

Bill No. 68 of 1946.

A BILL RESPECTING CO-OPERATIVE
ASSOCIATIONS

NOTE.

This Bill is intended to replace the following Acts :

The Co-operative Associations Act, chapter 250, R.S.A.,
1942,

The Co-operative Marketing Associations Act, chapter
251, R.S.A., 1942,

The Co-operative Activities Supervision Act, chapter
249, R.S.A., 1942,

which are repealed by this Bill.

Part I of the Bill contains general provisions applying to all co-operative associations including marketing associations.

Part II contains provisions applying only to marketing associations.

Part III sets out the duties and powers of the Supervisor.

Part IV provides for the repeal of the other Acts.

The Bill makes a considerable number of changes in and additions to the provisions of the other Acts and only the more important of these are referred to in this note :

Section 7 provides that an association may not commence to carry on business until the Supervisor is satisfied that it has sufficient capital to do so, and gives permission in writing.

In Section 11 the number of objects specifically referred to is larger than in former Acts.

Section 12 sets out the ancillary powers of an association and it might be noted that they specifically include the power to do business with Credit Unions.

Section 14 provides that an association may not make loans to members or directors unless specifically empowered to do so by extraordinary resolution.

Section 17 (2) provides conditions affecting preferred shares including the right of the association to redeem the same.

Section 17 (7) provides that no member may hold, directly or indirectly, more than ten per cent of the total outstanding shares.

Section 22 includes some new provisions regarding directors, one of which is that the by-laws may require that to be eligible for election as a director a member must have done business with the association in such amount as may be specified by the by-laws.

Section 24 (2) provides that a Judge of the Supreme Court may prescribe the manner of calling a meeting where it is impracticable to call it in accordance with the by-laws.

Section 26 (2) provides that an association may purchase goods on credit or pledge its credit in any other transaction within its corporate powers.

Sections 27, 28 and 29 deal with the sale of goods on credit by the association.

Section 31 provides for the disposition of surpluses in accordance with the by-laws.

Section 32 deals with the withdrawal of a member's equity and the conditions governing the same.

Section 33 to 40 provide provisions for the winding-up of associations.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 68 of 1946.

An Act respecting Co-operative Associations.

(Assented to _____, 1946.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Co-operative Associations Act, 1946.*"

INTERPRETATION.

- 2.** In this Act unless the context otherwise requires,—
- (a) "Association" means any association incorporated under this Act or heretofore incorporated under any of the following Acts:
 - The Co-operative Associations Act*, chapter 12, Statutes of Alberta, 1913;
 - The Co-operative Associations Act*, chapter 160, Revised Statutes of Alberta, 1922;
 - The Co-operative Associations Act*, chapter 66, Statutes of Alberta, 1937;
 - The Co-operative Associations Act*, chapter 250, Revised Statutes of Alberta, 1942;
 - The Co-operative Marketing Associations Act*, chapter 5, Statutes of Alberta, 1924;
 - The Co-operative Marketing Associations Act*, chapter 251, Revised Statutes of Alberta, 1942;and the Viking Co-operative Creamery Association;
 - (b) "By-laws" means the standard by-laws as amended from time to time and the supplemental by-laws of the association;
 - (c) "Extraordinary resolution" means a resolution which has been passed by a majority of not less than three-fourths of such members or delegates (where delegate voting is allowed), entitled to vote as are present in person at a general meeting of which not less than ten days notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given;
 - (d) "Member" means a person who is a member pursuant to the provisions of the by-laws of the association governing membership and also in the case

of an association having share capital, includes a shareholder of the association, and in any case includes a person who has subscribed to the Memorandum of Association;

- (e) "Minister" means the Minister of Trade and Industry;
- (f) "Registrar" means the Registrar of Joint Stock Companies for the Province;
- (g) "Standard by-laws" means the standard by-laws prescribed by the Supervisor pursuant to this Act;
- (h) "Supervisor" means the Supervisor of Co-operative Activities appointed pursuant to Part III;
- (i) "Agricultural products" includes horticultural, forestry, dairy, live stock, poultry, bee, farm and ranch products.

APPLICATION.

3. The provisions of this Act except Part II which applies only to associations as therein defined shall apply to all associations as defined in paragraph (a) of section 2.

PART I.

INCORPORATION.

