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## DEBATES and PROCEEDINGS

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### **Bill No. 148 – *The Vital Statistics Amendment Act, 2014***

**Mr. Forbes:** Thank you very much, Mr. Speaker. It's a pleasure to rise tonight to enter into this debate on Bill No. 148, *An Act to amend The Vital Statistics Act, 2009*.

And this is a very significant piece of legislation. It's one that, you know, has really . . . It's interesting when you become a politician, some things you don't think an awful lot of before, but all of a sudden they become very, very important. And this is one: vital statistics. It becomes obvious when you use the word vital. These are our vital numbers and how do we keep track of our people in our province, our country.

And it's one that, on a personal note, as a new grandfather of two grandchildren, clearly birth certificates and births are very, very important. And we've been talking a lot about this in our family, having one child born in Quebec under the civil code and one born in Ontario under laws very similar to Saskatchewan, but not quite. And I'll talk more about that later on, because we have our own unique anomalies here in Saskatchewan.

But I understand the intent of this bill is to modernize and to recognize the unique challenges we have in Saskatchewan. And that's fair enough; that's always a good reason for amending our legislation. But there are other challenges we have that I think *The Vital Statistics Amendment Act* neglects and could address. And at some point we're going to have to have the discussion about these issues, and I will get to that in a moment. But I do want to say that it is an interesting issue that I think, well I know we all have experienced because we all have birth certificates. And this is something that we experience, whether it's how we name our children . . .

And I can tell you, Mr. Speaker, and I think I've told this story in this House before, our oldest daughter who is now 34 years old, born in 1980, was named after my Uncle Cameron. In 1980 it was not common to name a female with a male name. For some reason, this upset a bureaucrat in the Department of Health, and refused to acknowledge that she could possibly be female. We had the birth certificate, the registration, rejected

two or three times, and finally the bureaucrat said, you must have that child examined by a doctor to prove that she is in fact female. What female would have a name Cameron? So we did actually go, I think she was three or four years old. This debate was going on many years because they could not accept the fact that a child had a male name.

And I think of today, where we see the whole wide range of names of children, the whole wide range of names. And nobody would think to question a parent about, well that's a boy's name; you must use that for a boy. Or that's a girl's name and that's only for girls. That is just so inappropriate now, but back in 1980, it was this bureaucrat . . . And I don't know who it was, but clearly, in the Health department, felt they had the power to say that name — now I can't use my name because we're in the House — is inappropriate and you must do something about it.

So that was our experience. That was our first experience with vital statistics. Interestingly now, what's happening with my daughter, the same daughter who caused that kerfuffle in 1980, here we are, fast-forward to 2014. She wants to name her daughter Felix Rose Martin, which is not my last name but my wife's last name, but not my daughter's last name. So in Quebec, you have to establish that . . . The child's name can only be the name of the mother or father, and that's it. Or if there's a hyphenated name it can be one of the hyphenated names. Now interestingly all our children are named Martin-Forbes so she's trying to make a case.

And we have just recently found out from Saskatchewan that it's inconclusive to what my daughter's last name really is, because is it Martin-Forbes or is it Forbes? They won't say. And so that does actually leave my daughter an opening to say, well her last name is Martin-Forbes, which is fine with me because our other two children have the same scenario. But this goes to show and illustrate how important it is to have clarity on the legislation and on the regulations and what this could possibly mean.

Now I have to tell you, as a grandfather, Mr. Speaker, I am a little concerned because, as you know, around the world children go missing all the time. And one of the quick ways of finding out who the child is, if you have a last name that makes sense with the two adults who are travelling with that child, that clears up a lot of confusion if everybody has at least one of the last names. When you have three last names, you're creating a bit of a problem. But this is the world we live in, and these are the challenges we have. And so we try to simplify things.

But my point is that we need clarity and we need to be able to make things work. But we need to have rules that work and work quickly. And so if this is one of the things that this bill does talk about, using electronic signatures and documents and transactions, so things can move a lot quicker so there can be that clarity. So it's very, very important that we can make sure that these important events are tracked properly — birth certificates and that type of thing. And so we have a lot of interest in this.

And so, Mr. Speaker, what I want to say though, and I'm just going to take a minute to review the minister's comments here.

So when he talks about *The Vital Statistics Amendment Act*, he talks about modernizing the vital statistics but maintain the original principles of the original legislation.

Now it's interesting, Mr. Speaker, I've had the library take a look at some of the original documents going back to 1909 about our legislation and what that means because there's a couple of points that I want to make about the changes that are coming up in human rights. And we need to have a conversation about those kind of challenges. And he talks about recognizing today's world as different from 2009 when the first statistics Act was first introduced.

Now it's interesting, the world has changed and there will be challenges, and I will talk a little about that in a while here. And he talks about making it easier for people to receive timely access to vital event documents. And he's talking about a few that they have and these came through with the consultations with the College of Physicians and Surgeons, nurse practitioners, and the SRNA [Saskatchewan Registered Nurses' Association].

Now interestingly, if it was limited to that, there's a few groups out there that have things to say about vital statistics. And that's really, really important that we allow the public to have some input into these bills because, you know, it is the public, as I was talking about my own daughter. We all have experience with vital statistics, and we need to be able to have input into what needs to be part of those vital statistics.

