

# The Alberta Sovereignty Act and Albertan political culture

## A new direction, or more of the same?

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When Danielle Smith became Premier of Alberta, by replacing Jason Kenney as leader of the United Conservative Party (UCP) in October 2022, one of her first orders of business was to table the [Alberta Sovereignty Within a United Canada Act](#) (ASA for short). The Act provides the Alberta government with tools to circumvent federal laws that it deems either outside federal jurisdiction (and therefore “unconstitutional”) or otherwise “harmful” to Albertans.<sup>[i]</sup>

Before and after being passed on December 8, 2022, the ASA sparked controversy in and outside Alberta, with questions raised about its constitutional validity and its democratic legitimacy, among others. In this brief, we aim to shed light on the terms – and underlying sources – of this debate. We begin by outlining the arguments put forward in favour of, and against, the ASA by politicians and legal commentators. We then examine how the ASA fits within Albertan political culture, particularly its documented history of populist mobilizing, its emphasis on “Western alienation,” and its promotion of a fossil-fuel based economy. We ask: is the ASA a simple continuation of these political traditions in Alberta? Or does it represent a radicalization of such traditions?

### WHO SAID WHAT? ARGUMENTS FOR AND AGAINST THE ALBERTA SOVEREIGNTY WITHIN A UNITED CANADA ACT

Speaking to the purpose of the ASA in the legislature on November 29, 2022, Danielle Smith said: “this legislation is designed to be a constitutional shield to protect Albertans from unconstitutional federal laws and policies that harm our province’s economy or violate Alberta’s provincial rights.”<sup>[ii]</sup> In the debates that ensued, UCP members reinforced the notion that the ASA is needed to: address federal “overreach” in several policy areas, with a particular emphasis on the need to “defend” the Albertan economy against federal regulations; “stand up” to infringements of Alberta’s constitutional rights as a province, perceived as reflections of a partisan assault by the “Liberal/NDP coalition” in Ottawa; and generally ensure Albertans’ “prosperity” and “freedom.”

Even before it was tabled as Bill 1, the ASA invited substantial criticism, including from legal experts, opposition parties, and even Smith’s opponents in the UCP leadership race.

Critics in the legal community questioned the constitutionality and democratic legitimacy of the ASA. With respect to the former, they argued that Bill 1 left open the question of precisely how the government would determine that a particular piece of federal legislation was “unconstitutional” or “harmful”.<sup>[iii]</sup> According to many, the bill’s stipulations in this regard were far too broad, “fluid and subjective,” since they could seemingly be applied to *any* federal law opposed by Smith and the UCP.<sup>[iv]</sup>

Critics also questioned the democratic legitimacy of section 4 of the ASA,<sup>[v]</sup> which gave the Cabinet “Henry VIII powers,” so-called because they allowed the King to circumvent parliament in 16<sup>th</sup>-century England.<sup>[vi]</sup> In the original draft of Bill 1, the legislature would first need to pass an opinion that a federal initiative was “unconstitutional” or “harmful” to Albertans.<sup>[vii]</sup> The Cabinet would then be empowered to, in legal scholars Martin Olszynski and Nigel Bankes’ interpretation, “adopt orders that could have the effect of substituting for not only other orders or regulations, but also for provisions of an Act of the Legislature itself.”<sup>[viii]</sup> In short, such powers would allow Cabinet to re-write “any enactment in the statute book” without going through Parliament, thus undermining the democratic process.<sup>[ix]</sup>

Provincial opposition parties, primarily the NDP, widely concurred with these objections. They also raised additional concerns, including: that the ASA would create general economic and political uncertainty, by disrupting existing decision-making practices and presenting Alberta’s democracy as unstable; that the bill diverted attention from “real” issues facing Albertan society, such as healthcare, the cost of living, education, and poverty; and that the ASA’s provisions violated First Nations treaty rights.<sup>[x]</sup> Indigenous nations themselves opposed the ASA, emphasizing that it was devised without consulting treaty holders<sup>[xi]</sup>.

