

Legislative Assembly of Alberta

Title: **Monday, December 10, 1990 8:00 p.m.**

Date: 1990/12/10

head: **Government Bills and Orders** **Committee of the Whole**

[Mr. Jonson in the Chair]

MR. DEPUTY CHAIRMAN: I'd ask that the committee please come to order.

Bill 57

Electoral Boundaries Commission Act

MR. DEPUTY CHAIRMAN: We're dealing with amendments to Bill 57, and we were dealing with an amendment proposed by the hon. Member for Edmonton-Highlands with respect to section 17. Are there further speakers?

SOME HON. MEMBERS: Question.

MR. DEPUTY CHAIRMAN: Having heard the call for the question, all those in favour, please say aye.

SOME HON. MEMBERS: Aye.

MR. DEPUTY CHAIRMAN: Those opposed, please say no.

SOME HON. MEMBERS: No.

MR. DEPUTY CHAIRMAN: It is lost.

[Several members rose calling for a division. The division bell was rung]

[Eight minutes having elapsed, the Assembly divided]

For the motion:

Barrett	Pashak	Sigurdson
Bruseker	Roberts	Woloshyn
Gibeault		

Against the motion:

Bogle	Fjordbotten	Moore
Bradley	Gesell	Musgrove
Calahasen	Gogo	Nelson
Cardinal	Hyland	Oldring
Cherry	Laing, B.	Paszkowski
Clegg	Lund	Payne
Day	Main	Shrake
Dinning	McClellan	Thurber
Elliott	Mirosh	Trynchy
Evans		

Totals:	Ayes - 7	Noes - 28
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[Motion on amendment lost]

8:10

MR. DEPUTY CHAIRMAN: Are there any further amendments or comments with respect to this Bill then?

The Member for Edmonton-Belmont.

MR. SIGURDSON: Thank you, Mr. Chairman. We have a couple more amendments we'd like to go through over the course of the evening and maybe a day or two during the course of the week. What this amendment deals with is specifically sections 17(2) and (3). I'll just ask the page to distribute copies of the amendments to all members. What sections 17(2) and (3) deal with are those constituencies that will have special consideration for any number of reasons.

As we know, in section 17(1) we have: an electoral division is to be established but should not be greater or lesser than 25 percent off the average. Well, then we have an exception to the rule. In subsection (2) we've got:

Notwithstanding subsection (1), in the case of no more than 5% of the proposed electoral divisions, if the Commission is of the opinion that at least 4 of the following criteria exist in a proposed electoral division, the electoral division may have a population that is as much as 50% below the average population of all [other] electoral divisions.

Well, Mr. Chairman, can you imagine the large urban areas of Edmonton and Calgary, where you have constituencies that may very well be in the range of 30,000 to 35,000 electors if they're at the top end. And we may very well see that after redistribution. We could conceivably have constituencies that are at 14,000: 50 percent below the average of 28,000. That's two and a half times less than the larger constituencies at the upper end. Now, it's not to say that every constituency in Calgary and Edmonton will be at 35,000. In fact, if you average it out, again not taking into account that special provision that allows for some Edmontonians and Calgarians to be falling into other outside constituencies, it would be somewhere in the neighbourhood of 33,000. So what we've got here is a comparison between 33,000 and up to four constituencies that will be permitted to go to a low of minus 50 percent, or 14,252 according to the 1986 census: two and a half times. If you live in a constituency that's designated a special constituency, your vote will very well be worth two and a half times more than a vote in one of the larger urban constituencies.

Now, what are the criteria for special consideration? You have to have more than 20,000 square kilometres in your constituency. That's number one. Number two: of the 20,000 square kilometres 75 percent, or 15,000, have to be surveyed. Another consideration, number three, is that you have to have more than 1,000 kilometres of primary or secondary highways within the proposed constituency. The closest boundary in the constituency to the capitol has to be 150 kilometres or more away from the capitol. Another item of consideration is that you cannot have a town greater than 4,000 in population.

A couple of other considerations:

Due to economic factors . . . a significant loss of population in the proposed electoral division between the 2 most recent censuses available

under Stats Canada, and

(g) to impose a higher population requirement would significantly and negatively affect the community of interests of the inhabitants of the proposed electoral division.

Now, all you've got to do is meet four of those seven. It's rather easy to have the nearest border in your constituency 150 kilometres away, no problem with that. A thousand kilometres of road: now that's an interesting one. I would have thought that you should have less paved primary and secondary highways, making access a little more difficult, perhaps, to some of the constituents. But, no, here we've got 1,000 kilometres or more. You know, even though you can go into the farthest reaches of the constituency, if you've got 1,000 kilometres or more of

primary or secondary highway that facilitates your getting into those areas, you also qualify. What a gift; what a deal. Not bad.

Twenty thousand square kilometres – I know my colleague from Calgary-Forest Lawn will have a number of questions that have to be raised about the first two points, and we'll deal with those, I'm sure, in due course. But those are the criteria: rather subjective but the commission will follow this.

What's interesting, though, is the provision in subsection (3). I want to read it out. It says: "For the purpose of subsection (2)(e)," which is that subsection that deals with the size of the population of a town, 4,000 people, "the Municipality of Crowsnest Pass is not a town." Now, you've got to wonder why. I know the Member for Pincher Creek-Crowsnest is bound to jump up and get involved in this debate, and I look forward to the explanation and the rationale that's going to be provided by the hon. member, but you've got to wonder why it is that out of all the municipalities in the province of Alberta, after 15 months as a committee that traveled throughout the province and made all of these rules, including the seven criteria, all of a sudden there's this glaring omission. One municipality that is a municipality doesn't qualify. It has a population of more than 4,000, but for the purposes of this Act, it won't qualify.

Mr. Chairman, I think section 17(2) deserves to be deleted, deserves to be struck, but 17(3) especially deserves to be struck. Therefore, that's why we've moved this amendment.

Now, I know all hon. members will listen with open minds, will listen carefully to the words that are going to come from the hon. Member for Pincher-Creek Crowsnest as he tries to explain and rationalize the concerns he has with respect to especially 17(3). So until we have his comments, Mr. Chairman, I would only move my amendment.

MR. DEPUTY CHAIRMAN: The Member for Pincher Creek-Crowsnest.

MR. BRADLEY: Thank you, Mr. Chairman. I enter this debate; it gives me a great opportunity to discuss the uniqueness of the municipality of Crowsnest Pass. Really, to paraphrase Shakespeare: a town, or not a town: that is the question.

The municipality of Crowsnest Pass, Mr. Chairman, was not created under the Municipal Government Act of Alberta. It was created by a special Act of this Legislature, the Crowsnest Pass Municipal Unification Act of 1978, which brought together two towns, being Coleman and Blairmore; two villages, being Bellevue and Frank; and part of improvement district No. 5, which had in it nine hamlets, which created the first regional government in the province of Alberta.

8:20

Now, this unique creation, if you took it as an urban municipality, is the third largest urban municipality in the province, only exceeded in area by the cities of Edmonton and Calgary. So in terms of area it's not like any other town in the province of Alberta. Its area is 171.79 square kilometres. When you look at the density of population in the municipality of Crowsnest Pass, it's unlike any other. In population density it has the lowest density of any of what are considered to be urban municipalities in the province, at 40.2 people per square kilometre. The next closest municipality in the province in terms of density is Grande Cache with 103.2, followed by Fort Macleod at 135.3, High Level at 140.6, and all other towns or cities in the province have densities between 200 on the low side and over 1,000 on the high side. So in terms of density the factor there is far different from any other town in the province of Alberta.

It does not have six councillors and a mayor like other towns in the province. It has a special number of councillors. It has a mayor and nine councillors who are elected from three wards; three councillors from each ward, unlike any other town in the province of Alberta. The mayor is elected at large. A provision in the Crowsnest Pass Municipal Unification Act provides that it may have not less than six councillors and not more than 20, which I certainly don't believe is in the Municipal Government Act for other municipalities.

Mr. Chairman, it has a number of other interesting provisions. It stretches 22 miles along Highway 3 from the British Columbia border to the municipal district of Pincher Creek No. 9 boundary. The Crowsnest Pass Municipal Unification Act has some unique provisions for fire fighting services. In fact, the Department of Forestry, Lands and Wildlife is responsible for fire fighting in the former ID part of the now municipality of Crowsnest Pass, unlike the provision for any other town in the province of Alberta.

Section 6 of the Crowsnest Pass Municipal Unification Act has a special section which provides for grant calculations on the basis of population of the former municipalities' boundaries. That is how the special provisions treat the municipality of Crowsnest Pass. It says in section 6 that

regulation authorizes . . . a grant to a municipality . . . could have been made to the urban municipalities and to the Minister in respect to the improvement district area if

(a) the urban municipalities had continued to exist after the effective date with the same boundaries that existed immediately before the effective date, and

for the improvement district area. So there are special considerations in terms of looking at the municipality of Crowsnest Pass on the basis of its former town boundaries for those calculations.

Further on in section 6(2) the original Act says:

. . . shall also show the populations in

(a) the urban municipalities as they existed immediately before the effective date, and

(b) the remainder of the Municipality.

A special consideration in terms of treating the municipality of Crowsnest Pass on the basis of its being former town, villages, and improvement district area.