4.—(1) Any ten or more persons who desire to associate themselves together as a co-operative association for any object or purpose permitted by this Act, whether with or without share capital, shall in the presence of a witness sign in duplicate a Memorandum of Association in the form of Schedule "A" to this Act, to which an affidavit verifying the signatures shall be attached.

(2) The Memorandum of Association shall state,—

- (a) the name of the association, its object and the place in Alberta at which the registered office of the association is to be situated;
- (b) if there is share capital, the amount of each share and whether the shares are unlimited in number, or of a fixed number;
- (c) if there is no share capital the terms of membership and the basis on which the interest of each member of the association shall be determined.

(3) The Memorandum of Association shall be accompanied by a copy of the supplemental by-laws under which, together with the standard by-laws, the affairs of the association are to be regulated, governed and managed. The supplemental by-laws shall be signed by the same persons who signed the Memorandum of Association and an affidavit verifying all signatures shall be attached thereto. The supplemental by-laws may, subject to the approval of the Supervisor, provide for modification or change of the standard by-laws with respect to the association.

(4) The Memorandum of Association and by-laws shall be filed in the first instance with the Supervisor and shall be accompanied by a deposit of the fees payable to the Registrar set out in Schedule "B" to this Act.

(5) The Supervisor may in his discretion approve, amend or reject the Memorandum of Association and by-laws or any part of the same and if the Supervisor in the exercise of the duties imposed upon him by section 50 of this Act approves the memorandum and by-laws, he shall transmit the same and the deposit for fees to the Registrar who shall proceed to register the same and issue a certificate of incorporation of the association in such form as the registrar may determine; if the Supervisor does not approve the memorandum and by-laws he shall return the same, together with the deposit to the person from whom he received them.

(6) Upon the issuance of a certificate of incorporation the subscribers to the Memorandum of Association and all such persons as may thereafter become members of the association, shall become a body corporate and politic under the registered name of the association, and have perpetual succession and a common seal.

(7) The certificate of the Registrar shall be conclusive evidence that all the requirements of the Act in respect of incorporation and registration and of matters precedent and incidental thereto have been complied with and that the association is an association authorized to be registered and duly registered under this Act.

5. The Memorandum of Association and by-laws shall when registered bind the association and the members thereof to the same extent as if they respectively had been signed and sealed by each member and contained covenants on the part of each member, his heirs, executors and administrators, to observe all the provisions of the memorandum and of the by-laws subject to the provisions of this Act.

6. The Memorandum of Association may be altered or amended by extraordinary resolution at any general meeting of the association, provided, however, that no amendment shall have any force or effect until a copy thereof proved by the affidavit of the chairman, or secretary of the association to be a true copy of the amendment, has been approved by the Supervisor and filed with the Registrar.

7. No association formed under this Act shall commence to carry on business until the Supervisor is satisfied that the association has sufficient capital to carry on the proposed business or undertaking and gives to the association permission in writing to commence carrying on business.

8. No association shall be registered under a name identical with that by which any other existing association has been registered, or so nearly resembling it as to be likely to deceive the members or the public, and the word "Lim-

ited" shall be the last word in the name of any association registered under this Act.

9.—(1) No person doing business in the Province shall use the word "co-operative" or any abbreviation or derivative thereof, as part of its corporate or business name unless incorporated by or under the authority of an Act of the Parliament of Canada or this Act or an Act of the Province which expressly authorizes the use thereof.

(2) Any person contravening the provisions of this section shall be guilty of an offence against this Act.

CHANGE OF NAME.

10. An association may, by extraordinary resolution change its name, but no such change shall affect any right or obligation of the association or of any member thereof, and any pending legal proceedings may be continued by or against the association, notwithstanding its new name.

OBJECTS OF ASSOCIATION.

11. An association may be incorporated for the purpose of conducting and carrying on any co-operative undertaking, business or industry and without limiting the generality of the foregoing for the purpose of,—

- (a) purchasing, procuring, selling, exchanging, hiring and dealing in goods, wares and merchandise by wholesale or retail, and preparing, producing, processing and manufacturing the same;
- (b) collecting, receiving, marketing and processing live stock, farm products or fish delivered to it by its members or patrons and handling, finishing, packing, canning, grading and storing the same, and manufacturing the same into other commodities;
- (c) establishing, maintaining and operating libraries, rest rooms, club rooms, public halls or community centres;
- (d) providing electric power;
- (e) providing air transportation, radio service, truck and bus and other modes of transportation;
- (f) the exploration, development and marketing of every product of mine, quarry, oil well or gas well and every product of the forest, lakes or rivers and any article wholly or partially manufactured from any such product.

