LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Second Session — Thirteenth Legislature
23rd Day

Monday, March 17, 1958

The House met at 10:00 o'clock a.m.

SECOND READING

Bill No. 32 — An Act to amend The Mechanics' Lien Act.

Hon. Mr. Walker (Attorney General): — Mr. Speaker, this Bill to amend The Mechanics' Lien Act provides one or two new principles. It provides that, in the case of oil or gas wells or pipe lines, the lien holder has the right to file within 60 days after completion or abandonment of the contract. There are other changes which have relation only to the changes which are proposed in The Districts Courts Act, whereby one court replaces the present 21 District Courts. There are no other principles involved in the Bill. With those remarks Mr. Speaker, I move that the Bill be now read a second time.

Mrs. Mary J. Batten (Humboldt): — Mr. Speaker, I have one objection to make. Most of the things could be ironed out in Committee, but on the question of changing the District Court set-up to eliminate judicial districts and only having judicial centres, that Bill providing that has not been given second reading yet. This is certainly putting the cart before the horse in moving second reading which presumes that The District Court Bill has passed and has been made law, in order to give this any sort of validity at all. I don't quite see how this House can vote on second reading where this principle of the abolition of the judicial boundaries is involved because certainly it doesn't make any sense unless that District Court Bill No. 2 has passed and has become a law of this province.

Therefore, I certainly have to object to this Bill on that ground. That is the only ground, and it seems to be a technical objection, but a rather important one, because, I don't think that we can presuppose that the law will be passed, although the Attorney General seems to be sure that it will. Until it is a law of this province, I don't think that we should be passing another Bill based on that change, which is a very drastic one.

Hon. Mr. Walker: — On that point, there is something in what the hon. member said, and I think perhaps we should have had this one presented after the District Court Bill was disposed of;

but I would point out that the problem isn't if it happens, as my hon. friend suggests, that the District Courts Bill isn't passed, this one could always be defeated on third reading. We could leave this one in Committee of the Whole, as a matter of fact, until the District Court Bill was passed, and what is really the only principle involved in this Bill is, as I said, the special provision for oil and gas wells. It is really the only principle that is inherent to this Bill and, in the event that the District Court Bill doesn't pass, the sections which merely comply with the District Court Bill could be dropped out of this one in Committee. The only principle involved in this one is, as I say, the matter of extending The Mechanics' Lien Act to the oil and gas well, giving them a longer period in which to file liens.

(The Motion for Second Reading agreed to, and the Bill referred to a Committee of the Whole at next sitting.)

Bill No. 68 — An Act to amend The Police Magistrates Act.

Hon. Mr. Walker: — Mr. Speaker, this Bill contains two or three new principles. First of all, it abolishes the distinction between magistrates appointed for cities and magistrates appointed with jurisdiction at large over the whole province. As the House was advised, last year, the province assumed responsibility for the paying of salaries for all magistrates, including those who were appointed specifically for cities. I am not sure if all hon. members were aware of the previous set-up, but it was this. In certain cities in Saskatchewan magistrates were appointed having jurisdiction only in the city and in the judicial district in which the city was situated. These magistrates were paid by the cities but appointed by the Provincial Government.

Then there were other magistrates who were appointed by the Provincial Government who had jurisdiction throughout the whole province, and it was a bit of an anomalous situation, which was preserved merely because the cities were being asked to pay these magistrates' salaries, and, therefore their jurisdiction was curtailed to their city and the judicial district in which the city was situated.

Since the Province has assumed full responsibility for paying the salaries of all magistrates in the province there is no longer any justification for maintaining that distinction; and so the old sections 2, 3, and 4, which provided for these two classes of magistrates, are being repealed and replaced by new sections which provide only one class of magistrate, namely provincial magistrates.

The other principle that is involved in the Bill is

that the designation of 'Police Magistrate' has been dropped and in place of it is substituted the term 'Provincial Magistrate'. It was a recommendation of the Culliton Committee that the word 'Police' should be dropped from the title of magistrates, and that has been complied with; they will now be known as provincial magistrates, which is what they are.

There is another provision in the Bill which represents a new departure and that is the beginning of an attempt to provide some security of tenure to provincial magistrates. As hon. members know, judges are appointed during good behaviour by the Federal Government, by the Governor General-in-Council, and may only be removed for cause. The experience in Canada has been that there have been no removals (or possibly only one, many, many years ago), and by and large they have enjoyed security of tenure. The Government feels that provincial magistrates ought to be able to have that essential feeling of security and independence from the Government that would enable them, in any case, to be not only free of any coercion or direction from the Government, but also to appear to be free of any interference by the Government. We feel that magistrates, exercising their judicial function, ought not to even appear to be influenced in any way in their decisions by the administration of the day.

Furthermore, since we are only able to pay our magistrates a salary ranging from $7,700 to $9,100 a year, it is extremely difficult to get highly qualified barristers who are willing to assume that duty. One of the reasons which makes some of them reluctant, I think, is that they feel they may want to serve for the rest of their days — twenty-five or thirty years, — and even the most sanguine magistrate would not expect to go for that length of time without a change of Government. They no doubt feel that, if a change of Government occurred and the principles were applied which were traditional in previous governments, there would be a wholesale firing of magistrates and new magistrates appointed.

We, of course, feel that those 'jungle laws' have fallen into disuse and abandonment; but you never can be sure, from some of the things my hon. friends say, which make it a little doubtful whether we are justified in that assumption. But certainly, the magistrates ought to have every assurance that their tenure is secure. This section does not go as far as The Judges Act does in giving them absolutely security of tenure during good behaviour, but it does provide a remedy for magistrates who may be dismissed without warrant, without justification, by providing for the findings of an independent tribunal, some Superior Court judge, nominated by the Lieutenant Governor-in-Council, to investigate and report upon the reasons for the dismissal as to whether or not it was justified.

