LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
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WELCOME TO STUDENTS

Mr. E. C. Whelan (Regina North West): — It is my pleasure to introduce to you and through you to all Members of this Assembly 36 Grade Four students from the Al Pickard School in Regina North West. These visitors are seated in the west gallery with their teacher, Mr. Craig. On behalf of all Members may I say to this group welcome and may your visit here be pleasant, memorable and educational.

Hon. Members: — Hear, hear!

QUESTIONS

Department of Northern Saskatchewan — Leon McAuley

Mr. C. P. MacDonald (Milestone): — Mr. Speaker, I should like to direct a question to the Premier (Mr. Blakeney). I listened to a rather disturbing news announcement on the 1:00 o'clock news when a Mr. Leon McAuley, who was elected in the northern municipal council, was accused by Mr. Daniels of having been promoted by, and received assistance from the Department of Northern Saskatchewan. He claimed the Government was providing air travel and other campaign assistance against other candidates in running for that position in the municipal advisory board. I would like to ask the Premier is it a fact that Mr. McAuley is working for the Department of Northern Saskatchewan and secondly, is it a fact that the NP Government and the Department of Northern Saskatchewan in particular, is actively promoting this candidate by giving him free flying time and other assistance in a democratic election?

Hon. A. E. Blakeney (Premier): — Mr. Speaker, the question asked by the Hon. Member is one which the Minister of Northern Saskatchewan might be able to answer off hand. I certainly cannot. I am not informed whether the candidate was an employee of the Government of Saskatchewan, nor whether or not he obtained any assistance from the Government of Saskatchewan. All I can do is suggest to the Hon. Member that if he would like to provide his question to me I will have it researched or alternatively if he wishes to put it on the Order Paper I would attempt to find the answer.

Mr. MacDonald: — Mr. Speaker, a supplementary question. I can appreciate perhaps the Premier not having the knowledge at this time but I think everybody in this House will recognize the gravity of the charge of Mr. Daniels. If it is a fact, it then makes the people of northern Saskatchewan nothing but puppets to the Department of Northern Saskatchewan. I should like to ask the Premier if he would hold an immediate investigation and contact the officials of the Department of Northern Saskatchewan and find out if they did provide free air travel for one candidate and not other candidates in this election and then report to the House as soon as possible.

Mr. Blakeney: — Mr. Speaker, I know that Hon. Members will appreciate that following elections there are frequently charges. I don't know whether or not we can provide an immediate investigation every time anyone makes a charge without providing some information to back up the charge. If there is information which requires investigation, fine; we will certainly do so. It has been alleged for example that when the Member for Athabasca (Mr. Guy) was an employee of the Government of Saskatchewan he flew around the North prior to elections on government time and with government aircraft and I know that he would reject any suggestion that there was any impropriety there.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — For all I know this candidate was an employee of the Government of Saskatchewan, I simply don't know that. But if he flew about the North in the discharge of his duties as other people have done in the past I know that there would be no more suggestion of impropriety than there has been in the past. But we can certainly look into this and see whether or not there is any substance to the allegations apparently made on the news broadcast.

Printing of Blues and Whites

Mr. A. R. Guy (Athabasca): — Mr. Speaker, I should like to direct a question to the Minister of Government Services (Mr. Brockelbank). I received a Return the other day showing that the blues and whites, the Routine Proceedings and Orders of the Day, are being printed by Service Printing. I should like to ask the Minister in charge of Government Services if this job was put out for tender in the normal fashion or whether it was handed to them on a silver platter?

Hon. J. E. Brockelbank (Minister of Government Services): — Neither, Mr. Speaker. It was not handed on a silver platter nor was it put out to tender and that is the way the whites and the blues printing has been done for many, many years as I understand it.

Mr. Guy: — A supplementary question. Is Service Printing the company that's owned solely by the NDP?

Mr. Brockelbank: — No.

Mr. Steuart: — I wonder if the Minister would like to reconsider and tell us the truth this time.

Potential Flooding in Regina

Mr. E. C. Malone (Regina Lakeview): — Mr. Speaker, before the Orders of the Day I have a question for the Minister of Environment (Mr. Byers) or the Minister of Agriculture (Mr. Messer) in the absence of the Minister of Municipal Affairs (Mr. Wood). I am sure all Members share my concern with the bad weather we are having that the threat of a flood in Regina and in Saskatchewan is

Increasing ever more. The Ministers have given advice to this Assembly that everything possible is being done to prevent the recurrence of a flood although as far as I am concerned they have given very few particulars. I would now like to ask either one of the Ministers whether or not they can assure me whether the level of the dyking in Regina will be increased by sandbags or other methods immediately or at least before the flood comes if it does come?

Hon. N. E. Byers (Minister of the Environment): — As I have pointed out to the House on previous occasions that the Department of the Environment is heading up a co-ordinating committee of city officials, Wascana Centre Authority, SPC and so on to cope with flood control measures within the city of Regina. The city of Regina has devised a six-point action plan to cope with the flood and I understand that through the City Engineer‘s Department they are doing everything possible to man the dykes and to identify weak spots and to have sandbags and other corrective measures in place and that work is well under way.

Mr. Malone: — I‘m not sure the Minister has answered the question. Perhaps the Minister of Agriculture could try and answer it. Are the level of the dykes going to be increased or not? Surely you can say yes or no. I‘d rather hoped the Minister of Agriculture (Mr. Messer) would have answered in the first place.