12. An Association shall have as ancillary and incidental to the object or objects set forth in the Memorandum of Association the following powers unless such powers or any of them are expressly excluded by the Memorandum, namely,—

- (a) to purchase, take on lease or in exchange, hire or otherwise acquire and hold any real or personal

property which the association may deem necessary or convenient for the purpose of its business and to sell, mortgage, lease or otherwise dispose of such property;

- (b) to construct, improve, maintain, develop, work, manage, carry out or control any roads, ways, sidings, factories, warehouses, tanks, shops, stores and other works and conveniences which may seem calculated, directly or indirectly, to advance the interests of the association, and to contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
- (c) to acquire or undertake the whole or any part of the business, property and liabilities of any person, company, association or society, wheresoever incorporated, carrying on any business which the association is authorized to carry on, or possessed of property suitable for the purpose of the association;
- (d) to take or otherwise acquire and hold shares, stock, debentures or other securities of any company, association or society incorporated by or under the provisions of any Act of Alberta, having objects wholly or in part similar to those of the association and to sell or otherwise deal with the same;
- (e) subject to the written approval of the Supervisor, the association may take or otherwise acquire and hold shares, stock, debentures or other securities of or membership in any other co-operative association wheresoever incorporated or of any company, association, or society incorporated under any special Act of the Legislature of Alberta, or pursuant to the provisions of The Companies Act of the Province or of the Dominion of Canada, having objects wholly or in part similar to those of the co-operative association, and to sell or otherwise deal with the same.
- (f) to enter into any agreement for co-operation, joint adventure, reciprocal concession or otherwise with any other association, or with any person, company or co-operative marketing association having objects wholly or in part similar to the objects of the association or engaged in any business or enterprise capable of being conducted so as directly or indirectly to benefit the association;
- (g) to unite with any person, company, association or co-operative marketing association in employing and using the same personnel, methods, means or agencies for carrying on and conducting their respective businesses, or to use the personnel, means and agencies of any person, company, association or co-operative marketing association by separate employment;

- (h) to enter into any arrangements with any government or any authority, municipal, local or other, which may seem beneficial to the association and to obtain from such government or authority any rights, privileges and concessions which the association may think it desirable to obtain, and to carry out, exercise and comply with such arrangements, rights, privileges and concessions;
- (i) to draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;
- (j) to borrow and secure the payment of money on such terms and conditions as the directors may by resolution from time to time determine;
- (k) to invest and deal with the moneys of the association not immediately required, in such manner as may from time to time be determined by the directors;
- (l) to take or hold mortgages, hypothecs, liens and charges to secure payment of the price of any part of the property of the association of whatsoever kind sold by the association or any money due to the association from purchasers and others and to assign or otherwise dispose of the said mortgages, hypothecs, liens and charges;
- (m) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the association or its predecessors in business, or the dependants or connections of such persons, to grant pensions and allowances and to make payments towards insurance;
- (n) to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object;
- (o) to carry on, encourage and assist educational and advisory work relating to co-operative activities;
- (p) to enlarge the area of its operations by establishment of branches or other means;
- (q) to sell or dispose of the undertaking of the association or any part thereof for such consideration as the association thinks fit;
- (r) generally to carry on and undertake any business which may seem capable of being conveniently carried on in connection with the business of the association, or calculated, directly or indirectly, to enhance the value of or render profitable any property or rights of the association;
- (s) to do all or any of the above things as principal, agent, contractor, or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others;

- (t) to do all other things which are incidental or conducive to the attainment of the objects and the exercise of the powers of the association;
- (u) to accept money on deposit from its members for future purchase of goods or services by the members. Provided that an association accepting deposit money from its members shall keep such money in a trust account available to the member or his or her demand;
- (v) to become a member of any credit union registered under *The Credit Union Act of Alberta*;
- (w) to deposit money with (on deposit or share account), loan money to, or borrow from any Credit Union of which the association is a member, or any federation of Credit Unions registered under *The Credit Union Act of Alberta*.

