-called deregulated system. What this government has tried to do is take a product that is not a commodity and is not well suited to the marketplace and has tried to create an artificial marketplace, as it were. There are what economists call natural monopolies, and one of those, certainly, typically is considered to be electricity.

Well, we've taken a natural monopoly, and we're trying to create an artificial market out of that. We take something that should be handled as a monopoly – all its characteristics suggest that it's best handled as a monopoly – and out of, I guess, ideological commitment we say: "No. It's got to be handled as a market, so let's put in all kinds of laws and regulations to turn this into a marketplace." Ironically, we go from a regulated system in which there are a few hundred pages of regulations to a so-called deregulated system in which the number of regulations is about four times that amount. It's a mistake. It's a fantastic increase in the complication and inefficiency of the electricity industry.

8:50

Now, we could have and should have looked at experience in other jurisdictions when we got into the electricity deregulation business or the business of deregulating electricity. Let's look at what happened in some other jurisdictions when electricity was deregulated. Everybody here will certainly know of the experience in California, but California was actually nowhere near the first jurisdiction to get into electricity deregulation. Electricity deregulation actually began in its current form under Margaret Thatcher in the late 1980s and early 1990s in Britain. Britain had certainly a more expensive power system than Canada did at the time. Britain relied very heavily on coal. One of the problems with the coal industry in Britain is that because of the political power of the coal miners, all kinds of steps were taken to artificially keep high the price of coal and keep high the demand for coal so that thousands

and thousands of coal miners and hundreds of mines could be kept employed. This put an artificial floor under the price of fuel for power plants and, as a result, kept the price of power high.

One of the things that was done in Britain – and I certainly remember the showdown between the coal unions and the Thatcher government. The Thatcher government actually set out to break the coal unions in Britain, and the effect of that was to help lower the price of electricity. But at the same time that that was happening, the electricity industry in Britain was being deregulated. A lot of people think that the price drops, which were pretty modest frankly, in British electricity were the result of deregulation. In fact, there's some very good evidence to suggest that they were the result of the drop in the cost of coal because of the opening up of the coal industry or the removal of the artificial supports for the coal industry.

When Britain deregulated, it faced much of the same controversy that Alberta faced several years ago and in fact is living through right now. Many industrial consumers of electricity were extremely, extremely unhappy with what happened with electricity deregulation in Britain. One of the problems they had was that there were wild swings in price. Well, that sure sounds familiar here; doesn't it? So, for example, it wasn't uncommon in Britain for power prices to swing upwards or downwards by 400 percent in 24 hours. We see swings far greater than that in Alberta these days. In fact, there were swings up and down of thousands of percent in just a few days, which led to stunning electrical bills in Britain, to industrial shutdowns, and in fact to bankruptcies. We could have learned that lesson here, and I'm afraid we didn't. I wish we had, because we should have stayed with the system that was in place up until the mid-1990s.

There was also very, very little consumer interest in shopping around for an electricity provider. Research has shown over and over in Britain and in the United States – and it's supported by experience here in Alberta – that people don't really want a whole lot of choice in electricity. What they want is cheap, reliable electricity. There weren't people protesting on the streets or writing letters to the editor under the old electrical system saying: gee, I wish I could buy my power from a different power company. People had excellent service. They were happy with it. It was not an issue. The only people or organizations – and I'll give them their due – who really wanted greater choice in power were the major industrial consumers. If there was one segment of society that has benefited from electricity deregulation, it may be – I say: may be – the really large industrial consumers. I would have liked to consider a different content for Bill 3, perhaps looking at, at least exploring the notion of a deregulated power system for the really major industrial consumers and a regulated system for the residential and small business consumers.

Anyway, the experience in Britain provided the swings, the instability. People didn't want choice. They found it fantastically complex. People didn't want salesmen coming door to door offering them power.

I'll take my seat, I guess, Mr. Chairman, and carry on later. Thanks.

The Chair: The hon. Member for Edmonton Mill-Woods.