Mr. Byers: — Steps to improve the dykes within the city of Regina are being undertaken by the city of Regina. As part of the action plan to cope with the flood problems in the city of Regina, the city has accepted that responsibility. They are, I am advised, making what improvements they consider necessary on the dykes to minimize any flooding in the flood plain area. How many shovelsful of dirt and how many bags of sand, how many cubic yards of dirt they are moving, we do not have all those particulars on hand. They assure us that they are doing that and I am sure that when we have that assurance from the city of Regina that that ought to console the Member for Lakeview.

Some Hon. Members: — Hear, hear!

Mr. H. H. P. Baker (Regina Wascana): — Mr. Speaker, I‘m not trying to answer questions for the Minister but I might report to the Member for Lakeview that we sat for three hours this morning as a co-ordinating committee; taking in the Provincial Government, the city, various department heads, also organizations such as the Frontiersmen, the RCMP and others. There must have been at least 35 representatives there and I might say that they have it well in hand. We are doing what we can from the city‘s standpoint. We have 100,000 bags that we can use for dyking, also for the areas MLAs have mentioned. I‘m sure that our City Engineer has things well in hand.

Mr. Steuart: — Is that in the same category as cleaning the streets?

Mr. Speaker: — Order, I want to point out to the House that questions

of Private Members are not permitted. Questions of the city should be asked at City Hall and not in this Legislature.

Some Hon. Members: — Hear, hear!

Mr. C. P. MacDonald (Milestone): — On a Point of Order, Mr. Speaker, I noticed today that you permitted two private Members to get up and make statements before the Orders of the Day. Is this to be the normal procedure?

Mr. Speaker: — It is not a practised procedure. I think every day I have permitted Members to get up and make statements before they ask their questions, including the Member for Milestone.

Some Hon. Members: — Hear, hear!

SECOND READINGS

Hon. R. Romanow (Attorney General) moved second reading of **Bill No. 1 — An Act respecting the Protection of Privacy**.

He said: Mr. Speaker, it gives me a privilege and a great pleasure to introduce Bill No. 1, a Privacy Act for the Province of Saskatchewan.

Mr. Speaker, this proposed Privacy Bill is essentially the draft Act which is presently under the consideration of the Conference of the Commissioners on Uniformity of Legislation in Canada. I must tell the Members also that it‘s a Bill which is based largely on the Privacy Acts which are presently in existence in British Columbia and in Manitoba.

The basic objective of this Act is to provide for, quite obviously, the protection of privacy of individuals.

Mr. Speaker, the concept of privacy is a complicated one, charged with many emotional issues. Privacy stated in simple terms is really a right to be left alone, both in a physical sense and I suppose in a psychological sense.

The Claim of privacy or the claim to privacy is a relatively recent phenomenon. During the days of the early settlers, primary emphasis was placed on social cohesion and on the needs of the community. Individual claims to stand apart were by and large denied, and privacy was considered to be an anti-social force. However, as the population of the country grew and life became more complex and in a technological world, we traded the physical and mental solitude of the country for the hustle and bustle of what now has become to a large extent an accepted way or urban life. This way of life created the demand for privacy.

Unfortunately, the common law has not kept pace with the demands of modern day society, and has failed to recognize the individual’s right to privacy. Accordingly, we are proposing the creation of such a right in this Bill, The Privacy Act, 1974.

As privacy is not and cannot be an absolute condition, wide discretion is given to the court in determining what facts

will constitute violation of privacy. It's our hope that this Act will recognize an individual's right to freedom of movement, freedom from surveillance, freedom to enjoy the solitude and the privacy of his own home.

Mr. Speaker, if I might move into a more detailed description of some of the provisions of the Bill.

First of all, a word or two about Sections 2 and 3. In order to accomplish the objectives of this Act, Section 2 enables a person to bring an action, without proof of damage, for the wilful violation of his privacy. When this Privacy Act was reviewed by the Conference of Commissioners on the Uniformity of Laws at Quebec in 1972 a number of the Commissioners were assigned the task of preparing a definition of privacy. They asked that a definition of privacy be presented at the next meeting of the Commissioners.

I think that we all share some concern about what might be an indefinite or somewhat general description of privacy. When the Commissioners met, in fact, in Victoria in August of 1973, the most recent of the meetings, the conference was informed by its officers that no totally satisfactory definition of privacy could be found. Instead, the British Columbia and Manitoba approach was adopted by the Commissioners of Uniformity and examples of violations for privacy were set out and this is what this Bill does. Examples of violation of privacy are set out in the proposed legislation.

These examples are to be found in Section 3 of the Bill, which are before the Members of the Legislature. Accordingly proof that there has been, for example, auditory or visual surveillance by any means, including eavesdropping, watching, spying, besetting or following, or proof that there has been listening to or recording a conversation in which a person participates, or proof that there is the use of the name or likeness or voice of a person, for the purposes of advertising or promoting sales if in the course of the use of letters or diaries or other personal documents of a person. In these examples the Bill says that there will be a violation of privacy.