PROHIBITIONS.

13. No association may make any contribution either in money or in kind, either directly or indirectly to any association or organization of any description which has for its object or for one of its objects the furtherance of the interests of any political party.

14. No loan shall be made by an association to any member or director unless the association is specifically empowered by extraordinary resolution to make such loans.

AMALGAMATION.

15.—(1) Any two or more associations under this Act may, by extraordinary resolution of both or all such association, become amalgamated as one association, with or without any dissolution or division of the funds of the association, or any of them; and any association may, by extraordinary resolution, transfer its obligations to any other registered association, which may undertake to fulfill the obligations of such association;

(2) No amalgamation or transfer of obligations shall prejudice any right of a creditor of any association which is a party thereto;

(3) A copy of every extraordinary resolution for any of the purposes mentioned in this section, signed by the chairman of the meeting and countersigned by the secretary, shall be sent to the Supervisor and the Registrar and registered, and until the copy is registered, the extraordinary resolution shall not have any force or effect.

BY-LAWS.

16.—(1) With the approval of the Lieutenant Governor in Council the Supervisor may from time to time prescribe standard by-laws not inconsistent with this Act and any standard by-laws so prescribed shall be the by-laws of every association to which this Act applies, subject, however, to

such modifications or changes with respect to any association as may be made from time to time by supplemental by-laws of the association.

(2) The association shall have such supplemental by-laws as are approved by the Supervisor at the time of the incorporation of the association and as are subsequently passed in the manner hereinafter provided.

(3) The association may at any annual meeting or general meeting called for the purpose pass such supplemental by-laws as may be deemed advisable by the association.

(4) The association may by supplemental by-law modify or change any of the standard by-laws or rescind or amend any existing supplemental by-law of the association including any supplemental by-law approved at the time of incorporation.

(5) Without restricting in any way the generality of the foregoing it is hereby declared that an association may pass supplemental by-laws providing as follows:

- (a) that the territory in which the association does business shall be divided into districts and that directors shall be elected from such districts, either directly, or by district delegates, and designating the number of directors to be elected from each district and the method of forming new districts, either as additions to or substitutes for the old districts;
 - (b) prescribing the manner and method of electing district delegates and providing for such election by post card ballot;
 - (c) in the event of the establishment by the association of one or more branch stores, warehouses or other establishments, for the government and control of the association by delegates or partly by delegates and partly by members, and that such delegates may exercise all or any of the powers of the members whom they represent to such extent and in such manner as may be stated in the by-laws, provided that the number of votes which delegates may cast at meetings of the association shall not exceed the number of members entitled to be and actually present at the meeting at which the delegates were appointed or elected;
 - (d) that a member shall not be entitled to vote at meetings of an association, or act as a delegate thereat unless he has during the preceding financial year purchased goods or obtained services or marketed products from or through the association of such value as shall be stated in the by-laws;
- (6) No supplemental by-law shall become operative unless and until it has been approved by the Supervisor and filed with the Registrar.

(7) In case there is any conflict between the provisions of any by-law of any association passed prior to the coming into force of this Act, and any provision of the standard

by-laws, the provisions of the standard by-laws shall prevail unless and until the Supervisor has approved in writing the by-law of the association which so conflicts and upon the approval being given the last mentioned by-law shall prevail.

SHARES IN ASSOCIATIONS HAVING SHARE CAPITAL.

17.—(1) The capital of an association having share capital shall be divided into shares of such denomination as set out in the memorandum and may be changed from time to time by amendment to the memorandum.

(2) In addition to ordinary shares, shares in the association may be issued with such preferred, deferred or other special rights, or with such restrictions as the association may from time to time, by extraordinary resolution, determine provided,—

- (a) that no preference share issued shall carry with it any voting rights;
- (b) that no preference share shall carry with it any interest in the assets of the association over and above the par value or a premium above par value to be specified when the shares are issued;
- (c) that the association shall have the right to redeem any such preferred shares upon such notice as may be provided in the extraordinary resolution, or if no provision for notice is given, then upon three months' notice given to the holder of the share at the address set out in the register of the association; if no such address is given a Judge of the Supreme Court of the Province may by order fix the manner in which the notice shall be addressed.

