

Legislative Assembly of Alberta

Title: **Wednesday, November 17, 1999 8:00 p.m.**

Date: 99/11/17

[The Speaker in the chair]

THE SPEAKER: Please be seated.

head: Government Motions

Committee Membership Changes

22. Mr. Hancock moved:

Be it resolved that the following changes to the following committees be approved by the Assembly: on the Special Standing Committee on Members' Services that Mr. Woloshyn replace Mr. Renner, that Mr. Clegg replace Mr. Doerksen, and that Ms Haley be appointed deputy chairman; on the Select Standing Committee on the Alberta Heritage Savings Trust Fund that Mr. Trynchy replace Mr. Pham as chairman; on the Select Standing Committee on Private Bills that Mr. Jacques replace Mr. Cardinal and that Mr. Renner replace Mr. Zwodzesky; on the Select Standing Committee on Public Accounts that Mr. Cao replace Mr. Ducharme, that Ms Graham replace Mr. Hierath, that Mr. Herard replace Mr. Hlady, that Ms Kryczka replace Mr. Stevens, and that Mrs. Forsyth replace Mr. Melchin; and on the Select Standing Committee on Public Affairs that Mr. Fischer replace Mr. Cardinal as deputy chairman.

[Government Motion 22 carried]

head: Government Bills and Orders

head: Second Reading

Bill 38 Constitutional Referendum Amendment Act, 1999

[Adjourned debate May 3: Mr. Renner]

THE SPEAKER: The hon. Member for Edmonton-Norwood.

MS OLSEN: Thank you, Mr. Speaker. Welcome back, Mr. Speaker, and delighted to be here.

I also understand that two of my previous colleagues from the Edmonton Police Service are now working in the House as assistant sergeants-at-arms. I'd like to congratulate them.

Now we'll move on to the constitution issue. This bill, Mr. Speaker, is designed to amend the Constitutional Referendum Act so that before any bill is introduced into the Legislative Assembly that invokes the use of the notwithstanding clause, a referendum must be held, with the exception, however, that that particular clause not apply to dealing with who may marry. To me, I guess, this particular bill stands out as something that has come up as a result of the Vriend decision. I think this government was under a lot of pressure at that time to invoke the notwithstanding clause, and now I think this is another public relations tool for the government. Not only that, but we now have an order in council that can be signed, and that's the ability of the government to go through with a referendum.

But I have to make some comments, Mr. Speaker. I watched the Premier tonight on one of the TV stations. I watched as the Premier was asked if he would hold a referendum on private, for-profit health care or privatizing hospitals, and he lost his temper. He said: no, I will not hold a referendum, because I said so.

You know, one of the most essential things that defines Canada

and defines its provinces is the public health system, and this Premier won't hold a public referendum on that, but what he will do is hold a public referendum in an attempt to have the notwithstanding clause invoked and take away somebody's rights. So you have to wonder why he won't do it for something as fundamental as health care, but he'll do it so his government will get the particular result they want, and then he'll have the ability to invoke the notwithstanding clause.

Let's just talk a little about who he might do that to. If we have the majority of the population in this province decide that they don't believe in issues of equality when it comes to the gay and lesbian community, that's when he'll do it, and he'll say that that's what the public wanted. But he forgets the mandate that we are here for, and that is to prevent that tyranny by the majority. That is not what this particular constitutional referendum amendment will do. It will allow for that.

We talk and we hear a lot about the whole issue, Mr. Speaker, of referendums and direct democracy, and that, by the way, is a very populist notion, certainly something the Reform Party sits by and certainly something that's very popular in America. Well, this is Canada, and this is Alberta. I'm not quite ready to shed my Canadian flag for the U.S., and this province isn't quite ready to throw their Canadian flags away to put up the star-spangled banner.

I think we have to take a look at what direct democracy does and what referendums are for and the legitimacy and the abuse of those particular referendums. I think this particular amendment will allow for abuse, Mr. Speaker, and it will allow for abuse by a government. This government is bound and determined to get what it wants, but it has to sit back and think about what it's doing.

This could apply to the native population. What if the majority of Albertans decided they didn't want native Canadians to vote? Well, it wasn't very long ago – 1962, I believe – when the aboriginal population of this country finally got the right to vote. What would happen if that went to a vote? We would then say that we aren't going to allow native Canadians to vote because the population of the . . .

MR. DICKSON: Read the Charter of Rights.

MS OLSEN: Well, that's just it. Read the Charter of Rights. Why are we dealing with this, Mr. Justice Minister? You should be embarrassed. You should be embarrassed to have this on the table.

We talk about what a referendum is. A referendum is the referring of a political question to the electorate for a direct decision. Well, that's fine, but where's the leadership in government? Where's the leadership in government that will prevent tyranny by the majority? That's not going to exist if we have this particular amendment go through. Quite frankly, the courts will speak. The courts will speak, hon. Member for Edmonton-Beverly-Clareview. That's what will happen, and you might then have to think about: oh, my, am I going to belong to the party that invokes the notwithstanding clause through a referendum? You can be proud of that, I suppose.

Let's talk about Senate reform and the referendum and the money that was spent, backstopped by this government, I might add. Backstopped by this government. So we have a referendum on the Senate. We won't have a referendum on public health care in this province. We will have a referendum to invoke the notwithstanding clause on a minority. I don't know where the democracy is in that, Mr. Speaker.

I'm a little concerned that there's more at play than just this well-intentioned amendment. It's ideology driven, and at some point the government needs to do what's right and not what's popular and not what the Reform Party would like them to do, take a stand and say

that everybody in this province is important, so it would have to be an absolutely extraordinary circumstance when this government would use the notwithstanding clause, not like we saw in Bill 26, not at all like that, where the notwithstanding clause was used on vulnerable people. The message came loud and clear from Albertans: they don't want that clause used. So I think that, quite frankly, this is a little bit of a public relations tool for the government to satisfy some of the government positions and those people who are representing different constituency groups.

8:10

I'm not sure that the spirit of this particular act will ever be upheld by this government. In opposing this particular amendment I think it places the will of the majority over that of any minority when it comes to human rights. We have the hon. minister of federal and intergovernmental affairs talking about Burma today and human rights. You know, when I think about this piece of legislation, the ability to invoke the notwithstanding clause . . . [interjection] I hope she doesn't support it. I hope the hon. minister doesn't support this, not when she's talking about human rights today, not at all. It ties the hands of the government, and the government then can't take a leadership role, not that I find this particular piece of legislation reflects any leadership.

I also want to refer, Mr. Speaker, to the original debate on this particular bill. As we look through this and we go back through *Hansard* and look at some of the discussion on this particular amendment at the time – and there are many people in this House at that time – I understand the Premier of the day talks about this as being a piece of binding legislation, that the referendum would be binding. Then we have the previous Justice minister – what is he now? Minister of Cambridge University? Pardon me. Minister of Economic Development – who says in a letter to one of my colleagues that this isn't binding. So I sit back and think: okay; well, I'm really glad the previous Minister of Justice, the Minister of Economic Development, went to a law conference, because I think he needs it. I think he needs it because he doesn't understand what the left and right hands are doing. In this particular letter – and I can table that, Mr. Speaker, if you wish – he talks about this as really not being binding. Yet clearly – clearly – the intent of the debate by the previous Premier at the time this particular piece of legislation was brought in talked about this being binding.

I'm not quite sure what in heaven's name the government is doing, because you know a Conservative government is on both ends. I have words from one person and words from another, written words. The left and the right hands don't quite know what's going on. How are Albertans supposed to trust this government when they're talking out of both sides of their mouth? For that reason I feel very strongly, Mr. Speaker, that this has to be defeated. I mean, this particular piece of legislation is far, far from being able to resolve any problems.