In revisions to the Act in 1985 this provision was continued in section 6 with regard to grant calculations. It said that they may be calculated

on the basis of the Municipality as a number of separate urban municipal areas each one of which is eligible for assistance . . . designated for each as if they were separate towns, villages or hamlets.

So the Crowsnest Pass Municipal Unification Act recognizes the uniqueness of the municipality of Crowsnest Pass and in several areas treats it on the basis of its former town boundaries, village boundaries, and improvement district area boundaries.

But there are some other unique things. It continues to have five major settlement areas separated by distance, several rural subdivisions, and many hamlets. It's the only town in Alberta where you cannot send mail to the town addressed to the municipality of Crowsnest Pass or Crowsnest Pass; no such postal address in fact exists. If you send mail to someone in the Crowsnest Pass, you send it to four different post offices: the post office of Blairmore, the post office of Coleman, the post office of Bellevue, the post office of Hillcrest Mines. There's no postal address Crowsnest Pass or the municipality of Crowsnest Pass.

It has two liquor stores. How many towns in the province have two liquor stores? I'm just conferring with my colleague

from Grande Prairie. The city of Grande Prairie only has one liquor store. But because of the distances, the community of interest, and the former municipal jurisdiction, it has two liquor stores.

The municipality of Crowsnest Pass has three covered ice arenas in three separate communities. There's no other town in the province that has three covered ice arenas or three covered curling rinks with 13 sheets of ice and 13 tennis courts in five different locations to serve one town. It's more than a town; it is a collection of towns.

It has four volunteer fire departments to service the municipality, each in their separate locations with their separate fire halls. No other town has that type of arrangement with regard to fire services, and it's a recognition of the distance between the towns. It has three separate public works departments to service this large area of a municipality, two public libraries, three Legions with four cenotaphs in terms of Remembrance Day services.

I would be remiss in standing in the Legislature if I didn't talk about the Crowsnest Pass Symphony Orchestra, which is a very unique feature the Crowsnest Pass has which no other municipality has. I could go on and on. It has 19 community halls scattered throughout the municipality of Crowsnest Pass. I'm sure that that's not excelled by any other town in the population figures it has. Two Lions clubs for one town, two Elks clubs for one town, two masonic lodges for one town: no other community is on that basis, Mr. Chairman.

On this basis and given the fact that a special Crowsnest Pass Municipal Unification Act provides for treating the municipality of Crowsnest Pass on the basis of its former municipal boundaries in terms of population on the basis of the former towns and villages and improvement district area, it's very clear that this Legislature has in the past recognized the uniqueness of the municipal organization of the Crowsnest Pass, and it's completely consistent with the spirit of the Crowsnest Pass Municipal Unification Act to in this legislation also treat it as if it is not a town. On that basis, Mr. Chairman, the defence rests.

MR. DEPUTY CHAIRMAN: The Member for Red Deer-North.

MR. DAY: Thanks, Mr. Chairman, I'll be brief, and I appreciate the Member for Edmonton-Belmont taking time to bring forward reasoned amendments. We always appreciate that on the government side, and history will show that there are even times when those amendments are, in fact, adopted.

In this particular case looking at the suggestion to simply delete 17(2), when you look at 17(2), which allows for variation even beyond 25 percent in a few cases and the legislation clearly states "no more than 5%" of the constituencies would be allowed to do that, we'd be looking at maybe four constituencies at a maximum, should the commission so decide.

When you look at the reasons which are stated clearly – it's not just an arbitrary whim – reasons 17(2)(a) to (e) are all geographic reasons and (f) and (g) point to regional issues. So when we look at the Dixon case, Justice McLachlin ruling, she states very clearly that deviations should be permitted

which can be justified on the ground they contribute to better government of the populace as a whole . . .

And here's where she says you can give added weight.

. . . giving due weight to regional issues within the populace . . .

That would be (f) and (g) of 17(2).

. . . and geographic factors within the territory governed.

Geographic considerations are very clearly mentioned, as are the regional issues.

So I can appreciate the concern of the member in wanting to possibly simplify the legislation, et cetera, but clearly these are permissible areas under McLachlin. In reflection of that, when you look at jurisdictions around our nation, Canada, of course, federally: plus or minus 25, but allows even greater than that for Northwest Territories, P.E.I., and Yukon. British Columbia under the Dixon ruling allows for plus or minus 25 and deviation even beyond that in special circumstances. Manitoba has set it at 10 percent, but they allow cases to go up to 25 percent. Newfoundland says 25 percent except Labrador, so they make an exception there. Nova Scotia doesn't even accept 25 percent; they go for 33 percent. Ontario, of course, we've talked about before. It says 25 percent but specifically says 15 districts shall be allowed to go above 25 percent, and in fact they do. In fact, as we know, Ontario just went through an election, and that wasn't challenged even in light of Dixon. Quebec has plus or minus 25; they have 11 of their 125 constituencies over the maximum, but they are clearly justified using those criteria. Saskatchewan, of course, is plus or minus 25, but again giving special consideration in a few rare cases up to 50 percent. So not only does our history, our philosophy, and the Canadian precedent substantiate what we've done here, Mr. Chairman, but in fact in the Dixon case Justice McLachlin clearly says that these are permissible deviations in these special circumstances based on geographic considerations and regional issues.

8:30

MR. DEPUTY CHAIRMAN: The Member for Edmonton-Belmont.

MR. SIGURDSON: Well, thank you, Mr. Chairman. I thought the other day that we'd gone through the permissible variations jurisdiction by jurisdiction, but I guess once again we'll just have to walk through them.

What the Member for Red Deer-North says is absolutely correct. He has cited all of those jurisdictions that allow for a variation. Now, there's no doubt that New Brunswick uses municipal county lines to split dual-member constituencies. Newfoundland has the plus or minus 25 percent. Nova Scotia, as the member said, goes to an allowance of plus or minus 33 percent, and Ontario has the 15 constituencies north of a certain line where the constituencies are allowed to vary. He went through Prince Edward Island and Quebec. But, you know, what he failed to mention is that in every single one of those jurisdictions, they haven't had redistribution since the McLachlin decision was handed down, so all of their redistribution rules are null and void in the same way that ours are.

MR. PASZKOWSKI: Because they don't think they need one.

MR. SIGURDSON: The hon. Member for Smoky River says, "They don't think they need one." Well, neither did Alberta until we had the McLachlin decision.

Now, Mr. Chairman, what we've got are old redistribution rules going on. Let's take a look at Newfoundland, where there's an exception: 1983. Now, when was McLachlin? If you're curious to know over there in the corner: 1989.

MR. PASZKOWSKI: Five years.

MR. SIGURDSON: Six; 1989 minus 1983 is six years. Get it right.

How about Nova Scotia?

AN HON. MEMBER: Five years.

MR. DEPUTY CHAIRMAN: Order please. I would ask the speaker to address the Chair and other members not to engage in conversation across the floor.

MR. SIGURDSON: Well, Mr. Chairman, let's look at Nova Scotia, sir: eight years between McLachlin and the last time they had redistribution. Do you think that in 1981 they had the foresight to look ahead eight years into a crystal ball? Perhaps the hon. Member for Smoky River has that kind of foresight where he can look into some crystal ball and say, "Well, this is what's going to happen." It might be a little muddy. You know, I would doubt that in Nova Scotia in 1981, when they were looking at their rules for redistribution, they said, "Oh, in 1989 McLachlin is going to hand down a decision, and we're going to ignore it." Not likely, it didn't happen. The last time Ontario had redistribution: care to take a guess? In 1986; three years. Quebec: 1988, according to these rules.

So, Mr. Chairman, the argument put forward by the Member for Red Deer-North, while it's correct, left out a very vital point: that a number of jurisdictions that have a variance from the mean, however great it might be, happened to have that variance prior to the McLachlin decision. I would hazard the guess in the same way the Minister of Federal and Intergovernmental Affairs held his opinion when he introduced the motion that created the Act, which has come from the committee report: he suggested that our current boundaries wouldn't withstand a constitutional Charter challenge. We last had redistribution in 1984. Now, if he is of the opinion that it wouldn't currently withstand a Charter challenge, I doubt very much that the other jurisdictions where they had redistribution prior to McLachlin would withstand a Charter challenge as well.

Let's go back to what the hon. Member for Pincher Creek-Crowsnest said. He spoke of 13 tennis courts and three covered arenas. Mr. Chairman, in his town he's got three covered arenas. I wonder if it's the hon. member that drives a Zamboni down the road in between communities trying to scrape off the ice in those covered arenas. I don't think so. What do three covered arenas have to do with representation? I want to know. I want to know about representation. How many people are involved in that town? It's more than 4,000.

When we had an amendment before this Legislative Assembly back on September 4, 1986, page 1,470 of *Hansard*, that hon. member stood up in the Assembly when he spoke to the amendment at second reading and said, "It will allow the municipality of Crowsnest Pass to operate under the same laws as other municipalities in the province." Now he's saying: but I need an exception to the rule, because we happen to have a symphony orchestra, because we happen to have 13 tennis courts, because we happen to have two liquor stores, 19 community halls, three Legions, and four cenotaphs. In 1986 I didn't see those arguments being put forward by the hon. member. In 1986 he said: it's going to allow us to operate the exact same way as other municipalities.

