

Legislative Assembly of Alberta

Title: **Tuesday, March 11, 2003** **8:00 p.m.**
 Date: 2003/03/11
 head: **Government Bills and Orders**
 head: **Committee of the Whole**
 [Mr. Tannas in the chair]

The Chair: I'd like to call the Committee of the Whole to order.

Bill 21 Ombudsman Amendment Act, 2003

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

Mr. Ducharme: Thank you, Mr. Chairman. On second reading the Member for Edmonton-Ellerslie raised five questions which I would now like to address in the order in which they were raised.

First, the member asked how the Health Facilities Review Committee fits into the scheme of these amendments. Again I should point out that the office of the Ombudsman is used as a last resort. The Ombudsman cannot become involved in an issue until all formal and informal appeal mechanisms have been explored and concluded. Therefore, the Ombudsman's office will not review a complaint within the jurisdiction of the Health Facilities Review Committee until their review is complete. If the individual remains dissatisfied with the administration process, he or she can turn to the Ombudsman for further review.

The second and third questions seem to be about the same issue, so I will answer them together. The issue seems to be about section 9 of the bill, which outlines the power of departments and agencies to consider matters. After completing his review, the Ombudsman has powers under section 21 of the act to report his opinion and the reasons for it as well as any recommendations he may have to the department or agency involved. Historically some departments or agencies have felt restricted by their own legislation from implementing the Ombudsman's recommendations even if they felt the recommendations ought to be implemented. Section 9 of Bill 21 makes it clear that a department, tribunal, or agency can accept the recommendation and implement it. This means that they can reconsider or rehear a matter if the Ombudsman has recommended it and they choose to do so.

If, for example, the Ombudsman finds that a department did not properly consider all relevant factors when coming to a decision about an individual, the department can now on the Ombudsman's recommendation reconsider the decision it made and include in that reconsideration the factors identified by the Ombudsman. I would like to make it very clear that section 9 does not give a department or agency of the government the ability to "quash, confirm or vary" a decision or recommendation that the Ombudsman makes. In fact, what that section does is allow the department or agency to implement or adopt a recommendation of the Ombudsman if they choose to do so. The department or agency can also quash, confirm, or vary a decision that they themselves have made if the Ombudsman has recommended it.

One further concern seems to be that the department or agency has the discretion as to whether or not to implement the recommendation of the Ombudsman. The question has been raised as to why the Ombudsman does not have the power to command compliance with his recommendations. Traditionally the power of the office of ombudsmen across the country and indeed throughout the world has

been in their power to make recommendations and bring actions of governmental bodies under public scrutiny. Ombudsmen are not invested with the ability to order or command actions. The power to issue orders remains solely with the courts and other appellate bodies. The Ombudsman's clout and influence is his ability as a watchdog to make recommendations and ensure that the public is aware of the activities of the government and its agencies. I can tell you that historically governmental departments have taken all recommendations of the Ombudsman very seriously.

The fourth point was not really a question but a reference to section 14, which allows the Ombudsman's jurisdiction to be expanded by regulation. That section of the bill is tied to the amendment in section 1, where the definition of agency has been amended so the Ombudsman can give further jurisdiction over additional bodies as it becomes apparent that these bodies are appropriately reviewable by him. The idea behind allowing new bodies to fall under the Ombudsman's review is to ensure that the Ombudsman's jurisdiction can be continually updated in a timely manner. As we all know, regulations can be updated more easily than statutes can. By allowing the term "agencies" to be expanded in the regulation, the jurisdiction of the Ombudsman can be updated in a timely and responsive way. As noted earlier, this allows the jurisdiction of the Ombudsman to be kept current with the changing face of government.

The last question relates to the concerns resolution processes. The health authorities were asked to establish their concerns resolution processes based on a policy framework developed in 1998. The framework allowed for RHAs to develop individual processes to address the unique circumstances of each region. In the interests of greater clarity for the public, clear expectations of the health authorities, and certainly about the jurisdiction of the Ombudsman, regulations are planned under the Regional Health Authorities Act and the Cancer Programs Act. These regulations will build on the principles of the original policy framework and experiences with the processes that were put in place.

Mr. Chairman, I believe this answers all the questions posed in second reading of Bill 21, the Ombudsman Amendment Act, 2003. Thank you.

The Chair: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you very much, Mr. Chairman. I'm pleased to have the opportunity to make my comments on this bill. I regret that this is my first time in speaking to it and we're already in Committee of the Whole. We didn't want to hold up this bill. We certainly support it in the Official Opposition, and we're willing to give it speedy passage in second reading within one day so that it can move along right smartly. So just a couple of comments, and I'll apologize in advance if I repeat issues that have been raised by my colleague from Edmonton-Ellerslie. I listened carefully to what the sponsor of the bill was answering, and I hope not to repeat although there may be some statements I want to reinforce.

I have to give an E for effort to the soon to be retiring Ombudsman. I note, going through a number of his reports, his persistence in raising the issues that he wished to have covered by this legislation, and indeed I believe that most of his issues have in fact been covered by this. The '98-99 report was again - oh, I'm sorry; even that's a repeat of what happened in '97-98, so he really did have a long run at it. It looks like every year of the five years that he served, he brought forward more or less the same amendments. Again he's urging this amending act to come into being to allow the Ombudsman to remain current and to incorporate all the changing ways government is doing business, particularly around the contract-

ing out of services and the regionalization of service delivery. That was the '98-99 one.

Again when I look at the '99-2000 one, he's concerned that the fundamental issue is that if government wants the "watchdog" of administrative fairness to continue working in the manner it was intended, then legislation must be compatible to the way government is doing business,

and he would continue in his efforts to press forward. That appears on page 4 of the '99-2000 report. He also talks about "the jurisdiction of the Ombudsman expanded to meet the provisions of the Health Professions Act," which would in fact have passed at that time, and he's talking about providing independent third-party review for clients or patients who've raised their complaints to the professional body.

Then, sure enough, when I look at the 2000-2001, he's still looking for "much-needed amendments to the Ombudsman Act." They "appeared to have stalled with little or no possibility of proceeding." I'm wondering what the holdup was. I mean, I'm pleased to have this in front of us, but why did it take so long? This is five years from a respected officer of the Legislative Assembly continually bringing forward the same points. So what was the holdup in getting this legislation this far? Maybe I could get the sponsor of the bill to answer that. In 2000-2001 he's again talking about the Health Professions Act, the jurisdiction with the regional health authorities, the involvement of the Ombudsman in the complaint resolution process, and that the jurisdictional role of the Ombudsman needs to be expanded.

In the most recent one, the 35th annual report, which covers the years 2001-2002, I'm quoting from page 1, I think it is.

If the Ombudsman is to be an effective investigative body within the dispute resolution process, full access must be provided so that we may conduct thorough and impartial investigations. Restricting access to information will only compromise the purpose and authority of the Office.

Again, this particular concern has also been addressed under this legislation. So he's brought forward a number of ongoing points. One is capturing and enlarging the jurisdiction of the Ombudsman to the delegated authorities that the government has put in place, the concerns around the effect of the Health Professions Act, overcoming the restrictions that they've met with the Health Information Act, and the complaint resolution process that also came under one of the health acts. All of those have in fact been dealt with.