If the government feels it's getting pressure from majority groups to invoke the notwithstanding clause, they need to ask themselves what they should be doing; that is, is this an extraordinary event, is this something that is critical to the nation? The answer in this day and age is most likely no.

Are we going to walk all over the rights of a minority group? Likely that's what this was designed for. We see a lot of that kind of legislation in the U.S. I can think of all sorts of different things that have arisen with minority groups and all sorts of different bills being put to referendums, and quite clearly governments haven't had the political will to do what's right and just follow down a path that is quite antidemocratic in my view.

So, Mr. Speaker, given those comments, I'll take my seat and let one of my other colleagues make their points.

THE SPEAKER: The hon. Member for Edmonton-Glenora.

MR. SAPERS: Thank you very much, Mr. Speaker. I was hoping that the break between the last time we were all together in this Chamber and tonight would have been used by the government for some advantage and that part of that advantage would have been a rethinking about this bill. It was very clear in the way it was presented by the former Attorney General, it was very clear in the rhetoric around its presentation in the Assembly that it was legislation that was created to appease a certain attitude and to cater to a certain segment of the government caucus. It was a calculated political risk by a government that is used to gambling and understands playing the odds. I thought that perhaps the government had gotten just as much mileage out of this idea whose time should not come as they could possibly have received. Unfortunately I, like my colleagues and my constituents, am disappointed to learn that that's not the case, that the government did not take a hiatus between these sitting days to rethink its position and to do the right and honourable, democratic, fair, and just thing and either pull this bill or let it die the natural death that it deserves without any further debate or without bringing any further ridicule and disgrace to democratic and parliamentary traditions.

Those are strong words that I just used, Mr. Speaker, and they're the most polite words that I can think of in terms of where I think this kind of legislation comes from and where I think it takes us. It's easy to boil down the role of government to a couple of simple words or simple phrases, but certainly amongst those simple but elegant truths about the role of government has to be – has to be – the protection of minority rights.

In a democratic parliamentary system such as ours that has to be amongst those handful of essential elements that demonstrate good governance and justify people giving over to elected officials the right to make decisions on their behalf. There has to be that kernel of understanding that an unfettered majority is not always correct, that democracy doesn't mean only the loudest voices or only the mob, that democracy also means listening to the quietest sounds and tempering what the majority would have done by what is heard within those quiet voices.

I'm afraid, Mr. Speaker, that Bill 38 ignores that reality, pretends it doesn't exist, totally turns its back on the traditions of democracy, on the tradition of protecting the minority, and even further, unfortunately, cements an image into the minds of Albertans and Canadians that somehow the people of Alberta are different and that they don't care about those parliamentary and democratic traditions and that somehow the people of Alberta would go along with a government that would trample upon these fundamental tenets of government and democracy and of minorities.

I don't particularly want to be provocative, Mr. Speaker. I don't know whether you'll believe that of me or not. I also don't want to boil this down to just a personal emotional response, but I am a member of a religious minority in this province and in this country. I don't think that gives me any special insight, but I can tell you it has given me some unique experiences, the experience to firsthand be on the receiving end of bigotry and racism and prejudice. There are other members in this Assembly who I have had this kind of discussion with and who I know have had those same kinds of experiences. While I don't think it would be fair to say that unless you've been in my shoes, you can't imagine where I've been, I think that fair-minded people have insight and have empathy.

8:20

I must say that it is particularly insulting to me as a member of this Assembly that a question as fundamental about the notwith-

standing clause, to mitigate the Canadian Charter of Rights and Freedoms, would be put to a referendum for sheer political purposes. That's the only way this has been explained. This has got nothing to do with anything other than . . . [interjection] Well, the minister says that that could be a point of privilege. If it is, raise it. If there is a point of privilege in any of this, it's in fact that we're debating such a bill which I think is so fundamentally at odds with what the role of this Chamber is and what it is that we're all doing here and what it is we said to our constituents when we knocked on their doors and asked for their votes. So, Mr. Speaker, I would encourage a member of the front bench of the government to raise that point of privilege if they so choose.

Mr. Speaker, this is a bill that really bells the cat, I think is an expression my grandmother used to use. What she meant by that is that it perfectly defines what it is you're talking about.

Now, in Alberta today we have a government that is continually demonstrating its impatience with criticism and its intolerance of new ideas. When this government is faced with criticism, challenging thinking, and new ideas, its first instinct is to try to ridicule that criticism and those new ideas, then diminish it, then brand it fear mongering, and ultimately pander to the lowest common elements that may not even fully understand what's at stake in the issues or the thinking or the criticism.

I don't think the government wanted to paint that picture of intolerance when they brought forward this bill, but this is a government that has not distinguished itself when it comes to understanding minority rights and the role of the Charter. This is a government where in debate members of the front bench have said that the Charter of Rights and Freedoms is the worst thing that ever happened to Canadian society. And, Mr. Speaker, if you force me to, I'll do the research and I'll find the *Hansard* reference, but it's there, and it's on more than one occasion. This is a government that has brought in legislation to take away the legal rights of Albertans to go to court. It took them a couple of days. They saw the error of their ways. They withdrew it, and it was interesting. In all the backpedaling over Bill 26, it wasn't because they understood finally that it was the wrong thing to do. They just said that they didn't do a very good job of selling it.

Mr. Speaker, this is a government that has not distinguished itself. This is a government where members in this Assembly have uttered phrases that have been both bigoted and prejudiced.

DR. WEST: Name them. Name one.

MR. SAPERS: Name it? Okay, I'll name it: when the Member for Dunvegan was sitting in the chair and said that the hon. member was jewed out of two minutes of debating time, when the Member for West Yellowhead said go back to India to one of our colleagues. I can name it. You want me to name more, Steve West? It's on record, and it's nothing to be proud of.

When we're dealing with a government that has a record that it cannot be proud of, when members have been free to utter these bigoted and prejudiced comments, when legislation has been brought forward that would further penalize vulnerable Albertans who have already been hurt by government action, then how can the government be taken at face value when it says, "We want to bring into law the notion that the majority, unfettered and untested, would be allowed to trample further upon minority rights"? Mr. Speaker, it's wrong, it's undemocratic, it's un-Canadian, it's un-Albertan, and it demonstrates further just how out of touch an arrogant government can become when it is simply playing politics with the people it is supposed to be governing.

Mr. Speaker, it may be clear to you now that I won't be supporting

Bill 38, and I can tell you that I've spoken to a number of my constituents about this bill, because I was so outraged when it was brought forward. As you know, because you've been in this business an awfully long time and you've talked to a lot of constituents on a lot of matters and you've been around the cabinet table, you know what happens when you talk to constituents. You talk to those who say: you know, I voted for you, so I want you to do what I said. You talk to those who say: I'd never vote for you, but you're my MLA, so you have to carry my voice forward anyway. You get a whole variety of reactions to things. I've heard from those people. I've heard from those political supporters of mine that I enjoy, and I've heard from those detractors that I represent, and you know, to an individual, to a man and to a woman, not one of them – not one of them – would accept that Bill 38 is the right thing for Alberta. I don't accept it, they don't accept it, and this Assembly should not accept it.

Thank you, Mr. Speaker.

THE SPEAKER: Hon. members, before calling on the hon. Minister of International and Intergovernmental Relations, might we revert briefly to Introduction of Guests?

HON. MEMBERS: Agreed.