In 1990 we have electoral boundaries, and his constituency has a municipality that has a population of more than 4,000 people, which takes away one of the seven of the criteria for special consideration up to minus 50 percent. There's some concern there. I suppose that if it were your fourth out of four considerations, you might be a tad concerned. Mr. Chairman, what we've got is this exception that comes through at the

eleventh hour because the government is trying to slip in something that shouldn't be there at all.

I don't know if he'd qualify under subsection (c), where he's got a thousand kilometres in his constituency; I don't know about that. I can look that up soon enough and find out. I know that that member's constituency would qualify under subsection (d), which is distance from the Legislature. The commission would certainly have to use some of their subjective opinion in (g):

To impose a higher population requirement would significantly and negatively affect the community of interests of the inhabitants of the proposed electoral division.

But maybe that specific constituency needs that fourth area: a town of less than 4,000 people. It was realized too late in the day, after the committee had sent the report off to bed, off to the printers, all of the discussion was concluded, somebody said: "Oh, wait. What about me? What about these concerns?" They said, "Oh, well, we've got the old unification Act that I guess really doesn't mean anything at all." Why did we have a unification Act of the municipality of the Crowsnest Pass? If it doesn't mean anything in this piece of legislation, why would you have the thing unified? What difference does it make if this particular town has nine councillors as opposed to six? All the more representation, I'd say.

This was a mistake that shows the kind of manipulation that I think is sewn into the seams of this legislation. This is manipulation, Mr. Chairman, and it's unfortunate. This particular section of the legislation should not be there at all. This is the particular section of the legislation that I'd be embarrassed as a government member to stand up and advance: special consideration for one constituency because we happened to overlook it at other stages. Well, it's just not good enough. The arguments that were put forward by the hon. Member for Pincher Creek-Crowsnest weren't good enough either. They didn't convince me. They didn't convince any of my colleagues. I quite frankly don't think they convinced too many of the people across the way.

MR. PAYNE: Convinced me.

MR. SIGURDSON: It convinced the Member for Calgary-Fish Creek. Well, you know, that's amazing, because, I'll tell you, from the editorials that I've seen in some of the Calgary papers, those people on the editorial boards say well, what about representation by population?

MR. PAYNE: Read this one.

8:40

MR. SIGURDSON: I was talking about editorials; that's a column. I will read that. I hope you pass it over to me momentarily. [interjection] It's not very often that a colleague of mine gets up on a point of order. [interjections] Well, it must be the tie.

Mr. Chairman, we have the editorials of the large urban centres that talk about representation by population, and then we have the Member for Calgary-Fish Creek who says: well, that's fine; we don't have to have representation by population in my constituency. In fact, perhaps we can allow the constituency of Pincher Creek-Crowsnest to go into that special category of special consideration and allow them to fall up to minus 50 percent off the average. That's interesting.

MR. PAYNE: I'm in favour of the triple E Senate too. [interjections]

MR. DEPUTY CHAIRMAN: Order please.

MR. SIGURDSON: Well, we're getting a variety of opinions across the way.

Mr. Chairman, I believe it to be most unfortunate because what we've got is an act of political manipulation. That's how I see it. I think that's how most Albertans are going to see it, and I look forward, quite frankly, to sending this out and debating this particular issue in the community halls. I'd even go down to some of those 19 community halls. I've been down to Pincher Creek-Crowsnest Pass. I find it a fascinating place. Even when it's windy, I find it a fascinating place to be. I know the communities of Frank and Coleman and Hillcrest and Blairmore.

MS CALAHASEN: How about Grouard?

MR. SIGURDSON: No. Grouard's in a different area, but I've been to Grouard as well.

You know, I've been down there, and it's not all that difficult to go from one end of that municipality to the other. It's very easy. They've built a brand new highway. They've got lots of access into the town of Blairmore. They've got a number of points where you can turn off. The same with the town of Hillcrest: a wonderful place. I don't know why we would try and advance a special consideration for that one little town that was unified a long time ago, four communities.

You take a look at any urban constituency, whether it's Edmonton-Jasper Place or Edmonton-Belmont — I have seven communities in my constituency and two more that are growing. The Member for Calgary-Forest Lawn has a number of communities in his constituency and a number that are growing. Edmonton-Centre: a number of community leagues in that constituency and a number that are growing. So when you say that you've got four communities with three Legions and four cenotaphs and 13 tennis courts and four covered arenas inside this one municipality, I'm sorry; it just doesn't hold any weight and it ought to be defeated.

MR. DEPUTY CHAIRMAN: The Member for Calgary-Forest Lawn.

MR. PASHAK: Thank you, Mr. Chairman. My main concern, too, is with section 17 in Bill 57, because it's in section 17 that potential for unfairness exists. We've dealt at some length with 17(1) through an amendment that we proposed, and this evening we have before us proposed changes to 17(2) and 17(3), both of which we've moved to delete. With respect to 17(2) I have a general comment I'd like to make, and then I'd like to get into a back-and-forth discussion, if I could, with a member supporting this Bill on the government side who could perhaps justify the different propositions that are being advocated within section 17(2).

My general comment, though, is that this Bill, if it were to be passed, could allow for a total of up to four ridings in this province to exceed the average by 50 percent. Now, in terms of looking at those figures, the way I would reckon that is that the average number of voters in a riding, based on the '86 census, would be somewhere in excess of 28,000. If a riding could exceed that by 25 percent, as is permitted in (1), then an urban riding, for example, could have as many as 35,630 electors. On the other hand, if section 17(2) were invoked and a riding was permitted to fall by 50 percent below that average, it could have as few as 14,250 electors.

So what this in effect means is that a vote in a riding somewhere in this province could be worth two and a half times my vote in the city of Calgary, and I resent that. I resent that strongly. I don't think that some other person's vote in this province should be worth two and a half times mine. I could accept the fact that his or her vote was worth maybe 10 percent or maybe even 15 or possibly even 20 percent more than my vote; I don't know exactly where I'd draw the line. But for that vote to be worth two and a half times mine is not only undemocratic; it's unfair. It's a form of theft. That person is stealing some of my power by having a vote that counts that much over mine.

I'm not the only person that will feel that going into the next election. I'll tell you that when the boundaries are drawn and if the situation should obtain that there are ridings in this province in which some votes are worth two and a half times the votes of the average person in Calgary, there will not be a Tory elected in the city of Calgary. You mark my words: all Calgarians will feel the unfairness and the injustice of that.

Now, Mr. Chairman, what I'd like to do is turn to the person responsible for piloting this Bill through the government side of the Legislature this evening and just ask some questions about the various criteria that are used to determine just when a riding would be permitted to fall by 50 percent below the average. The first criterion is that if "the area of the proposed electoral division exceeds 20 000 square kilometres," that should be a factor that should be taken into consideration according to this Bill. But why 20,000 kilometres? What if you had a single unit? The city of Calgary contains, say, a 3,000 square mile entity that's locked into an area that's largely uninhabited outside of that. What's 20,000 got to do with anything? What's the difference between having the population in a 20,000 square kilometre unit concentrated, in other words, in one place or being spread out equally? This doesn't take that into account. So if whoever is responsible for championing this Bill through the Legislature tonight could just answer that question: why was 20,000 square kilometres chosen at all? Why not 30,000, why not 40,000, why not 100,000, or why not 2,000? Can somebody on the government side answer that question? Well, obviously they can't, so they don't know why they've included that in the Bill.

Let's move on to (b): "the total surveyed area of the proposed electoral division exceeds 15 000 square kilometres." Well, what's whether it's surveyed or not surveyed got to do with anything? What's the justification for that? What's the real difference between (a) and (b), whether it's surveyed or not? We know that most of the province has been surveyed by seismic companies. We've got seismic lines all over the place. What's that got to do with the size of an electoral division? Is there anybody on the government side that can explain that? Or is this just an attempt to gerrymander the province in your own interests? [interjections] Again, gerrymandering. No answer. The government can't justify that key section of the Bill.

Subsection (c): "the total length of primary and secondary . . ."

MR. DINNING: Did you sit down?

MR. PASHAK: I can get up as many times as I want and ask for the government to get up and respond. You just refuse to respond because you can't. Do you want a chance, hon. Minister of Education, to respond to those issues? Go right ahead. Let's hear your response.

Chairman's Ruling Speaking Order

MR. DEPUTY CHAIRMAN: Order please. Order. [interjection] Order please, hon. member. While it is quite in order for any speaker to pose questions to any or all members of the Assembly, I would remind the hon. member that normally when one resumes his seat, he gives up his turn in the speaking order. Questioning has nothing to do with it.

Please proceed.

8:50

MR. PASHAK: Well, thank you, Mr. Chairman, but that's not the practice that we've followed on other occasions. We've often given a minister, when introducing a Bill, give and take with a member who's putting questions to the minister who has introduced the Bill. That's been accepted as standard practice on many other occasions in this Assembly. But if there's no minister or member of the government that's prepared or willing or capable or able to answer these questions, I'll just remain on my feet and put my questions. Hopefully, perhaps in third reading, some minister will get around to dealing with these issues, because they're extremely significant.

Debate Continued

MR. PASHAK: Now look at the absurdity of (d):

the distance from the Legislature Building in Edmonton to the nearest boundary of the proposed electoral division by the most direct highway route is more than 150 kilometres.

Which midget mind dreamt that up, and what's that got to do with social reality, political reality, or any other kind of reality for that matter? What's the justification for inserting that in this Bill and making that a criterion for determining whether or not a riding can deviate from the average by 50 percent or not?