Dr. Massey: Thank you, Mr. Chairman. I'd like to take the opportunity at committee to look in some detail at the particular sections of the act, starting with part 1, Interpretation, Application and Purpose. Part 1, of course, lays out the relevant terminology that is used throughout the act. On the whole, they remain similar to what we had before, with a few additions and some deletions.

But there are some important changes, Mr. Chairman, in this section. One of them is that the definition of an electric utility has been broadened to allow for the convergence of the natural gas and electricity retail markets, and that's important because it would allow one retailer to sell both products, which is quite a change. The definition of farm transmission costs, which deals with supplying electricity to rural electrification authorities, has been removed, and the definition of municipality has been expanded to include any Métis settlements established under the Metis Settlements Act. In addition, the definition of a power purchase arrangement has been added to the act, and the inclusion of this article now justifies the claim that we had no idea that Alberta's electricity-generating assets were going to be sold off when the government began its deregulation process back in 1998.

One further change of some import in this section is that the definition of retailer has been modified by removing the phrase "directly to customers" from the end of the definition, and what this means is that the definition of retailer is broadened by considering firms that provide any electricity services, even if those services aren't provided directly to customers as retailers. This change, Mr. Chairman, could potentially allow the government to artificially increase the count that they have of the number of retailers in Alberta, allowing them to claim that the new legislation is a success even though that in actuality may not be the case. So it's a clause that allows the government to do some fudging, should they wish to do so, in terms of the number of retailers that are or are not in operation in the province at a particular time.

Section 1(2) defines the different terms created by the Electric Utilities Act and where their meaning is derived. Section 1(3), subsidiary corporation, simply states that the Electric Utilities Act determines if a corporation is a subsidiary according to the Business Corporations Act. So a matter of definition.

An important section is section 1(4). This is where the Medicine Hat service area is defined. It lays out very clearly what is meant by the phrase: Medicine Hat service area. The definition of this area is really quite important to the remainder of the act because the area is often exempted or treated differently when it comes to various regulations. So when you read the act and you see the Medicine Hat service area, that has a very particular meaning with respect to the act. Furthermore, later parts of this act prevent the service area of Medicine Hat from growing any further. So that's an important point when you read the act, to see how the Medicine Hat service area is defined, the limits placed upon it, and the kinds of capabilities and constraints that are placed upon that area.

9:00

Sections 2(1) and 2(3) lay out the exemptions from the act. Alberta's deregulated electricity industry is really a unique industry in that it includes a number of city-owned utility companies, and thus far the municipally owned utilities have created a problem within the government's deregulation scheme because they have certain rights and privileges that others do not have. So you have EPCOR and Enmax with laws that govern their operations that other retailers don't have, and this section of the act guarantees these utilities certain privileges, and it also denies them others. I think it has to be noted that the only municipally owned utility that is completely exempt from this act is in Medicine Hat. So you look at the treatment of municipally owned utilities and they are treated differently depending on where in the act you find yourself.

Section 3 deals with the effect of the act, and the clauses contained under this section reflect the current policy of the government. It's important to note that this act clarifies that it is not necessary for market participants to divest assets as a result of any other clauses

that are present within the act. So some exceptions there that are important as we look through the act.

If you look at section 4, immunity for the Crown, no lawsuit can be brought before the Crown as a result of the changes to the electricity industry that are going to be made because of this act. This is a similar clause to the one that was found in the 1998 version of the act.

Section 5, the purposes of the act, lays out eight purposes of the act, including providing Alberta with an efficient electric industry structure, providing Alberta with a competitive power pool, providing Alberta with rules that would allow an efficient market to develop, allowing a flexible framework so that the market can guide decisions made about this industry, providing a range of choices for electricity customers, ensuring that the benefits and costs associated with the Balancing Pool continue to be shared, continuing with the power purchase arrangements, and providing a framework that allows for the efficient regulation of the electricity industry.