THE SPEAKER: The hon. Minister of Resource Development.

head: Introduction of Guests

DR. WEST: Yes, Mr. Speaker. I'd like to introduce to you and through you to Members of the Legislative Assembly an individual that's attending her second year in business administration at the University of Alberta. She came here tonight to witness the democratic process, and I see that the temperature rose there a little bit. I hope that she doesn't take any bad or ill effects from it back to the university. This is a good Conservative, well brought up in the art of conservatism. I'd like to introduce to the Legislative Assembly my daughter, Tara West, in the public gallery. Please stand.

THE SPEAKER: Welcome, Tara. That was your dad.

head: Government Bills and Orders

head: Second Reading

Bill 38
Constitutional Referendum
Amendment Act, 1999
(continued)

MRS. McCLELLAN: Mr. Speaker, I'd just like to make a few comments on this bill. I've listened to the debate, which is my practice in the House, fortunately I think, and I've tried to relate some of the debate that I've heard across the way or maybe its comments or so on to this bill, which in its entirety is three sections. What really moved me to make some comments is that I was here this afternoon and I heard a group of people across the way call for a referendum on a policy on how we deal with the Canada Health Act, the interaction of hospitals, whether they be privately run or not, when that policy paper has just been submitted to the people of this province for their consultation, their feedback, before a bill would come back to this House to be debated in the spring. I heard that, have a referendum. I thought: there's something wrong with this picture, because here is a bill that clearly states that before the notwithstanding clause would be invoked in certain sections of the Charter of Rights and Freedoms, the results of a referendum must be

heard, that in fact the Lieutenant Governor in Council has the opportunity to call a referendum and clearly states the only instance that a referendum would not be called before that was used. It puzzled me because the speakers that I listened to I usually find their debate to be clear and quite consistent and on track with what we're dealing with.

8:30

I heard a member talk about intolerance – intolerance – and then I heard that member speak to issues that had been said in this Legislature and apologized for, and Mr. Speaker, I thought that was intolerant. I wanted to make that comment, because there is a procedure in this House, and the one thing that I was, I believe, instructed to do by my mentors, my predecessors, was to respect the dignity of this House. When we have an opportunity to withdraw comments, a slip of the tongue, that is exactly what happens, and I find it highly intolerant to raise those if and when they have been apologized for.

Mr. Speaker, this bill was introduced after a consultation, a very thorough consultation, with Albertans. It may be strange to the members opposite to follow what people tell you in the construction of a bill, but almost 70 percent of the people who were surveyed said they supported the use of the notwithstanding clause, provided the decision was backed up with a referendum. That is what the people said. Well, I am proud to be a part of a caucus, of a government who stands and brings forward legislation in this House that represents the views of a majority of Albertans, not just a few.

Thank you.

THE SPEAKER: The hon. Member for Edmonton-Calder.

MR. WHITE: Thank you, Mr. Speaker. It is a pleasure to follow the Minister of International and Intergovernmental Relations, the Member for Drumheller-Chinook. I might note that she started off by waving the bill about, a very slim bill, as almost to say that this is a lightweight bill, that this doesn't really have much effect in law, that it's not really much of anything, so let's not worry about it at all.

MRS. McCLELLAN: Point of order, Mr. Speaker.

THE SPEAKER: The hon. Minister of International and Intergovernmental Relations on a point of order. The citation?

Point of Order Imputing Motives

MRS. McCLELLAN: On 23(h), (i), or (j), Mr. Speaker. I don't find it very useful in a debate to impute motives of a member's use of the bill. I thought it was rather a good idea to use the bill in the discussion and the debate, and maybe that's what I was trying to draw the discussion to, not that I didn't consider it to be of much importance. I wouldn't have stood and spoken on that bill if I didn't think it was important, hon. member.

MR. WHITE: Mr. Speaker, I merely recounted almost verbatim the words that she used, and then she waved the bill, this slim bill. I didn't impute any motives other than to say that this was a slim bill and said in a motion and affected this member to believe that it was that, a slim bill, and therefore of not much consequence. If I have misinterpreted the simple, straightforward statement such as that, then I must humbly apologize.

THE SPEAKER: Hon. members, please. A bill is not a prop. A bill is a part of the machinery of this Assembly. If one wants to wave it,

hold it, fly it, that's quite okay. If somebody else wants to make a comment about it, that's okay too.

So, hon. Member for Edmonton-Calder, would you please proceed.

MR. WHITE: Thank you, Mr. Speaker. I'm very happy to provide Dr. West's daughter with such an education, a little enlightenment exercise tonight too.

Debate Continued

MR. WHITE: Aside from the slenderness of the bill, this bill is in fact in law really quite weighty. If you look at the implications of it, it's astounding what can be done, and to make light of it is doing less than complete justice to the bill. It certainly doesn't speak well of this House when a bill of so few words can make such a great difference to so many people.

If you look at what it does modify, it modifies a very, very simple document that a good number of us, I suspect, have on our walls in our constituency offices and the like, and that's the Bill of Rights, a fundamental document passed in 1992 that says what you and I have the right to as Canadians. Prior to that, of course, we always thought we had those rights. This was written into the law. Now this document that we have before us today, which is supposedly a slim bill, says that a majority of one vote at one time can change that.

Now, I always thought that the rule of law was specifically to protect the rights of the minority and that that was what democracy was based upon and has been based upon. It is by the majority but to protect the minority rights. Each and every one of us is a minority in some way or other, and we scream blue murder every time our rights are in reality or in perception trampled upon. The minister was speaking of the withdrawing of statements. Well, this is not the withdrawing of statements. This is the withdrawing of rights.

Let's examine what section 2 of the Charter actually says. It's the "freedom of conscience and religion." That can be withdrawn by referendum under this particular bill. The "freedom of thought, belief, opinion and expression." If that doesn't go to the heart of what democracy is about, then I missed too many lessons in grade school. These are the fundamental elements of democracy. I personally haven't had to live under a regime where I never had these rights, but there are others in this Chamber that have and know of the kind of rights that can be withdrawn at the drop of a hat. There are people who have lived and worked in this society for a long time and understand precisely what these words in the Charter mean and precisely what it means to have them withdrawn. To play with it is less than what I'd expect of any government, particularly an Alberta government that does really try at times to break down that image of western hicks that don't give a darn about law, that it's just gun toting and that sort of thing. That kind of image just doesn't do our business sector and those among us that are scholars, those among us of any higher ideals and higher learning – it certainly doesn't do any good at all.

I notice the minister mentioned the poll. Well, here we have a bill to withdraw rights based on a poll result. This is how the Alberta government decides to grant or withdraw rights of its citizens: by the effect of a poll. Citizens elect us to come here to talk about these things that they would like to have the opportunity to dwell on and to understand and to really be brought along with others and be educated, in fact, by those around us, to have the opportunity to learn these things. They send us here to protect those rights and to understand what they mean. This bill just kisses them away.

Let's understand a little history. There was a chap in Mr. Speaker's gallery today that I came to know a number of years ago.

He's now a citizen from southern Alberta; Medicine Hat, I believe. His name is Jim Horsman. At the time, in '92, he was in this House; he was the attorney general. I'll read his statement about the Charter. It's a shame that he had to leave this afternoon, because he would have loved to hear the debate on this particular bill, and he would have given a little bit of his energy if he could have been down on the floor to speak on it. This is what he said:

This is an historic document because it will give Albertans the right to vote directly. Every eligible voter in this province will have their say. The government will be bound, and it will be the people, not the politicians, that will make the final decision on those issues that are extremely important to the future of Alberta and to Canada.

He was speaking about a referendum. Later in that same text he says: but the fundamental rights of all human beings, particularly those in our charge in Alberta, cannot be bound and cannot have their rights restricted by any vote of the majority. That's precisely what this bill does, and there is a very, very, very longstanding Tory.