Although key contenders in the race to lead the UCP also vocally opposed the ASA, calling it a “false bill of goods,”<sup>[xii]</sup> their objections faded from view after Smith took office and appointed most of her leadership rivals to Cabinet.<sup>[xiii]</sup> Thanks to its majority government, the UCP was then able to pass the ASA by a comfortable margin of 27-7 on December 8, 2022, but not before eliminating some of its most controversial aspects, notably the “Henry VIII powers.” However, the substance of the bill, including the ability of cabinet to direct provincial entities to refuse enforcement of federal initiatives, was left intact.<sup>[xiv]</sup>

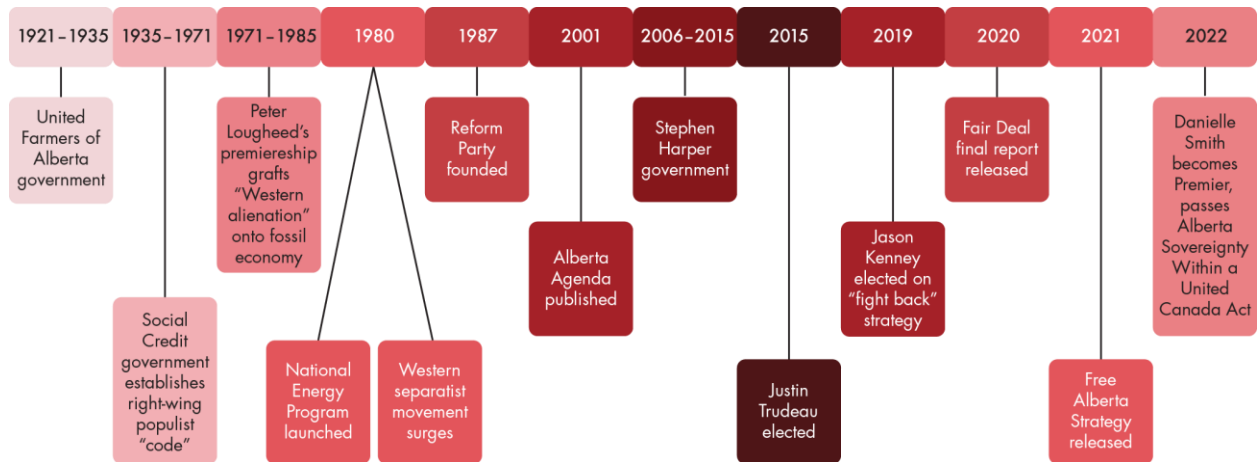
To what extent does the Alberta Sovereignty within a United Canada Act reflect, or depart from, notable aspects of Albertan political culture, including populism, “Western alienation”, and promotion of a fossil-fuel based economy? We address these questions next.

### **ALBERTAN POLITICAL CULTURE: LEFT TO RIGHT-WING POPULISM, “WESTERN ALIENATION”, AND A FOSSIL FUEL-BASED ECONOMY**

While Alberta politics has long been known to feature strong right-wing populist elements,<sup>[xv]</sup> in its early years the province was an important site of left populism. From 1921-1935, it was governed by the United Farmers of Alberta, whose politics have been characterized as “radical democratic populist” due to their emphasis on popular democratic participation, especially through agricultural co-operatives.<sup>[xvi]</sup> Moreover, the precursor to today’s New Democratic Party (NDP), the Co-operative Commonwealth Federation (CCF), was founded by socialist, agrarian, and labour groups in Calgary in 1932. The CCF’s “social democratic populism” was premised on pursuing a more equal distribution of economic and political power through an alliance of farmers and the urban working class against the major financial and industrial capitalists.<sup>[xvii]</sup> Although founded in Alberta, the CCF would have most of its success in neighbouring Saskatchewan.

Despite these early forays into left populism, Alberta has since been governed by an almost-uninterrupted sequence of right-wing parties. From 1935 to 1971, the province was led by Social Credit, whose two most prominent leaders, William Aberhart and Ernest Manning, played a key role in establishing a lasting right-wing political culture unique within Canada: a distinctly Albertan “code of freedom” characterized primarily by individualism, populism (with a particular focus on federal “elites”), and “Western alienation.”<sup>[xviii]</sup> Aberhart and Manning combined evangelical Christianity, free market principles, and a populist discourse that depicted hard-working, largely rural Albertans as beset upon by Ottawa, the so-called “money powers” (a phrase often deployed with anti-Semitic undertones),<sup>[xix]</sup> and “godless” communism.<sup>[xx]</sup>

**FIGURE 1. Timeline of key periods in the construction of Alberta’s political culture**



Source: Authors.