This does not go quite as far as The Judges Act in another respect. This provides that the security of tenure only lasts until the age of 65 — something which, I think, will be very worthwhile incorporating into The Judges Act. We feel that, at age 65, the Government should have the option of extending or continuing the services of an individual magistrate, but at 65 he ought to expect that he is going to be retired. Until that period, however, he has a fairly large measure of security in this province for the first time. We are aware, of course, that the province of Ontario has somewhat similar provisions for security of tenure for magistrates, and we believe that it is sound, and, therefore, propose it in this Bill. I would hope that all parties in this House would concur in the desirability of extending and developing some measure of security for this group of people.

Another provision is that the reporting requirements of magistrates have been simplified. They used to have to present to the Attorney General's Department a half-yearly report showing, or summarizing all the cases which they adjudicated upon, and the results. In addition to that they had to file a monthly report summarizing all the convictions under provincial statutes. It involved a good deal of work and duplication, preparing the two reports. We now have consolidated the material in these two reports so that a single monthly report is filed showing the fines collected on behalf of the Province, and also showing the disposition of all other cases, whether the fines were remitted to the Province or to the Federal Government or to the municipalities, or even in cases where the trial resulted in an acquittal, all on the same return, on the same form, which will be sent in monthly.

The other provisions are of a relatively minor nature and I think may be aptly dealt with by the in Committee.

With these remarks, Mr. Speaker, I now move second reading of Bill No. 68.

Mrs. Batten: — Mr. Speaker, in view of the remarks of the Attorney General, and it was necessary in order to debate this matter at all adequately that we have some indication of his attitude and his general plan as embodied in these changes in principle, I would beg leave to adjourn the debate.

(Debate adjourned)

Bill No. 10 — An Act to amend The District Courts Act.

Hon. Mr. Walker: — This Bill proposes some rather far-reaching and sweeping changes to the set-up of the District Courts in the province of Saskatchewan. These changes will not result

in any inconvenience or burden upon the public, but rather will provide greater accessibility of the courts to the public, and will provide greater efficiency in the functioning of the courts and greater equalization of the work of the various judges thereof.

There are some seven or eight important principles involved in this Bill which I think I should outline to the House. First of all, there is the principle that, instead of having twenty-one District Courts as we have at the present time, we will have one District Court for the province of Saskatchewan and each of the judges will be a judge thereof. Instead of being a judge of a single district he will be a judge, a District Court judge for the province of Saskatchewan. This will allay some of the difficulties which have arisen over venue of actions brought before District Court judges when it has sometimes been held that the action is brought in the wrong District, and the result is that judge lacks jurisdiction and the action must be transferred. The proposed change means that all District Court judges will have jurisdiction throughout the province, and that kind of situation will not happen.

It is also proposed to abolish the District Court boundaries. If hon. members have ever looked at a map of the boundaries of the judicial districts of Saskatchewan, they will wonder how they were ever arrived at. We have the situation where these boundaries no longer represent the most convenient distribution of the territory adjacent to a judicial centre. We have the situation for example, where, if you go eight or nine miles southwest of Regina, you are in the Moose Jaw Judicial District. If you go fifteen or eighteen miles north and eight or nine miles east of you are in the Melville Judicial District. These boundaries appear to have been based partly upon a desire of the Government to equalize the work of the various judicial centres. In other words, small judicial centres, where the population is small, have been extended until they encroach very close upon the neighbouring judicial centre, with the result that people often have to go forty or fifty miles further to the district centre in which they reside than they would have to go to an adjoining district centre.

The boundaries were drawn partly on the basis of rail communication and rail transportation which has largely become obsolete in the outlying parts of the province, since the automobile and better highways have made other and speedier means of transportation possible.

Any attempt which the Department has made to try to revise these district boundaries has met with very serious difficulties. It is very difficult to revise them in such a way that people will be altogether happy with them, and so the Department and Government arrived at the policy that apart from boundaries people could go to their nearest judicial centre, so that there will no longer be (if

the Bill is passed) arbitrary boundary lines separating the judicial centres. A person will be required simply to go to the judicial centre which is nearest to his place of residence.

This has other obvious advantages besides accommodating the public and permitting them to use the nearest judicial centre. One is that when it becomes necessary or desirable to establish a new judicial centre, it is no longer necessary to repeal the old map and have a new map printed with some changes in boundaries. The results will be automatic. When there is an erection of a new judicial centre the people who are nearest it will go to it. The people who are nearest the old adjoining centre will go to it. It makes it much simpler and much easier for the public to adapt itself to any change in the location or number of the judicial centres.

This Bill provides that the Lieutenant Governor-in-Council may designate the judicial centres at which each of the judges shall act. The Lieutenant Governor-in-Council, or rather the Attorney General, has had a power very similar to that in the past, in that the three judicial districts which had no judge were allocated to three of the incumbent judges as acting judges in those districts. This provided a wider degree of control by the Lieutenant Governor-in-Council in assigning the judges to the centre at which they will act. This becomes necessary if we are to have any advantage from the first provision which I mentioned, namely, a jurisdiction on the part of the judges. If each judge is going to be left to handle exclusively the work of the judicial centre in which he resides, then there is no advantage in broadening their jurisdiction to include the whole province. But since they will have jurisdiction over the whole province, some significant advantages can be achieved by having the judges work in adjoining judicial centres as well as their own. This leaves to the Lieutenant Governor-in-Council the power to designate which judicial centres those shall be.