MR. DAY: Sit down so I can answer.

MR. PASHAK: Well, you'll get your chance. I've just heard from the Chairman that no one wants to answer. I'll sit down if you're prepared to answer. Okay, let's hear your answer.

MR. DAY: Mr. Chairman, all the answers to his questions have already been clearly and adequately covered. Thank you.

MR. PASHAK: I've read the *Hansard*, I've listened to debate, I've read the committee report, and nowhere is there justification provided for any of the measures that are provided in section 17 as a totality. We've yet to see a clear justification for 17(1), as a matter of fact: why 25 percent was picked and not 24, not 20, not 10. Why was 25 percent picked? There's no justification for that or any of the other provisions in 17(2).

MR. DAY: Dixon, Dixon.

Next question.

MR. PASHAK: Okay, let's get on. What's the justification from the government side for including as a criterion the fact that there's no town that has a population exceeding 4,000 people in the proposed electoral division? Why 4,000? What's the justification for having that condition in there at all in the first place? But once it's in there, why not 5,000? Why not 6,000? Why not 100,000? Why not 50 people? I don't know. There's no justification given for any of these conditions that are spelled out for your attempt to provide conditions for an electoral district to fall 50 percent below the average.

Now, with (f) I can feel sympathy somewhat for communities that have experienced some economic downturn and have gone through a dramatic decrease in population. If they're used to having a member or, if it's a larger area, being represented by a few members, I can appreciate that they shouldn't lose all of their sitting members or lose their political power or their representation just overnight and that there could be some grandfathering. But why should that loss be extended to include the two most recent censuses available or whatever? How far into the future should that be carried? You know, I guess by looking back, you could say the two most recent. This *is* enshrined; it would mean going back over eight years. That may be excessive. Why not the three most recent? Why not one? Where's the justification again? Who dreamt this up? Who picked it out of what hat?

In any event, Mr. Chairman, what I'm trying to say is that this is pure malarkey, it's balderdash. Somebody sat down and tried, obviously in the most creative of ways, to figure out some scheme that would allow the present construction of ridings to maintain going into the next election. That's what this is, pure and simple. It's not an attempt at electoral reform; it's pure huggery-muggery. It has nothing to do with political reality. It has nothing to do with the distribution of population. It obviously has nothing to do with what's fair and just. It goes completely against fairness and equity, and it has the potential for making urban people like myself have much less clout as individual voters than other people who would live in these ridings. So I say that we have to vote in support of this amendment and remove subsections (2) and (3) from this Bill.

MR. DEPUTY CHAIRMAN: The Member for Calgary-North West.

MR. BRUSEKER: Thank you, Mr. Chairman. I would like to rise in support of this motion to delete sections 17(2) and 17(3). I congratulate the Member for Edmonton-Belmont for introducing it. Had he not done so, I would have myself. However, having done it for me, I am pleased to rise in support of his amendment, and I have a number of reasons for doing so.

Mr. Chairman, I want to reflect back a little bit on the process by which the report was created and ultimately the legislation that we now have before us. One of the comments that we heard on a number of occasions, I believe from the learned Member for Taber-Warner, was a concern about what happened in Manitoba: that the commission was given too much flexibility and a couple of rural seats were lost, one that was held by the New Democrats and one held by a Conservative. I believe that ended up in the city of Winnipeg. The member was quite concerned about that, and he said that therefore, because that kind of thing happened, gee, we've sure got to be sure to give this commission direction; we've got to be really clear on what it is we want this commission to do. To be honest, he was true to his word for the most part with introducing sections 14 and 15, which clearly say that we've got to have some seats here, and Calgary is going to have 19, and Edmonton is going to have 17, and they even go on and talk about Red Deer and St. Albert and so on and so forth.

Yet, boy, that clear direction just kind of evaporated when we got to section 17. Section 17(2) that we're talking about here just says that notwithstanding that, you know, somewhere we might have possibly, maybe, son of a gun, we might go as far down as minus 50 percent, and gee whiz, there are seven things here that we should consider. The Member for Calgary-Forest Lawn has already questioned the numbers that have been thrown

in here rather arbitrarily, and I would agree with those comments. But even within this loosey-goosey, let's let the commission decide when, where, how much, why, and what they're going to do, the philosophy is not applied uniformly. For example, section 17(2)(f) talks about "due to economic factors . . . has been a significant loss of population." Well, what does "significant loss" mean? For example, in the town of Orion in the constituency of Cypress-Redcliff if they lost 10 people, that's a hundred percent loss. Significant loss to the constituency of Calgary-Forest Lawn, for example: if 10 people move out of Calgary-Forest Lawn, it's not going to make a big difference. So what is significant loss?

Here we have for the first five a particular criterion. Whether you agree with that or not is irrelevant, and the Member for Calgary-Forest Lawn, as I said, has already made that argument. But they're given a criterion. At least they say 20,000 square kilometres. Well, I don't agree with that, but at least there's a figure, and you can say either it does or it doesn't. Subsection (b) talks about 15,000 square kilometres; (c) talks about length of roads, 1,000 square kilometres. What does significant loss mean? We go on to 17(2)(g).

To impose a higher [minimum] population requirement would significantly and negatively affect the community of interests of the inhabitants of the proposed electoral division.

Well, what does "significantly and negatively affect" really mean? How do you quantify that? How is the commission going to be able to decide that this area has been significantly and negatively affected or not? How are they going to make that decision? The guidelines are not particularly clear.

So, Mr. Chairman, we see here in this Bill between sections 14, 15, and then into 17 a real dichotomy of viewpoints. I think in the past some have used the term "flip-flop," and that certainly seems to be inherent in here.

Now, one of the things I want to refer to – I'd like to take a moment and refer to other legislation, because one of the things our committee did do was travel to our three neighbouring western provinces. We had the opportunity to speak with their chief electoral officers, and we also had the opportunity to review the legislation in those places. If we look at the British Columbia one, which of course is the most recent, it simply says in section 9:

in determining the area to be included in and in fixing the boundaries of proposed electoral [divisions], be governed by the following principles . . .

And they talk about some of these things: the historical nature of the province and so on. But it says:

to achieve that principle, the commission be permitted to deviate from a common statistical Provincial electoral quota by no more than 25%, plus or minus.

They don't have a section as is being proposed in here, that should be, I believe, deleted, that says that 5 percent can vary as much as 50 percent.

9:00

They do have a section, and I do want to mention it, that says the commission would be permitted to exceed the 25% deviation principle where it considers that very special circumstances exist. Mr. Chairman, they didn't find any. They didn't find any. In British Columbia all of the constituencies created under the most recent redistribution are less than 25 percent. In fact, when we review the McLachlin decision, it says "giving due weight." This is a quote from page 33 of the McLachlin decision, Madam McLachlin speaking I guess parenthetically here.

Giving due weight to geographical and regional concerns, their map provided for equality of voting rights within limits of 10%

either way, with the exception of one riding, with a divergence of 24%.

Well, if in British Columbia, that sent out the McLachlin decision, with their diversity of interests, with their diversity of historical background, with their history they could find out that 25 percent is appropriate and adequate, that should be adequate for Alberta. But you know, there have been arguments that other provinces have gone a little further, that other provinces have gone beyond the 25 percent or whatever.

If we look at Manitoba, Mr. Chairman, Manitoba has legislation that says 10 percent variation, but if there's a need, and they're very clear on this, north of the 53rd parallel . . . So they pick a relatively arbitrary number, but I guess all the time we're picking relatively arbitrary numbers. If north of the 53rd parallel there needs to be some greater allowance, then they can vary by as much as up to minus 25 percent. Again we come to that 25 percent number. Now, in fairness, Saskatchewan is a little different. They were a little more liberal in their viewpoints. The Saskatchewan legislation proposes 66 constituencies. It proposes plus or minus 25 percent with the exception of two. They specify where those constituencies will be, Mr. Chairman; they specify two northern. Again they give a reference as to a particular line, that is peculiar to the Saskatchewan legislation, as to what part of the province constitutes northern and what constitutes southern.

Yet in section 17(2) and (3) it says simply that somewhere in the province, should the commission so decide and they feel they have a need and if they think they can justify five of those seven things, then, son of a gun, they can put one of those minus 50 percent constituencies just about anywhere they want to. In fact, they can put it anywhere they want to as long as they remain within the province of Alberta. Well, I have some real concerns about that. One of the things I know all members of the committee will agree with me on is that wherever we went, almost universally we heard, "You know, rep by pop is a great idea but not here, because we're special." We heard that "we're special" just about everywhere we went. We heard that in Mayerthorpe; we heard that in Medicine Hat; we heard it in Lethbridge when we were down there. It didn't matter where the people came from; it didn't matter where they lived: they thought they were special. You know, Mr. Chairman, they're right; they are special. Every single one of them is special. But we can't have 83 exceptions to the rule, and I would argue that part of the problem with section 17(2) is that it proposes four exceptions to the rule.