8:10

The sponsoring Member for Bonnyville-Cold Lake did identify very clearly what many people do not in fact understand about the Ombudsman. The position is meant to be one of a last resort, and it's meant to be looking at whether all of the policies and procedures that are in place were in fact followed. It's not a matter of somebody being unhappy with the decision that they got under a WCB appeal or under an SFI appeal or any other process that's there and being able to sort of get a new trial or a new appeal process. The point is: were all the processes followed by all of the staff members that were working with the individual? That's what this position is really looking for.

It's not about being able to get a new trial, a new day in court as such. People are not clear about that, and I don't know whether it's because the Ombudsman was a European invention. I don't know, but I certainly deal with those kinds of misunderstandings coming through my constituency office. We do everything we can to explain to people that, yes, the Ombudsman is the last place to go, but it's not about being able to review everything that's gone before and somehow get a new deal because you're unhappy with the decision. It's about whether you were treated fairly and all processes were

followed while you went through whatever procedure you were going through.

There are a couple of areas in here that I did want to make particular note of. I noticed at the very end that the Member for Bonnyville-Cold Lake was commenting on section 14 and the ability of the Lieutenant Governor in Council, which really is the cabinet, to "make regulations designating [additional] boards, commissions, corporations, offices or other bodies as agencies for the purposes of this Act." In other words, they can add additional organizations or agencies of the government as we go along or as they're needed. The member was making the argument that this is more efficient because it's easier to change regulations, and I continue to argue that that may well be the case, but democracy really wasn't set up to be easy or for the convenience of government. A big part of that, I think, is transparency and accessibility of information and the public's access to scrutinize the decision-making process, which is why we have things like the debates of this Assembly available in *Hansard*, so the public can read them and say: "Oh, okay. This is why they were doing something. This is the argument behind a given idea or a new amending act."

When we have regulations, those decisions are made behind closed doors. The decision-making process that went into it is not available to the public to scrutinize, and still, even with the advent of the Internet, it is very difficult for the public to (a) know that there's been a change in a regulation and (b) find it. That's still a concern. When we expect people to abide by whatever is passed by this Assembly or in this case abide by whatever regulations are changed by the cabinet, how are they to know that something changed? Nobody wants to invest too much money in doing a huge information campaign every time there's a change in regulations, and that continues to be a concern to me because the public doesn't know that things have changed even if they're watching it. Things are easily missed or go by even for members of the Assembly. Even we can miss having a change in regulation go by. So I will always be standing up in this Assembly saying: please don't do this under regulation. Democracy wasn't meant to be easy or fast; it was meant to be transparent. That's always my argument when I see this happen.

There are a couple of other places where it appears, and one place is where the cabinet is given the ability to expand the definition of agencies to include other bodies. That appears in section 2, the definitions. We're adding in a definition of administrative head. That's new, but it does make it clear who the contact person is, who the Ombudsman is supposed to be dealing with rather than them fishing around. Is it the president? Is it the CEO? Is it the executive director? Who exactly is it supposed to be? That is clarified here.

Now, under the definition of agency the MASH sector is not included, so we do not have the municipalities, universities, schools, or the hospitals except that some parts of the hospital staff is, in fact, in here. We were talking earlier about the dispute resolution process that's been developed by the Mental Health Board and the Cancer Board. It's quite specific here that it's excluding the governors of a university, the board of governors of a college, specifically the governors of the Banff Centre for Continuing Education, health boards under the Regional Health Authorities Act, the Alberta Cancer Board, the Hospital Privileges Appeal Board, or the board of governors of a technical institute.

Then once again we have this "board, commission, corporation, office or other body designated as an agency in the regulations," which just continues to strike me as very wrong.

Now, there was confusion. Perhaps I could get the member to spell it out here in *Hansard* so that for anyone else that looks at this and is going, "Which way round does this go?" it's clearly spelled

out in *Hansard*, and they can refer to it forevermore in the immortal words of the sponsoring Member for Bonnyville-Cold Lake. It's around the Health Information Act, section 1.1: "This Act prevails despite the Health Information Act, except section 94 of that Act." So I think what that's supposed to mean is that the health information commission has jurisdiction over the Health Information Act but that the Ombudsman can get the information they need to investigate. I would like that clarified by the member, please, because it is a point of confusion, and we don't want to see anybody making a mistake because that wasn't read correctly.

We saw in the Auditor General Act, and we're seeing it again in this act, the change to allow that when special warrants are signed, they can be signed and pertain to a year other than when they were signed. So what's being deleted out of here is the actual language: "fiscal year in which the special warrant is signed." Where does that come from? Well, that, I think, came out of one of the recent elections that happened just before fiscal year-end, and there was a special warrant to authorize the expenditure of money for the new fiscal year. Given this glitch in the legislative offices and in the legislation that governs at least two of them – those being the Ombudsman and the Auditor General – the special warrant, when signed, only pertains to these departments for the year in which the warrant was signed. Well, it didn't work for them, and they didn't get any money. This is to allow for them to in fact get money if there need to be special warrants in the future, which I would dearly hope the government doesn't need to do.

You know, this is a large government. They have a number of good, forward-thinking fiscal procedures in place. I really don't think that in this day and age there should be a need for them to be signing special warrants or – what's the other word for them? – interim supply.

8:20

Mr. MacDonald: In the Getty days they were special warrants.

Ms Blakeman: Okay. In the Getty days they were special warrants. Now they're interim supply.

You know, there's no reason why there should be a need for that. The government can call the Legislature back in whenever they want and have enough time to get everything done, so there shouldn't be a need to do that. Nonetheless, the act is being changed to allow for it so that they would still get funding if they needed it. That's the second time that we've seen that.

We have the new section, that I had already commented on, about the patient concerns resolution process. This is really allowing the Ombudsman the jurisdiction to review these processes. That's a good one because people seem very happy with what will be in place from the RHAs, the Cancer Board, and the Mental Health Board with this patient concerns resolution process. The Ombudsman did need to be able to get access to the files to be able to review this properly, and that was not possible without this amending act.

There's wider consultation that's being allowed through section 6 of the amending act, section 16 of the original act, with notice of investigation.

There's been clarification and cleanup and updating around the agencies that are listed, people that are "an officer, employee or member of." That's been updated. The accounting organizations and forestry colleges have been dropped, and it's changed to "department, agency or professional organization." They continue to use that kind of wording.

Now, the more contentious part of this is the section repealing section 5, which is taking away the person's ability to provide or withhold permission. Essentially, there was a double permission, in

effect, before because someone would complain in writing, which was required, and then the Ombudsman had to go back to the individual and say: okay; now I need your permission to actually investigate. What this is allowing is for the initial letter of complaint or request to investigate to be taken as the permission to look into their personal details. So it's cutting out a step, but it's cutting out having to go back to people and find them again and get them to do a release form to look into things. While some people may see that as a difficulty in that they have less power, in fact it's just administrative cleanup. You have to assume that if you're asking somebody to look into your file, you've got to be giving them permission to actually look into the file, and that's what you're doing with the initial letter to commence an investigation.

At this point I don't have that many more comments. I'm perfectly willing to support this bill. I asked the member to put a couple of things on the record just so that we have it in *Hansard* for review for people. I'm, obviously, happy as a member of the Legislative Offices Committee to support the Ombudsman in his repeated requests to deal with what he felt was needed to bring this act forward into the new millennium. It seems he was sort of asking for all of this in '97. I guess that this is his millennium present.

I don't see anything in here that I really have concerns with except for the continued insistence by the Lieutenant Governor in Council to make regulations to change things.

Thanks for the opportunity, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Glengarry.