It was interesting in the briefing for the act, an outline for electrical restructuring that is similar to the vision that was outlined in the last act – and this vision remained the same or somewhat relevant. However, there's no mention about protecting the interests of customers or about providing consumers with the lowest possible cost of electricity.

This, Mr. Chairman, was a point that was important to us when we supported the reasoned amendment earlier in the day in discussion and debate, that the focus of the act seems to be on fostering competition for competition's sake and that the interests of consumers appear to be secondary in the act. That is what we found most unacceptable and still find unacceptable and the major reason why we won't be supporting Bill 3, that the absence of consumer interests is glaring in the information that we have before us. It's one of the things that I think the government has an opportunity to rectify before the bill actually is passed and becomes law, and it's something that we hope they will seriously address and propose some changes to make the interests of consumers more evident and more paramount in the bill.

Continuing with the section analysis, Mr. Chairman, section 6 lays out the expectations of the market participants, and it explains how they're to behave in the electricity industry in the province.

Part 2 of the act, Mr. Chairman, deals with the independent system operator and transmission and explains what it is and the duties and how the independent system operator and transmission are to work. First of all, division 1 establishes the corporate organization. It establishes a corporation to be known as the independent system operator. It makes it clear that this is not an agent of the Crown and that this independent system operator is supposed to be a corporation that is completely independent of government and will operate and manage the power pool system. Now, whether or not it is, I think, is open to question, and there are some other parts of the act that raise the independence of the ISO and some questions about, as I said, that independence.

Section 8 deals with the appointment of ISO members, and it's going to be the minister again who appoints nine members to sit on the ISO, who will oversee the business of the independent system operator. Of course, the question that immediately comes to mind is: how can this be an arm's-length corporation of the government when the minister is appointing the members? There seems to be a basic conflict. How independent can you be when you're appointed at the pleasure of the minister? It certainly sets up the case where the minister has the potential to exert undue power and influence over the board. I know that this is a practice that's taken for granted throughout the province, but it doesn't make it right. It's a method of controlling, and it seems to contradict the other elements that we

see in the act talking about the independence and even the very name: independent system operator and transmission.

Section 9 represents the standard sort of protocol in terms of giving natural person powers to the corporation. The intent of this, of course, is to allow the corporation to operate independently of the government. Yet, as I said, there's a serious caveat against that given that the minister is actually the one who appoints the members to the ISO.

Section 10 outlines the ability of the ISO to make bylaws to govern its own business and its affairs. They cover a wide range of topics that are fairly common in terms of corporations, areas such as the code of conduct of members, what constitutes a quorum, what the remuneration will be. I think that it's a section that the public is interested in having public and open to scrutiny.

9:10

Section 11 allows for the appointment of the chief executive officer. Again, in the appointment of the CEO it's important to remember that the board is composed of members appointed by the minister, and thus the CEO is ultimately going to be someone that the government in general and the minister in particular hold in favour. It doesn't say where the CEO comes from, so it's likely that that individual will be appointed after a list of recommended candidates is put forward by the ministry. That would seem to be the most likely scenario in terms of the appointment of the CEO.

Section 12 is fairly straightforward. It indicates that the ISO "must appoint an independent auditor."

Section 13 deals with the ISO and the kinds of committees that it must establish to consult with the market participants. The Power Pool currently has such a committee, and this section really just indicates that the ISO would take over these duties.

Section 14 talks about the budget and that the ISO is responsible for preparation of its own budget, including both the costs and the kind of expenses that it's going to be involved in. It's also important to note that the ISO is intended to be a nonprofit corporation.

Section 15 has the details of the ways in which the ISO does its reporting, and there are some questions about the stipulations that are outlined in this part of the act. The ISO has to prepare an annual report within 120 days of the end of its fiscal year, and there's no specification of exactly what the fiscal year is. What fiscal year will the ISO be following? We assume that that's left up to the bylaws.