8:40

There's another Tory, that is currently a Senator from Calgary, Ron Ghitter, that wrote the final document, presented a paper to this Legislature and the legislation that followed, that unfortunately didn't pass, on tolerance and understanding of minority rights, understood what they meant, presented them to this Legislature, and was understood by most. Unfortunately, he is not here today, and the spirit seems to have been lost on the current government. They have lost the man's legacy. Of course, that was the early '70s, when it was a very different Tory government, as the Speaker and I will remember.

This bill speaks and smacks of the exercise of the power and the tyranny of the majority dealing with the minority. There are those in this Legislature that certainly wouldn't understand that because they have always, their entire life, been in the majority. I probably should be categorized as that because I personally have always been in the majority, but I have been educated by a lot of others and have been to lots of places in this world to understand that minority rights are absolutely essential to any progress of any human endeavour for any length of time and for the sustenance of the people in which that particular government is governing.

I am not nearly as eloquent as some, but I believe that this bill deserves no further discussion from any side of the House and should be defeated forthwith and not be an embarrassment to this government any longer.

Thank you, Mr. Speaker.

THE SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Thank you very much, Mr. Speaker. This is the first opportunity I've had to speak to Bill 38, and I'm hoping that the new minister responsible for this piece of legislation is going to rethink it. I'm hoping that he's just carrying it through because it was brought in by another minister and now he has to live with it. I'm hoping that we'll beat it up for a little while and then he'll pull it or let it die on the Order Paper because I have some real concerns about this bill.

Maybe I'm not the most knowledgeable person on the Constitution and all the issues that the legal beagles may know about, but I have a concern that this bill makes us look like rednecked Albertans. I was out of this province for awhile with some other people from different provinces, and their view of us was interesting. You know what? I don't like the term "rednecked" because I'm from rural Alberta and there isn't a person out there who wouldn't help their neighbour. They're good people. They care about their neighbours.

They don't care what colour they are or what religion they are or if they come from the Hutterite colony in my riding or the Alexander First Nation in my riding. They would help anyone out, and their kids play hockey together. I just feel that this kind of bill makes us look like we want communities divided, that we don't care about the voices of those who are in the minority, the vulnerable. This government has underfunded the Human Rights Commission, the Ombudsman, the Children's Advocate. All these things that speak to the vulnerable and to the minority this government has undermined. Now we have a bill in front of us that I guess is a reaction to a blunder, is what it is. So they say: well, before we can ever put in a notwithstanding clause, we have to have a referendum.

Well, putting in the notwithstanding clause is pretty serious stuff. That's actually taking away all our rights, taking away a person's rights. Now we have this piece so that I guess Conservative MLAs can go to their constituents and say: don't worry; we've got a piece of legislation here, and we'll never put it in unless there's a referendum and everybody has a voice in it. Really. And then you wave the little Bill 38 in front of them and say: we've done this.

But do they really realize that – I mean, let's just say that this government wanted to get rid of Catholic education. So you bring in a bill that says: in an election for school trustees no Catholic people can vote. But that's like a notwithstanding clause, so we have to do a referendum. Then we've got 51 percent, I'm sure, that would say – and I'm using Catholics, Mr. Speaker, because I am one. I'm not actually picking on any one religion. So then they could actually lose their right to vote if people across the province said: well, we really don't want two school systems anyway, so if they don't vote, we get rid of it. Do you realize that could happen?

I know we think a lot of things seem a bit far-fetched, but sometimes you've got to give a pretty dramatic example before this government catches on. Maybe they'd have a bill that no women in the Legislature could speak. Now, some people are nodding their head, and some people are going to be working extra shifts here. And wouldn't it be interesting when the men are the minority in this Legislature? Ouch. But we respect their rights; we would never bring in something like this.

I really have some real concerns over this bill. You know what? If we put this act in, the wording of the question that goes to the referendum isn't even discussed by both sides of the Legislature. It can just be one cabinet minister who says: I want a referendum on this so I can put in the notwithstanding clause. We've seen some individual ministers – and there would be pretty scary questions that might end up in a referendum forum. That does not serve democracy. We've even seen how the framing of some questions can sway a referendum. We have. We've seen it right here in Alberta.

And you know what? If you do a referendum question, what about the different campaigns and the pressures and the money put in that will market something compared to maybe the minority that is being picked on? Can you imagine the divisiveness across this province? Can you imagine what it would do to families? In a time when I think a lot of the world is trying to find what is similar and to celebrate what is the same and what we can enjoy all together – I mean, just the other week some people read about the Lutheran and the Catholic churches joining together on different issues. That's a celebration, and here we could have a referendum that would divide a lot of things.

I'm disappointed this is before us. If I had some level of comfort with it, if I'd actually heard a reasonable argument why we actually need this, unless it's to prevent further blunders by ministers – but as I see it, we'll have more blunders if any minister can put in a question he wants and then have a referendum on it.

8:50

MR. HANCOCK: Read the bill.

MRS. SOETAERT: You say to read the bill. The minister says: read the bill.

MR. HANCOCK: Any minister can put in a question and have a vote on it.

MRS. SOETAERT: No. If the minister can word the question . . . If you'd listen to the whole debate, Mr. Minister, you'd get the background. The wording of the question is not brought to the Assembly. It's not. And we think that's democracy? I don't think so.

You know what else was interesting? I had an opportunity to meet different legislators from across the country, and there was a definite arrogance from some who had come from provinces where they have been government for a long, long time and a real understanding of democracy and the role of opposition and both sides of the Legislature from those whose governments switch regularly. Much healthier debate. Much less divisiveness. Imagine. And you could tell those who thought: "Oh, don't have a question period. Oh, just do a referendum on that. We don't need to include the opposition on any of those committees. No fall session. Oh, why put them on a committee? Who needs that? Why, that would be like democracy. No, no, no. In our province we just have dynasties." And you know what? That's the Law and Regulations Committee, another example.

Mr. Speaker, I'm concerned about this bill. I know it's only at second reading, and I'm afraid that if it gets to committee, I don't know how to amend it, because truly we want to get rid of it. So we're hoping – and you know what? The joy of committee is that we can each speak a few times, and I'm almost done my Christmas shopping, so I'm willing to stay here for a long, long time. Give me a list; I'll just . . . [interjection] I'll willingly help out people who need help with that, because I'm willing to stay in here and debate this issue because I feel very strongly about it.

This is not a good bill. This does not serve democracy. This is divisive. This is a divisive bill, and I don't know why this government would bring this in. Why would they have the rest of Canada look at us and say: "Oh, gosh, those guys in Alberta have now got a bill that will let them do the notwithstanding clause with a little referendum. Who cares about the minority voice in Alberta?" That's what it will look like. Maybe that's not your intention, Mr. Minister, but that's what it looks like, and I'm tired of that image for Alberta. I'm tired of it. We are not rednecks who go driving around in four-by-fours in the back of a pickup truck anymore.

AN HON. MEMBER: On the wrong side of the road.

MRS. SOETAERT: On the wrong side of the road.

But I'd like to think that we are intelligent, compassionate people. I would like to think that our legislation reflects that, and this doesn't.

So I am asking the minister to pull it or we'll be here forever, till Christmas. I know you don't like bringing closure because that's not democratic either. But this is not a good bill. It has not been thought through. I know you're carrying the torch for the last minister, but douse it out. Start again.

So, Mr. Speaker, with those . . .

AN HON. MEMBER: Just say no, David.

MRS. SOETAERT: Just say no, Mr. Minister. Just say: I can't take

it anymore; I've seen the light; this is not good legislation; it serves no one.