Mr. Bonner: Thank you very much, Mr. Chairman. I'd like to just make a few comments this evening on Bill 21, the Ombudsman Amendment Act, 2003, and I would like at this particular time to thank the Member for Bonnyville-Cold Lake for sponsoring this bill. At the same time, since this is the first time that I've had an opportunity to speak to Bill 21, I would like to applaud and congratulate our Ombudsman, who had a little celebration last night on the occasion of his retirement, and to offer my thanks to him on behalf of all members of the Assembly for the job he has done as our Ombudsman over the last five years. What an outstanding job it was, and it was always done with the highest level of professionalism. It is because of his work and his dedication to the job and, certainly, his foresight that we have seen the results of that work and the introduction of this bill into this Legislature this year.

Now, then, of course, one of my concerns with the bill, as well, is that when we are dealing with the last lines of appeal for many people, we would have a lot of control put here in the hands of a minister, who has the opportunity by this bill to make all major decisions by regulations. Certainly, at the level of the Ombudsman we want openness and transparency to be perceived by all Albertans, to think that they have the opportunity for a fair hearing when they get there. I think it is critical that we take away from the minister this decision that so much of this bill will be governed by regulation. I think, as well, that one of the ways we'd do that, Mr. Chairman, is certainly by having open debate here in this Assembly. When we are having that debate, again, it allows for input to the minister from all parties and all members of the Assembly. So if there is one area where, I think, we could improve this piece of legislation, it is certainly in that area. I feel strongly that regulation is not the way to go.

As well, in reviewing the past annual reports from the Ombudsman, I was also quite impressed to see here the amount of traveling and consulting that he's done with other members in equal capacities in other countries throughout the world. As well, I think his sharing of ideas is a very, very good point. I think it is something that

certainly leads to much better legislation here in the province, and I commend him again for taking this opportunity to certainly inform himself of what is happening in the related fields with other countries.

Now, Mr. Chairman, the Ombudsman has made a number of suggestions and recommendations which would improve and expand his role or her role, if it happens to be a female. I think we have to look at this, particularly when such a great deal of the job of the Ombudsman is to be involved in the complaint resolution process. This complaint resolution process is not only with individuals, but it's from professional groups. It certainly is evident that the jurisdictional role of the Ombudsman must continue to expand.

8:30

Now, then, I see that in the 2001 report certainly goal 1 of the Ombudsman was to "promote awareness of the Ombudsman's expanded jurisdiction as it relates to the health professions and the Regional Health Authorities." I was paying close attention when the hon. Member for Bonnyville-Cold Lake answered the questions earlier on in this debate. You clarified many issues that we had with that, and I thank you for that.

I also was looking in the report, particularly the present provisions here in section 1, Definitions. When looking at these, right now the Ombudsman Act defines agency as "a Provincial agency as defined in section 1 of the Financial Administration Act" but does not include boards of universities, colleges, or technical institutes, provincial health boards, the Alberta Cancer Board, the Hospital Privileges Appeal Board, or the governors of the Banff Centre for Continuing Education. Certainly, I think that the proposed amendment will expand the definition of agency to include those bodies named in regulation.

This regulation would help ensure that the law clearly states who is and who is not under the jurisdiction of the Ombudsman. As agencies would be added by cabinet regulation, no agencies could be added without cabinet approval. Again, this particular bit of the act which would be governed by regulation is certainly, I think, a portion of the act that is weakened because we do not include this into the act itself but rather have it governed by regulation. As the Member for Edmonton-Centre has said earlier in debate, these can be changed rather quickly. Whereas in some cases it might be expedient to have these changes, it doesn't appear that it has to be that expedient when we see that over the last five years the Ombudsman has recommended change, yet change has not occurred. It has taken us five years to get to this point, where we are bringing in legislation that would certainly include some of the recommendations that the Ombudsman has made.

Now, then, another section that I also have concerns with is section 5, where we remove the requirement that the person has to give, for lack of better terms, a second permission for the Ombudsman to have the authority to review information. I think this is another major step that is wrong. I look at today when I was requesting some medical information. Originally, we had looked at getting this medical information from the University hospital, and it was not available there. The constituent who brought this to my attention said that because this was also related to the Ministry of Transportation, let us try and get the information from there, because it was in regard to a driver's record and the loss of a licence because of medical reasons. So when we put in our freedom of information request to have this information released, what I was told by freedom of information was that my initial request for information and the release that that particular constituent had given me was specific to the information held at the University hospital. So, at that point, I said: well, why don't we just get a blanket release? They said: "No. We prefer your request to be specific."

So at freedom of information we have some very, very specific and stringent guidelines that have to be followed, yet in section 5 all that has to happen is that receipt of the letter by the Ombudsman can be considered permission for them to delve into whatever information might be on that person or that organization. So, again, I think we have two different standards when we're looking at the Ombudsman Act and when we're looking at freedom of information.

I just have a few more comments here, Mr. Chairman, that I think we have to look at, and some of those are outlined again in the Ombudsman's report. I believe it was going back as far as 1998 that the Ombudsman had indicated that there are potential new responsibilities that are required in legislation. Certainly, one of these was "to cover the new Health Professions Act – a statute which regulates thirty-one health professions." He goes on to say: "In addition, I have been asked to assume jurisdiction under the proposed Regulated Forestry Profession Act," and he lists a number of others here as well. So I certainly was glad to see under the definitions that a number of these were included and that this recommendation was accepted.

Overall, Mr. Chairman, I certainly am going to be supporting this legislation. I think it is long overdue, and I think it is a piece of legislation that will strengthen the position of the Ombudsman. I only wish that we could have had debate on a number of these and then included them into the bill instead of the minister having the ability to make major decisions by regulation.

So with those comments, Mr. Chairman, I will take my seat and listen attentively while others join in debate on Bill 21. Thank you.

[The clauses of Bill 21 agreed to]

[Title and preamble agreed to]

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

Hon. Members: Agreed.

The Chair: Opposed? Carried.

8:40

Bill 15 Forest and Prairie Protection Amendment Act, 2003

The Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The hon. Member for West Yellowhead.

Mr. Strang: Thank you. Today I would like to respond to questions that were raised by the hon. members opposite during second reading of Bill 15, the Forest and Prairie Protection Amendment Act, 2003. Mr. Chairman, 40 percent of wildfires in Alberta are human caused. In the last 10 years nearly 25,000 hectares of land have been burned because of human-caused wildfires. The major focus of these amendments is to reduce and prevent the number and severity of human-caused wildfires. These changes will allow Sustainable Resource Development to better protect the public, communities, and natural resources from wildfires.

Responsible parties: children and landowners. The hon. Member for Edmonton-Ellerslie had a concern regarding who is to determine responsibility for a fire and who should be held liable. Mr. Chairman, I'd like to acknowledge the co-operation of the hon. member in trying to meet with me to review these amendments and thank her for recognizing that people should be held liable for wildfires that they may cause. Sustainable Resource Development investigates all

wildfires to determine their cause and to identify the parties involved. Parents who are unaware of their children's activities or landowners who do not know what actions are taking place on their land are not likely to be found liable. Their knowledge and participation would be determined through a wildfire investigation. On the other hand, if a child or a teen was found to be deliberately setting a wildfire, amendments to the legislation provide options. Government can pursue legal or civil options, can request restitution, or the court could impose creative sentences such as community service.