This Bill also provides that sheriffs will have province-wide jurisdiction, and that the litigant who wishes to have a process served or executed merely hands it to the nearest sheriff, and if there is some other sheriff better to execute the writ, it is the responsibility of the sheriff and the Inspector of Legal Offices to see that that responsibility is carried out. It is the responsibility of the sheriff to arrange with the nearest sheriff to serve the writ. It sometimes may happen that the nearest, geographically, will not be used, but a quick telephone survey of the situation may show that one of the other sheriffs intends to be in that vicinity within the next few days, and he can add that execution to his other duties in the community and neighbourhood and execute it with much less travelling time and much less time lost. This makes the sheriffs of the province sort of a body corporate — (I am using

that word very loosely) so far as carrying out the function of a sheriff is concerned. You will pinch one sheriff and they will all feel it. You hand a writ to one sheriff and the services of all other sheriffs will be available to attend to its execution.

This will cut down a good deal the costs to litigants of having processes served and writs executed. It will cut down on the mileage which, incidentally, is borne by the litigant himself; and will, we believe, result in more efficient and expeditious performance of the duties of the sheriffs throughout the province.

Another proposal, an important proposal, is the matter of choice of venue. Formerly a plaintiff had three options, or a maximum of three options, as his choice of place to bring an action. He might bring his action, that is, he might issue his writ and set his action down for trial at the judicial centre of the district in which the defendant resides; or he might bring his action at the judicial centre of the district in which the defendant carries on business; or he might bring his action at the judicial centre of the district where the cause of action arose. So the plaintiff may all be the same place; but I say a maximum of three options are open to the plaintiff at the present time.

It is proposed to add a fourth option. The plaintiff may, in addition to the three which have been suggested, issue his writ at any other judicial centre in the province, presumably the one which is closest to where the plaintiff resides, or to where the plaintiff carries on business. If the plaintiff uses any one of the first three options (that is, the three options which are presently available), the defendant will conduct himself in exactly the same way as he does at the present time. He will have to enter his appearance and appear for trial at the place where the plaintiff started his action. In other words, if the plaintiff uses any of the three options which he now has, the proceeding is carried on in exactly the same way as under the present Act. But if the plaintiff takes this fourth option, which is provided here, then the defendant has a whole series of options. The defendant may meet the plaintiff at the judicial centre where the plaintiff started his action, or he has three other options, a maximum of three other options. He can elect to have the matter disposed of at the place where he, the defendant, resides; or at the place where he, the defendant, carries on business; or at the place where he, the defendant, was involved in the cause of action. So if the plaintiff chooses this fourth option, this new option, then the defendant has a wide range of choices which he doesn't have under the present Act.

The purpose of this is to provide greater flexibility and greater freedom of choice by parties, as to where they bring action,

and where the actions are conducted. Now it might be argued that parties have always got the right, by agreement, to select the place of venue for their action. That, of course, is true. Agreements, however, are reached and can be reached only in cases where a trial is going to result. Some 90 per cent of actions commenced never result in any contest, and in those cases, of course, the occasion for obtaining of an agreement as to the place for conducting the action does not arise. In those cases, 90 per cent of all cases where writs are issued and not contested, followed by a judgment in default, and then an execution.

At the present time in those cases, which I have stated comprise around 90 per cent of all cases before the court, the writs must be issued by the plaintiff in the place where the cause of action arose, or, as I said, where the defendant resides or where the defendant carries on business. This means a legal proceeding which should involve merely the typing out of a Statement of Claim and a Writ of Summons and taking it down to the court house and issuing, also involves additional costs. These additional costs, or agency fees, do not add an equal amount to the taxable Bill of Costs which the plaintiff may recover if he wins his action; but they do add a good deal to the amount of routine work which has to be done in the law office where the writ is issued, and also in the office of the agent who takes care of entering it in the court. It, therefore, adds a good deal to the cost of carrying on law practices and, of course, hon. members here are not prepared to accept the principle, I suppose, that lawyers are prepared to subsidize the general public. Lawyers have to meet their costs of operating and they have to charge fees accordingly; and if the costs of operating are unduly and unwarrantedly inflated or increased by reason of this silly business of mailing things back and forth from one office to the other when it is not necessary, then that cost must be reflected in higher costs to the general public. We feel that the administration of the judicial system should be as simple as possible, and that any cost and any expense or any labours which are unnecessary and which can be dispensed with by a proper amendment to the Act, ought to be dispensed with in the interests not only of the legal profession but of the general public who pay the shot.

It is argued, and it may be argued, by some that this will result in the work being done at different judicial centres than be where it would be done under the present Act. That may very well be so. This proposal is not made for the purpose of shifting legal work from one judicial centre to another. This proposal is made so that the public and the lawyers can have readier accessibility to the court and choose the court where they want to get their work done; and if this means a shift of work from one judicial centre to the other, it is

just too bad. I would hope that there is no member of this House who would take the view that convenience and ease of the functioning of the court ought to be sacrificed in order just to protect a status quo which may of may not be justifiable. Surely some lawyers, who may do quite a bit of the work, ought not to be subsidized at the general inconvenience and expense of the general public. If the general public wishes to use their services they may elect to do so under this legislation, but they will not be required to so, as they are now under the present Act.

The Government believes that anything which can be done to make the Courts more accessible, more easily available or readily available, with less trouble and less bother and less correspondence, ought to be done. That is part of the thing we call progress, and it may be, as I say, that some people may feel they have a vested interest in these obsolete practices and procedures. If that is so, it is just too bad.