(3) Any share may be paid for by instalments at such times and in such manner as may be provided by the by-laws; but no member shall be entitled to draw more than his proportion of interest on the paid-up portion of his shares, and shares shall not be transferable unless the by-laws provide for their transfer.

(4) Every association shall have a lien on the shares of any member for any debt due to it by him, and may set off any sum credited to that member in or towards payment of the debt.

(5) No application for a share shall be accepted and no allotment of a share shall be valid unless approved or authorized by the directors.

(6) No assignment or transfer of a share shall be valid unless approved by the directors.

(7) No member of an association having share capital shall be entitled to hold, directly or indirectly, more than ten per cent of the total shares outstanding.

18.—(1) Any member of an association not being under the age of sixteen years, may, by writing under his hand, delivered at or sent to the head office of the association,

nominate any person not being an officer or servant of the association (unless the officer or servant is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator) to whom his shares in the association shall be transferred at his decease, and may from time to time revoke or vary the nomination by writing under his hand similarly delivered or sent, but not otherwise; and every association shall keep a book wherein the names of all persons so nominated shall be regularly entered, and the shares affected by the entry shall be transferable to the nominee, although the by-laws of the association declare its shares to be generally not transferable; and on receiving satisfactory proof of the death of a nominator the directors shall either transfer the shares in the manner directed by the nomination, or at their option pay to any person entitled thereunder the full value of his interest.

(2) If any member of an association entitled at his death to an interest in the association dies intestate, and without having made any nomination under this Act which remains unrevoked at his death, the interest shall be transferred or paid without letters of administration to or among the persons who appear to a majority of the directors, upon such evidence as they may deem satisfactory, to be entitled by law to receive it.

(3) Whenever the directors, after the decease of any member, make any payment or transfer to any person who at the time appears to them to be entitled under this section, the payment or transfer shall be valid and effectual against any demand made upon the directors or the association by any other person.

(4) Where a member or person claiming through a member of an association is by reason of mental disease or mental defect incapable of the management of his own affairs, and no committee of his estate or trustee of his property has been duly appointed, the association may upon the submission of evidence to the directors which satisfies them that he is so incapable, pay the amount of the shares, loans and deposits belonging to such member or person to any person whom they shall judge proper to receive the same on his behalf, and their receipt shall be a good discharge to the association for any sum so paid.

MEMBERSHIP.

19.—(1) Subject to the provisions of this Act membership in an association shall be governed by the by-laws of the association.

(2) Every subscriber to the Memorandum of Association shall be deemed to have agreed to become a member of the association and shall upon its registration be entered upon the register of members.

(3) No person shall become a member of an association until his application for membership has been approved by the directors and he has fully complied with the by-laws

governing admission of members provided that an application for shares in an association having a share capital shall constitute an application for membership and the allotment of a share or shares to the applicant shall constitute acceptance. The provisions of this subsection shall not apply to associations to which Part II of the Act applies.

(4) Membership in an association may be transferred but no transfer shall be valid unless authorized by the Board of Directors.

(5) Unless provision be made in the by-laws of the association to the contrary a person of the full age of sixteen years may be a member and in the case of an association having share capital may be a shareholder and may, subject to the by-laws of the association, enjoy all the rights of a member or shareholder, as the case may be, and execute all instruments and give all acquittances necessary to be executed or given under the by-laws but no member or shareholder under the full age of twenty-one years shall be a director, manager or treasurer of the association.

LIABILITIES OF SHAREHOLDERS AND MEMBERS.

20.—(1) The liability of the shareholders of an association having share capital shall be limited, that is to say; no shareholder in any association shall be in any manner liable for or charged with the payment of any debt or demand due by the association beyond the amount remaining unpaid whether called or not of the face value of his share or shares subscribed for; and any shareholder having fully paid up the amount of his share or shares shall be absolved from all further liability.

(2) The liability of members of an association other than shareholders of an association having share capital shall be limited, that is to say; no member shall be in any manner liable for or charged with the payment of any debt or demand due by the association beyond the amount due and unpaid with respect to the membership fees of such member and any member whose membership fees are paid in full shall be absolved from all further liability.

MANAGEMENT AND ADMINISTRATION.

21.—(1) The association shall have a registered office in the Province.