Sustainable Resource Development staff investigating wildfires. The hon. Member for Edmonton-Ellerslie was also concerned that Sustainable Resource Development does not have sufficient staff to conduct these investigations. I'd like to advise the hon. member that all wildfires in Alberta are investigated by highly trained department personnel. If required, assistance can be provided by Fish and Wildlife officers, investigators from other ministries, outside experts, and the Crown prosecution office. I would like to point out, Mr. Chairman, that Sustainable Resource Development has an annual training program for wildfire investigators that is recognized through North America and graduates 20 people a year.

Who decides on the penalties for wildfires? The final concern of the hon. Member for Edmonton-Ellerslie was: who's going to decide on penalties for starting a wildfire? Mr. Chairman, the final decision on penalties is the responsibility of the courts.

Liability for wildfires caused by lightning. The hon. Member for Edmonton-Highlands was concerned about the possibility of requiring landowners to prove their innocence for a wildfire caused by lightning. Mr. Chairman, that would depend on the results of the investigation. An owner can be found liable for not extinguishing a wildfire if it can be proven that they were aware of the fire and didn't take action.

Railway right-of-ways and liability. The hon. Member for Edmonton-Highlands raised the important issue of distance from either side of the railroad right-of-ways. The act outlines the framework of responsibility, while the regulations fill in the details. The regulation will also be amended to include the hundred-metre distance on either side of the railroad right-of-way and a new reporting provision for wildfires that railroad operators start or that they may discover. The land that the railroad operates on is private land. Mr. Chairman, they have the same responsibility to report, contain, and extinguish wildfires on their land as other landowners in the province.

Fire investigation and documentation. The hon. Member for Edmonton-Highland's final concern was on the powers of the wildfire investigator. The amendment enhances the current powers and is not meant to override constitutional rights and freedoms of people being investigated. It must be noted, Mr. Chairman, that all wildfire investigators are highly trained and have a very narrow focus, one that relates directly to the wildfire investigation. During an investigation they may ask an operator to run an all-terrain vehicle so the investigator can check for sparks or check for maintenance records to determine if a particular piece of equipment shows any sign of mechanical problems that may have caused a wildfire.

In conclusion, Mr. Chairman, it is important to remember that during the development of this legislation Sustainable Resource Development has consulted with municipal governments, various stakeholder groups, and other provincial ministries. These groups have been supportive of our effort in the legislation.

Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chairman. Nice to be able

to speak to Bill 15, the Forest and Prairie Protection Amendment Act, 2003, in Committee of the Whole. I listened carefully to the Member for West Yellowhead in answering the questions that had been brought forward by the members for Edmonton-Ellerslie and Edmonton-Highlands, and we in the Official Opposition are certainly willing to support this bill. Again, as with some of the other ones we've discussed tonight, we're passing it through very quickly. It's already gone through second and not all of our members even had an opportunity to speak to it then. We're trying to space ourselves out, and my opportunity is now.

So this is a bill that has a lot of clarification and fine-tuning, if you like. It has three objects that clarify the portions that are too vague: give more power to the forest officers and fire guardians and increase the amount the government can recover from people who are responsible for the fires. Holy mackerel. This deals with everything to do with protection of forests and prairies from soup to nuts. It's covering fires and fire-fighting responsibility, pests and pest control, forest and fire personnel, fire seasons and permits, pollution control, closure of forest areas, conduct of those on or near public land with respect to fire hazards, reimbursement of fire-fighting costs, and entry onto lands. So primarily we're looking at the issues related to fires, the liability of individuals responsible for fires, and the powers of the forest officers and fire guardians.

So this is to strengthen the Forest and Prairie Protection Act and also to deter people from irresponsible actions. You know, we're all learning to be more careful when we're in the wildlands, off the beaten trail, as we come to an understanding of how our movement through there affects both the wildlife and the flora and the fauna. I can remember when I was really young and going through, and nobody thought anything about just leaving their lunch and their garbage wherever, just leaving it there. I remember being told that the animals would take care of it. Nobody would do that in this day and age – at least I hope they wouldn't – because we understand the impact that that has on the environment.

Particularly in Alberta in the last couple of years I think we've all come to understand and be impressed by – I hope we have been – the damage that can be done by fire, and it really is incumbent upon all of us to be much more careful to make sure that we're not in any position, in any way making it possible for a fire to start or to spread. The Member for West Yellowhead was talking about the ability given through this act to test drivers of ATVs, for example.

8:50

Mr. MacDonald: What about snowmobilers?

Ms Blakeman: Well, the snowmobilers ride on snow, so there's less of a fire hazard happening there, but thanks for the question from my colleague for Edmonton-Gold Bar.

I think that testing the ATVs and consciousness of that sort of thing is a good idea. We know now that in some areas the heat from the mufflers can start grass fires, and we've just come to understand how much devastation this can wreak upon our province. So having a bill that's going to strengthen all the possibilities there and give tools to the fire protection officers is a good idea. I'm certainly willing to support it.

In section 2 we have added the definitions for burning hazard, Crown, and fire hazard, and I actually asked about this. What is the difference between a fire hazard and a burning hazard? I mean, please. But, in fact, there is a difference, and that is that the fire hazard, while it's recognized across Canada, is not specific enough for people to really understand the variations that are possible here. So "fire hazard" just describes the physical characteristics of the fuel, but how it's arranged or how much there is of it or what condition

it's in, whether ladder fuels exist all would fall under the definition of a burning hazard. So it's just allowing for a lot more specifics to be used in describing what the factors are around a fire hazard. It also allows things like weather condition and extended periods of drought, all of that, to be worked into what's being considered. So that was easily answered once I actually started to do the investigation on it.

Under the same section it's also looking at including officers in the definition of forest officer, a definition for forest protection, a definition for unoccupied public land.

Now, one of the interesting ones is that favourite of all entities, the summer village, which, in fact, was not included in the act in the past. Although they had responsibility for certain things around fire protection and fire hazards, it was necessary to add in this new term, urban municipality. That new term of urban municipality includes summer villages. So there you go; they're included in the act now. [interjections] We have flights of fancy from my colleagues here. I'm glad to see that the summer villages are clarified because these are small areas that can go from a couple of dozen people to hundreds of people over the summer, and they do have responsibility for certain things, but that needs to be clarified in quite a few pieces of legislation. So here we have the clarification here.

Section 4 is really outlining who is liable for reimbursing the minister, and the Member for West Yellowhead went through in some detail about who caused the fire and who ordered it and whose land it was on, if they knew or they didn't know, so I refer people back to *Hansard* to the statements from the Member for West Yellowhead for the clarification on that.

A small change on the delegation of powers. The minister is now able to delegate powers other than the power to make regulations to any employee of the Crown rather than to any employee of the minister's department. I'm guessing that this has to do with other departments like Sustainable Resource Development and Environment or even Agriculture sort of crossing over in many of the same areas. So it's the employee that's really dealing with it rather than the employee of the particular sponsoring minister for this legislation.

Section 6 is looking at limiting the appointment of fire guardians by municipal councils to one year at a time.

Section 7 is repealing section 6 of the original act and inserting the right of the minister to enter into a fire control agreement with the councils of municipal districts. So that's not a material change. That was just previously in a different section.

In section 11 we've got another housecleaning section. It brings into line the wording with the new definitions of fire hazard and burning hazard, which I had detailed at some length a little bit earlier. It gives the municipal districts the ability to order elimination of a burning hazard rather just order its reduction or removal. That's interesting wording. It's not substantive; it's a clarification.