One of the things that we have to look at, too, is the demographics, and that's another area where I've got a concern about this. Our proposed Bill 57 here talks about using census data. These new constituencies that are going to be created at plus or minus 25 percent or at minus 50 percent are going to be based upon the most recent census data, that being the federal data that was issued in 1986. So we've got data that's now four years old. Now, when we look at what's happening right across the province, north, south, east, west – single municipality versus multimunicipality; we don't want to use those other words that have now been eliminated – we have to look at where the growth is occurring. Mr. Chairman, I would argue that the constituencies that are most likely going to see this kind of an exemption applied to them are going to be areas of the province which, unfortunately, haven't been particularly successful in terms of economic development, in terms of population influx, in terms of broadening the base of their economy. That is a difficulty; there's no doubt about it. But the net result is going to be that those constituencies could be created to be as low as

around 14,200 persons per constituency, and that constituency, whatever it is that is created, is going to be fairly stable, fairly static in terms of the population moving in and out.

On the other side of the coin, Mr. Chairman, we're going to have some communities where growth is occurring very rapidly, very dynamic communities: new homes being built, new shopping centres, new churches, new schools. These are communities that are booming. I'm sure every hon. member in here can think of different constituencies to which that would apply. The community of Edmonton-Mill Woods, for example, I know is a constituency which is growing rapidly, Edmonton-Belmont, growing rapidly; Calgary-North West, growing rapidly. So my constituency, whatever that constituency turns out to be when redistribution occurs, is going to be created on 1986 data. But you know, that community hasn't remained stable and static and with a relatively uniform population over the last five years. It's grown since 1986, and it's going to continue to grow.

In fact, the Member for Calgary-Forest Lawn said that the difference could be as much as two and a half times between the lowest one at 14,200, but at the upper end it could in fact be much higher than two and a half times. I would suggest that if you use the 1986 data and say, "Well, this constituency is going to be based on 34,000 people; gee, that falls right in line with the plus or minus 25 percent," in reality that's not going to be so. It's not going to be so because so many people around this country are coming into our province. The cities are growing, and the communities are growing. In fact, we're going to have more people in there. So the weight could be as many as 3 to 1.

Mr. Chairman, that's not much of a change from what we have right now. Right now our constituencies are based upon enumeration rather than population. Using the most recent enumeration, the smallest one is 8,000; the largest one is about 31,000. I believe it's Cardston and Edmonton-Whitemud respectively in those two positions. That's almost a 4 to 1. I would argue that by the time you implement the special considerations in 17(2), then potentially you're going to get again that 3, 3 and a half, or 4 to 1 variation, which the Deputy Premier has said under our current legislation isn't appropriate. Well, I would argue that under this legislation it would also not be appropriate. For that reason I would certainly move that 17(2) in its entirety be struck.

I want to talk for a moment about 17(3) and the reasons why I think 17(3) should be struck. I think that again this is a flip-flop. It's flipping when it's convenient and flopping when it's convenient. If the municipality of Crowsnest Pass is a town, then in fact it should be included as a town. If it has all those amenities that the member who represents that constituency referred to, then obviously they have done quite well in the past and therefore the idea of expanding and increasing the area of that particular constituency should not be a concern. So it depends upon how you look at it. I would argue, Mr. Chairman, that naming a particular community of interest, as section 17(3) does, *is* inappropriate and should be struck.

For that reason and the reasons I've just stated, I strongly support and urge all members to support the amendment as proposed by the Member for Edmonton-Belmont.

MR. DEPUTY CHAIRMAN: The Member for Edmonton-Jasper Place.

MR. McINNIS: Thank you. Mr. Chairman, I rise in aid of my colleague representing Calgary-Forest Lawn who has asked a number of important and legitimate questions about the

provisions of section 17, in particular subsection (2) and subsection (3). He hasn't gotten any answers, and I'm rising in support of his right to seek those answers and to try to convince the government that they'd better get serious about defending these provisions very soon.

I understand that the government has made a political commitment, for what that's worth, to refer this legislation to the courts by way of the Attorney General's power of referral under the Constitution. Now, perhaps that indicates that this government has some doubts of its own about whether this matter is constitutional. But my colleague the Member for Calgary-Forest Lawn has asked the government for some specific detail as to why these particular provisions are in the legislation. Why 50 percent?

I heard Red Deer-North get up and quote some words from Madam Justice McLachlin. Now, whatever the words that he quoted had to do with the variation from the one person, one vote formula to achieve certain specific public policy objectives having to do with improving the government overall – and to the extent that he makes that case, he's on solid ground. But if he tries to put Madam Justice McLachlin's name beside section 17, he's doing her a disservice and the members of this Assembly a disservice, because there is no such thing there within Madam Justice McLachlin's decision.

9:10

Now, Madam Justice McLachlin reflects a body of jurisprudence. As a learned person, a member of the bench, now of the Supreme Court of Canada, and a former gold medallist at the U of A law school, she is fully aware of all of the criteria that the courts have put on stretching the Charter of Rights and Freedoms, and that's precisely what section 17 does. I mean, the arithmetic is very clear. Calgary-Forest Lawn went through it. If you allow under subsection (2) for a 50 percent variation downward, you get a riding as small as 14,252 population – not voters – and if you allow 25 percent above, you get a situation of some 35,630 population, a factor of 2 and a half to 1.

That means, Mr. Chairman, that for every couple within that smaller riding, whether it's a man and a woman living together or whatever, that two-person family unit has the same say in the government as two such family units and another individual; in other words, two in the smaller rural area cancel out the vote of five, potentially, in an urban area. Now, that is an unfairness by any description. Certainly in ordinary language if you say to most people, "Well, these two over here have as much say as these five over here," somebody would want to know why. That's exactly the kind of question that my colleague for Calgary-Forest Lawn has raised. Why is it that this government thinks it's somehow in the public interest to allow those two people to cancel out the vote of those five?

Well, I think if we look at the body of jurisprudence, we'll see that the courts have drawn a line around what type of transgression is permitted in terms of the Charter of Rights and Freedoms. The first of those is that the measures adopted must be carefully designed to achieve the objective in question. Well, the government hasn't even told us exactly what objective is in question. What objective are we talking about? Surely they're not going to stand up and say, "Well, the objective is to maintain the status quo." That happens to be the effect of the provisions, but that surely is not the objective. There is some public policy objective in mind. What is that objective, and why doesn't anybody from the government stand up and say what that objective is? The measures must not be arbitrary, unfair, or based on irrational considerations but rather must be rationally

connected to the objective. Well, if you don't give us an objective that we're trying to achieve here in this section 17, we can only assume that these measures are arbitrary, unfair, and based on irrational considerations. They're certainly not based on any public policy consideration that comes out of Justice McLachlin. No such justifications have been put forward, because they're not clear, Mr. Chairman, in what objective they're trying to achieve.

A simple matter like the distance, 150 kilometres by highway from the boundary to the Legislative Assembly building. I think it's quite legitimate to ask: what does that have to do with representation; what does that have to do with better government; what does that have to do with the public interest? It's a dead cinch that the vast majority of people ever to sit in this Chamber have sat in constituencies which are greater than 150 kilometres from the Assembly. That's an absolute cinch, but that doesn't justify any old roll of the dice as far as the distribution of boundaries is concerned; far from it. It certainly doesn't justify a 2 and a half to 1 spread in population. It doesn't justify giving two people in that rural riding the same say as five people in another more populous riding, be it urban or 'rurban' or what have you. No such justification has been tendered.

Secondly, when it comes to making this kind of deviation from the principle, in this case, that people are equal under the law, even if the means adopted are rationally connected to the objectives, they should impair as little as possible the right or freedom in question. Well, Mr. Chairman, the freedom in question is the freedom to be treated in the same way as any other citizen. What we have is a set of proposals which impinge to the extent of 2 and a half to 1 – which is a very great extent – the extent of having, again, those five people who may potentially have their votes canceled out in their entirety in electing the government, in deciding who sits in the Premier's chair and who sits in the cabinet benches, who introduces the budget, who has all of the prerogatives the government has. Whatever measure you adopt, if you take the principle which is in our Canadian jurisprudence that the means adopted have to impair the freedom in question as little as possible, we've gone a very, very long way.

They haven't even attempted to present an argument to suggest why a spread of that magnitude is necessary. To achieve what goal? We don't know. They have come nowhere near close to providing that evidence that they're impairing our personal freedoms, our human rights in this province as little as possible. They're impairing them to a very great extent, and they're not even prepared to stand up here and say on what grounds they do that.

Finally, there has to be a proportionality between the effects of the measures which are responsible for limiting the Charter of Rights and Freedoms and the objective which has been identified as of sufficient importance to justify the limitation. In other words, you don't use a sledgehammer to crack a walnut; a nutcracker would do just fine. So let's say, for example, that we're attempting to deal with the difficulty of representation. I've heard one government member after the other whine at us about how difficult it is to represent a district which is far flung and has X number of hockey rinks and X number of municipal governments and Y number of telephone posts and the rest of it. Well, if that's the problem we're trying to deal with – and if they believe that, they should stand up and say it – they should explain why they're using a sledgehammer to deal with that problem.

I think we can assist members quite ably in representing their constituents, making the job more do-able, improving the

communication between a member and his constituents. The member has to do his or her part, however. This is not something that somebody can do for them. If anybody here doesn't believe they can represent their constituents, perhaps I question why they're here. If they don't believe that's what they're doing, why are they occupying a seat in this Chamber? Why are they voting on issues? Why are they accepting the rewards and privileges that come with it?