The Act provides that violations of privacy are not confined strictly to the foregoing examples, because of the very obvious difficulty in being comprehensive or having a nice tight definition of privacy. The court of course, is not restricted as to what facts will or will not constitute a violation of privacy. This, in the case of a hearing, will be determined by the courts.

Now a word about Section 4. Section 4 of the Act outlines exceptions to the so-called violation of privacy. These are exceptions on which the Act would not apply. Subsection 1 provides that acts, conduct or publications which are for example: (a) consented to; (b) which are incidental to the exercise of a lawful right of defence of person or property; (c) which are authorized or required under a law in force in the province or by any process of a court; (d) where the actions are that of a Peace Officer acting in the course and within the scope of his duty or a public officer engaged in an investigation within the scope of his duty. These are examples which shall not constitute a violation of privacy.

Mr. Speaker, I wish to advise the Members of the House that I shall also be proposing a House amendment to this Bill. The House amendment which I intend to propose for the consideration of the Members provides yet a fifth exemption, which means that it shall not be a violation of privacy. An exemption which would do as follows: persons engaged in news gathering for a news media where the act, conduct or publication in issue is reasonable and necessary for, and incidental to, the ordinary news gathering activities, will be exempt from the provisions of this Act.

Subsection 2 of Section 4 of Bill No. 1 provides a further exemption, or if you will, the other side of the coin to the House amendment with respect to news media that I have just said.

Subsection 2 of Section 4 provides the exemption in the publication by the news media of matters of public interest or fair comment on matters of public interest and publications which are privileged within the law are not within the provisions of this Bill.

So that to summarize, anything which falls within the public interest area or is fair comment on matters of public interest (and the phrase “fair comment” is well understood by the lawyers and the judiciary) are exempt as not being violations of privacy.

I would point out, Mr. Speaker, that it is the opinion of the law officers in my Department that subsection 1 of Section 4 as it appears now in the Bill (that’s the public interest, fair comment section that I have read) would not in any way restrict the conduct of news media in this province in reporting any matter of public interest to the public. This is the opinion of the lawyers. Similar legislation, I would remind all the Members, has now been in force in British Columbia since 1968 in almost similar or identical wording, and in Manitoba since 1970 and no restrictions have been felt by the news media and no restrictions have been communicated, I am advised, to the officials in those provinces and certainly not to myself.

So the Bill has worked in British Columbia since 1968 without any difficulties in this area and in Manitoba since 1970. And as I say, I think the present Bill as worded under Section 4 is adequate to protect the news media. However, to further insure that problems do not arise, I am proposing this House amendment which I have already told you about, which will specifically relate to the news media and say that the Bill does not apply to them.

I would also, Mr. Speaker, expressly like to refute the allegation that freedom of the press may be compromised by the Bill as it was originally tabled before this House. I would refute this because under new clause (e) of subsection 1 of Section 4 the House amendment will make it abundantly clear that news media personnel may engage in all reasonable and necessary news gathering activities. Secondly, as I’ve said again, subsection 2 of Section 4 of Bill No. 1 expressly states that the newspapers may publish matter of public interest and fair comment on matters of public interest.

Mr. Speaker, when the Bill was first tabled there was a news report which related to the matter of revelation of the sources of news. With respect to the allegation that this Act

will compel the news media to reveal the names of their news sources, I would merely point out to the Members of the House that this is already the long-standing present condition of the common law, in this province, in Canada, the United Kingdom, all commonlaw countries. For example, in a defamation action, a newspaper defendant is presently compellable under the rules of law relating to examinations for discovery or testimony at trials to reveal the source of a defamatory statement or pay the consequences. That is the present law. This Bill does not inject any new principle in this area of the law.

Mr. Speaker, a word or two on Section 5. Section 5 provides that actions for violation of privacy shall be taken in the Court of Queen's Bench. I think the reasoning for that is straight forward. Court of Queen's Bench is the superior trial division in the Province of Saskatchewan and does give adequate safeguards to the people involved.

Section 6 provides criteria to be followed in determining whether there has been a violation of privacy. Again, a wide discretion has been given to the court in that the nature and degree of privacy to which an individual is entitled is that which is reasonable in all the circumstances. Some will say — what does this mean? And it is impossible for Legislators to say with absolute precision what this does mean. But as all Hon. Members will know in the charge of negligence, what is the standard of care, what is the duty owed to the parties involved, what is reasonable under all the circumstances. And as we have given the trust and confidence to the Queen's Bench Court of this province in matters such as negligence, thousands of dollars in defamation suits and the like, so, too, I say to the Hon. Members of this House, we can similarly place confidence in the Queen's Bench Court in defining the degree of privacy which is reasonable under all the circumstances.

Section 6 contains examples of relevant criteria that a court could consider criteria of the reasonableness and the acts relating to privacy and the violation of it.

For example, the nature and frequency of the act, conduct or publication. Or further, the effect of the act, conduct or publication on the health and welfare, or the social, business or financial position of a person whose privacy has been violated. Or further, the relationship between the parties to the action, or further yet, the conduct of the parties before and after the act, conduct or publication, including any apology made by the prospective defendant.

I believe that these are specific examples and guidelines for a Court of Queen's Bench, the superior court of this province upon which to make a reasonable ruling.