(2) Notice of the situation of the registered office and any change must be filed with the Supervisor.

(3) The association shall paint or affix the name of the association on the outside of the registered office.

(4) The association shall provide itself with a corporate seal which shall contain the name of the association.

(5) The association shall keep a register or list of members and shareholders which shall be *prima facie* evidence in any court of any of the particulars entered therein as to,—

- (a) the names, addresses and occupations of the members, the number of shares held by them respectively, the number of such shares, if they are distinguished by numbers, the amount paid or considered as paid on any such shares;
 - (b) the date at which the name of any person, was entered in such register or list as a member;
 - (c) the date at which any such person ceased to be a member.
- (6) The association shall allow any member to inspect the share or membership register of the association at all reasonable times during business hours at the head office of the association, or any place where the same are kept, subject to such regulations as to the time and manner of inspection as may be made from time to time by the association in general meetings.
- (7) Subject to the provisions of Part III, no member or person, unless he is an officer of the association, or is specially authorized by a resolution thereof, shall have the right to inspect a loan or deposit or other business account of any other member without the written consent of that member.
- (8) At the close of every fiscal year the association shall submit accounts for audit by an auditor appointed in the manner prescribed by the by-laws, provided however, that the auditor appointed must first have been approved by the Supervisor.
- (9) Each association shall within sixty days after the close of each fiscal year send to the Supervisor a general statement (to be called the annual return) up to the end of the fiscal year then last ended of the receipts, expenditures, funds and effects of the association as audited, which statement shall show separately the expenditure in respect of the several objects of the association, and shall state the name, address and calling or profession of the auditor, and the manner in which, and the authority under which, he is appointed, and together therewith shall send a copy of the auditor's report.
- (10) The association shall supply gratuitously to every member on his application a summary of the last annual return of the association for the time being.
- (11) The association shall forthwith after receiving notice from the Supervisor so to do furnish the Supervisor with such information and returns as may be requested by the notice.

DIRECTORS.

- 22.**—(1) The election of directors shall be by ballot and each member shall be entitled to one vote only and each vote shall be cast or given by the member entitled thereto and by no other person except in the case of delegate voting.
- (2) In case it happens at any time that an election of directors is not held on the day designated in the by-laws

of the association when it ought to have been held, the association shall not for that reason be dissolved, but an election may be held on any other day in such manner as may be provided for in the by-laws, or at a general meeting of the members called for that purpose, due notice being given of the election as in the by-laws provided for calling a general meeting; and all acts of the directors, until their successors are appointed, shall be valid and binding.

(3) If any director elected at the first general meeting who is not at the time of his election a member of the association, fails to become a member within two months from the date of his election he shall thereupon cease to be a director and the vacancy so created shall be filled by appointment by the remaining directors.

(4) Subject to the provisions of section 23 no person not a member of the association shall at any time after the first general meeting be elected or appointed a director and the election or appointment of any person not a member shall be void.

(5) The by-laws may provide that after the association has been carrying on business for not less than one year no member shall be elected or appointed a director unless such member has during the fiscal year immediately preceding his election or appointment, done business with the association in an amount not less than the amount prescribed by the by-laws.

(6) In case any vacancy occurs in the board, the remaining directors may appoint a member of the association as a director who shall hold office until the next general meeting of the association.

(7) The directors shall have the general direction and supervision of the affairs and business of the association.

(8) The directors may, by resolution, appoint such managers and other officers as they may deem necessary for the conduct of the affairs and business of the association and define their duties and fix their remuneration.

(9) All acts of the directors shall be valid notwithstanding any defect in the appointment or qualification of any director or directors.

(10) Meetings of the directors shall be held at such times as are prescribed by the by-laws, but in any event, at least once every three months in each year.

(11) If any director is, to the satisfaction of the board, proved to be guilty of disloyalty without adequate cause being shown to the satisfaction of the board, the board may by resolution declare his office vacant and the vacancy so created shall be filled by appointment by the remaining directors.

23.—(1) The by-laws may provide that one or more directors may be appointed by any public body, commission or official and it shall not be necessary for any director so

appointed to be or become a member of the association and any such person may be validly appointed and act as a director notwithstanding the fact that he is not a member.

(2) The directors of the association appointed pursuant to the provisions of subsection (1) hereof shall not exceed in number more than one-fifth of the entire number of directors.