If that's the objective we're trying to achieve, then somebody has to explain – to me, at least, and I believe to the Member for Calgary-Forest Lawn, who stood up and posed the question – why all of these provisions and why does it come down to five people in a larger riding in effect being told that their voting worth, their voting strength in this province is equivalent to two in one of these section 17(2) ridings that the government wishes to create. What we're talking about is creating a limited number of seats, admittedly, but a significant number nonetheless in terms of calculating the majority. That's the thing that underlies all of this discussion. The government members don't talk about it much, but in fact the underlying factor is that at the end of an election, when all the votes are tallied up, somebody tallies up the number of seats, and the political party with the most number of seats forms the government. If that party has a majority, they control what goes on in this place until there's another election. That's the way our system works. That's the bottom-line consideration which is influenced by all of this.

So I think somebody in the government had better get up pretty soon and try to explain to the Member for Calgary-Forest Lawn and the rest of the committee what the objective is that they're trying to achieve, how it is that these measures are rationally connected to that objective, how those means act to impair the Charter of Rights as little as possible, and what the relationship or proportionality is between the extent of the variation proposed and the objective achieved. I look forward to that explanation.

MR. DEPUTY CHAIRMAN: Ready for the question?

The Member for Edmonton-Belmont.

9:20

MR. SIGURDSON: Mr. Chairman, I know that my colleague from Calgary-Forest Lawn asked a number of questions. Now, I know that we should have some indication from some member of government whether or not those questions are going to be responded to at committee stage or if you want to get into third reading and hopefully have the sponsor of the Bill respond to those questions then. But there should be some kind of an indication as to whether or not there are going to be some answers given to the questions that were posed earlier. If there are . . .

AN HON. MEMBER: What were the questions?

MR. SIGURDSON: Well, it could be a simple yes or no. It doesn't have to be that every question is going to be answered or answered satisfactorily. God knows, we go through question period each and every single day, and sometimes we get questions answered; sometimes we don't. More often than not we don't get those questions answered. But it is the responsibility of the government to provide some kind of an indication as to whether those questions are going to be answered tonight, answered at third reading stage, or answered at a later point in committee.

Now I see that the Member for Red Deer-North is prepared to stand, so I'll surrender the floor.

MR. DAY: Mr. Chairman, it's a little bit unusual to have this type of activity ensuing, where we have a member who speaks and then plops down and leaps up again. The point I'm making is that virtually every point that has been addressed, every question that's been raised has been dealt with in some way, shape, or form already right in these chambers. I'll refer to November 27; we had Mr. Horsman, Mr. Bogle, Mr. Day all speaking on this issue. November 28 was Mrs. Black and Mr. Cardinal. November 29 was Mr. Rostad. November 30: Mr. Rostad again, Mrs. Black, the Hon. Dick Fowler, Mrs. Mirosch. December 3: they could check *Hansard* and read the comments of Mr. Hyland, Mr. Lund, Mr. Thurber, Mr. Schumacher, Mr. Paszkowski, the hon. Mr. Trynchy, Mr. Tannas. December 4: read what Mrs. Laing had to say. December 5: Mr. Rostad also had some comments; Mr. Bogle again was on his feet answering more of the questions that were put; Mrs. Black, Mr. Bogle again. December 6 was Mr. Lund, Mrs. Black again, again Mrs. Black answering questions that were directly put, and Mr. Bogle again. December 7 was Gary Severtson and also Kurt Gesell and more again today.

Mr. Chairman, I might suggest that to say that questions have not been answered is facetious at the least. Questions have been answered, but when things are brought up like how many telephone poles are going to be required, how many pool tables and these kinds of things, that is so unworthy even of response.

I would suggest to the members opposite that members have taken quite a bit of time answering very specific questions. Now, we could go on forever giving minute delineations of those questions; we know we could do that forever. Even with the limited debating skills that we see across the way, that could be accomplished quite easily. So really it's a facetious question, we believe. The questions have been answered in incredible detail, and I invite the members opposite to look at those responses.

Thank you, Mr. Chairman.

MR. DEPUTY CHAIRMAN: I would first, before recognizing the next speaker, remind hon. members to address members by their riding names, please.

The Member for Calgary-Forest Lawn.

MR. PASHAK: Thank you, Mr. Chairman. The Member for Red Deer-North certainly demonstrated a lot more ability than I thought he was capable of: he was able to go back through *Hansard* and read out the names of all those people that have participated in debate. Well, that's just brilliant, incredible, remarkable.

In fact, if one does take the time to read through all of the debates, there's not a single answer contained therein to any of the questions that I posed earlier today. Secondly, if anybody spoke about telephone poles and pool halls, it was not the Member for Calgary-Forest Lawn. It may have been the Member for Pincher Creek-Crowsnest, who gave us an itemized account of all of the clubs and community associations and legions in the town that he's trying to prevent being considered as a town so that he could, I would assume, advance his own electoral interest.

In any event, Mr. Chairman, those questions were not answered. I would find it very difficult to permit this Bill to get through this Legislative Assembly without this other side bringing in closure unless they can begin to answer some questions. They're keeping not only the members of the

Assembly in the dark with respect to why you've included these provisions in the Bill, but you're keeping the whole province in the dark. So one can only conclude that this Bill just represents a blatant act of political partisanship and has nothing to do with electoral reform.

MR. DEPUTY CHAIRMAN: The Member for Edmonton-Jasper Place.

MR. McINNIS: Yes, Mr. Chairman. The answer given by the Member for Red Deer-North might be a good answer if somebody had asked which members spoke in the debate so far, but nobody asked that question, so I'm afraid it's not a very good answer at all.

The situation is this: we are today on clause 17 of the Bill, and this is the first opportunity the committee has had for detailed scrutiny of this section of the Bill. Section 17(2) creates a new category of ridings: 17(2) ridings, which have totally different criteria than any other district throughout the whole province. I think the government has an obligation to at least explain to the Assembly what policy consideration lies behind the creation of section 17(2) ridings. No more than 5 percent of the total: that looks to me like four ridings, so the government clearly has in mind creating four ridings which are totally different than the other 79, and they must have some policy objective in mind.

The Assembly, I submit, has every right to know what that policy objective is so that we can decide whether we approve of it or we don't. Well, you don't get a policy objective like that. Presumably the fact that Pincher Creek-Crowsnest is dealt with in the subsection specifically must mean that the constituency of Pincher Creek-Crowsnest is singled out to be one of the section 17(2) ridings. So there are three more. Well, what are the other three? What is the agenda here? Nobody in that list addressed that question. Nobody has explained why it's necessary to have this particular type of riding that has all of these off-the-wall criteria. That's all my colleague for Calgary-Forest Lawn is asking. Where does 20,000 square kilometres come from in terms of area? Why is the surveyed area to be three-quarters of that?

MR. DAY: Why do we have question period at 2:30?

MR. McINNIS: The member who took up the time of question period about Francis the pig asked me what question period is for.

MR. DAY: No, I didn't. I said: why do we have question period at 2:30? Don't lie.

MR. DEPUTY CHAIRMAN: Order, hon. member.

MR. McINNIS: If you want to stand in debate and make an accusation like that, you go right ahead. I would like you to stand up and start answering some of the questions. You're one of the political brains on this committee.

MR. DEPUTY CHAIRMAN: Order. Order please.

All right. Let's proceed, hon. Member for Edmonton-Jasper Place.

MR. McINNIS: The question of the distance from the Legislative Assembly building, the question of there not being a town in excess of 4,000 population: all of these very detailed criteria

— and when you throw in the business about arbitrarily reclassifying the municipality of Crowsnest Pass, we figured out what one of them is. You're obviously trying to save that member's bacon. Now, who are the other three? I think that's what it comes down to, and I think it's about time we had some answers. [interjection]

The member thinks these questions should be raised in question period. Maybe he's right. Maybe they will be. If the government won't answer them in committee, maybe we have to try to find out from somebody in charge over there why they won't answer questions.

I think it's time the government members who are responsible for piling the legislation through this House took their responsibility seriously. There is a Constitution in this country, and in the Constitution there is a Charter of Rights and Freedoms, and there is a body of jurisprudence around that. It says very clearly that if you're going to go to this length to take away the fundamental equality of citizens, you'd better have some pretty good reasons for it, you'd better have proposals which are very closely tied to those reasons, you'd better have proposals that impair the fundamental equality of citizens to the least extent possible, and you'd better have proposals that stand the test of proportionality. I think that no matter who looks at this, whether you look at Madam Justice McLachlin or anybody else, the courts are going to give considerable weight to the question of relative equality. That's what's behind all of this. That's what this committee was supposed to go and study on our behalf. They come back with a proposal for complete inequality and then won't even answer questions as to how they arrived at the formula. What are we supposed to do, sit here and say, "Oh, well, that's okay, we don't care"? Of course we're going to ask questions, and of course we're going to demand answers. I think the Member for Red Deer-North, who sits there in somebody else's chair pretending he's reading, should take that seriously.

9:30

REV. ROBERTS: Mr. Chairman, I've been listening to this debate now for too long. Members over there have got to learn that when legitimate, real, and important debate is held in this Legislative Assembly, they had better take part. Maybe we should have some representation here based on just how often members get into debate in the Legislature, because I think it would be an embarrassment. It would be an embarrassment, as is often the case, to be able to mail out to the constituents of various members across the way just how many times they do get into debate and how many times they do answer real and genuine questions that are put to them. It's one thing to sit around in here and sort of take up a seat, but to represent people, whether it is Pincher Creek-Crowsnest or wherever, means there's an obligation and a responsibility to enter into debate in this Assembly when real and legitimate questions are asked. As with section 17, that is the case tonight.