Now he talks about using . . . a physician can only sign a medical certificate for death. But now because it poses a challenge for rural and northern communities where there may not be a local physician, that in fact they may want to use a nurse or a nurse practitioner that may in fact speed things up, and this is very, very important how they can work with that. So talking about unique circumstances.

He talked about for example, the missing children's project and the Truth and Reconciliation Commission of Canada requested the death information of Aboriginal children who attended residential schools, but we couldn't provide that information after the year of 1945 which is really, really unfortunate.

Mr. Speaker, I want to talk about two particular circumstances where I think that we will have questions and what can we do to make things better in terms of vital statistics and using this legislation as a vehicle to help out people who need better access to services in Saskatchewan.

And the first is around just proper ID [identification]. And we know that we see challenges and that can be a whole range of services, whether that's banking or whether that's voting. And we know that continues to become an issue that we need to have appropriate mechanisms to make sure that there's no voter fraud, but at the same time that it's not a limitation because there's not ID available. So here when we talk about the costs of birth certificates and the implication that has for people to access ID, that it may in fact be a limitation.

And I know that that's a limitation for many folks in my riding that in fact they've raised

this concern, both federally and provincially, because of the rise of the issue around voter ID.

And this is something that's come, and we know for example the American Legislative Exchange Council, and this is often known as ALEC, talked about things that can help conservative legislatures impose model legislation.

One of the things that they did do is they talked about how can we have harsher voter ID laws and related voter suppression initiatives, and in fact we could see that happening in America. And I hope in many ways — and we have and we've passed legislation — but we hope that the interpretive of that legislation will go a long way to in fact reverse that so we have voter engagement and not voter suppression. And vital statistics can help out with that by making ID more accessible to people who have traditionally not had ID or if they don't have ID or if it's that cost is a barrier, that we can work with that to make sure people can have or can receive their ID.

So it all starts with vital statistics and making sure that it's appropriate and easily accessible. And if we're talking about electronic documents, then how can we make sure that happens in terms of allowing people to vote.

The other issue that I want to talk about — and this is the reason that I did start this research, and I started it back last March — was around the whole issue of gender markers. And actually it's interesting because quite often on your birth certificate it will say what sex you have, and probably the more appropriate term would be what gender you identify with. And I know that, and as recently as yesterday I raised this in a member's statement around transgender rights, both in terms of identity and expression. And we're seeing a move across Canada where both in Ontario, BC [British Columbia], and Alberta, and interestingly as conservative as Alberta is, that they've modified their approach to vital statistics and the idea of gender markers. And how do we approach that when we are thinking of human rights?

But I just thought this might be interesting for the folks here or maybe at home, about when I asked the folks in our library . . . And I just want to give a hats off and a very deep thank you to the folks in the reference unit at the Legislative Library because I asked them about, how have birth certificates evolved over the last 100 years in Canada? Because we often think that they're all the same now as they were 100 years ago, and that's not the case at all. Not the case at all.

And in fact I wanted to know because somebody said to me, well you know in some provinces in Canada, you still have to identify what race. They ask what race you are or you belong to. And if anybody's interested in that, I will get to that. But the folks were very good at going through all 13 provinces and territories, finding out what are the requirements on the birth certificate and when was race removed from the birth certificate.

So Alberta did ask for race, but it was removed after 1942. British Columbia had asked for it, but it was removed in the 1950s. Manitoba was 1968 that it was removed.

Newfoundland we had not heard back from, and of course it became part of Canada in 1949, I believe it was.

Nova Scotia, this is the one that's interesting. The current regulation, 1973, still lists race for the registration form. So whether they use it or not, I'm not sure, but it's in the regulations that they do. Nunavut, race was never included. Prince Edward Island, never included. Ontario was 1960.

Quebec, race was never included. But the interesting thing with Quebec, because the church was so involved . . . In fact actually they, for many years up to just recent times, had looked after, the church had looked after, the Catholic church looked after the vital statistics. In Saskatchewan race was removed from birth certificates in 1974.

So very interesting in terms of when race was actually removed. And so I want to thank the folks in the research area for their very good work on that because we wanted to know when things were removed from the birth certificate.

And you can find that it's actually surprising that in Saskatchewan, when I was born, we were still identifying what race. In fact many of the people here, when they were born, one of the questions on your birth certificate would have been, what race do you identify with or do your parents identify with?

Now interestingly — and I do have a copy of the 1909 birth certificate with me, Mr. Speaker — some of the questions that they asked are very interesting. And of course they do the nearest thing. They do the obvious questions: place of birth; nearest post office; Christian name, if any, and surname; native country of father; native country of mother. They don't ask for nationality at that point, so just a very simple, straightforward birth certificate at the time.

Of course and I can remember, many of the seniors when I was growing up in Mortlach, actually they were very proud of their birth certificate because for them, they were born in the North-West Territories. And so anybody who is over 65 back in the '60s could have said that they were born in the territories, and they were very proud of that.