Mr. Cameron (Maple Creek): — Let's get on with this.

Hon. Mr. Walker: — But the legal system is designed, or ought to be designed, to serve the public best, not to subsidize any small group of individuals who may, as I say, enjoy benefits under the present obsolete, inconvenient system of issuing writs that we have in this province.

The defendant still has the right (as he ought to have) to have the action tried in the nearest judicial centre. He still has that right. He loses nothing whatever under this proposal — nothing whatever. But he gains something. He gains the right to have his defence entered in some other place than his nearest judicial centre if he so wishes, and if the plaintiff commenced his action in that other place.

He also gains the right that, if the plaintiff enters his action in some other place than the three judicial centres which I have enumerated, he has the right of choosing between the one nearest to his residence, the one nearest to where he carries on business or the one nearest to where the cause of action arose. Under the present law he has not got that choice. The plaintiff makes that choice and the defendant has to abide by it. So this proposal represents a liberalization, or a relaxing, of some ancient and obsolete restrictions which are no longer necessary in a modern society and in a modern judicial system.

Then we have several other specific proposals which look toward an increase in the effective jurisdiction of the District Courts. The Culliton Committee made numerous recommendations for an extension of the jurisdiction of the District Court, and I must say

that the Government concurs with many of those proposals. The government concurs with them, however, subject to the condition that an increase in the jurisdiction of the District Court must be had only by the consent of the parties involved. At the present time the District Court has a monetary limit of $1,200 to its jurisdiction. It is proposed to raise that to $3,000 as a general principle, but that additional jurisdiction will exist only if the two parties to the action consent to the District Court judge exercising that jurisdiction. As a general thing, we think it is sound and proper that it might go up to $3,000. However, we don't want to be in the position of compelling litigants in some judicial districts to use District Court judges, if they prefer not to. So the amount, as I say, is increased to $3,000 which is complying with the recommendation of the Culliton Committee.

It is also proposed that actions against the sheriff or officer of the court be increased from $1,200 to $3,000. Such actions, of course, are generally actions in interpleader, where the sheriff has some money which he has realized out of an execution and he doesn't know which party to give it to; there are two people quarrelling over who should get the money. The sheriff then is sued in interpleader proceedings by the two parties concerned to determine which one should get the money. It is only logical that that limit be increased to $3,000 also by consent.

Actions for the recovery of personal property, actions in detinue or replevin, where the value of the goods exceeds $1,200 but not $3,000, may also be disposed of by the District Court judges, providing that the parties consent to his jurisdiction.

Then there is the class of action which the District Court judge never has jurisdiction on, and that is actions for an accounting. It is proposed that the amount that can be recovered be limited to $3,000.

Then the District Court never has had jurisdiction, as a District Court judge, in actions for foreclosure or redemption. It is proposed, by consent, to allow such actions up to $3,000.

Actions for the specific performance or rectification, or the delivering up, or determining, or cancellation of an agreement for the sale or lease of land, matters which the District Court judge didn't have jurisdiction on, are now assigned to him, and a limit of $3,000 imposed, there again by consent.

These increases in jurisdiction are partly justified by the deflated value of the dollar in recent times. The $1,200 limit has been in effect now for some 12 or 15 years, and the $3,000 is probably no more than $l,200 was at that time.

Another principle included in this Bill is that writs of execution of the court may be executed in the province. The writs will run anywhere. It means that no longer will parties (or their solicitors) have to have concurrent writs issued to serve outside, or to execute outside of the District. A writ of execution, for example, issued out of the Arcola Judicial District will attach to goods in the District of North Battleford; and it will no longer be necessary to have concurrent writs issued. This is one of the natural advantages of making the District Court a Provincial Court, rather than a District Court in the sense of the term.

The last principle to which I like to draw attention is the going into effect — I should say that, in the course of these proposals, we have given a great deal of study to these and other proposals for the reform of the Courts. I may say that the report of the Culliton Committee was vastly helpful in approaching this problem. The report of the Culliton Committee has not yet been exhausted. There are many other proposals which time did not permit implementation of at this Session of the Legislature, and which will be given further consideration for future action. I may say, also, that the Law Society and its Annual Convention have been very helpful about these matters and have passed numerous resolutions dealing with the streamlining of our judicial procedure, and, wherever possible, these have fitted into the proposals which are now before the House. Other proposals of the Law Society are also under consideration and thought will be given to implementing them at an early date. But as I say, time has not permitted a more exhaustive study of judicial reforms since the Culliton Committee report, was handed down, last October.

I might also express my appreciation to the individual barristers and solicitors of Saskatchewan for the assistance they have given me in this matter. I have had extensive correspondence with all the lawyers of Saskatchewan, and I have had a very gratifying response from dozens of them with very useful advice and suggestions in this matter. I want to say that this Bill is probably considerably better than it would have been if we had not had the benefit and the advantage of the constructive advice and suggestions which the lawyers were so generous with in dealing with these proposals.

The last section of the Bill provides for it to go into effect on proclamation. There are two reasons why no date for going into effect is set out in the Bill itself. One is that some concurrent legislation is required from the government at Ottawa, the Federal Parliament, and hon. members can appreciate it is rather difficult to negotiate with anybody on behalf of the Federal Government, at this time, about such concurrent legislation. It is also

rather difficult to know when the next session of the Parliament of Canada will be held, and therefore, it is difficult to set a target date at which this Bill would come into effect. That is why it has been left to be proclaimed by Order-in-Council. This is not an unusual thing, in a matter of this kind. When the present Court Bills were passed, in 1915, they were not proclaimed and did not go into effect until 1918. Hon. members will recall that there was perhaps a special situation existing at that time, when there was a different political complexion on the part of the Provincial House and the Federal house. This was partly rectified in the election of 1917, and the Bill went into effect forthwith.