I would put it to members across the way, as has been outlined, that this is such a subjective list of criteria, so entirely subjective with no basis in any kind of objective or ability to be discussed openly. If there is no basis for these criteria, we can only conclude that somebody with some reasons has put it forward. Now, if they don't want to enter into debate and answer these questions here tonight, let me put it this way. When this gets referenced to the courts, why is it that we'd then have to hire some high-priced Tory lawyers to argue the case before the courts? I mean, if we're not going to have the courage of convictions, the obligation we have as MLAs and members in this Legislature to stand up and debate this question

here tonight, why should we then have it referred to the courts and spend more taxpayers' money, as I say, to hire lawyers to explain it to the judge?

I mean, is not the Legislative Assembly the top judge in this province? Are members of this government not holding the Legislature in contempt by not having answers to these questions? What makes a court of law or reference to a court and lawyers arguing the case on the government's behalf any more a place of authority and jurisdiction than this place here tonight? It would seem to me that the answers are going to be coming out one way or another. If the answers can't be or won't be brought forth tonight, then when it comes to being referenced to the courts and the lawyers are hired at how many hundreds of thousands of dollars to explain to the judiciary why section 17(2) and (3) is the position of the government with respect to this Bill, we'll get the answers.

I'm just saying let's have some honesty, let's have some integrity, particularly for the Legislature of this province. To subvert the legislative process and say, "No, we're not going to put up with questions from the Official Opposition; we're not going to have a full debate in the Legislature; we're just going to have lawyers argue in front of a justice perhaps at some point when others aren't watching" — well, we will be watching. Certainly members of this Official Opposition caucus and members of the media and other members who are concerned with this very vital issue are going to be watching. It's going to have to come out one way or another.

I'm just saying that I find it despicable, Mr. Chairman, that the government refuses to enter into this debate and will leave it to another forum that circumvents this process in the highest court of the land, which is the Legislative Assembly. If this matter keeps going on like this, why have a Legislature at all? Why even have anybody from Pincher Creek-Crowsnest or any of the other four or so ridings that might not be electorally fair. We'll just say: "Well, members can have a vote. But it doesn't matter; when the going gets rough, they don't decide matters in the Legislature anyway." They'll just have the courts decide. As we know, in Canada now there are more and more decisions which are being determined and rendered by the courts and not by the Legislature.

I think we need to continue to strongly assert the will and the debate and the openness of the legislative process and not just sort of sit idly by and let the judicial process take over. Who makes the laws? Who governs this province? Is it going to be the courts or the Legislature? If it's going to be the Legislature, as we are elected duly to do so, then answers to these questions must be put. Particularly "distance from the Legislative Building in Edmonton," 17(2)(d), has got to be the most peculiar one going. I mean, certainly they have a telephone. Certainly they have a way to get to — what is it? — McDougall Centre in Calgary or to get access to whatever government thing they want. We sit here — how many? — three, four months a year, and plane travel and the rest is open to members who fly in from out of town. That is just so inane a section there, and I think it would be just laughed out of court.

So, Mr. Chairman, I would think that if members here tonight from the government side do not want to come forth with reasoned arguments, just a rational sense of what these criteria are based on, and if they're not going to do it tonight and just say, "We're going to hire some lawyers to do it," my own conclusion is that the government members are holding the Legislature in contempt.

Chairman's Ruling Parliamentary Language

MR. DEPUTY CHAIRMAN: Prior to recognizing the next speaker, I'd like to draw members' attention to *Erskine May*, subsection 3, on page 394. This is drawn to the attention of the hon. Member for Red Deer-North and all other members of the committee.

The Member for Edmonton-Mill Woods.

Debate Continued

MR. GIBEAULT: Thank you, Mr. Chairman. I also want to get in on this debate here and support my colleague the Member for Edmonton-Belmont's amendment to the Bill, that section 17(2) and (3) be struck. Surely we have to do that if we want to be serious about this proposed Bill 57, the Electoral Boundaries Commission Act, ensuring it has an adherence to basic principles of fairness.

Now, Mr. Chairman, if we look at section 17(2), "Notwithstanding subsection (1), in the case of no more than 5% of the proposed electoral divisions," we have 83, so 5 percent will be approximately four ridings. I guess the Member for Pincher Creek-Crowsnest has got a bid in for one of them, and it's a question which other three will be here, but I want to come back to that in a moment. So in the case of no more than 5 percent of these ridings, "the Commission is of the opinion that at least 4 of the following criteria" may allow for a variation of "as much as 50 percent . . ."

Chairman's Ruling Repetition

MR. DEPUTY CHAIRMAN: Hon. member, order please. Order. The Chair has been listening to the debate, and that particular clause has been read previously this evening on at least two occasions. I would draw members' attention to the matter of repetition in debate.

Debate Continued

MR. GIBEAULT: Yes. Well, Mr. Chairman, if we follow 17(2), we look at the possibility of those four ridings having 50 percent below the average population. So if the average population of a riding is approximately 18,000 in the province, less 50 percent is 9,000. That leaves a riding that could be as small as 9,000 members, and I would suggest that that's not far different from what we already have with ridings like Cardston in southern Alberta. Now, maybe 17(2) is the Cardston protection clause; I don't know. But it sounds like it, because we could end up with ridings like Cardston and perhaps Pincher Creek-Crowsnest and a couple of others who are still going to have a sizable variation from the legitimate average of the province. If we look at the urban ridings, we can have a variation of 20 percent according to section 17(1). If we take the average of 18,000 enumerated voters per riding and add 25 percent, we're looking at about 22,500 or thereabouts. So if we accept section 17(2) and (3), we will have a situation that will allow for a variation from 9,000 to 22,500.

Mr. Chairman, on behalf of my constituents of Edmonton-Mill Woods, I have to tell you that we don't understand why there should be any ridings in the province which have twice, almost three times, the voting influence of my constituents in Edmonton-Mill Woods. We reject that as unfair.

9:40

AN HON. MEMBER: How many do you have?

MR. GIBEAULT: At this moment in Edmonton-Mill Woods we have 26,000 constituents, and if this Bill is passed, we could be looking at up to 22,500, which, as I said, Mr. Chairman, will be over twice the amount of at least four ridings and perhaps many more.

We take a look at the various items that are further elaborated, the various qualifications, under section 2. I have to suggest, with due respect to the drafters of this Bill, that these are very curious parameters, in particular (g), which recommends that we consider the riding to be included to have that variance of up to 50 percent if

to impose a higher population requirement would significantly and negatively affect the community of interests of the inhabitants of the proposed electoral division.

Now, Mr. Chairman, that's a very subjective provision. Who's going to judge whether it would "significantly and negatively affect the community of interests of the inhabitants of the proposed electoral division"? I suppose it's the commission, but I think we're really putting a very difficult proposition to this commission with such a nebulous parameter as that.

This is bad legislation. It's sloppy legislation. Then, of course, we come to section 17(3) itself, which is one of the most bizarre clauses I have seen in a piece of legislation in my career in this Legislative Assembly: the Pincher Creek-Crowsnest Pass clause. It would be interesting, Mr. Chairman, to speculate as to how this particular clause came to be. We could probably spend a lot of time speculating on that. But let's just wonder what purpose this serves. Out of all the municipalities of the whole province – and I don't know how many municipalities there are, but there are quite a few – we've made a special exemption for one particular municipality, that being Pincher Creek-Crowsnest. It wasn't Lac La Biche or Fort McMurray or – who knows? – any one of hundreds of municipalities in this province. It was just the one, the municipality of Crowsnest in that particular constituency to enable it to qualify for one more of those criteria. That really is distasteful to say the least, that we are writing legislation to provide special qualifications or circumstances for an individual municipality like that. I would suggest that when this does go to a judicial reference, I would be surprised if that clause would pass any sort of judicial test.

So, Mr. Chairman, I really have a lot of difficulty with those sections, and I would urge all members to support the amendment to strike section 17(2) and 17(3) from Bill 57 of the Electoral Boundaries Commission Act. They are unfair. It is our contention that they will not stand a judicial test, and it is our recommendation that they should be struck in order to try to improve this Bill as a Bill that Albertans could be proud of if it were drafted in the interests of equity and fairness for all voters in the province of Alberta.

MR. DEPUTY CHAIRMAN: The hon. Minister of Culture and Multiculturalism.

MR. MAIN: Thank you, Mr. Chairman. I am going to take up the challenge to enter this debate, not because I am going to be able to provide any specific answers to the specific questions that have been raised all along here – my facility and familiarity with this piece of legislation are not so detailed as some of my other colleagues' who sat on the committee and traveled around the province having hearings and speaking to countless dozens of Albertans about their specific concerns with representation in the Legislature. But as one of two members in this Legislature, and the only one engaged in this debate right now, who represents an Edmonton constituency and has cabinet responsibilities,

I feel I can give some sense of what it's like from my perspective. We've heard from Edmonton-Centre and Edmonton-Jasper Place and Edmonton-Mill Woods and Edmonton-Belmont, gentlemen on the opposition benches whose responsibility to the Legislature consists solely of representing constituents on the Legislature basis and dealing with constituency problems. To do that plus have responsibilities for cabinet, for managing and being responsible for a large department of government with hundreds of employees, plus other responsibilities associated with that – cabinet committees, representing government at official functions, and so on – places an additional burden on members. Now, I'm in the fortunate position of representing an Edmonton riding, and just being a couple of miles down the road, I can be at home each night. But when I think of my colleagues from Chinook, Medicine Hat, Macleod, Lethbridge, Whitecourt, Little Bow – other members who have similar responsibilities, have to represent their constituents, and have the additional cabinet responsibilities – some consideration has to be taken into account beyond the city of Edmonton. Even those in Calgary have an onerous job of going back and forth two, three, four times a week to do both jobs. So the notion that somehow there's a subversive kind of element here that is attempting to diddle and fiddle and do all kinds of nefarious tricks with riding boundaries just isn't the case.