Elements of this “code” carried into Alberta’s second phase of one-party rule, from 1971 to 2015, this time under the Progressive Conservatives (PC). The first premier in this phase, Peter Lougheed (’71-’85) honed the tradition of “Western alienation” established by his predecessors, grafting it ever-more closely onto the oil and gas industry, and presenting Ottawa elites as stealing Albertans’ hard-earned oil wealth to give to the vote-rich East.<sup>[xxi]</sup> This fossil-fuelled brand of “Western alienation” gained traction in response to then-Prime Minister Pierre Trudeau who, in the context of a global oil price crisis, made several dramatic changes to Canadian energy policy. Chief among these was the 1980 creation of the National Energy Program, aimed at increasing Canadian ownership of the oil and gas industry and achieving energy self-sufficiency. Among other things, the program included measures to reduce oil prices through price controls. Lougheed and fossil fuel companies were united in deploying “Western alienation” to challenge Trudeau’s policies, most of which ended up being dismantled by Brian Mulroney’s government (1984 to 1993). During this time, “Western alienation” developed into a full-fledged Western separatist movement.<sup>[xxii]</sup>

**@Peter Lougheed: “What seems so difficult to get across to central Ontario is that Alberta crude belongs to the people of Alberta.” February 1973.<sup>[xxiii]</sup>**

In 1987, “Western alienation” found a new vehicle in the creation of the Reform Party, whose defining slogan was “the West wants in”. First led by Preston Manning, son of Ernest Manning<sup>[xxiv]</sup>, the party underwent several mutations, becoming the Canadian Alliance in 2000 and then forming the dominant portion of a merger with the Progressive Conservatives to become the Conservative Party of Canada (CPC) in 2003. After the Alliance’s poor showing in the 2000 federal election, Stephen Harper, who would later become Prime Minister under the CPC (2006-2015) co-wrote an op-ed known as the “Alberta Agenda” (also known as the “firewall letter”) outlining how Alberta could “build a prosperous future in spite of a misguided and increasingly hostile government in Ottawa”. The authors called on Alberta Premier Ralph Klein to “build firewalls around Alberta, to limit the extent to which an aggressive and hostile federal government can encroach upon legitimate provincial jurisdiction.” They had five main proposals: the creation of an Alberta Pension Plan; creation of an Alberta revenue agency for income tax collection; creation of an Alberta Provincial Police force; rejection of federal control of health policy; and Senate reform.

However, with Harper in the Prime Minister’s seat starting in 2006, Alberta had “one of their own” in power. His ambitions to make Canada an “energy superpower” via the oil sands quieted both the fossil-fuel industry and the “Western alienation” that drove autonomists and separatists alike.

**@Jason Kenney: “In Ottawa, we have a federal government that has made this bad situation worse . . . imposing new laws that will make it impossible to get pipelines approved in the future.” April, 2019.<sup>[xxv]</sup>**

This changed with the election of Justin Trudeau in 2015 (and especially with the subsequent Liberal victory in 2019). That year, the Alberta NDP was also elected in a surprise victory that ended 44-years of one-party Progressive Conservative rule, and 80 years of conservative governance.<sup>[xxvi]</sup> This victory was, in part, due to vote-splitting on the right, between the PCs and the further-right Wildrose Party,<sup>[xxvii]</sup> prompting the two parties to merge in 2017 to form the United Conservative Party under the leadership of Jason Kenney.<sup>[xxviii]</sup> Kenney was elected on a campaign to “fight back” against Trudeau’s environmental policies, which were perceived as an unfair attack on Alberta and a threat to fossil-fueled prosperity in the province. When Trudeau was re-elected in 2019, Kenney re-packaged the key points of the “Alberta Agenda” into the “Fair Deal Panel,” whose final report came out in 2020.<sup>[xxix]</sup> Despite his best efforts, however, the “Alberta Agenda” items lacked broad popular appeal, so Kenney deferred them to future rounds of consultation.