So, Mr. Speaker, I hope I've made the minister think about it.

MR. DICKSON: You sure persuaded me.

MRS. SOETAERT: I've persuaded members on both sides of the House, I'm sure.

Despite some of the light comments I have no intention of letting this piece of legislation go easily through this House, because it shouldn't go through this House. It should not be passed, and I hope that other people on the other side of the House will have another look at it and realize what it means. Hopefully we can let this one ride and just see a nice little death at the end of this session.

Thank you.

THE SPEAKER: A point of order.

Point of Order Questioning a Member

DR. WEST: I would like to ask a question in debate under *Beauchesne* 482, if the hon. member would entertain a question.

MRS. SOETAERT: No. Thank you, Mr. Speaker. You know what? I got elected to ask the questions, but next time round I'll take them.

Debate Continued

MRS. SOETAERT: Mr. Speaker, I thank you for the opportunity to speak to Bill 38. If it comes back in Committee of the Whole, you can be assured that if the opportunity arises, I'll be back too. Thank you.

THE SPEAKER: The hon. Member for Edmonton-Ellerslie.

MS CARLSON: Thank you, Mr. Speaker. Seeing no members from the government who wish to defend this particular bill, particularly the minister of energy – and I hear that it's because they're too embarrassed to defend it – I rise to speak against second reading of Bill 38, the Constitutional Referendum Amendment Act, 1999, and to speak against it in principle at second reading.

To begin with, I would like to make some comments in response to the comments made earlier this evening by the Minister of International and Intergovernmental Relations. Her comments were very interesting, Mr. Speaker, because once again we had . . . [interjection] They were scary. There's no doubt they were scary.

Once again we had a perfect example here in this Assembly of the typical fashion of this government, which is not to fully disclose the full goods on these bills that we see before us. She talked about why we would get so excited and upset about a bill that has a mere three clauses in it and is tiny in nature and really doesn't say much. That was the intent of what you had to say there. But in fact what she doesn't fully disclose is the impact that these three significant clauses have on our basic Charter of Rights and how they intend to use these three clauses as a tool to manipulate people in this province to do what they want to do but can't do up front. That's what we see when we see this bill before us today and not what it was that she was trying to gloss over.

Then her comments about the calls for a referendum earlier today during question period. The Official Opposition on this side of the House asked for an election call, not a referendum call, Mr. Speaker, on a particularly important issue of health care.

MRS. McCLELLAN: You weren't listening very well. You'd better read *Hansard*.

MS CARLSON: No. It was next door. It was not us.

With regard to that, we think on major issues that is how they are decided, on an election issue, and not in dealing with the use of a notwithstanding clause, which was not in the conversations that we had, during the discussions we had during question period today. Nobody was talking about the use of a notwithstanding clause, which is the only thing that this particular bill is dealing with. Once again she was trying to pull the wool over people's eyes and not fully disclose what the real intent of this government is.

It's interesting for us and for the people of this province to see that she is the only person willing to stand on that side of the House and defend this very crummy piece of legislation. It's true; right? It's true. Here we are, back in a fall sitting. The first bill we talk about is a bill that gives this government the ability to take away rights, to use a notwithstanding clause, and the now Minister of Justice isn't even prepared to defend his actions, Mr. Speaker. I find that quite appalling. He should have got up, as the first person to speak here this evening, and explained what it is that he wanted to do with this bill and why it is that he feels this is the bill that should take the very first precedent in this fall session and that he wants to ram through second reading here tonight.

Well, Mr. Speaker, it isn't going to happen. It's just not going to happen. He won't even stand up and defend his own colleague's legislation, legislation that in fact contradicts a number of former colleagues in terms of what the intent was. If we go back and review what was discussed in May of 1999, when the then Minister of Justice, the Member for Calgary-Shaw, introduced this legislation, we find that he contradicted a number of things that were said by a former Premier of this province and, as my colleague from Edmonton-Calder said, the former Justice minister, Mr. Jim Horsman.

9:00

I would like the now Minister of Justice to please defend those words and tell us why it is that we should trust him, his former colleague in that position, or this government in any way, shape, or form with regard to this bill when they are fully contradicting what a previous administration said. I want him to answer those questions. He's had since May to review the transcripts, to see the questions that were raised during debate at that time, and I want to know why he's not prepared to stand and defend those points here now.

[Mrs. Gordon in the chair]

When we take a look at what was said by the Member for Calgary-Shaw back in May, he said that

Bill 38 is all about democratic rights and freedoms. Not only does the bill preserve the power of the Legislative Assembly while empowering Albertans to decide whether legislation suspending some of their rights and freedoms is introduced in the Legislature; it acknowledges the importance that Albertans place on their rights and freedoms under the Charter. The bill also recognizes their democratic right to have a say in whether or not these rights should be suspended.

Well, there are a couple of contradictions right in this paragraph, Madam Speaker, and I want to know why they're there and how they think that if they just keep talking ad nauseam, sooner or later people will just support what they're doing and vote for it.

Some of us listen to what's being said, some of us read what is being said, and some of us are quite prepared to ask the questions

that the people of the province want to know. If you don't like me asking those questions, then stand up and answer them. That's all you have to do, and then we could be through this. But, no, you want to sit there and catcall from your bench and not stand up and defend what it is you're trying to accomplish here. What you are trying to accomplish breaks some of the basic rights of people in this province; it puts people in extreme jeopardy.

Most of my career has been spent working in visible minority communities, building bridges between them and larger communities. It's really hard to do that. It takes a long time to do it. Relationships and trust are built slowly, but they can be erased in the blink of an eye. People can get excited and things can be said and done that are often afterwards regretted by both sides. Putting in this kind of bill allows those kinds of situations, escalations of feelings against minorities in this province, be they women, be they of a religious nature, be they of an ethnic background, be they disabled. It puts all those rights in jeopardy. It makes people in minorities very vulnerable to the will of the majority in the flash of a second.

What kind of majority are we talking about here? We're not talking about a situation where every single person in this province would be voting. The potential here is for the majority to be a very small group, 50 plus one percent, depending on who comes out that particular day to vote. So you say: well, tough luck; if people didn't come out to vote, it's their own fault. Well, not so. A lot of factors contribute to the reasons why people would or would not vote on any particular issue. The way the question is worded, as the Member for Spruce Grove-Sturgeon-St. Albert talked about, is critical to people understanding the intent of the bill. The degree of advertising that you guys dump on the general public when you're trying to sell a specific idea is also – I can't say misleading, but I can certainly say appalling. It is appalling when it happens. So there are lots of influencing factors: the way it's advertised.

MRS. SOETAERT: That infomercial last night.

MS CARLSON: That's right. Well, that \$11,000 infomercial is a good example of trying to in a very slick fashion put something past the people of the province. We've seen it happen time and time again with this government, not even with previous governments, just you guys, whether it's with people who have disabilities, when we're talking about using the notwithstanding clause for the sterilization victims, when we're talking about the disenfranchised widows, who this government literally hoodwinked out of their money when their husbands died. Remember those poor 1993 kindergarten kids? They just yanked right from under their feet a whole year of education because this government felt like doing it. Well, they can do the same thing here. What's stopping them? Absolutely nothing. With the kind of dollars you spend on advertising and the partial messages you deliver, like we had from one minister already here tonight, where does this lead to? It leads to a situation where definitely, definitely we are . . .

AN HON. MEMBER: It leads to fascism.