So in 1954 we changed our birth certificates and, interestingly, here are the questions. For the father: the name, the residence, citizenship — but that was all about whether you were a Canadian or not — but racial origin. And the notes that went with it say, racial origin is defined in terms of the people or race to which the person traced through the father belongs, whether English, Irish, Scottish, French, German, Russian, Ukrainian, etc. The terms Canadian or American should not be used as a race origin as they express citizenship. And they go through the same thing with mother and talking about the citizenship, racial origin, and then talking about occupation and that type of thing. And so it was very interesting to see what were the questions that people were looking for.

And then here, and I apologize if I offend anyone here, but this is the questions in 1954 when the registration for an Aboriginal person was registration of a live birth of an Indian. And this is the whole question for that, and of course band or tribe to which the mother belongs, and that was in 1954. So we've come a long way from that time. And

that lasted until 1966 where the changes came into play, but still they had racial origin. But from what I could tell, they had done away with the registration for an Aboriginal person. That was not separate as it was in the '50s. And so it's very interesting when you take a look at what people felt was important information.

And then again in 1974, this is where we get into . . . We don't have race anymore on the birth certificate. But there were other interesting questions about in terms of, you know, for some reason in 1974 they were very curious about the medical history of the mom and the duration of pregnancy, which had not been asked earlier, the number of children ever born to this mother, number of live born and number of stillborn. Are the parents married to each other? Yes or no? Are the parents not married to each other? State whether the mother is married, widowed, or divorced, but doesn't reference the father as any kind of responsibility for that. And so that's interesting of what our world was thinking about in the 1970s and that wasn't the issues prior to that.

So this is interesting in terms of how we evolve, but the reason I bring this up, Mr. Speaker, is to make the case, as the minister made, that things change. He was reflecting back to only 2009. I went back a little further than that. But I think that as we know and we've raised this issue, and it's one that has been raised on the legislative steps . . . It's been one. And I know the minister has been written to and we heard questions about this in the media last spring. When we talk about transgender folks and gender variant children, how do we deal with that in terms of vital statistics?

Because there's two issues that we're really dealing with when we come to trans issues. We're talking about human rights and the right for gender identity and gender expression and how important that is, but that's a human rights . . . That's within the domain of the Human Rights Commission, and we are hopeful that this government will make the necessary changes in due course. We hope that's sooner than later. But we know that the point has been made very clear that there's not clarity in the Act. There's not clarity in the Act about that.

But the other one that's really started to emerge last spring was the whole issue about transgender people and their ability to change birth certificates and because, when they went through surgery, going from male to female or female to male, the necessary proof was for a doctor to say that in fact the surgery had occurred, that in fact the person who wanted to change the birth certificate was in fact biologically now the gender they identify with.

But there were issues that came up, both in terms of whether a person could go through the surgery, whether they were healthy enough to undergo the necessary surgery, or whether they could afford the surgery because of their own personal means. In fact we see Ontario now has changed the requirements where, if they have the support of a psychologist and support of the necessary medical people to say that in fact this person identifies as one gender that biologically they are not, that in fact they will do the necessary change on the birth certificate.

And this is a big discussion that I think we need to have here in Saskatchewan. We see

them having that in Ontario, changing it. We see they're having that discussion in BC. We see in Alberta. Actually we've seen several occasions where this has happened. And on one hand it may seem to be one that is not straightforward. We understand that. We get that. That's why we need to have that conversation and one that asks us to really be thinking forward and be acknowledging that people do have rights and that people have unique circumstances, but one that I think that we need to have that conversation. And we need to acknowledge the folks who identify as trans and have these kind of challenges.

And so I raise this tonight just because when we talk about vital statistics and we see the evolution from 1909 to 2014, the world has changed and the world is changing, and I think changing in many ways for better. And as we see that in terms of our own birth certificates where there's been changes, where we see it's no longer appropriate to ask about race of parents or the race of the child — that was an out-of-date, antiquated idea — so we need to have this conversation. And I hope we can have this conversation in the legislature.

And so, Mr. Speaker, I know that others will want to be able to speak to different topics tonight, but I did want to raise this. And I think that it's an important, important issue that we have before us, that folks will want to participate. It's one that challenges us. I know that. I recognize that. But that's our job, is to look at society and say, how can we make this a healthier place for all? And *The Vital Statistics Act* enables us to do that.

We know that this is not a simple thing. We can think of vital statistics in the plural when we think of one million-plus people in this province and they're dealing with all that data. But when you think of people from the other end of the line where they're looking at their own birth certificate, their own, and what that means to them and how that helps them live a full and productive life, whether they can get the vital statistics, whether they can get a birth certificate, they can afford to get it paid and whether you get the ID to vote and participate in society or whether they get an ID that reflects who they really are. That's an important issue too.

So, Mr. Speaker, with that, we know we will have a lot of questions in the committee, and I look forward to a full and frank and rigorous discussion with the minister about this. And I want to put some of those comments on record because I know people have come to this House raising those questions, and they have raised them with the Minister of Justice, and it's an important discussion to have.

So with that, Mr. Speaker, I would like to move adjournment of Bill No. 148, *An Act to amend The Vital Statistics Act, 2009*. Thank you very much.