## ENTER COVID-19 AND THE “FREEDOM” MOVEMENT

While it has seen different iterations over the last century, Albertan political culture has thus by-and-large been relatively consistent in its emphasis on populism targeting federal elites, “Western alienation”, and – particularly since the 1970s – the fusion of these with hostility towards federal involvement in its fossil-fuel based economy. With the COVID-19 pandemic, however, what can be loosely termed a “freedom” movement has brought new dimensions to the fore. With strong libertarian tones, this movement gained ground during the pandemic as a voice dedicated to lifting restrictions. It included several autonomous clusters, including protest groups, high-profile preachers, and restaurant and small business owners who saw restrictions as impeding their activities, and a party-based wing.<sup>[xxx]</sup> The latter group included an internal caucus revolt within the UCP against Kenney’s leadership, which ultimately played a role in ousting him as premier, triggering a leadership race.<sup>[xxxii]</sup> The “freedom” movement also overlapped with separatist groups, such as the Wildrose Independence Party of Alberta, who were steadily eating into the UCPs polling numbers.<sup>[xxxiii]</sup>

@Free Alberta Strategy: “**Alberta has been the target, not just of international eco-extremists and activist organizations, but of Ottawa itself.**” September 28th, 2021<sup>[xxxiii]</sup>

It is within this maelstrom that the Free Alberta Strategy (FAS) was released in September 2021, with significant consequences for Alberta politics and the ASA.<sup>[xxxiv]</sup> Seeing what happened with Kenney’s Fair Deal Panel, the authors of the document argued it was time for a more radical approach<sup>[xxxv]</sup>, specifically, an accelerated and quasi-separatist version of the Alberta Agenda. The FAS’s central plank — the Alberta Sovereignty Act<sup>[xxxvi]</sup> — would give Alberta the “absolute discretion to refuse any provincial enforcement of federal legislation or judicial decisions that, in its view, interfere with provincial areas of jurisdiction or constitute an attack on the interests of Albertans.”<sup>[xxxvii]</sup> In advocating for the ASA, the FAS authors placed heavy emphasis on the need to minimize the effects of federal climate and energy policies on Alberta’s fossil fuel industry.<sup>[xxxviii]</sup>

Just as it was the “cornerstone” of the FAS, the Alberta Sovereignty Act (renamed Alberta Sovereignty within a United Canada Act after Smith became Premier) became the central plank of Danielle Smith’s UCP leadership campaign and the start of her subsequent premiership. The policy featured prominently on campaign materials, and Smith vowed that it would be her government’s first piece of legislation. Her campaign messaging emphasized the ASA’s use against any federal laws that “violate the jurisdictional rights of Alberta” or breach “the Charter Rights of Albertans”.<sup>[xxxix]</sup> If the FAS’ framing of the ASA was focussed mainly on economic grievances pertaining to oil and gas, Smith’s framing coupled this with a broader focus on “rights” violations in the COVID-19 context, a message that also resonated with the libertarian tendencies of the “freedom” movement.

## CONCLUSION

We set out in this brief to assess whether the Alberta Sovereignty within a United Canada Act is in keeping with, or departs from, three recognized aspects of Albertan political culture: anti(federal)-elite populism, “Western alienation”, and the promotion of a fossil-fuel

based economy. Ultimately, we found that the ASA is both a continuation and radicalization of these political dynamics:

- On the one hand, Danielle Smith’s advocacy of the ASA hinged on an established populist script, informed by a longstanding discourse of “Western alienation”, which claims that the Albertan people must “stand up to Ottawa” in order to stop the federal government from “actively sabotaging” the province’s economy, and particularly the fossil fuel industry.
- On the other hand, more recent developments – namely COVID-19 and the rise of the “freedom” movement – have also proven critical in opening a political opportunity for the ASA. Popular concerns over COVID-19 restrictions added traction to the Smith government’s emphasis on individual and provincial “rights.” The Free Alberta Strategy, in turn, articulated a framework for channeling discontent over past failures to secure a particular, fossil-fuel-based vision of Alberta’s “interests” into support for greater provincial “sovereignty”.<sup>6</sup>
- Even though Kenney, too, deployed the populist script of “Western alienation” through his “fight back” and Fair Deal strategies, he never proposed anything as radical as the ASA, and specifically denounced it as an unconstitutional “step to separation”.<sup>[xi]</sup> Had there not been a robust “freedom” movement in Alberta in response to the COVID-19 restrictions, both within and external to the UCP, it is unlikely that Danielle Smith and the ASA would have risen to prominence. Just as other research has shown how the “freedom” movement, especially as it culminated in the “Freedom Convoy” of early 2022, increased the popularity of right-wing populist repertoires within the federal Conservative Party<sup>[xii]</sup>, our analysis suggests a similar dynamic played out at the provincial level in Alberta.