We are not going to wait to proclaim this Bill until the political complexion of the Provincial and Federal governments coincide again . . .

Mr. Cameron: — Hardly!

Hon. Mr. Walker: — . . . but for the reasons I have given, it is felt desirable not to have a specific date for it to go into effect. One other reason that I would ask the House to agree to have it go into effect by proclamation is that there are other ancillary problems raised by this legislation which will probably have to be dealt with by amendments to the Rules of Court. The judges cannot be hurried in these matters; they are very busy people. But when they do have time to consider this legislation and draft any necessary amendments to the Rules of Court, it will be probably sometime in mid-summer.

The third reason why I would like to have it not go into effect immediately is because I would like to have a chance for my colleagues in the Law Society to have a look at it and discuss it at their next Annual Convention before it is proclaimed. Undoubtedly they will have some other additional problems they would like to raise on the matter, and I would like to hear the results of their deliberations before recommending to my colleagues on the Executive Council that this Bill be proclaimed.

I want to say finally, in conclusion, that I realize that the constitution of the Courts is something which has not been altered much since 1918. Looking back over the statutes, I find that there were only one or two minor amendments in the last ten or twenty years. Like all human institutions, change is necessary from time to time. Improvements can be made from time to time, and it just isn't sound and it isn't wise to allow human institutions to become outdated merely by neglect. We propose not to neglect these institutions. We propose to keep the fires of reform burning and to try to leave the courts better equipped to handle the problems of the people of Saskatchewan than we found them.

I should say one other thing which I omitted, and that is the reference to the reduction in the number of judges. As hon. members know, it is by common consent or common knowledge among the judges and the lawyers and the people of Saskatchewan that we have approximately 50 per cent more District Court judges than we are justified in having in this province. It is my hope that we can progress in an orderly way towards a reduction of the number, until it more nearly equals the number which is required. This Section 8 first of all, would repeal Bill No. 1 which has already been passed in this House, and it provides for the reduction or increase in the number of District Court judges by Order of the Lieutenant Governor-in-Council.

Some suggestion was made in the House, when we were discussing Bill No. l, which I will not refer to; but I would like to point out that this is not an unusual provision. The Lieutenant Governor-in-Council has always had the right to reduce the number of judges in the District Courts of Saskatchewan. Hon. members may refer to the present District Court Act and find that the Lieutenant Governor-in-Council could alter or eliminate — alter or reduce or increase the number of judicial districts; and, of course, if the number was reduced by Order-in-Council to say 15, as the Lieutenant Governor had the power to do, that would reduce the number of District Court judges by two. If the number was reduced to ten, it would reduce the number by eight, and so on.

This is not an unusual or an unprecedented provision. It is merely converting the present provision which is based upon the existence of geographical judicial districts. It is merely converting it to the new set-up of the courts, where it is a province-wide court, with 18 judges of that court. That change is necessary because, as I have said, Districts as such are to be abolished, and the old Act becomes obsolete in reference to reducing change in the type of the court and the structure of the court, and provides a different provision for reducing the number of judges; but it is not inconsistent with the old Act, nor is it new.

With these remarks, Mr. Speaker, I would say that any other principles which are involved here (and there are some other small ones) can be adequately discussed in Committee.

With these remarks, Mr. Speaker, I would move that the Bill be now read a second time.

Mrs. Batten: — Mr. Speaker, I again rise to ask leave to adjourn this debate. I thought that the contemplated changes and amendments, although not in all cases good, at least were clear, until I heard the hon. Attorney General. I think he has, according my, what the Minister of Social Welfare called "illogical feminine mind", so

confused the issue that I am sure that, if any of the hon. members in this House, with maybe a few exceptions of persons who have actually studied the proposed changes, had to write an essay on what these changes were, nobody would get a passing grade.

Mr. Cameron: — He gave his usual performance.

Mrs. Batten: — I think the best that could happen to this Bill would be to wait until 1960 when the complexion of this House changes to be similar to the one that will be in Ottawa, and then I think we could eliminate most of the difficulty in debate. However, since I have no assurance from the Attorney General that this will happen, I think it will be necessary to debate this Bill in fairly great detail. I think it is very important that the public should know what the changes are, because I agree with the words of the Attorney General that, after all, it is the public who must be served by our courts, and I think the public have to know what the set-up is; and I think the hon. members here should know before they are asked to vote on second reading, which is on the principle of the Bill. To plow through the rhetoric and the imagery and the inconsistencies voiced by the Attorney General is going to take me some little time, so I beg leave to adjourn the debate.

(De bate adjourned)

Bill No. 69 — An Act to amend The Public Utilities Easements Act — be now read a second time.

Hon. Mr. Walker: — This Bill involves no new principles. It merely follows out some changes which have been proposed in The District Courts Act and The Land Titles Act. The description of 'day book' ceases to have any application the Land Titles' procedure. This is succeeded by 'instrument register'; and like 'judicial districts' ceases to have any meaning in The District Courts Act. So it is merely a change in wording, without any change in the principle of the Act itself. With that, Mr. Speaker, I move second reading of this Bill.