The filing of the annual report is designed to ensure the accountability of the ISO, and I guess it's that accountability that we're concerned about, because section 15 indicates that the annual report will not be made public until it has been provided to the Minister of Energy. Of course, that allows the Minister of Energy, just as many other ministers have in terms of receiving reports early, to put an interpretation on that report before it's released to the public. We've seen that time after time in the government, Mr. Chairman, starting with the report of the Children's Advocate and some of the reports out of Alberta Learning, where the report is issued and there is a long and detailed press release that puts a particular spin on the information that suits government purposes. When we have those kinds of provisions, it doesn't look like this is really the arm's-length organization that the government claims it is or certain parts of the act pretend it really is.

It also leads to some questions, I think, in terms of: how is the ISO going to be treated under the terms of the Freedom of Information and Protection of Privacy Act? Again, I think there has to be, hopefully before the act is passed, some clarification. The ISO is going to be a body that has all the information about the Power Pool and, therefore, how prices are set, so I think it's important that the

public have as much access to this information as possible without interfering with the operation of the market.

I think that before I move on and look at division 2, which is the second part . . . [Dr. Massey's speaking time expired] Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Thank you very much, Mr. Chairman. It's a pleasure to rise this evening and speak to Bill 3, the Electric Utilities Act. Certainly, this is one part of the two-pronged plan by this government to go down the deregulation road even further, when other jurisdictions are coming to their senses and realizing that this is costing the consumers enormous sums of money and they are going back to a plan that will provide electricity to the consumers at the lowest possible cost. The two-pronged receptacle is history for safety reasons, and this two-pronged approach with the further deregulation of electricity and natural gas by this province should also be history.

Now, there are many examples that can be used to illustrate how poorly electricity deregulation has worked and will work in the future, Mr. Chairman. The hon. member needs his laptop back, so this will be brief. If all hon. members of this Assembly check powerpool.ab.ca and see how high the cost of electricity is and then go to altaliberals.ab.ca and see our low-cost power plan, they will see the difference between the plan that we are proposing and the plan that is going to become the reality of this bill in the Power Pool.

In question period this afternoon at 2 o'clock the actual posted pool price for electricity was 35 cents a kilowatt-hour. Thirty-five cents a kilowatt-hour. At 1 o'clock, when we were preparing for question period, it was 13 cents a kilowatt-hour. At 2 o'clock this afternoon, when this government was trying to defend their deregulation policies, electricity was trading at the wholesale level of 35 cents a kilowatt-hour. The hour previous to that it was 13 cents, and at noontime it was 9.8 cents a kilowatt-hour. This notion that you can find electricity for 4 cents a kilowatt-hour in this province is simply that: it's a notion. If people continue to say that, it's going to grow from a notion to an urban myth. Electricity is now an expensive commodity in this province. We go further on in the afternoon, Mr. Chairman, and there's no relief for the consumer in sight.

Now, there are dramatic fluctuations in price. At 9 o'clock tonight – and this is after peak demand, and there is a reduction in the consumption of power – usually on a cold, extreme night like tonight, it will be about 8,300 megawatts. We are told that we should not worry about this because there has been so much generation coming onstream. The generation that has come onstream, Mr. Chairman, is generation that is expensive because the majority of it is powered by natural gas. It's fine and dandy to brag about this natural gas power generation capacity that has been built in the last number of years. According to the Power Pool, there is at this time close to 4,600 megawatts of gas-fired generation, and there is about 2,300 of it that is total net generation at this time.

So if we have this power that is trading at 9 cents a kilowatt-hour or a little better than that, then where is this generation that was built? Why is it not coming into the system? Surely people would like to make the argument that, well, there are exports, there are imports of electricity into our system. That is correct, but in the last number of weeks – and any hon. member of this Assembly is certainly encouraged to enter into debate – there was a notice on this web site indicating a disruption in California somewhere, and the disruption resulted in 1,700 megawatts of power being lost.

9:20

Mr. Rathgeber: How many disruptions have there been in Alberta?