Section 12 is repealing section 11 and putting alternate text in place. That's where the railway operation distinction is being covered that, again, the Member for West Yellowhead went over. The railway operation has to report "as soon as practicable" the fire and within a certain distance from the boundary of their right-of-way, which is a good thing.

Section 13 is another housekeeping measure.

Section 14 is repealing certain sections and replacing them. The only change is that the minister is able to advertise the closure of land to the public through radio, television, or other means of communication. One presumes we're talking use of the Internet here with some sort of broadcast e-mail, which is good, or telephone, one presumes, those sort of prerecorded messages that can go out. So it's giving some flexibility there to the minister as to whatever works

in different parts of Alberta, and certainly given the diversity of our province, that's a good thing.

Section 15 is compelling any person to tell forest officers who are performing their duties under the act to give the person's identification information, itinerary. So this is a fairly sweeping power. We always have to be careful about that because we're trying to strike a balance between the freedoms and liberties of the individual and the need of the Crown to control people or to know what they're doing. It's a fine balance, and I insist that it be maintained. So that section, I think, bears watching.

Section 16 is adding circumstances that are exempt from the section: added to fires for cooking or warming or flare stacks used by the petroleum industry and any other fire prescribed by the regulations. So that would be the crop burning, I think.

Section 17, again, is clarifying wording that hasn't been as clear as it needed to be, allowing it to be updated, and some sort of cleanup and housekeeping.

Again, section 19, amendments looking at anyone that has a commercial or industrial operation within a kilometre of public land having a fire control plan because we know that once we get the fire onto the public lands, then it's on our dime, and we need to be very conscious of who's responsible for starting the fires and also to try and strongly encourage people to control the fires from ever getting there.

A number of other sections, 20 through 23, again, more housekeeping changes just tweaking some wording. Then we get into pest control in section 24. Section 26, adding a caveat to when a forest officer or fire guardian may enter onto a premise without a warrant. The caveat is at "any reasonable time." Thank you. Always good to have that. You have to be again very careful with that sort of thing.

9:00

Under section 27 there are quite long enforcement powers that are added in after section 31 in the act. Oh, yeah. There's an interesting thing here. One of these is that an officer could basically commandeer or shanghai someone else's equipment to fight a fire, and if damage is caused to that equipment, I'm wondering if the third party has any recourse to recover damages. That may well be covered somewhere else. It might be quite obvious but kind of interesting to have clarified in *Hansard* so people can review it at some other point.

I mean, this is one of those bills that's like a huge miscellaneous statutes of minutia that's being changed here, and we went to some effort to consult a number of associations – Alberta Wilderness Association, Urban Municipalities Association, Surface Rights, fire chiefs, and a number of others – just to make sure that this was all on track, and as far as we're concerned, it is.

I know that one of the things that people expressed to me in the beginning was: is it going to be fair if a teenager or somebody like that at a bush party has had a few too many drinks at their grad and flicks a cigarette butt into the bushes and that starts a fire? You know, in this day and age I think we've come around to saying: yeah, it is the responsibility of that person. We need to be very conscious of how we behave when we're out of an urban area and to make it clear that the responsibility is on everyone to be careful, especially around fire and especially when we have had so many years of drought. This is increasingly important to every Albertan to protect our province. Certainly, there were concerns expressed to me about that, but I'm willing to stand up and defend the act on those terms. At this point I don't see any sort of hidden agenda here on that one. I mean, this government is very keen on putting responsibility for everything onto other people, but I think that in this case there is a necessity that we all recognize that it's limited. We all have to take

responsibility for it and particularly when we've been experiencing drought for as many years as we have. We all have to be on the lookout. So for a teenager to think that it's okay to flick a cigarette butt into the bushes when they're out at a bush party, no, it's not, is the answer. They need to take better care and make sure that it's out and take all the precautions that are necessary with that.

When I used to smoke, I was at the point where I was packing those cigarette butt ends back out with me because it's pollution, and although I was out there, obviously, in the winter, in snow, when the fire hazard was less – although it's arguable that there is still some fire hazard – I just wasn't, you know, willing to work with that anymore, and I just packed the stuff back out with me. It was easy enough.

So what we've really got here is the current act is about 20 years old. We needed to have it updated and the wording and terminology updated and in some cases expanded to maintain consistency. As I mentioned, it's a good thing that we've clarified the summer villages and their responsibility, adding in not only the person that caused the fire but other people that were responsible for that, and some expanded abilities of the fire guardians to investigate and to prevent. So we're happy to support Bill 15 in Committee of the Whole.

Thanks very much, Mr. Chairman.

The Chair: The hon. Member for Wainwright.

Mr. Griffiths: Thank you, Mr. Chairman. I am pleased to stand today to say a few comments on the Forest and Prairie Protection Amendment Act, 2003, Bill 15. The proposed amendments will bring existing legislation into line with current business practices. As well, these adjustments are part of a continuing process to find more effective ways to best manage wildfire for the benefit and protection of all Albertans.

More importantly, Mr. Chairman, I would like to respond to some of the inquiries that were made by the hon. Member for Edmonton-Highlands of the opposition during second reading of Bill 15. The first concern was fire control agreements with municipal districts. The hon. member was correct in saying that a positive and preventative direction is the best approach. The Sustainable Resource Development minister takes very seriously his authority and will not step in unless the municipality has requested assistance or the wildfire is threatening life and property. There are many communities and municipalities within and immediately surrounding the forest protection area, and Sustainable Resource Development enters into fire control agreements with those municipalities and communities on a yearly basis. Each year Sustainable Resource Development works closely with municipal districts and municipalities to review roles and responsibilities, update information, and ensure that everyone has the right contact names and phone numbers.

During these meetings they discuss new techniques in wildfire prevention and management and identify mutual training opportunities. It also allows Sustainable Resource Development to launch and promote innovative new programs such as the FireSmart community program, and, Mr. Chairman, I'd like to point out that the FireSmart program has been very successful in enabling communities, industries, and landowners to prevent wildfire hazards through better planning and will allow them to work collaboratively in situations that develop.

The second issue that the hon. Member for Edmonton-Highlands was also concerned about is the section on forest closure and the limits on who can authorize them. Forest closure is an extremely serious issue with Sustainable Resource Development, and that is why the responsibility is left with the minister, Mr. Chairman. Before a forest is closed, a number of factors are considered, such as

the level of the fire hazard, the threat for wildfires to start, and how many people could be in danger. Local municipalities and stakeholders are consulted throughout the process. I can assure the hon. member that public safety is our number one priority, and we will never, ever compromise on that point.

Thank you, Mr. Chairman.

[The clauses of Bill 15 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 19

Gas Utilities Statutes Amendment Act, 2003

The Chair: Are there . . .

Some Hon. Members: Question. Question.

The Chair: Hon. members that require the question before it's even placed before the committee really aren't very helpful.

Again, are there any questions, comments, or amendments to be offered with respect to this? [interjection] Yes, there is.

9:10

Mr. Ouellette: Colleagues, as the sponsoring MLA I would like to summarize the reasons for bringing in this legislation, Bill 19, the Gas Utilities Statutes Amendment Act, 2003. Unlike the opposition our government believes in competition in the marketplace. We think that competition will result in lower costs in the retail gas marketplace and more choices for consumers.

To get more competition, you need more players in the marketplace. This bill has attracted a new competitor, Direct Energy, and other companies have expressed interest in coming to Alberta now that the playing field will be more level. Enabling more choice will result in giving consumers better ability to choose price stability, if they so wish, through fixed price contracts, more varied product offerings, competition on the basis of service, and improved market efficiency.