Mrs. Batten: — Mr. Speaker, I do not like to put a hitch into these proceedings, but it does not seem to make any sense to me to go on with second readings of the Bills that are involved in these contemplated changes in The District Courts Act. Surely, it is a lot simpler for the printing of the Orders of the Day, and for the reasoning of this House, if the Hon. Attorney General would just hold back second reading on all these Bills until we can discuss The District Court Act changes and then bring them in, and it will forestall adjournments and debate on these other Bills. The changes might be of no importance at all on second reading, once The District Court Act passes or does not pass second reading.

Hon. Mr. Walker: — Well, on the procedural point, Mr. Speaker, I would say that if the hon. member wishes to adjourn the debate on the Bill, the House can decide whether or not to consent to the adjournment. And if the House consents to the adjournment, then this Bill will be at the same stage as the other ones. I would hesitate not to introduce it because then it would be a day behind The District Court Act when it gets to Committee, and they should all go into Committee at the same time.

Mr. McDonald (Leader of the Official Opposition): — I can see no reason for them all going into Committee at the same time. I think the member for Humboldt (Mrs. Batten) is quite justified in her remarks, in saying that if we could dispose of this one first, then the others will automatically follow along. By trying to move them all in together, I think we are just running into a situation, where they are all going to be adjourned . . .

Hon. C.M. Fines (Provincial Treasurer): — All right, let it stand.

Mr. McDonald: — . . . and we are not accomplishing anything.

Hon. Mr. Fines: — Let it stand.

Premier Douglas: — Since the motion has been put, I suggest the member for Humboldt adjourn the debates, and if the Attorney General will select the ones which have a bearing on this District Court Act No. 2, we can let those stand today. We can either do that, or let them all go into the Committee of the Whole and dispense with this Act No. 2 there. If they prefer to use this procedure there is no objection to it.

Mrs. Batten: — Yes, Mr. Speaker, I wish to adjourn this debate and then perhaps the Hon. Attorney General would be willing to let the others which have some bearing on it, stand over.

(Debate adjourned)

Bill No. 70 — An Act to amend The Conditional Sales Act, 1957.

Hon. Mr. Walker: — Mr., Speaker, this is a series of amendments to The Conditional Sales Act. I think I informed the House, last year, that we had now the best Conditional Sales Act in Canada, and nothing has happened to cause me to qualify that opinion. But we want to stay well out in the lead, and we have three or four proposals.

I may say that some of the wholesale dealers of this

province have suggested that we ought to amend Section 5 by striking out 'by the manufacturer thereof'. That means of course, that the vendor, the manufacturer or wholesaler, will be able to preserve a lien on his goods, without registering them until they are paid for, or until they are sold by the dealer. At the present time, only a manufacturer has that privilege. We propose that anybody who supplies goods at wholesale for dealers will have the lien without the necessity of registration, until such time as they are paid for or until they are sold by the dealer in the ordinary course of business. That proposal came from the Saskatchewan Wholesale Association who felt that it was unfair that some of them who are manufacturers, should have the benefit of this section of the Act, whereas other wholesalers who are not manufacturers should be denied its benefits. Since it does not affect the rights of the public, who buy from a dealer in the ordinary course of trade, we see no reason why the benefit ought not be extended to them.

Another proposal was one which was made by a firm of solicitors here in Regina, who realized, or who noticed, that there was a defect in the uniform Act. The uniform Act, Section 14, provides for notice of resale to the buyer or guarantor, but there was no provision for actually sending the notice to the guarantor, and it is proposed to rectify that at this time.

In Section 5, another principle involved is the position of a purchaser of realty, where goods may have been sold and affixed to the land within 30 days, prior to this purchase, he would be deprived of title to the goods or fixtures, if the conditional vendor registered his lien within the 30-day period. It is now proposed that the vendor, the unpaid vendor, may register his lien at any time within 30 days but if wants to get ahead of any purchaser or mortgagee, who registers a transfer or caveat supporting an agreement for sale or a mortgage, who wants to get ahead of that person, he cannot wait his full 30 days, he must register his notice at once and ahead of the other person who is dealing with the title. This is a situation that was not anticipated, was not fully appreciated, at the time when the proposal was initially introduced, and was drawn to our attention by a firm of solicitors here in Regina.

The other principle, which came from a solicitor in North Battleford and which I think is worth the attention of the House, is dealing with the acceleration clause in an agreement. As it stands now, when a payment falls in arrears even by one day, and the agreement contains an acceleration clause, the whole unpaid balance becomes due. Now, provision is made for the purchaser to pay the amount actually due as provided in the contract, at any time, before the goods are resold. It has been held that the amount actually due includes the payments which became due purely by virtue of the acceleration clause. It is proposed to rectify that situation — and this represents legislation which is not in effect anywhere else in Canada — that notwithstanding

the acceleration clause, the only payment which will be deemed to be actually due will be the one which was overdue at the time of the repossession. In other words, a person a day behind in payments on his car, if it is repossessed, he can always get it back by paying the costs of repossession plus the payment that was in arrears, without having to pay all the payments that still are unpaid. We think that that is just and equitable, and we think that, perhaps, that was what was meant in the original draft of the Act. However, the Courts have disagreed, and since they have the last word in the thing, it developed the other way.

Those are the only proposals or principles contained in the Bill, and with those remarks, Mr. Speaker, I move that this Bill now be read a second time.

(The Motion agreed to and the Bill referred to a Committee of the Whole at the next sitting).

Bill No. 75 — An Act to amend The Workmen's Compensation (Accident Fund) Act, 1955.