MS CARLSON: Fascism. Well, I would agree with my colleague that fascism is certainly where it could lead to, and it certainly leads to a situation where we do not deliver the basic freedoms under the Charter of Rights and Freedoms, like the freedom of conscience in religion and thought and belief and opinion. What about peaceful assembly? We know how little the Premier of this province likes people assembling outside this building and how excited he gets about that and the kinds of lockdowns we get into. Look at how he can manipulate this to make it so in this province that people could no longer peaceably assemble.

You're shaking your head, but you know something, Mr. Minister? I remember that when the notwithstanding clause was brought into this Assembly, you shook your head in exactly the same way and said: "No way, you guys. Trust us. There's nothing wrong with it." And look what happened. It was appalling, an appalling piece of work that you tried to slide by everybody. Once again, we will not stop talking about this particular bill and the impact it is going to have on people in terms of what it is that you're trying to accomplish.

So don't just sit there shaking your head. Stand up and defend it. Tell us why. Put your neck out so that when the axe comes down, the right guy gets his head chopped off. Okay? That would be nice. We'd like to see that for a change in here. [interjections] Well, he's sitting there, not responding. We expect you as a minister, if you're pushing this bill, to stand up here and defend it and to be able to defend it in words that we can assess the impact against down the road when you do put this into place and it does revoke minority rights in this province.

It's going to be very interesting to see that day come if you try to shove this bill through. Like Colleen, I've done my Christmas shopping. So, boy, if you guys think you're going home to turkey this Christmas, you're going to have to make a few changes when it comes to this kind of legislation, because I'm real happy to stay here as long as it takes to oppose it and to let people in this province know that some people are quite willing to stand up for minority rights.

MRS. SOETAERT: Their turkeys are stuffed.

MS CARLSON: Their turkeys are stuffed, I know. [interjections] Well, he could. He could carve the bill up. That wouldn't be a bad idea either.

MRS. SOETAERT: Unless it's a Bovar chicken.

MS CARLSON: The fence around Bovar is not going to help. We don't want any of those chickens.

Now, we invite you at second reading to stand up here and defend this bill in principle, which is what you should have done in the first place. So I will eagerly await those comments, and then I will come back, Madam Speaker, and respond to those comments when we get to committee.

THE ACTING SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Madam Speaker. I must say I am shocked and appalled that the member opposite who just finished speaking, the Member for Edmonton-Ellerslie, would think, would be so presumptuous as to suggest that one could only speak from this side of the House when invited to do so by the other side of the House or provoked into it. I had every intention to and had already advised the House leader that I was going to be speaking next. I just want to put on the record that she shouldn't take any comfort in the fact that I've risen at this point to speak to this bill.

I'm also shocked and appalled, Madam Speaker, that two members of the Liberal caucus, two speakers tonight, Edmonton-Ellerslie and Spruce Grove-Sturgeon-St. Albert, think so little of legislation that they would only care to come and debate it if their Christmas shopping is done. We're talking about democracy in Alberta, and they're talking about going home and doing their Christmas shopping before they can come and do the bills.

9:10

This is a very serious bill. Bill 38, the Constitutional Referendum Amendment Act, is a very serious piece of legislation. It's a short piece of legislation, but it's a very important piece of legislation. In 1992 the Constitutional Referendum Act was passed by this House in order to give Albertans the protection that the Constitution of this country would not be amended unless the people of Alberta had a chance to vote in a referendum. The Constitution of this country is an important document and will not be amended until the people of Alberta have a chance to speak in a referendum.

The notwithstanding clause and the Charter of Rights are part of the Canadian Constitution, and no matter what one might believe about any of those, they're part of the Constitution of this country, Madam Speaker. [interjections]

Speaker's Ruling Decorum

THE ACTING SPEAKER: Edmonton-Norwood, you do not have the floor. Now, come on; we can allow a lot of latitude the first day here, but it is so noisy in here that nobody can hear who's speaking. The Minister of Justice has the floor. You've had your opportunity. Others will speak.

Go ahead, hon. minister.

MR. HANCOCK: And I was in full flight, Madam Speaker.

Debate Continued

MR. HANCOCK: I believe I was on the point that the Constitution of this country is an important document. The Charter of Rights is part of that Constitution. We have an act in Alberta which says that the Constitution of this country shouldn't be amended without a referendum of the people of Alberta, allowing the people of Alberta to speak.

The use of the notwithstanding clause is, in effect, an amendment of the Constitution. When the courts of this land determine that something is contrary to the Charter of Rights, if a government were to bring in a bill which used the notwithstanding clause, that would in effect be an amendment of the Constitution. Before the notwithstanding clause is utilized, it should be subject to a great deal of protection. It should be used very, very carefully. This government has recognized that. This government has recognized that the use of the notwithstanding clause is something which should not be done lightly. I've known that all along, Madam Speaker. The use of the notwithstanding clause is something very serious, and when this bill is passed, Albertans are going to be the only people in this country who have the added protection.

The members opposite would have us believe that this is going to harm minority rights. They're absolutely wrong, Madam Speaker. This is added protection for the people of Alberta, added protection for minority rights. Let me attempt to lead them through this process so they can understand fully the implications of the bill, because they clearly do not.

First of all, Spruce Grove-Sturgeon-St. Albert said that a minister can frame a question and bring it to the House. That's entirely offensive. Section 3 of the Constitutional Referendum Act – and she should have read it – clearly states that

the question or questions to be put to the electors at a referendum shall be determined by a resolution of the Legislative Assembly on the motion of a member of the Executive Council.

No bill to bring in the notwithstanding clause, which might affect rights, no bill which would affect the notwithstanding clause can even be passed by this Legislature until Executive Council passes an

order in council calling for it, until the question is brought before this House and approved by this House.

Point of Order Questioning a Member

MR. DICKSON: Madam Speaker, pursuant to *Beauchesne* 333 I wonder if the hon. Minister of Justice would entertain a brief question.

MR. HANCOCK: Madam Speaker, I'd be delighted to answer questions at a later date, but I've listened to these people, I've listened to the rhetoric, I've listened to them erecting straw dogs and knocking them down, and I think I should have the courtesy to respond before they interrupt me with questions. I'd be happy to answer questions. I've heard people say that we're going to be talking about this in Committee of the Whole. I presume we probably will be talking about it in Committee of the Whole if it passes second reading, which I presume it will, and there'll be plenty of time for questions. But I think it's my friend interrupting me in the middle of my discussion.

Debate Continued

MR. HANCOCK: The bottom line is that protection for Albertans and the protection for minority rights is going to be better in Alberta than anywhere in this country, and they're leading Albertans astray if they're suggesting otherwise. Where else in the country are you going to have Executive Council first passing a resolution calling for the use of the notwithstanding clause in legislation, then bringing a question to the Legislature so the Legislature can determine what the wording of the question is to go to the people, then a referendum of the people, and then coming back to the Legislature? The Legislature gets to vote twice. The Legislature votes twice. The Legislature is supreme on this issue, and it votes twice. After approval from the Legislature, the government takes this question to the people of Alberta, and a majority of the people of Alberta have to approve it. A double majority vote. The majority of the people of Alberta and the majority of the Legislature: twice in order to do it.

The notwithstanding clause is in the Constitution. It was placed there when the Constitution was brought home. The Constitution Act was passed. The notwithstanding clause was put in it. No other jurisdiction in this country requires the protection of minorities that we have in this province.

Well, you have to have a double majority vote, the majority of this Legislature, not once but twice, and then the majority of the people of Alberta. Now, if that's not democracy, I don't know what is.

Madam Speaker, the members opposite focus on the negative as usual. They focus on the question of whether something is binding. They should again read the Constitutional Referendum Act, because section 4 of the Constitutional Referendum Act clearly indicates that if a majority of the ballots validly cast at a referendum vote the same way on a question stated, the result is binding, within the meaning of subsection (2), on the government that initiated the referendum.