Section 7 of the Act sets out the remedies which are available to a person whose privacy it has been found by a court, has been violated and includes such things as damages, an injunction, an order to account for any profits that have accrued or that may accrue to the defendant as a result of the violation of privacy of the plaintiff. I might stop here to say that while we have perhaps not any widespread evidence or no evidence of industrial espionage that exists in Saskatchewan the fact of the matter is, that this is a practice which is growing with the sophistication of technological equipment and I believe that the potential damage that can exist to industries

and to individuals is something that we should protect by setting up this cause of action.

Another example of an order which can be made by the court is an order that the defendant deliver all articles or documents that come into his possession by reasons of the violation of privacy, if he has obtained them by wrongful or criminal activities. Or such other relief as would appear to be necessary under all the circumstances which are presented to the court.

Section 8, Mr. Speaker, provides that any right of action under this Act is in addition to any other right or remedy available under the common law or other legislation.

Section 9 places a limitation period on the time within which an action may be commenced for violation of privacy. The time prescribed is two years from the date of discovery of the alleged violation of privacy.

Section 10 provides that a right of action for a violation of privacy is extinguished by the death of the person who has the right of action under this Act.

Section 11 provides that the Crown will be bound by provisions of this Act.

Section 12 provides that this Act comes into force on the date of proclamation by Lieutenant-Governor-in-Council.

Mr. Speaker, in conclusion, as I indicated in my opening remarks, the principle of this Bill is to create a civil right to privacy as a part of the laws of this country and a part of laws of this province. The purpose of this Bill is to provide individual freedoms for individuals in society. The purpose of this Bill is to enhance the civil rights of all of us in this society. The Federal Government which has legislative jurisdiction over the criminal law, has reacted. The Federal Liberal Government is to be congratulated because they outlawed under criminal laws some aspects of this invasion of privacy, thanks to Otto Lang, the Minister of Justice. Now, it’s incumbent upon us, as provincial legislators to follow the lead and to make concurrent provincial legislation because we have the power over civil matters to ensure this civil right, to provide this civil cause of action in the case of violations of privacy, to be complementary to the Federal laws enacted by the Liberal Government in order to ensure that the right to privacy is a right that is enjoyed by all the citizens of the Province of Saskatchewan.

Mr. Speaker, I move second reading of Bill No. 1 and set up The Privacy Bill.

Some Hon. Members: — Hear, hear!

Mr. K. R. MacLeod (Regina Albert Park): — Mr. Speaker, I am opposed to this Bill.

Some Hon. Members: — Hear, hear!

Mr. MacLeod: — This Bill makes it a cause

of action and creates a lawsuit when there is absolutely no damage as is stated by paragraph 2 of the Bill. More than that, it is a mischievous and frivolous Bill. For example, Section 3 (b) says in part that listening to a conversation in which a person participates is evidence of the violation of the privacy of that person. That means that if two people are in conversation and even if you only hear one of them, both of them can sue you. There are many cases where this can happen. If you lean forward in the bus the people talking ahead of you can sue you. And wilfully adds nothing to it because if you know you are in the bus and if you know you are leaning forward, that is wilfully. You can be sued as a result of this Bill if the other people think you are listening. Perhaps you are daydreaming and maybe you weren't listening at all, you can be sued if it looks as if you are listening. Who can say whether or not you actually heard what was said.

There are a very few good things about the Bill. It is wrong to use someone's picture or voice for sales promotion. But the good things in the Bill are quite frankly already protected in the law. We have ample protections of privacy. We have laws against libel and slander. It is against the law for example to declare that a company or a person is bankrupt if they are not bankrupt. The privacy of your income tax return is protected as is the privacy of numerous government documents and reports and returns. There are laws to protect people against interference with the mail. You are not allowed to interfere with the post. Credit bureaus are not allowed to put out false reports about you. The Federal Government has, as the Attorney General indicated, just passed a law against electronic eavesdropping and wiretapping.

Do we need these laws? The fact is, we do not. This will encourage frivolous law suits, it won't please the lawyers, of course, because they have better things to do than to horse around with these things. We do not need this law. It is a frilly-dilly type of Bill. It is the kind of a Bill brought in by a Government that has run out of all other ideas.

Mr. Speaker, there has been no demand for this Bill. There is really no requirement for this Bill. I draw attention of the House to the fact that there is a great deal of difference between defamation on the one hand and slander and loss of privacy. The libel and slander laws are already protected by statute in Saskatchewan and the laws which require disclosure in defamation cases, libel and slander cases, do not necessarily apply to The Privacy Act. And the protections that the news media have under libel and slander are not necessarily applicable here, but more than that, the example given by the Hon. Attorney General does not apply to privacy because they are two entirely opposite things.

Libel and slander is a case where somebody says or does something which causes other people to think poorly about you. Privacy is where you are upset yourself over something. It is an entirely opposite situation. Privacy invasion causes you to think poorly about the situation, libel and slander causes someone else to think poorly of you.

The laws are not the same at all. I must say that if this is what the Committee on the Uniformity of Laws is doing, then we might just as well get rid of that Committee because obviously they have run through all the good they can do.

This Bill will encourage anti-social behavior. The ability to sue someone else without any loss or damage whatsoever is a frivolous thing to bring into the law. This, as one of the Members said, is progressive legislation. It is clearly 100 years ahead of any industry being brought into Saskatchewan.