This legislation will also result in a single-bill model for retailers, reducing costs over the current two-bill model and providing more convenience for consumers. It will also allow gas and electricity to be marketed together. It doesn't make sense to have two separate regulatory frameworks for the two commodities. This means lower costs for businesses competing in the market, which should translate into lower costs for consumers. Unlike the opposition we think that businesses competing to provide gas and electricity service in the province should get a fair return on their investments. For default supply the return would be regulated by the EUB.

My friends across the way have questioned: "who is asking for choice? Consumers would just as soon have it all regulated by the government." A lot of consumers have wanted to purchase gas from someone other than their local utility company. Today over 40,000 consumers have exercised their ability to have choice. Many of them locked in when prices were much lower than they are today and are happy with the savings that they are now enjoying. The opposition doesn't seem to like airline and telephone deregulation either. I think most Albertans would agree that they have benefited from

competition in these industries and would not want to return to a regulated environment.

With respect to these unbearable new costs that the NDs have implied, the implementation costs should be minimal and retail prices should be lower through convergence of gas and electricity, implementation of a one-bill model, and increased competition.

We agree that gas is gas. The difference here is how we pay for it. With retail competition you get more choices on how you buy your gas, and retailers are likely to market gas in ways that are attractive to consumers. We realize that although customer choice has been around for years, this may still be a relatively new concept for many Albertans, and it may take time before consumers feel comfortable making a choice. Choosing not to choose is still an option for these folks, as in doing nothing other than continuing to make regular utility payments. Consumers can stay on the regulated rate, approved by the EUB, indefinitely until they find a retail offering that they are happy with and make a decision to enter into a contract with a retailer. We are not forcing people to choose. We are creating an environment that will encourage more competition and choice for consumers.

Mr. Chairman, this government believes in the free market system to help all Albertans. That's what makes Alberta's economy the envy of the country. Alberta consumers – residential, commercial, charitable, municipal – who prefer price stability can enter into a fixed price contract with a competitive retailer or go on a utility company's budget billing plan.

In summary, I encourage you to support this free enterprise approach to gas retail marketing. Thank you for considering these legislative changes.

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

Mr. MacDonald: Thank you very much, Mr. Chairman. It was with a great deal of interest that I listened to the remarks just concluded by the hon. Member for Innisfail-Sylvan Lake, and certainly the testament to the free market that was expressed by that hon. member has to come into question because this is a government that owns its own bank. It's one of the very few legislative jurisdictions in North America, where the free market economy is supreme, that owns their own bank. So I don't think that statement has come in handy. The hon. member says: well, Alberta Treasury Branches are the next thing on the block, and we'll have to wait and see. That's probably a bill that will generate a great deal of interest, as is Bill 19, the Gas Utilities Statutes Amendment Act, 2003, or another name for it could certainly be the Direct Energy convergence act.

Now, when we talk, Mr. Chairman, about amending the Gas Utilities Act, the Gas Distribution Act, and the Rural Utilities Act, we've got to stop and think for a minute and decide who is going to benefit from all this. Who is going to benefit from all this competition? The hon. Member for Edmonton-Highlands in second reading this afternoon mentioned the Consumers' Coalition, and the Consumers' Coalition certainly had some reservations about how this competition was going to benefit individual consumers. I have to agree with the Consumers' Coalition. We can talk about choice. This government has been talking about choice for utilities for three years. "Choice will bring lower costs." Well, it has not happened.

Leading up to the last election, choice was going to mean so much for consumers, and the only choice they have now, as I said here before, is which bill to pay first because they've only got enough money, enough disposable income, to pay one utility bill because of the high costs. The choice, Mr. Chairman, is not whether people want to select a marketer. They want cheap, reliable utilities, and this bill is not going to do it. The hon. member talks about: 40,000

Albertans have already signed up. Some of them are very disappointed with their contract. There are still 900,000 natural gas consumers in this province, and that's only a small percentage that have looked at choice.

Now, whenever we think of institutional users of natural gas, some of them have been for many years purchasing gas for their own use. Well, it would certainly be a contract, but those aren't the people that are calling the constituency office of Edmonton-Gold Bar on a daily basis, complaining about their natural gas prices. What they're complaining about is a government that has lost complete control of one of our natural resources, and Bill 19 is not going to bring that back.

When we consider what choices there will be – and we're going to have another player; we're going to have Direct Energy in the market – it is my view that Direct Energy should now, Mr. Chairman, be a licensed marketer in this province. They've certainly got an ad campaign going, and the ad campaign has been discussed earlier, in question period. There are two fellows that are pitching Direct Energy's entrance into the market here, and both of them look like they've pulled their hair out because of high energy prices. They're not happy, and I can only assume that this gentleman here has received his gas bill, and the other fellow must have received his electricity bill because he's not happy either.

9:20

Now, a licensed marketer in this province for natural gas, Mr. Chairman . . . [interjection] Yes. You certainly have to listen to this. Direct gas marketers must be licensed to do business in Alberta. Licensing requires a quarter of a million dollar security and the payment of a thousand-dollar licence fee, and marketers must provide, also, copies of all contracts and marketing materials. Now, Direct Energy is very anxious to get into this market. They have written the Department of Energy going back to November – I believe November 4 was the precise date – commenting and making suggestions regarding the draft natural gas legislation and regulations. Yes, it was November 4, 2002. They certainly expressed an opinion. They're not a licensed marketer, yet they're advertising here.

When we look at the licensed natural gas direct marketers in Alberta, we see the likes of CEG Energy Options, Coral Energy Canada, EnCana Corporation, Engage Energy Canada, Enmax, EPCOR, EPCOR Merchant and Capital LP, Nexen, PremStar Energy. But there's an advisory here from the Department of Energy, Mr. Chairman, and it states that residential consumers are advised to check with marketers to find out which client group they're currently selling to and which utilities are currently providing choice. So the Energy department is kind enough to put that there, but if we're talking about what the Member for Innisfail-Sylvan Lake states and we're going to have so much choice, why – I would like to know in the course of debate – are there all these licensed natural gas direct marketers in Alberta, but only two of the eight licensed retailers for commercial consumers are actively marketing to residential consumers, EPCOR and Enmax?

If Bill 19 is going to get all this crowd interested in door-knocking and selling long-term contracts, why to date have only EPCOR and Enmax shown an interest? What about the other enterprises that I have mentioned here earlier in my remarks? Why have they not got involved in this market? Direct Energy is a marketer on a white horse coming in to try to rescue an energy deregulation plan that to date has failed and failed utterly and has created nothing but high costs for consumers. How, in the course of this debate – and I'm going to certainly listen to all hon. members – is this going to reduce the costs for consumers? What we're going to be doing is creating

another level of middle persons. The middle persons have got to make a dollar, too, and I have no problem with a person making a dollar, but this is something that we have to recognize.

It's difficult for some members to recognize, but heat is not a luxury in this province. We live in a northern climate, Mr. Chairman, and heat is not a luxury, and heat in this case cannot be deemed as a commodity. Everyone in this extreme climate has the right to warm surroundings, and we cannot squander our resources. We have to put the consumers first. Bill 19 doesn't do that. It's setting up with Bill 3 to allow convergence of the natural gas and electricity markets, and I don't know how consumers are going to benefit in all this. They're not going to benefit with lower prices.