On the government that initiated the referendum. On the Legislative Assembly, no. On the government. And what is that binding? Well, it's that the government should

as soon as practicable, take any steps within the competence of the Government of Alberta that it considers necessary or advisable to implement the results of the referendum.

Does section 4 say that a bill has to be brought to the House? No, it doesn't. Does section 4 say that the House has to pass a bill? No, it doesn't. Is the supremacy of the Legislature in this province in any way impugned? No, it isn't. What this clearly does is say:

whenever you do anything to the Constitution of this country that affects Albertans, Albertans should be asked. That's what this bill says. That's what the Constitutional Referendum Act says. It says that you go to the people before you amend the Constitution of this country and before you amend the Charter of Rights of this country and ask them for their view on it, for their opinion on it by referendum.

There are many options available to a government. First of all, you're not going to go to the people if you think you're going to abrogate the rights of individuals. What government in their right mind would go to the people with a question of that nature?

Secondly, would the Liberal Party and the members opposite have us believe that the people of Alberta are so . . .

THE ACTING SPEAKER: Once again I would remind everyone that the Minister of Justice has the floor.

MR. HANCOCK: They would have us believe that the people of Alberta can't be trusted? They have no faith in government. I understand that. I understand why they don't have faith in government. Twisted and bitter. But no faith in the Legislature, not once but twice. No faith in the people of Alberta. What do you believe in?

Minority rights are getting additional protection by this bill, Madam Speaker. As I've said before – and I'll say it again – right now under the laws of this land a government in this country can introduce a bill, including the notwithstanding clause, and any Legislature in this country can pass a bill, including the notwithstanding clause, without further bringing it to the Legislature. Are we taking away the rights of the Legislature? Are we suggesting the rights of the Legislature should be abrogated by this bill? No.

All we're saying is that there should be extra steps. Extra steps. Executive Council must decide. Then it must come to the Legislature for approval of the question. Then it must go to the public for a referendum. Then it must come back to the Legislature for approval again. Extra steps to protect minorities in this country, Madam Speaker.

I don't know. This bill is short. It's important. It's very, very strong protection for minorities in this province, very, very strong protection for the people of this province. It requires the government to go through many different steps, more steps in order to use the notwithstanding clause. It shows that we believe that the use of the notwithstanding clause should only be done – should only be done – in the most extreme of circumstances and then only with the clear direction of the people of Alberta.

Madam Speaker, do Albertans want that? Yes, they do. When we consulted Albertans about the use of the notwithstanding clause last year, 70 percent of those surveyed supported the use of the notwithstanding clause if the decision was backed up by a referendum of all Albertans. Seventy percent of Albertans said the circumstances under which the notwithstanding clause should be used is when . . .

9:20

MR. SAPERS: You just made our case. So forget about the 30 percent; right?

MR. HANCOCK: No, no. The hon. Member for Edmonton-Glenora suggests that I made the case that that suggests that the 30 percent should be ignored. His logic is so – well, it's not logic. I mean, it's twisted. We look to Albertans and say: under what circumstances should the notwithstanding clause be used, if ever? Albertans have said that because it's so important, because it's such a strong clause, it should only ever be used not just with the majority of legislators

in the Legislature but also with the second majority of Albertans voting in a referendum. I don't know if you can ask for much more protection for minority rights.

Madam Speaker, I just can't sit by and let members opposite talk about painting a picture of Albertans as redneck. The only person that I've ever heard painting a picture of Albertans as rednecks is Spruce Grove-Sturgeon-St. Albert.

MRS. SOETAERT: Point of order, Madam Speaker.

THE ACTING SPEAKER: The hon. Member for Spruce Grove-Sturgeon-St. Albert.

**Point of Order
Imputing Motives**

MRS. SOETAERT: Madam Speaker, false motives. Which one is that? Standing Order 23(h) and (i)? Yeah.

You know, Madam Speaker, I spoke about the fact that I don't like the image, that some of this legislation makes us look like rednecks when Albertans are not. They're very compassionate people, caring people about their neighbours, about different religions, different minorities, different ethnic groups, and legislation like this does nothing but divide and also makes us appear to be rednecks when we are not. It seems like this government takes great pride in pulling in the notwithstanding clause, in pulling in Bill 26, Bill 38, and other pieces that make us look like that, and I resent it, because we are not rednecks in this province.

MR. HANCOCK: Madam Speaker, she has no point of order. She has a difference of opinion.

THE ACTING SPEAKER: I think, hon. members, that there is far too much talking going on back and forth. We have listened since 8 o'clock to several members debate this bill. I think that we can now afford the Minister of Justice the same opportunity without all these interjections going back and forth. I could quote parts of Standing Orders regarding what I'm saying here as well as *Beauchesne*. I would ask that everyone here remember that we are being courteous to the other members of this House and allowing them to have their say.

Go ahead, Minister of Justice.

Debate Continued

MR. HANCOCK: Thank you, Madam Speaker. I was just about to close, but I do want to deal with the question of the picture that is being painted of Albertans. Albertans are intelligent people. Albertans are a proactive people. Albertans are dynamic people. Albertans are not rednecks, and nobody's painting a redneck picture. But some people keep raising that hue. Some people keep bringing that image in. Some people keep bringing up the straw dogs so they can knock them down. That is not the picture of Alberta. This bill doesn't make Albertans rednecks. This bill goes a long, long way to protecting minority rights, making sure that the notwithstanding clause is only used in this province after careful, careful consideration by members of the Legislature, by members of Executive Council, and ultimately by members of the public in Alberta.

Madam Speaker, I could go on, but I want to close just by saying again that people on this side of the House, government members and members of the government party, the Progressive Conservative Party, members of this government have faith, have faith in Albertans, have faith in the democratic institution, have faith in this House, and have faith in the ability of all of us to recognize that a

clause like the notwithstanding clause should only be used in the most extreme circumstances and then only with the approval of this Legislature and with the approval of the people of Alberta in a referendum.

That, Madam Speaker, is a very important and significant step forward, and I quite frankly resent the context that people have been putting on it, suggesting that that is somehow reducing minority rights or somehow painting us as rednecks.

Madam Speaker, I don't know if I can listen to any of this tonight, so I would move that we adjourn debate.

THE ACTING SPEAKER: Having heard the motion by the hon. Minister of Justice, does the Assembly agree with the motion?

SOME HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed?

SOME HON. MEMBERS: No.

THE ACTING SPEAKER: It's carried.

MR. HANCOCK: I would ask for unanimous consent of the House under section 73 of the Standing Orders to permit second reading of Bill 42.

THE ACTING SPEAKER: Having heard the motion by the hon. Government House Leader for approval under Standing Order 73(2) to proceed with second reading of Bill 42, the Alberta Stock Exchange Restructuring Act, could I have unanimous consent?

HON. MEMBERS: Agreed.

THE ACTING SPEAKER: Opposed? It's carried.

Bill 42

Alberta Stock Exchange Restructuring Act

THE ACTING SPEAKER: The hon. Member for Calgary-Mountain View.

MR. HLADY: Thank you, Madam Speaker. I am pleased to move second reading of Bill 42, the Alberta Stock Exchange Restructuring Act.

I would like to thank the opposition for agreeing to unanimous consent to go ahead with this. It's nice to see that they're understanding the importance of this act and the restructuring of the Alberta Stock Exchange.

Madam Speaker, the legislation that is before the Legislative Assembly today is a necessary first step in effecting the merger of the Alberta Stock Exchange and the Vancouver Stock Exchange. It's part of the proposed restructuring of the Canadian exchanges across the country that was announced last March.