If there was a problem with industrial espionage, no question about it, laws specifically directed to that point would be quite in order and we would support such proposed laws. Industrial espionage in Saskatchewan is like spying on Switzerland to determine what their war plans might be.

Mr. Speaker, the addition of the House amendment described by the Attorney General will of course require some study. It may be that this might involve some change in attitude by Members of the Opposition, it will not change my attitude because I am opposed to the Bill, even with this addition to the Bill.

It makes an exemption, as I understand the proposal of the Hon. Attorney General, it makes an exemption giving certain rights to the news media that other people do not have. I might say that we tend to welcome the change. And it proves, Mr. Speaker, that the Opposition has done a lot of good up until now in this House and I congratulate the Attorney General for listening to us once in a while because this was the first Bill presented to this Legislature when it opened last November and my opposition was shortly thereafter made known. It is obvious that the opposition which developed between that time and this has resulted in the proposed amendments by the Hon. Attorney General and obviously he is listening, obviously we are doing our job. It does indicate to me that if there is a special exemption for the Press it may be that they now have more rights than the ordinary citizen. For example, if fair comment by news media is exempt, why is not fair comment on matters of public interest by ordinary citizens exempt?

Some Hon. Members: — Hear, hear!

Mr. MacLeod: — If newspapers are allowed to invade someone’s privacy on matters of public interest, why am I not entitled to do the same thing? Because obviously it is a matter of public interest.

The amendment, as I understand it (and of course we don’t have it in front of us), but as I understand it, proposes to cater to the Press because of the opposition which has been created and I might say that we believe that the Press is the one fundamental defence of our freedom in this Legislature, I believe and support that amendment, except to the extent that it gives them more rights than I have as a private citizen. It seems to me that the Hon. Attorney General has created a hodge-podge, a frilly-dilly mischievous kind of legislation. Of course, it is going to require some additional study by the Opposition.

Mr. Speaker, I beg leave to adjourn the debate.

Some Hon. Members: — Hear, hear!

Debate adjourned.

Hon. R. Romanow (Attorney General) moved second reading of **Bill No. 65 — An Act to amend The Dependents' Relief Act (No. 2)**.

He said: Mr. Speaker, this is an amendment to The Dependents' Relief Act (No. 2). The Act is being amended by adding a new section 15 (a) to the Bill. The purpose of which is to restrict the right of an executor or administrator to distribute the estate for a period of six months following letters probate or administration, unless all the dependents consent or the court orders otherwise.

This amendment is necessary to protect the rights of dependents. A recent court decision by the Saskatchewan Court of Appeal held that as the present Act does not prohibit distribution, the executor was free to distribute the estate during the six month period given to a dependent to apply for an order under the Act. The intent of the Act was to allow a dependent a period of six months in which to apply. Most members of the legal profession felt that the present Act implied that distribution could not take place except subject to the right of the dependent to apply within the six months. However, the court, in this recent court case, has ruled otherwise.

The proposed amendment is patterned on the existing Alberta provision dealing with the same problem.

If this amendment is not passed, a dependent may well have a hollow right under the present provisions of the Act. An executor or administrator can by a speedy distribution of the assets completely defeat the rights of a dependent. While a dependent can launch an application immediately in some cases, such is not possible in every case. This is particularly true where a person has been certified incompetent, for example, to manage his affairs. In these cases it often takes several weeks before the administrator of estates becomes aware of the fact that a person under his care may be entitled to apply for an order for relief. In the case before the Appeal Court, this case was the In Re Giles Estate, 1973 for WWR at Page 561. In this case, Mrs. Giles lost her rights, even though she applied within the six month period provided by the Act. The assets simply were distributed. Therefore, the amendments to The Dependents' Relief Act (No. 2) will provide the realization of the intent of the law, namely that there is six months before the distribution of the assets can take place.

Mr. Speaker, I move second reading of Bill No. 65, a Bill to amend The Dependents' Relief Act.

Mr. K. R. MacLeod (Regina Albert Park): — Mr. Speaker, on this Bill the intention is to protect dependents who are not otherwise protected by the will, I presume. The unfortunate part of the problem with the Government (and the law profession) finds itself in, is that if you distribute the estate speedily, you may defeat some rights that exist; if you don't do it you are subject to criticism. This will create one of two things, either delay in the administration of an estate or alternatively, additional expenses in the administration of the estates because you must round up all consents, that is, consents of all beneficiaries and those who might be persons claiming under The Dependents' Relief Act or else you have got to go to court and get a court order allowing you to

distribute the estate. It will either cause delay or additional expense and in some cases both.

On the other hand, of course, there is a very recognizable problem which has been outlined by the Attorney General. And that is if a man should choose to leave his property to a close friend, named say, Annabel and his wife is named Susie, it is possible that the estate may be wound up in a hurry and given to Annabel before Susie can get into the courts to stop this procedure. The intention is to protect dependents, but it will have some unfortunate side effects. I have no doubt that the Law Society and the Attorney General's Department will keep a close eye on this. We are not completely satisfied with the proposal. On the other hand we recognize what they are trying to do.

We therefore, do not oppose this Bill.

Motion agreed to and Bill read a second time.

Hon. R. Romanow (Attorney General) moved second reading of **Bill No. 68 — An Act to amend The Saskatchewan Evidence Act**.

He said: Mr. Speaker, it gives me pleasure to introduce amendments to **Bill No. 68 — An Act to amend The Saskatchewan Evidence Act**.