Now, natural gas at one time – in fact, Mr. Chairman, it was probably in the constituency that you do the honour of representing, the Turner Valley discovery – was just a mere nuisance. It was a mere nuisance. I'm told that from the edge of Calgary-Shaw you could probably see the natural gas, what was then, I suppose, countryside, but now it would be the urban part of Calgary called Calgary-Shaw. You could look south and see flares burning off the gas. It was a nuisance. Gradually we got control. Prudent governments in the past realized that it was a valuable resource, certainly, and when you consider how the economy in this province has expanded and how we have all prospered, it's based on cheap natural gas: accessible, affordable natural gas not only for residential use or commercial use but also for industrial use. In the course of the debate we're going to have to have a look and see exactly how much of our gas that we produce is used locally and by what sector: whether it's residential, whether it's commercial, or whether it's industrial, or there's another sector, I believe, and that's in power generation.

We have to be mindful when we're discussing this whole issue of natural gas of what the National Energy Board has to say, and the National Energy Board has moved to Calgary, and I think that's a very good home for the National Energy Board. The short-term natural gas deliverability from the western Canadian sedimentary basin in the next couple of years – and I would caution all hon. members of this Assembly to listen and carefully recognize that our natural gas is now like our conventional crude oil production. Conventional crude oil production, a lot of Albertans do not realize, has been in decline for 32 years now, and natural gas production – and I'm sure the Minister of Energy is going to come up with some real good incentive programs to spur on drilling. I'm certain of that. The National Energy Board stated recently in a report that

the initial productivity of a typical gas well in the [western Canadian sedimentary basin] has been decreasing and that decline rates have been increasing since 1996. Because of these changing characteristics, the number of wells placed on production each year would have to increase in order to increase deliverability from the [western Canadian sedimentary basin.]

Now, the board is anticipating certainly an increase in the number of gas wells drilled. I realize that the gas wells in southeastern Alberta are shallower and they're much cheaper to drill, but where the real risk is and where the real money is spent and where the real payback can be is in the Foothills Front and in the Peace River District, including the section of the Peace River Arch that is in the jurisdiction of British Columbia. There has been increased activity, and this increased activity was expected to increase deliverability, but it hasn't happened. Unfortunately, it has not happened.

An Hon. Member: Why not?

Mr. MacDonald: Because there has been a greater than initial productivity decline in the first year flow rates of those wells.

When we look at that and we look at the price of natural gas – and I think the price of natural gas will certainly moderate. Heating seasons are going to change, and we're going to have a cooling season. For our American market air conditioners will be the next thing to be turned on. Furnaces will be turned off, and air conditioners will be turned on south of the border, but there's still going to be a market for our gas. The situation in Venezuela will probably settle itself out, and that means a lot to the industries that are located along the Louisiana and Texas gulf coast. So, hopefully, there will be some moderation.

9:30

Whenever we look at the long-term implications, Mr. Chairman, of natural gas in this province, there's not an unlimited supply, and we have to ensure – and there are many ways of doing that – that we have accessible, affordable natural gas for Albertans to heat their homes and run their businesses on. That is a priority, and I do not see that priority in this legislation, unfortunately. This legislation is just driven by this notion that we're going to have competition for the sake of competition. When we consider what Albertans have enjoyed in the past as far as affordable heating costs, I think we have to look at going back there.

Mr. Chairman, when we look at implications of NAFTA – and perhaps the Minister of Energy is going to join in debate. I'm certain that energy officials have discussed this with the minister. When the Americans used tax incentives to encourage the development of the coal bed methane industry south of the border, there were no NAFTA considerations raised by the jurisdiction of Alberta, or they alerted the federal government and had the federal government do it. Certainly, there was no notification of that or there was no discussion of that in the press. Last year in this Assembly the hon. Minister of Energy explained that 8 percent of the gas production in the lower 48 came from coal bed methane. I was startled to read in that liberal newspaper, the *New York Times*, of the tax incentives that were utilized to get the coal bed methane industry onto its feet.

I would like to know if there has been any exploration by the Department of Energy to check out the NAFTA implications of this. Certainly, the same thing, to my knowledge, was not going on in this province, that we were having these incentives for natural gas production, at least not on that level. I know that we do have some royalty holidays, and those royalty holidays are complex issues. Some of those royalty holidays are not even scrutinized by the public. But if the Americans can do it, I'm curious to know why we can't.

Now, there's been a lot of talk about the Americans lately, and certainly, Mr. Chairman, I'm very fond of the Americans. There are only two things I don't like about America.

An Hon. Member: They keep bombing people?

Mr. MacDonald: No. It's their beer and their health care. The beer I find too watery, and the health care I find too expensive. But other than that, you know, they're our neighbours and they're our friends, and I always enjoy myself whenever I get together with Americans. We always seem to have fun.

On Bill 19, Mr. Chairman, we have to consider all these issues. We have to consider where we will be in the future. As a result of Bill 19 will we be looking at having industries leaving this province because of fuel gas to run their industrial processes? How will this work?

Thank you.

The Chair: The hon. Member for Wainwright indicated that he wanted to speak next, but if not, then the hon. Member for Edmonton-Highlands.

Mr. Mason: Thanks very much, Mr. Chairman. I'm pleased to rise to speak again to this bill at the committee stage. I guess I'll start by responding to the hon. Member for Innisfail-Sylvan Lake, who, much to my surprise, was critical of the New Democrats' position on this bill and, I'm assuming by implication, also the Liberal opposition's, although of course according to the Premier we're much worse than the Liberals. So if the Premier thinks we're worse, then we think that's better.

The assumption that introducing competition into an area of the economy is automatically going to produce better results is just that: it is an assumption. This assumption, if we're going to be scientific about it, needs to be tested. How do we test that? Well, what would be outcomes that we could look to to indicate whether or not one system was better than another? Well, Mr. Chairman, I would think that the first thing that you might want to look at would be the price. If you look carefully at the price of electricity, which is a similar commodity – it's not exactly the same, but after three years of deregulation in this province we have something to go on – we can see how the price has changed with electricity between the time that deregulation was begun and today. We can also compare the price of electricity in this jurisdiction, where deregulation has proceeded fairly far down the road, with other jurisdictions that have not deregulated electricity. So we can compare those prices.

We can also look at similar jurisdictions, so we could look at another jurisdiction that has tried to deregulate electricity, and we could then compare that result to the result we've seen here in Alberta. If we did all of those three things, we would be able to get an idea as to whether or not deregulation of that particular commodity had had a beneficial effect on price.

Now, I think we can do the same kind of thing with natural gas. The difficulty, of course, is that we are quite a bit earlier in the process with natural gas as compared to electricity, so we don't have a lot of results so far. But we can look at what the government has been doing with natural gas, and that is to allow wholesale exports of raw gas from the province into the American market, and we can see the result of that. We can see it with our gas bills this month and last month and next month, and we can see it with the result of government rebate programs before the last election. The result is that we have a far less stable system for natural gas pricing than we had before, and that's because shortages in other parts of this continent will drive the price that we have to pay for our own natural gas according to the system that the government has set up.

Now, is that beneficial for Albertans? Well, Mr. Chairman, it is and it isn't. It is in the sense that the government, because of its royalty regime, can realize windfall benefits from sharp increases in the price of natural gas, and they have in fact done that. That's good for Albertans provided that the government makes use of that additional revenue in a way that benefits Albertans. Again, the answer is: they do and they don't.