I recall discussions we had as a caucus and as a cabinet on this particular issue. I don't recall any suggestion, any notion, that somehow we've got to trick people into leaving the lines the way they are, that we've got to somehow do some kind of really clever clause that'll really scam everybody and everybody will get really fooled and we'll sneak this through. There was no discussion at all like that. The discussion was how we could fairly represent all the people of Alberta in this Legislature for everyone: every party, every constituency, every member, every area of responsibility. That is the driving force behind this particular piece of legislation. Whether you represent an Edmonton riding or whether you represent a riding that is a six-and-a-half hour drive down an icy road at the other end of the province, there's got to be some element of fairness. I believe, in the discussions I've been involved in in looking at the Bill and listening to the debate, that this Bill as presented is going to do that. Just to make sure, the courts are going to give us the answer.

We believe that what we've presented is fair, just, reasonable, and takes into account all the various components of representing people in this province. Therefore, Mr. Chairman, I would speak against the amendments.

MR. DEPUTY CHAIRMAN: Edmonton-Belmont.

MR. SIGURDSON: Thank you, Mr. Chairman. I want to thank the Minister of Culture and Multiculturalism for standing up and giving us some form of representation from the government on behalf of the government. But, you know, what we've got here are a number of questions that have yet to be answered. Even when the minister stood up, he endeavoured to answer or put forward a certain case. We appreciate that, but we didn't get specific answers to specific questions.

In every other amendment we have moved, whether it was the amendment to section 17(1), which dealt with trying to get the commission to bring constituencies as close to the average as possible, we had a specific response to that. We had a number of members that stood up and gave their rationale for why that amendment shouldn't be passed. The same thing with the amendment that dealt with section 5(2). What was there? That

was the time lines with respect to the appointment and reappointment of the commission. Again, we had members representing the government that stood up and told us their position as to why the legislation is written so as to have a commission appointed after every second election but not less than every eight years, very specific answers.

Now we have perhaps the most contentious section in this piece of legislation, and the Member for Calgary-Forest Lawn has put forward some very specific questions. What do we get? Well, we had the Member for Red Deer-North. Again I thank him for providing me with the list of names and dates and times that previous speakers spoke to the issue. I'll pin it up, and I'll go through the record, and I'll see – I will see, Mr. Chairman – if indeed those speakers that spoke previously addressed the specifics that we're dealing with tonight. Quite frankly, I don't recall those specifics being addressed. Calgary Forest-Lawn, very specific: why 150 kilometres away from the Legislature? Why not 200? Why wasn't there a time element? There are those members that have constituencies much farther away than 150 kilometres but, through the marvels of air travel or a fast Porsche, can make it up to Edmonton in less time than an hour. So why 150 kilometres away from the capitol? What has that got to do? Who's responsible for answering that?

9:50

Mr. Chairman, what we've got are some questions. All the other amendments have been addressed by this side and by the government side. Now, as I said, the most contentious sections of the legislation are before us. The most pointed and specific questions have been put forward, and yet we haven't got an answer. My colleague from Edmonton-Centre is absolutely dead on when he says that what's going to happen is that we're going to be paying the high-priced legal help to go out and make a defence before the courts. Is that when we're going to find out what the answers are, what the subjective criteria are for these? We should be dealing with that here; we should be dealing with that tonight. I hope we do.

MR. DEPUTY CHAIRMAN: The Member for Red Deer-North.

Chairman's Ruling Parliamentary Language

MR. DAY: Thank you, Mr. Chairman. I have given consideration to your citation of myself of *Erskine May*, 394, (3). In having an exchange with the Member for Edmonton-Jasper Place, I posed the question, "Why do we have question period at 2:30?" which was reflecting on there being reasons for having a question period at 2:30, just like there are reasons for having a certain consideration to allow variation geographically. That's why I posed that question. The Member for Edmonton-Jasper Place then said that I said, "What's question period for?" when I hadn't said that. So I said to him, "Don't lie." Mr. Chairman, you quite properly cited me for using unparliamentary language, and I withdraw the phrase in terms of asking him not to lie.

MR. DEPUTY CHAIRMAN: Thank you.
The Member for Calgary-Forest Lawn.

Debate Continued

MR. PASHAK: Thank you, Mr. Chairman. I'd just like to try to set out, by way of one compelling example, why it is that Calgarians – and I'll attempt to speak for them – feel so concerned about these particular sections of the Act and why

they want fairness and equity when it comes to voting rights in the province of Alberta in this day and age. I'd like to preface those remarks by saying, as I said earlier in the debate on second stage of this Bill, that every MLA should really represent all Albertans in this Chamber.

Given my background, I think I not only can speak for urban interests but that my family history has prepared me to look at the interests of members of the rural part of Alberta as well. My father was the superintendent of the Canadian government elevator in Calgary, and as such he earned the respect of farmers and people in the grain trade alike for the concern he had to make sure that farmers' grain was cleaned and dried properly, that it was graded properly, and that it was sent in some efficient way to markets.

But a situation occurred rather recently in the city of Calgary that caused great distress to the citizens, and the citizens of Calgary felt that they never had their concerns represented fairly in this Assembly and that if we had fair representation, then those concerns may have had a better hearing. Of course, I refer to the way in which the Canadian Broadcasting Corporation was chopped so unceremoniously by the federal cousins of these particular members. I happened to attend a very moving farewell to the CBC in Calgary last Friday. It took place at the Jack Singer hall, a gorgeous facility for the performing arts in the city of Calgary.

The meeting was chaired by Doug Lauchlan, the executive director of the performing arts. In attendance and making speeches that day were a number of people prominent in the Calgary community . . .

AN HON. MEMBER: What's that got to do with the subject?

MR. PASHAK: Well, it has a lot to do, because those people had a very compelling concern that requires a full representation of Calgarians in this Assembly to ensure that their concerns of this nature are properly heard and property dealt with.

AN HON. MEMBER: Why didn't you bring it forward? Aren't you capable?

MR. PASHAK: We did bring it forward. I did; I attempted to bring this issue before the Assembly and members opposite wouldn't even give Calgarians the courtesy of having a debate on this issue, a very simple debate. All that was asked was a motion to be discussed, and the members opposite wouldn't even permit that discussion to go ahead.

I'd just like to tell you some of the people that were there protesting, in effect, what was happening to the citizens of Calgary. The conductor of the Calgary philharmonic, Mario Bernardi, sent a letter outlining his concerns on how important it was to maintain that CBC presence in the city of Calgary. Also present at that meeting . . .

MRS. MIROSH: What's that got to do with electoral boundaries?

MR. PASHAK: Well, it really has an awful lot to do with electoral boundaries, and if members opposite can't understand it, it just shows how far into the depths we've sunk. Because it's

really important that we look at the role of this Assembly and how it exists to protect the interests of all Albertans. That must come first and paramount and foremost in our deliberations, and this Assembly turned its back on Calgarians. If we had fair and more equitable . . .

Chairman's Ruling

Reflections on Previous Decisions of the Assembly

MR. DEPUTY CHAIRMAN: Hon. member, order please. I'd draw the hon. member's attention to the rule which deals with reflecting upon previous decisions made by this Assembly, and I would ask him to come back to speaking to the amendment, please.

Debate Continued

MR. PASHAK: Well, Mr. Chairman, my point here is that it's absolutely essential if this Assembly is to function in the interests of all Albertans that we have equity in representation because that's the only way that fairness can be promoted, and it's the only way in the long run that we can promote a sense of obligation among all members of this Assembly that all interests of Albertans should be taken into account whenever decisions are made in this Assembly.

So for that reason, Mr. Chairman, I urge most strongly that all members of this Assembly support the amendments to Bill 57 that are proposed by the Member for Edmonton-Belmont that would restore to the Bill a little more possibility and opportunity for equity and fairness to take place in this Assembly in the future.

MR. DEPUTY CHAIRMAN: Hon. Deputy Government House Leader.

MR. GOGO: Mr. Chairman, I move the committee rise and report.

[Motion carried]

[Mr. Speaker in the Chair]

MR. JONSON: Mr. Speaker, the Committee of the Whole has had under consideration certain Bills, and the committee reports progress on Bill 57. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

MR. SPEAKER: Thank you.

Does the Assembly agree with the report?

HON. MEMBERS: Agreed.

MR. SPEAKER: Opposed? Carried. So ordered.

MR. GOGO: Mr. Speaker, at the moment it is the intent of the government to sit tomorrow evening, and we'll deal with committee stage of various Bills on the Order Paper.

[At 10 p.m. the Assembly adjourned to Tuesday at 2:30 p.m.]