The March restructuring proposal was intended to result in three specialized exchanges, each operating in a separate segment of the marketplace that we have today. The first piece is the relocation of the senior equities market as the Toronto Stock Exchange alone, the movement of all derivatives trading to the Montreal Stock Exchange, and the creation of a national junior market to be owned and operated by the Canadian Venture Exchange upon the completion of the merger of the Alberta and Vancouver stock exchanges.

Madam Speaker, as well, recently in Quebec they have just put forward the proposal to amend to provide for the retention of 125

small capitalized companies on the Montreal exchange inside Quebec, which was still at this time concerned about seeing all of the junior trading happening on a Canadian exchange and not having control inside Quebec.

At this time I'd also to thank a few people who have been involved in this. Bill Hess, who is currently the Alberta Stock Exchange chair, has been working endlessly for many months flying across this country bringing all the players together inside the brokerage industry and understanding what the importance was. He has just been announced as the president and chief executive officer of the new Canadian exchange, and being from Calgary, it's great to have him here. I know that having the corporate offices in Calgary, the operations being in Vancouver, we should have some good controls and have some good things happening as we build it across Canada.

The other people in there would be the current president of the Alberta Stock Exchange, Tom Cumming; Gerry Romanzin and Mark Brown, a couple of the vice presidents, have been spending an amazing amount of time making this happen across the country.

Madam Speaker, both the Alberta Stock Exchange and the Vancouver Stock Exchange were created and are governed by special acts. The Alberta Stock Exchange was established in 1914 under the name of the Calgary Stock Exchange and continued to operate under that name until 1974, when it became the Alberta Stock Exchange. Before the merger can take place, both exchanges must be converted from special act companies to corporations governed by provincial corporate legislation. In British Columbia the conversion is permitted under the B.C. Companies Act with the prior approval of the minister. There is no similar provision in Alberta corporate legislation permitting the conversion of the Alberta Stock Exchange from a special company act, hence the reason for this legislation.

I ask for the support of members in second reading of Bill 42, the Alberta Stock Exchange Restructuring Act.

Thank you.

THE ACTING SPEAKER: The hon. Member for Edmonton-Glenora.

9:30

MR. SAPERS: Thanks, Madam Speaker. Nice to see you there. The Member for Calgary-Mountain View has done his best to keep me informed about the progress of this legislation, from its conceptual stage through the drafting and as we saw it being introduced today. It is an example of co-operation and when something has to happen and has to take place. It demonstrates the government does know that there's the right way to do things. I just wish we'd see more evidence of it and less rhetoric when they're trying to defend doing the wrong things, which is what we just heard 20 minutes of immediately prior.

This act will see the culmination of years of activity, and I think it's particularly important to recognize what this means for Alberta and what it signals in terms of the stature of Alberta and Calgary when it comes to the capital markets on this continent.

For some time Alberta has played a leadership role when it comes to the regulatory side of the securities business, and certainly Mr. Hess has demonstrated over these past half dozen or more years considerable leadership not just in this province but across the country and I think has proven himself quite worthy of the distinction of being named as the president and CEO of this new national junior market. I wish him well on behalf of all my colleagues in the Official Opposition. We wish him well in his new endeavors, and we would also like to thank Mr. Cumming for the work he has done

and for the vision he has had, knowing full well that as he worked so diligently to see the merging of these two relatively small western exchanges he could very well be merging himself out of a job but doing it with conviction and with vision and with even some courage from time to time.

The Alberta Stock Exchange has been fundamental to the economic growth in this province and to some remarkable success stories. There have been some remarkable failures. You know, we could go from Bre-X to Timbuktu, but we don't have to necessarily reflect on those failures except to say that we've learned from them, and I hope we've learned well, not just the work of the commission in terms of enforcement but the exchange itself in terms of increasingly setting up appropriate hurdles for individuals and corporations to go through before they were listed and were able to raise capital on the market.

I'm very encouraged by what's been happening. I'm very encouraged by what has taken place across the country. There was some fierce competition between Alberta and British Columbia, in particular between Calgary and Vancouver, to house the new exchange. It was the members, those seat holders on the exchanges themselves, that really saw the vitality of Calgary and the soundness of bringing the exchange headquarters to Calgary.

Now, I heard some discouraging words. Let's not fool ourselves into thinking that this has been without controversy or question. Many brokers, many lawyers who are involved in the securities business have been and continue to be very concerned that the Vancouver Stock Exchange and the ethos which defines the Vancouver Stock Exchange will still somehow overwhelm this new junior market and will overwhelm Calgary. Even the fact that the head office is here doesn't necessarily mean that the headquarters in the real sense of the word will be here.

If I can stray just a moment, I could say let's look at what's happening right now with Telus, with the head office agreement that would have seen the Telus head office here in Edmonton. I'm sure that they still do have a corporate head office here, but I think it's a plaque on the door. The locus of power has clearly moved to Burnaby, British Columbia. We don't want to see that happen with this.

Now, the appointment of Mr. Hess as CEO tells me that at least the hearts and mind of the exchange are going to stay in Alberta and that the central control will be here. Maybe it's not even so important where the computer is located but where the people that are monitoring the switches and the people who have their fingers on the buttons are, and they are clearly here in Alberta.

It would be wrong to stand in the way of this merger, and it would be wrong to stand in the way of this legislative correction. British Columbia perhaps had more foresight in the way they structured their exchange and the legislation that created it. Perhaps Alberta needs to look at some other legislation, the special corporation legislation, and see whether or not we've created a regulatory or a legal impediment to growth and change in some other cases as well.

I don't want to give short shrift to this act or to, in fact, the event that really is at the underpinnings of this legislation, and I do believe there are some questions that need to be answered that we'll get to in committee. The intent of these questions is to strengthen the hand of the new exchange, of the men and women who will be working to make this exchange live up to its full potential, and also to help guide the role of what has to be a change for the Alberta Securities Commission as the commission will be searching for a new chairman. So we want to make sure that the regulatory teeth are not being extracted from the commission, we want to make sure that the Alberta capital market stays vibrant, and we want to make sure that the concerns of the men and women whose livelihoods depend on a

healthy equities market and the men and women who provide the capital to make that market flow are well protected and well served.

Madam Speaker, on behalf of the Official Opposition I say full speed ahead to this new merged national exchange. I look forward to it. It's always amazing to me how healthy business can be in this province in spite of the government, and this is another example of a real success story – a real success story – because there were no secrets, there were no surprises, there was disclosure, and there was co-operation. There was even, I'd say, a little bit of trust involved in bringing this bill to this point in the Assembly.

There is a way to do things right. This in part demonstrates it, and I hope all members of the Assembly will support this bill at second reading. I know that the Member for Calgary-Mountain View will, with the same sincerity and professionalism that he's dealt with earlier inquiries, deal with the debate in committee.

THE ACTING SPEAKER: The hon. Member for Calgary-Mountain View to close debate.

MR. HLADY: Thank you, Madam Speaker. I'd like to thank the Member for Edmonton-Glenora for his support in this, and then I'd call the question.

[Motion carried; Bill 42 read a second time]

THE ACTING SPEAKER: The hon. Government House Leader.

MR. HANCOCK: Thank you, Madam Speaker. I have to admit with some surprise that we were able to deal so efficiently with the important bill that we just passed. Having done so and having made a commitment to the Opposition House Leader that after we dealt with that bill we would adjourn debate for the day, I would take this opportunity to – I would have continued my debate on the earlier bill a little longer had I known we had this much time, but I would now move that we adjourn till tomorrow.

[At 9:40 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]