He said: Mr. Speaker, it gives me pleasure to introduce amendments to Bill No. 68 — The Saskatchewan Evidence Act. There are only two amendments but let me break them up in this way. First is Section 39 (b) of The Saskatchewan Evidence Act, any professional report purporting to be signed by a duly qualified medical or chiropractic practitioner, licensed to practice in any part of Canada, may be admissible in evidence without proof of his signature or qualifications as being licensed.

In 1972, Section 30 (b) was added to the Act allowing a mental or chiropractic report to be admissible, with leave of the court and giving the court the discretionary power to award costs against the party to an action who requires a medical or chiropractic practitioner to give evidence where the court is of the opinion that the evidence could have been produced just as effectively by a written report. We have received representations from the practising bar that this Section should be extended to also provide to dental surgeons the same privilege which it does to chiropractic or medical practitioners. This amendment then will allow dental surgeons to also follow the same procedure which is now being followed by medical practitioners, namely in filing the report by written document without proof of signature or qualifications. There is a safeguard mechanism which is built into The Saskatchewan Evidence Act in case one party objects or wants to cross-examine the professional.

I believe, Mr. Speaker, that this amendment will be a move towards improving the court efficiency and will be supported hopefully by all Members on those grounds.

A word or two about subsection (2) of Section 33 of the Bill, which is the second general amendment. This, I think, is probably the more important of the two. What now appears as Section 33, sub (2) of The Saskatchewan Evidence Act was first enacted in 1964 by Section 3 of the Statutes of Saskatchewan. The main purpose of that 1964 amendment to The Saskatchewan Evidence Act was to ensure that the accused in a prosecution of an offence against provincial law would not be made compellable

to give evidence against himself. That 1964 amendment made the law of evidence in respect of prosecution of provincial offences more consistent with the law of evidence in respect of a prosecution in the criminal area or criminal offence.

What now appears as Section 33 sub (1) of The Children of Unmarried Parents Act, 1973, is identical in all material respects to what was originally enacted as Section 125 of The Child Welfare Act, back in 1946, and it has reappeared unchanged in subsequent revisions and consolidations of that Act, namely The Children of Unmarried Parents Act, 1946. It has at all times been the intention of the Government, and certainly the Department of Welfare and now the Department of Social Services that what appears as Section 33 sub (1) of The Children of Unmarried Parents Act, 1946, now 1973, would be the controlling provision in respect of the competency and the compellability of an alleged or an adjudged father in any filiation proceedings.

The Department of the Attorney General agrees that this should be so. Filiation proceedings under The Children of Unmarried Parents Act are really civil proceedings rather than prosecution by way of offence under a provincial statute. By virtue of Section 33 sub (1) of The Saskatchewan Evidence Act the defendant in civil proceedings is a competent and compellable witness and his attendance to testify can be compelled by any party to that civil proceeding.

A Court of Queen's Bench decision held that that Section 32 sub (2) of The Saskatchewan Evidence Act applied to filiation proceedings as well and that it was the controlling provision in respect of the compellability of an alleged father. That same decision held that Section 33 sub (2) of The Saskatchewan Evidence Act restricted the compellability of the alleged father compelling him to give evidence relating to his ability to pay only. This Court of Queen's Bench decision is binding on Judges of the District Court, and Judges of the Magistrates Court before whom the trial and actions of The Children of Unmarried Parents Act, 1973 are held. The effect of the decision is to prevent Section 33 (1) OF The Children of Unmarried Parents Act from being the controlling provision and making the alleged father compellable to give evidence both in respect of his ability to pay and his liability to pay.

Surely the social objective of this amendment to Section 33 (2) of The Saskatchewan Evidence Act is desirable. It ensures that The Children of Unmarried Parents Act and in particular Section 33 (1) is the paramount provision related to the compellability of an alleged or an adjudged putative father. This amendment is consequential upon and complementary to The Children of Unmarried Parents Act. This amendment will provide clearly that an application for a filiation order that in this case an alleged father shall be competent and compellable as a witness for all purposes, not only ability to pay but liability for all purposes relative to the application and that in proceedings to vary or enforce a filiation order, an adjudged father shall also be competent and compellable for all purposes relevant to the proceedings.

Mr. Speaker, I believe this to be a socially desirable objective and I would move second reading of Bill No. 68.

Motion agreed to and Bill read a second time.

Hon. D. M. Cody (Minister of Co-operatives) moved second reading of **Bill No. 69 — An Act to amend The Co-operative Associations Act**.

He said: Mr. Speaker, before getting into the details of the proposed amendment to The Co-operative Associations Act a bit of background information would appear to be in order. For some of the reasons for requesting the amendments, reference will first be made to the recent growth and development of consumer co-operatives in Saskatchewan. There are 221 co-operatives engaged in the retail business as of March 31st, 1973. This number has diminished slightly I must admit over the past year, however, a co-operative service is being provided to the members in all cities, both towns, villages and rural areas in Saskatchewan today. The reduction in numbers is due to amalgamation with larger organizations, a trend towards local centralization.

It is interesting to note that while the numbers have decreased slightly, the sales volume continues to increase. Last year consumer co-operatives enjoyed sales at retail of over $162 million. This compares with sales of $146 million the previous year and $118 million ten years ago. It is safe to say that consumer co-operatives in Saskatchewan will enjoy sales and earnings in 1974 never before achieved.