[i] “Alberta Hansard,” November 30, 2022.

[ii] “Alberta Hansard,” November 29, 2022.

[iii] Don Braid, “Dictatorial, Unworkable Sovereignty Act May Be Worst Legislation in Alberta History,” *Calgary Herald*, December 8, 2022, <https://calgaryherald.com/news/braid-dictatorial-unworkable-sovereignty-act-may-be-worst-legislation-in-alberta-history>.

[iv] Martin Olszynski and Nigel Bankes, “Running Afoul the Separation, Division, and Delegation of Powers: The Alberta Sovereignty Within a United Canada Act,” *ABlawg* (blog), December 6, 2022, 2, [http://ablawg.ca/wpcontent/uploads/2022/12/Blog\\_MO\\_NB\\_Alberta\\_Sovereignty\\_Bill\\_1.pdf](http://ablawg.ca/wpcontent/uploads/2022/12/Blog_MO_NB_Alberta_Sovereignty_Bill_1.pdf).

[v] Kelly Cryderman, “Danielle Smith’s Sovereignty Act Is Bigger and More Undemocratic than Advertised,” *The Globe and Mail*, November 29, 2022, <https://www.theglobeandmail.com/opinion/article-danielle-smiths-sovereignty-act-has-come-bigger-and-more-undemocratic/>.

[vi] Joey Chini, “Alberta Sovereignty Act Bill Draws Criticism,” *CityNews Calgary*, November 30, 2022, <https://calgary.citynews.ca/2022/11/30/alberta-sovereignty-act-reaction/>.

[vii] “Alberta Sovereignty Within a United Canada Act,” Pub. L. No. 1 (2022), 3.

[viii] Martin Olszynski and Nigel Bankes, “The Amendments to Bill 1,” *ABlawg* (blog), December 12, 2022, 2, [http://ablawg.ca/wpcontent/uploads/2022/12/Blog\\_MO\\_NB\\_Bill\\_1\\_Amendment.pdf](http://ablawg.ca/wpcontent/uploads/2022/12/Blog_MO_NB_Bill_1_Amendment.pdf).

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- [xiii] Alanna Smith, Emma Graney, and Carrie Tait, “Alberta Premier Danielle Smith’s Cabinet Includes Most of Leadership Rivals, No Changes at Three Key Ministries,” *The Globe and Mail*, October 21, 2022, <https://www.theglobeandmail.com/canada/alberta/article-alberta-premier-danielle-smiths-cabinet-includes-most-of-leadership/>; Arthur C. Green, “Former UCP Leadership Contenders Explain Why They Now Support Bill 1,” *Western Standard*, November 30, 2022, [https://www.westernstandard.news/alberta/former-ucp-leadership-contenders-explain-why-they-now-support-bill-1/article\\_3165a19e-70f6-11ed-961c-f7590883c537.html](https://www.westernstandard.news/alberta/former-ucp-leadership-contenders-explain-why-they-now-support-bill-1/article_3165a19e-70f6-11ed-961c-f7590883c537.html).
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- [xvi] David H. Laycock, *Populism and Democratic Thought in the Canadian Prairies, 1910 to 1945* (University of Toronto Press, 1990).
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- [xxxiv] Anderson is a former Wildrose (not to be confused with the Wildrose Independence Party of Alberta) MLA and lawyer and is now Executive Director of Premier Danielle Smith’s office. Barry Cooper is a political scientist at the University of Calgary, and a self-proclaimed Alberta separatist. Derek From is a lawyer and former Director of the Wildrose Party.
- [xxxv] Wesley, “Albertans and the Fair Deal,” 125, footnote 7.
- [xxxvi] “Within a United Canada” does not feature in the title of the legislation as proposed by the Free Alberta Strategy. This addendum was only later put in by the Smith-led UCP upon officially introducing it in the legislature.
- [xxxvii] Anderson, Cooper, and From, “Free Alberta Strategy: A Strong, Free & Sovereign Alberta Within Canada,” 22.
- [xxxviii] Anderson, Cooper, and From, 9.
- [xxxix] “Danielle Smith for Premier,” accessed October 7, 2022, [daniellesmith.ca](http://daniellesmith.ca).
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