Hon. C.C. Williams (Minister of Labour): — Mr. Speaker, this Bill concerns the section of the Act which has to do with the setting up of a board of review, each four years, to look into the various phases of The Workmen's Compensation (Accident Fund) Act. At the present time the personnel of that Committee consists of equal representatives of employers and organized labour, and also states it shall include a representative, or representatives, of the Workmen's Compensation Board. The members of this Board feel that it is somewhat improper for them to sit on a committee of review to judge matters pertaining to their own Act, and the Government agrees with them. So all I presume to do in this Act is to eliminate the fact that a representative or representatives of the Board must sit on this committee of review.

With that explanation, Mr. Speaker, I move that Bill No. 75 be now read a second time.

(Motion agreed to, and the Bill referred to a Committee of the Whole at the next sitting).

Bill No. 77 — An Act to amend The Queen's Bench Act.

Hon. Mr. Walker: — Mr. Speaker, the Queen's Bench Bill contains numerous provisions for adjusting the Act along lines similar to what is proposed in the District Court Act.

I may say that it is not in way dependent upon The District Court Act; it is independent of that. However, it contains proposals along similar lines except for one significant difference. It is along the same line in that it gives the Lieutenant Governor-in-Council power by proclamation to increase or decrease the number of judges of the Court and, in the case of a decrease, provides for the decrease taking effect upon the occurrence of a vacancy in the Court. Formerly the Lieutenant Governor-in-Council only had power to decrease the number, and it is felt that, in the interests of proper flexibility, both powers should be contained similar to those provided in The District Court Bill.

With these words, Mr. Speaker, I move second reading of this Bill.

Mrs. Batten: — Mr. Speaker, I beg leave to adjourn the debate on this Bill.

(Debate adjourned.)

Bill No. 78 — An Act to amend The Court of Appeal Act.

Hon. Mr. Walker: — In moving second reading of Bill No. 78, I wish to point out there is only one significant proposal, and that is the proposal to permit the Chief Justice of the Court of Appeal to appoint ad hoc one of the judges of the Queen's Bench to act in the event of a vacancy on the Court of Appeal. At the present time, the Court of Appeal may only raise a Queen's Bench judge to act on that Court if there is less than a quorum, and a quorum is three. So if, at any time, there are only two who are able to act, they could appoint a third one; but when there are four present, there is no power to appoint a Queen's Bench judge to act in the Court of Appeal.

We think it is important not to the Court itself, but to the public, generally, that, as a general principle, the Court ought to avoid sitting with four judges: that is, if one is absent, a fifth one ought to be added for the duration of the absence. Therefore, while there is nothing compulsory or mandatory about this, it does give to the Chief Justice of Saskatchewan the right, with the concurrence of the Chief Justice of the Queen's Bench, to raise one to act on this Court during such a situation.

With that, Mr. Speaker, I move second reading of this Bill.

(The motion agreed to and the Bill referred to a Committee of the Whole at the next sitting).

Bill No. 79 — An Act to amend the Surrogate Courts Act.

Hon. Mr. Walker: — Mr. Speaker, this a change in The Surrogate Courts Act. The principal changes are: first, that a petition for probate or administration may be made at any judicial centre of the province. Formerly the petition had to be filed either at the judicial centre of the district where the deceased resided at the time of his death, or where he had property, and there were some other provisions; but, generally speaking, that was it. It is now proposed that the petition for probate can be filed at any judicial centre in the province. There is no disadvantage to this proposal. It is not possible for a person to apply for probate in two different districts and thereby find that you have two trustees and both legally authorized to act, because there is a central card index system whereby all applications are indexed and no second grant can be made in the same estate. There is no disadvantage or difficulty from an administrative point of view, of allowing complete freedom and liberty to the trustees to apply in whichever centre they wish.

There are other provisions, but by and large they are similar to those provided in The District Court Act. The one perhaps I should comment on in second reading, is the proposal to legalize something that has been going on since 1932. As hon. members know, surrogate court judges are paid by the Province, and under The Surrogate Courts Act, they are paid a stipend of $1,500 a year. In 1932, in the interests of economy, to bail the Provincial Government out of a financial situation they were in at that time, the judges agreed to reduce their stipend to $l,000, and that was voluntary; there was no change made in the Act. All through those years that is what they received. They have contributed a savings to the people of Saskatchewan of over a quarter of a million dollars by this voluntary forgoing of their stipend. It is now proposed to recognize a fact as law (it has always been a fact) and make it $1,000 it by statute. It is also proposed to provide that no executor of the estate of a deceased District Court judge can by any stretch of the imagination, recover the difference, although I should say I want to make myself clear at this point that there has been no dissatisfaction expressed to the Government by any of the judges about the payment of $1,000. They have accepted that as very reasonable. Nobody has complained about it, and we propose now to make it legal at $1,000.

I should say there were three or four of the judges who, in recent years, have been restored to the $1,500 stipend on the basis that they were doing a great deal more surrogate work than the remainder of the judges. The justification for that will, of course, disappear. If we give these province-wide jurisdiction and equalize the work, there will be no longer justification for paying three or

four of them more than the standard rate of $1,000 on the grounds of extra work, as the work will all be the same.

There are no other significant proposals in principle, any of which I think cannot be dealt with in Committee of the Whole. With those remarks, Mr. Speaker, I move second reading of Bill No. 79.

Mrs. Batten: — Mr. Speaker, I beg leave to adjourn the debate.

(Debate adjourned.)

Bill No. 85 — An Act to amend the Attorney General's Act.