Mr. MacDonald: There have certainly been lots of disruptions in Alberta, and if the hon. Member for Edmonton-Caldor would like to look at this web site, it would show that January 10 there was a disruption, there have been a couple of recent disruptions with lines in the Calgary area, and disruptions are occurring here.

The disruption in California should not affect our domestic price, Mr. Chairman, but it is my view that it is. If we pass this legislation, it is going to further affect our price. In the past there would be lots and lots of imports into this province from B.C., but where are they on a cold night like tonight? For some reason we're not reeling in a lot of power on the southern tie-line. We should not be developing a power system that is going to be influenced by American interests. We are setting up in this bill formal arrangements with the Regional Transmission Organization West, and that is not in our interest.

Now, I could go through each sector of generating capacity that we have in this province, whether it's coal, gas, hydro, or others like wind – right now we just have wind power – but we need to look after our own interests first, and our own interests, in my view, include the consumers. The consumers should be given the lowest possible price that we can deliver electricity for. Let's put the consumers at the top of this pyramid, not at the bottom, where Bill 3 is going to put them.

Mr. Chairman, this is not the first time that this province has participated in this debate about private versus public or turning over the whole generation system to private enterprise because they can run it more effectively. This political debate follows the history of this province, and I'm disappointed that in this legislation the municipally owned utilities are being singled out. They are being singled out, and I think they're being singled out unfairly. The municipally owned utilities have had a proud history in this province, and the notion that they do not pay taxes is just totally wrong. It is totally wrong. Last year, for instance, EPCOR paid significant taxes. Not only did they pay significant taxes, but they also paid \$40 million in payment in lieu of taxes into the Balancing Pool. Customers of EPCOR and customers of Enmax are subsidizing the rest of the system, and they're going to continue to subsidize the rest of the system through these payments in lieu of taxes to the Balancing Pool.

Perhaps we would be better off putting that money into the general revenue fund of this government if we're going to call it a tax, which this bill wants to do. It's going to force them to call it a tax. I can't understand for the life of me – and this is such a fine city – why this government continues to pick on the city of Edmonton. Yes, it's picking on the city of Edmonton. The mayor and the city council should not have to go cap-in-hand to the Minister of Energy whenever they want to do something in regard to EPCOR, and that is what I'm afraid is going to happen here. Now, if we look at the past history, Mr. Chairman . . .

Mr. Smith: Point of order.

The Chair: The hon. member has a point of order or a question?

Point of Order Questioning a Member

Mr. Smith: *Beauchesne* 333. I wonder if the hon. member would entertain a question.

The Chair: The hon. Member for Edmonton-Gold Bar only needs to say yes or no.

Mr. MacDonald: No.

The Chair: Then you may continue.

Debate Continued

Mr. MacDonald: Thank you, Mr. Chairman. I welcome the minister's response. He can enter into debate just like everyone else.

Now, we look at the Alliance Power Company. This is a walk down memory lane. The ownership of utilities was a hotly debated topic, just as it is tonight in this Assembly, in the early decades of the 20th century in this province. Many thought that public utilities should be privatized while others were opposed to the idea, and this is very similar to what's going on here with Bill 3, Mr. Chairman.

Now, Edmonton Light and Power did not escape scrutiny, just like EPCOR and Enmax are not escaping scrutiny with this bill. The city council of the day had received numerous proposals from private businesses that wanted to participate in the electrical industry. Does this sound familiar? When the question was put to the public in a referendum – this is not the first referendum we have had in this province. This in 1916 would have been the first referendum. There was another referendum in 1948. I say to this government: why not put this bill to a referendum? Why not put your whole electricity deregulation policy to a referendum? Previous governments certainly were willing to do that.