Development in the retail segment of the co-operative movement is now serving 301,766 members in this province. This is a significant figure, Mr. Speaker, considering the population which consists mainly of family groups. There is a trend shaping up these days of high living and a segment of people of our province who are in the underprivileged category are interested in starting direct charge co-operatives patterned along the COPRIX development in eastern Canada and the warehouse approach used in Ottawa. For example, existing co-operatives are expanding services where necessary in order to provide a wider range of commodities for the membership at large.

While the retail sales achieved by co-operatives represent a relatively small part of the retail business done in Saskatchewan, co-operatives have nevertheless reached the plateau of big business. An awful word for the Members opposite. Keeping abreast with the complexities of big business and modern trends requires certain changes from time to time.

Co-operative members and directors in particular are aware of the changing times and feel that some changes in the co-operative legislation are desirable at this time. Consequently the changes that you have before you have been presented on behalf of the locals and the people themselves. For example, technology change certainly is necessary as requirements that were deemed essential ten years ago may now need changing or perhaps dispensed with altogether.

Some of the amendments merely change terminology, while others only make certain provisions clearer through better legal terminology. I shall outline some of the more important amendments for you. A provision in the Act that has caused some concern is that from time to time when a person becomes a member the present provision in Section 21 of The Co-operative Associations Act is specific as to the time in which this member becomes a member. When his written application for membership

has been approved by resolution and recorded in the minutes of the Association, the date is not retroactive. The amendment in this instance provides that if the Board does not meet and deal with the member's application for a month or more, as the case may be, the Board can, by resolution, approve the application as at the date of the application, which has a good deal of merit. The member under the new provisions would receive credit for the purchases that were made and had been made prior to the date of the application being approved.

The Co-operative Association Act now provides that each member is entitled to receive a statement of his equity and other amounts held to his credit each year. The amendment proposes that if the Association has not made an allocation in any year due essentially to having suffered a net loss in which case the statement of his equity would not have to be changed from the previous year, then the Association would not be obliged to furnish a statement unless it is requested by the member.

There are also other instances where any member can inspect the register for a list of members at all reasonable times during the office hours of the Association. Due to computer prepared lists of members the data included is more extensive than just shareholdings. There is personal information including such as purchases, etc.

The amendment to Section 25, subsection (3) provides that an Association has seven days to advise members whether another member is a member of the Association or not.

Over the years Section 30 of the Act appears to have been too restrictive in certain areas. It deals with members who want to withdraw from membership in an Association, in which case they are entitled to receive all the share capital and all other equities held in the Association. I submit, Mr. Speaker, that this has been interpreted to include investments made by a member in co-operative debentures and other securities held that have a due date. In other words there is a contractual obligation involved. The amendment in this Section would essentially make the following changes: (a) money invested under a contractual obligation for example, debentures and savings certificates would not have to be paid out immediately but would be due and payable on maturity; (b) the Board could limit the total redemption of shares to five per cent of total paid up shares in any one year, depending of course on the financial position of the Association; (c) if requested equities exceeding $100 the Board of Directors would have the option of repurchasing the shares over a period of five years, here again depending on the financial position of the Association; (e) the last change provides that the Board may defer payment if in their opinion it was considered to be in the best interest of the members.

The changes to this Section are considered to give a bit more protection to the Association, certainly as they relate to money invested with a due date.

The Canada Co-operative Association Act which was passed fairly recently contained some provisions that are not included in The Co-operative Associations Act of Saskatchewan. These are more or less of a procedural nature and some changes to The Co-operatives Association Act have to be processed to arrive at some conformity with the Federal Co-operative Associations Act. The deviation is found in Section 55 subsection (2) which

Provides that an Association may publish notices of meetings in a local newspaper rather than mailing a notice card to each member. The present provisions of Section 55, subsection (2) are such that an Association could do this if it had a supplemental by-law to provide for calling meetings by newspaper notice. The amendment to the Act gives the Association this authority without having to pass a by-law.

New Section 55 (3) provides that special business or special resolutions that will be presented at a meeting will have to be included in the newspaper notice of the meeting.

An amendment to Section 70 will make it possible for the Directors to examine regularly the credit transaction of the Association for cause to have them examined on the Board's behalf. The implication here is that the Association accountant prepared an aged list of accounts receivable which is available to management and the Board. The Directors should not have to duplicate this activity. However, if the Association were to live within the law of Section 70, subsection (2), the Directors are obligated to examine the receivables. The amendment relieves the Association from having to live in sin so to speak.

Other amendments spell out more precisely the use of reserves and realignment of the wording including the retention of records which at the present is not specific, the amendment is specific which is as it should be.

There is some renumbering of some of the sections which is necessary as you will eventually note on page 13 for purposes of maintaining a sequence. This is desirable and we feel necessary.

Mr. Speaker, there is not a great deal of department from the old Act, however, there are some sections which are very important to the co-operatives, to the members and with that I respectfully move second reading of this Bill.

Some Hon. Members: — Hear, hear!

Mr. G. F. Loken (Rosetown): — Mr. Speaker, the Bill before us is one which I think Members on this side of the House will have no difficulty supporting. Many of the measures contained in the Bill are only of a housekeeping nature, while others tend to assist in the growth and organization of co-operative institutions in the province.