Hon. Mr. Walker: — Mr. Speaker, The Attorney General's Act permits the Attorney General to have not more than three articled students, and they must be working in the Department. It provides also that they must then serve one year in the office of a solicitor in private practice. As hon. members probably know, at the time this was passed it was customary for students to serve under articles for three years with a degree and five without, and the period was then later reduced to two years and now in most cases it is one year. When this provision was first put in, the intention was evidently that articled students should have spent perhaps a quarter of their time, or at most, half their time in the office of some other solicitor before being admitted to the Bar. The one year, however, completely defeats the effectiveness of Section 4, and as long as one year stays in, it means, in effect, that the Attorney General cannot have an articled student, something which he is intended to have under the Act. I may say that this has been discussed with the Law Society.

I would move that this Bill be now read the second time.

Mrs. Batten: — Mr. Speaker, I only want to say a few words about this proposed amendment. In my opinion, to put it very bluntly, I don't see any justification really for law students being able to serve their terms in the Attorney General's Department. Of course that is within the jurisdiction of the Law Society, and if they say they are, well, of course I am prepared to go along, with them, not having any choice as an alternative.

I deplore very much the fact that, in introducing these amendments, the Attorney General has seen fit to say either that the judges are in favour of it, or they have not opposed it, or that the law Society is in favour of these amendments, or that the lawyers generally are in favour. General terms like that are very difficult.

Hon. Mr. Walker: — Mr. Speaker, on a point of privilege. I did not

at any time say that the Law Society was in favour. I said that they had been acquainted with the provisions in this connection.

Mrs. Batten: — I am sorry. I haven't got the exact words; but it certainly left me with the impression that they were not opposed to it, and that usually means consent in general terms of speech; but in the rare atmosphere in which the Attorney General moves, perhaps things are different. I think that the ordinary person, hearing the Attorney General, got the impression that the Law Society was prepared to go along with him on this amendment. In the first place, the Law Society has not got the duty of voting for these amendments; it is up to the members of this House to do it. Now it is up to the members of this House to know that when they make a change in the existing laws of this province, those laws are for and are in the interests of the public.

On this matter of articling, I think I am correct in saying if you graduate from the University of Saskatchewan with your degree in law, you have to put in two years of articles in a law office, unless you have your Bachelor of Arts degree. In that case you only put in one year. The idea is, originally, when lawyers did not have to go to law school in order to get their degree, they learned to be lawyers by practising with a solicitor or a barrister, and by practising in an actual law office, and doing many tasks, very often doing the work of a clerk, they learned the laws of the province. They learned special local conditions; they learned how to deal with people; they learned one thousand and one incidental things that have to do with a law practice. I think that is one of the most valuable parts of a lawyer's education, and is the actual, practical way of learning how to deal with clients and how to deal with individual problems, because you learn law in an abstract sort of form in the law school, or you learn the cases that have already been decided by a judge. To learn the practical application of law to particular situations, and to learn to deal with your clients in order to give them satisfaction, is a very important part of the lawyer's training that no law school can possibly teach, unless they provide for articles, as Osgoode Hall does, during your term of academic education.

We don't have that any longer in Saskatchewan, and I think that the full year of articleship in a law office, if you have your B.A., is a very necessary part of it. At one time it used to be a really difficult problem in a young lawyer's life to put in that year, because you used to get paid about $20 or $25 a month during that period of articleship, and you had to have additional funds from home in order to even survive. In the year I articled in a rather famous law office in this province, they paid me $45 a month and they thought they had never paid any law student quite that much, and they thought it was really fantastic. Nowadays, law students are getting very good salaries — I mean in the sense that they are getting paid perhaps far more than they are, in actual work, worth; and I think even law students

will agree with me there. But the whole point of articleship is that they are in a law office.

They can learn many things in the Attorney General's — and I am not decrying the studies they can pursue there; but they are studying. I don't know exactly what the Attorney General does with them, but I do know that he is unable, no matter how much he might want to, to give them the actual practice in dealing with clients and dealing with the small daily things that a lawyer runs into when he is on his own in a law office.

For that reason I will not vote for this Bill. I don't think it is very satisfactory at all. I think the people in the Attorney General's office who have been in private practice and know the problem of private practice, and the problems of clients and just ordinary people, are far better to deal with, far easier for lawyers and ordinary people in this province to deal with than with people who have not had that benefit of practical education in the rough-and-tumble place of the market. Much as we appreciate the academic standing of young lawyers who are perhaps greater students and can walk out of University into a Government department, their training, I think, is inadequate in that one respect, and I would not like to deprive them of it any further. Therefore I will not support this Bill.

Hon. Mr. Walker: — Mr. Speaker, I can only conclude that what the hon. member for Humboldt says about me is right — I don't make myself very clear. This is not giving the Attorney General's Department any privilege, prerogative or right which the solicitor of any oil company or any trust company who is practising does not have. This merely gives us the right to be governed by the ordinary bylaws of the Law Society, the same as the solicitor in any trust company, oil company, or anybody else, in employing articled students. This does not give our Department any special privileges. All this does is remove the disability which applies to our Department which did not apply to solicitors for companies, trust companies, land companies and other solicitors all over this province. It is not a discrimination in favour of the Department at all. It is removing a disability, and we see no reason why our Department ought to labour under a disability in favour of other corporations and other employers. We feel that we must have the same advantage, the same opportunities to recruit young lawyers in our Department as the solicitors for oil companies and trust companies have.

I am sure the hon. member for Humboldt would not want to put the Attorney General's Department in a position where these people had all the advantages, and then we would have to take what's left over. I'm sure she wouldn't want that.

(The Motion for Second Reading agreed to, and the Bill referred to a Committee of the Whole at the next sitting).

The Assembly adjourned at 10:00 o'clock p.m. without question put.