However, Mr. Chairman, when the question was put to the public in a referendum, voters agreed that this would be a positive step forward to allow the privateers to operate with electricity. Now, consequently, proposals were called for, and between 1916 and 1919 the Alliance Power Company took over the power plant. It sold power in bulk just the same way this power pool is operating today, and under this proposal it's going to continue to operate in the future. It sold power in bulk to the electric, light, and power department of the city of Edmonton. This arrangement came to an end due to financial difficulties. Well, I'll be. I don't want to sound like an alarmist, but I certainly hope that doesn't happen now because the consequences of this would be enormous. So much of our life centres around electricity and not only electricity but affordable electricity.

Now, Mr. Chairman, I would like to at this time share this with the Legislative Assembly, and this is a quote.

I have been in business 12 years, and never before have I been without power for such a long time. It is certainly fortunate that no one was being treated by our permanent wave machine when the power went off.

This is from the *Edmonton Journal*, and this is not about West Edmonton Mall in 2003; it's about Madam Day's beauty parlour on the impact of a power outage on May 27, 1936. Now, if we're not careful with this legislation, Mr. Chairman, we are going to be looking at power outages. Power outages could occur under this current system that's being developed.

9:30

Mr. Smith: Like the outages in Ontario.

Mr. MacDonald: The outages in Ontario. There we've got another Progressive Conservative government tinkering with a perfectly good electrical distribution, transmission, and generation system, and, yes, there are power outages because of the Progressive Conservative government in Ontario.

I hope for the sake of Albertans, because they're fine citizens, that they're not going to be burdened with power outages. But if they do come, it is my knowledge of the power system that Calgary will be affected before Edmonton, and that's a sad, sad event. That's just

how the distribution system is arranged, unfortunately, Mr. Chairman. Calgary is more vulnerable to electricity deregulation failure than Edmonton.

It is interesting also to note that in 1971, of course, Peter Lougheed became Premier of Alberta, but the province of Alberta passed an act that stipulated that the Energy Resources Conservation Board must approve all changes to Alberta's electrical system. Now, it's sort of been downhill ever since. [interjection]

Chair's Ruling Decorum

The Chair: Hon. Member for Edmonton-Calder, when each of the hon. members has finished their talk, I've looked over this way and you haven't stood up. Now somebody is standing up, and in this House the tradition is that the person who was recognized by the Speaker or the Chair in this case is the one that's speaking. If you wish to speak following this gentleman's speech, we'll have you speak. Until then, perhaps we'll just have the hon. Member for Edmonton-Gold Bar speak.

Debate Continued

Mr. MacDonald: Thank you very much, Mr. Chairman. Now, this bill is going to take a lot of work to improve, and I'm willing to attempt that. I have never in my time in this Assembly seen legislation that needed so much work to improve. I don't know how to describe this bill without going through it at this time in committee except section by section. When we look at how we've been held hostage by high electricity prices in this province, we've got to fix the problem. We have to. It's almost going to be an emergency.

It was explained earlier by the hon. Member for Edmonton-Riverview that before all this happened, we had some of the lowest costs in North America. Now we have costs that bounce all over the place, and one only has to look at the Power Pool web site to confirm that. This is what consumers will be facing with the flow-through option that will be part of this legislation. We have to have a serious look at how to improve this.

I know that there has been a consultation process. A lot of people have been contacted, and a lot of people have discussed these

amendments, but I don't know if consumers, if Martha and Henry have been consulted on this. I don't know what Martha and Henry are paying for electricity and who their provider is these days, but I'll bet Martha and Henry are not happy. In fact, I'm going to have to keep an eye out for Martha's and Henry's names on the natural gas rebate petitions that are just coming in because I'm certain that they have an opinion on that.

At this time, Mr. Chairman, I would like to adjourn debate on Bill 3, the Electric Utilities Act. Thank you.

[Motion to adjourn debate carried]

The Chair: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Chairman. I would move that the committee rise and report.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Klapstein: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: Bill 11 and Bill 13. The committee reports progress on Bill 3.

The Deputy Speaker: Does the Assembly concur in this report?

Hon. Members: Agreed.

The Deputy Speaker: Opposed? Carried.

The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. I would move that we adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 9:39 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]