I believe that the case for co-operatives, particularly in rural Saskatchewan is a strong one and I for one certainly support it. However, in supporting this Bill I would like to caution the Government about the direction in which it seems to be moving.

One is the needless growth of bureaucracy within the Department of Co-operation and Co-operative Development. Last year, the Premier announced that there would be a full time Minister of Co-operatives. He also announced that there would be an increase in the number of people on staff within the Department and an increase in expenditures. The Budget provides for some of these increases and I think it is fair to say that we can expect more in the coming years.

The Government's role in co-operative development should be primarily that of assisting independent co-operative movements. This should be done mainly through Legislation which guarantees co-operatives a special place in the Saskatchewan economy and recognize their contributions. However, I am beginning to fear that the Government opposite plans to do more than this. I think that they are beginning to control co-operatives in Saskatchewan and this is not a good thing. One of the most positive aspects of co-operative movements is their independence and their community involvement and support. As the Government moves in, their independence and community orientation will be diminished and be replaced by faceless, centralized bureaucracies which this Government is so fond of.

Co-operatives like most other enterprises, would prefer to function with as little Government interference and involvement as possible. We all recognize the necessity for the Government to safeguard the existence of these co-operatives and secondly to safeguard the interests of those who invest in them. But I should like to caution this new Minister that this does not give him the licence to interfere in the affairs of these organizations, nor to tell them what is best for them.

Mr. Speaker, I will support the Bill and I hope the Government will take seriously what I have said.

Some Hon. Members: — Hear, hear!

Mr. Cody: — Well, Mr. Speaker, I appreciate that the Member for Rosetown has indicated that the Opposition will support this Bill. I certainly don't feel that all the amendments are ones of housekeeping nature, however, that is their prerogative to judge as they see fit. I do want to comment on one or two items which he mentioned.

Firstly the area which has been talked about considerably in the House and out of the House and that is with regard to the appointment of a Minister for the Department of Co-operation with no other areas attached. We, on this side of the House . . .

Mr. Speaker: — I must advise the Member, he cannot raise new material, he must only answer statements raised in the debate. You cannot raise any new material, just answer the questions raised.

Mr. Cody: — Mr. Speaker, on a Point of Order, I am just answering the allegations which the Member for Rosetown made which was that they couldn't see why a separate Minister should have been appointed.

Mr. Speaker: — It could be better debated in the Estimates rather than on the Bill.

Mr. Cody: — I have no right to rebut? Well, Mr. Speaker, I certainly will abide by your ruling, however, I think it is only natural that I would want to rebut in this debate some of the items which the Member raised, one of them being that the Co-operative Department being a small department does not deserve this kind of recognition, with a Minister and also that

the budget which we have is too high. I think that those allegations should be cleared off.

Mr. Speaker: — I would have to answer that if you are answering statements made you have a right to answer but you can't bring in any new material.

Mr. Cody: — Thank you, Mr. Speaker, I'll abide by that, I won't bring any new material in at this time and I do hope that they do raise the question again during the Estimates. I just want to say as I did before that I think we on this side of the House, Mr. Speaker, realize and recognize the tremendous amount of interest that there is in co-operatives today, and the tremendous amount of contribution that co-operatives have made to this province. And as a result we saw fit to have a Minister look after the Department of Co-operation.

Some Hon. Members: — Hear, hear!

Mr. Cody: — Mr. Speaker, we are not like the people on the opposite side of the House who believe that unless you have a large purse full of money to distribute that that's the only time you need a Minister. We recognize that there is in the Department of Co-operation a staff that is necessary to administer the kinds of things that we do in this organization. We recognize that there are 301,000 members in the co-operative movement and we are a party which believes in people, not money, and that is exactly why we have a Minister in charge.

Some Hon. Members: — Hear, hear!

Mr. Cody: — With regard to the interference I can assure the Member that we shall not be interfering with any co-operative associations as such, but we shall be, as a department, out helping them from time to time which is something that we didn't see in the seven years while they were sitting on this side of the House.

Mr. Speaker, there is little question in my mind that the philosophy of this side of the House is considerably different than the philosophy on that side of the House.

With these few words, if they have any questions in Estimates, I will be only too pleased to hear them.

Motion agreed to and Bill read a second time.

WELCOME TO STUDENTS

Mr. Speaker: — Before I leave the Chair I ask the indulgence of the Members to recognize a group in the Speaker's Gallery of High School students from Spalding, which is in the corner of my constituency. I don't have the names of the teachers to introduce them to you, but I am sure that the Members wish them welcome to this Chamber. They have seen the House in session and now they will see it go into Committee of the Whole.

Hon. Members: — Hear, hear!

Hon. E. L. Tchorzewski (Humboldt): — Before you leave the Chair Mr. Speaker, I should like to join you in welcoming these students. I spoke to the two teachers at noon hour and we had a very brief lunch together because they had to rush off to another engagement on their tour of Regina. I should like to join with you, Mr. Speaker, in welcoming the High School students from Spalding. The two teachers are Mr. Peter MacDonald and the Principal, Mr. Palmer Ruten.

Hon. Members: — Hear, hear!

The Assembly adjourned at 9:30 o'clock p.m.