9:40

But it cuts both ways, Mr. Chairman, and what happens is that Albertans have to pay substantially more in the winter months when there's a shortage of gas in the United States. When we have a cold winter in Chicago, we pay through the nose here in Alberta notwithstanding the fact that it's our own gas. That hurts Albertans in a very big way, and I think that it's patently obvious that these additional costs are borne not just by individuals but by businesses, by farmers, and they are transferred to taxpayers through municipal tax in-

creases. We have plenty of evidence of that. The city of Edmonton, the town of Athabasca: there's no end to the list of municipalities that have had to either increase taxes or cut municipal services in order to pay for both higher gas and electricity bills.

It gets passed on in medical costs to the government, so it comes back to bite them on the nose, and it gets passed on to seniors who live in seniors' accommodation. In my particular constituency there have been significant rent increases for seniors in both lodge and apartment accommodation as a result of the need for those nonprofit organizations that run those lodges and apartments to meet increased utility costs in the province. So that's a negative consequence.

What we can see with electricity very clearly is that higher prices have resulted from deregulation both compared to Alberta in the past, before deregulation, or compared to other provinces that have not deregulated electricity, or we have also seen similar results in jurisdictions that have deregulated electricity. The same kinds of things have happened where there have been dramatic increases in power costs. So I think that the evidence is clear. When it comes to deregulation of electricity, higher prices are a result. What I'm going to go out on a limb here and assert, Mr. Chairman, is that deregulation in natural gas will in fact result in exactly the same phenomenon. In other words, we are going to see dramatic increases in gas over and above what we've already seen.

Mr. Chairman, there have been two kinds of increases. One is the market swings that we've seen as a result of the creation of a North American market, but on top of those market swings, which we're now experiencing, we're now going to see a built-in or a structural increase in gas prices because the government has added costs into the structure. So by forcing through this bill and through their previous policies, the breakdown or the separation or the unbundling, as they like to call it, of retail, which is the selling of the gas through the pipes that exist, and the distribution – you can't do both – you're creating, then, two or three additional levels. There's the gas producers, there's the transmission, there's the distribution of the gas, and then there's retailers, all of whom compete with one another in order to get market share, and they have to be separate from the distributors.

So what you're doing is you're adding more players and you're stacking them vertically. Each player has its cost of operation, and it needs a return on its investment. So we're adding cost as we go, as we start stacking these various entities. Where we once had one entity, we now have a number of them, and that's the unbundling process. It builds in a structural cost to support. So the government is trying to build an infrastructure to support what they call choice, but that infrastructure has a big cost.

Now, is the choice going to offset that? Well, obviously no, because the cost structure is your starting point for the cost of your gas and any competition takes place over and above that structure. How do companies operate in this kind of market? Do they cut things to the bone? Do they subsidize the natural gas? Do they work very, very hard to give people the cheapest possible gas? Or do they compete in other ways? Well, I think you could look at other places that have been deregulated. There are some changes they will attempt to give you. You may win a trip to Las Vegas if you sign a three-year contract or you might get free gas for a month or you might get some kind of bargain on your gas if you use it after a certain time at night or if you use more in the summer, but basically they don't want to bring down nor is it in their interest to bring down the cost of natural gas to prices that could be delivered under a regulated system.

So I think we can conclude, Mr. Chairman, that there is a very great likelihood that the passing of this bill will result in an increase in the cost that we pay for natural gas from month to month. It will

still swing wildly because the government has created this North American market, which they didn't have to do but that it would be very difficult to get out of now due to NAFTA, I'm quite sure. So we're now pumping out our gas faster than we're finding it. We're paying wildly fluctuating prices. In fact, we pay the highest prices at the time of the year that we use the most natural gas, and over and above that, in order to support all of these new entities that are coming into the Alberta market to provide so-called competition, we're going to build in a structural increase to the prices.

So I believe that we need to take quite a detailed look at Bill 19, the Gas Utilities Statutes Amendment Act, 2003, and we need to examine it. I would urge all members who are getting calls now: if your constituents are upset with the price of natural gas today, then I think you ought to consider very carefully whether you want to add to the burdens of your constituents by passing Bill 19 because that, Mr. Chairman, is exactly what you will be doing. If people can be persuaded, I guess, that for some sort of ideological reason that choice is a good idea, then they can be persuaded to go along with this bill until they have to start paying the piper. Then I think people are going to say: well, wait a minute.

There's a difference between ideology and a fervent belief in the market, an almost religious belief that the market solves all problems, and the practicalities of the matter. I urge the government and government members to put ideology aside and look at the practicalities of the matter because anyone that examines it from that point of view – what works; what delivers the lowest cost energy to homeowners; what is reliable; how can we best guarantee a reliable supply at a reasonable and a stable price? – will conclude that the package of government policies that have been proposed and implemented up until this stage and the further steps included in this bill are, in fact, the very opposite of practical, efficient, and public-minded policy for natural gas. In fact, they will have to conclude that it holds the average constituent of every member of this Assembly hostage to gas producers and gas retailers. Those companies are the ones who will benefit by this bill at the expense of the rest of us. Yet the government seems to be facilitating that even as we speak, and they are taking advantage of the fervent belief in the market of many members of this Assembly.

But I'm here to tell you, Mr. Chairman, that that is a misguided belief in this case. The market works wonderfully in lots of places, and contrary to what some may believe, we actually support the market when it comes to things like hamburgers and CDs and cars. There are lots of things that the market does a wonderful job at, but this is not one of them, and I think that it would be wise on the part of members of this Assembly to take a close look at the functionality of the system that the government is proposing and consider carefully how it will work, how it will deliver lower prices. Is there really going to be a rush of investors rushing in to fill some kind of market vacuum here in this province in order to compete with one another in a way that will drive down the price of natural gas? Is that realistic? Is that something that people really believe is going to happen? If so, what is the proof?

I believe that we should be asking the government to demonstrate

in a practical way with research how this function will occur if gas is going to be cheaper and the prices more stable and supply preserved for the future generations of this province. If they believe that, then they should probably pass the bill. Mr. Chairman, I don't believe that this bill will do anything other than the direct opposite. I think that it's a grave mistake, and I think that it would be a mistake to pass this bill as it now stands.

9:50

So, Mr. Chairman, just in conclusion, I'd like to indicate that the New Democrat opposition is and remains adamantly opposed to this direction of the government, which we believe is not in the best interests of ordinary Albertans. People with homes or farms or small businesses or people who are dependent on public services will all be paying more if this bill goes ahead. So I would certainly hope that during the course of debate at committee stage, we will be prepared to open-mindedly consider a number of very positive amendments that could be brought forward in order to fix this bill.

With that, Mr. Chairman, I'll be prepared to move that we adjourn debate on Bill 19 in committee stage.

[Motion to adjourn debate carried]

The Chair: The hon. Deputy Government House Leader. [interjections] Well, that's nice, but we just adjourned debate on Bill 19. Would you like to say some words about that?

Mr. Zwozdesky: Okay. Let's do that. Let's rise and report bills 21 and 15 and report progress on Bill 19.

[Motion carried]

[The Deputy Speaker in the chair]

Mr. Lougheed: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following: Bill 21 and Bill 15. The committee reports progress on Bill 19.

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

Hon. Members: Agreed.

The Deputy Speaker: Opposed? So ordered.
The hon. Deputy Government House Leader.

Mr. Zwozdesky: Thank you, Mr. Speaker. I'm pleased that some progress has been made, and with that I would move that we stand adjourned until 1:30 tomorrow.

[Motion carried; at 9:56 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]