MEETINGS OF ASSOCIATION.

24.—(1) The first general meeting of the association shall be held within two months from the date of incorporation and thereafter a general meeting shall be held annually at such time and place as is prescribed in the by-laws, and special general meetings may be called at other times as prescribed in the by-laws.

(2) If at any time it is impracticable to call a meeting of the association in the manner provided by the by-laws a Judge of the Supreme Court may on application to him for that purpose prescribe the manner of calling such meeting.

(3) At meetings of the association a member shall have one vote only regardless of the number of shares held by him and excepting where provision is made for representation by delegates no member may vote by proxy.

(4) Whenever by virtue of the by-laws of the association provision has been made for the nomination and appointment of delegates to an annual or general meeting the members shall not thereafter so long as such by-laws remain in force exercise the power of membership at any annual or general meeting, and any reference in this Act to members shall with respect to the exercise of such power, be deemed to be a reference to delegates.

(5) Whenever by virtue of the by-laws of an association provision is made for the election of directors of the association by members or delegates voting by districts, directors so chosen shall be deemed to be elected by all the members or delegates attending the said meeting to the same extent as if the election had been by vote of all of the members or delegates present at such meeting.

CONTRACTS.

25.—(1) Contracts on behalf of any association under this Act may be made, varied or discharged as follows:

- (a) any contract which, if made between private persons, would be by law required to be in writing and under seal, may be made on behalf of the association in writing under the common seal of the association, and may in the same manner be varied or discharged;
- (b) any contract which, if made between private persons, would be by law required to be in writing, signed by the persons to be charged therewith, may be made on behalf of the association in writing by

any person acting under the authority of the association, and may in the same manner be varied or discharged;

- (c) any contract which, if made between private persons, would be by law valid, though made by parol only, and not reduced into writing, may be made on behalf of the association by a writing not under seal, signed by any person acting under the authority of the association;
- (d) a signature purporting to be made by a person holding any office in the association shall, *prima facie*, be taken to be the signature of a person holding, at the time when the signature was made, the office so stated.

(2) Any contract which may be or has been made, varied or discharged according to the provisions contained in the preceding subsection shall, so far as concerns the form thereof, be effectual in law and binding on the association, and all other parties thereto.

(3) A promissory note or bill of exchange shall be deemed to have been made, accepted, or endorsed on behalf of any association under this Act, if made, accepted or endorsed in the name of any such association or by or on behalf or on account of the association by any persons acting under authority of the association.

CREDIT TRANSACTIONS.

26.—(1) An association may authorize by supplemental by-law the borrowing of moneys from its members for definite periods of not less than ninety days, and such moneys shall be credited to an account to be known as the Loan Capital Account, which may be used for any of the purposes of the association, including payment for goods purchased or expenses incurred in connection therewith or the shipment thereof.

(2) An association may pledge its credit for the purchase of goods, wares or merchandise or in any other transaction coming within the scope of its corporate powers.

(3) An association may hold for sale on consignment goods which are covered by a written consignment agreement whereby the property in the goods remains in the consignor until settlement is made according to the terms of the agreement. The proceeds from the sale of consigned goods shall within forty-eight hours after receipt, be placed in a special trust account for the purpose of reimbursing the consignor in the manner and at the times provided in the agreement with the consignor.

27. Except as otherwise provided in this Act no association shall sell goods, wares or merchandise to its patrons or customers on credit or in any other manner than for cash.

28. An association may sell goods, wares or merchandise on credit,—

- (a) if pursuant to a written agreement the property in the goods, wares or merchandise remains in the association until the purchase price is paid and provided such agreement is taken and registered in conformity with the provisions of *The Conditional Sales Act*; or
- (b) if the delivery of the goods, wares or merchandise is upon the order of a duly authorized representative of the Government of Canada, a province of Canada, or a municipality or an institution operated by a municipality.

29.—(1) An association which has working capital in excess of five thousand dollars may by supplemental by-law authorize the selling of goods on credit.

(2) No association shall exercise the power conferred by any such by-law unless and until the permission in writing so to do has been given by the Supervisor.

(3) No association shall exercise the power conferred by any such by-law in such manner as to have owing to it at any time with respect to credit sales an amount in excess of two-thirds of the amount of the working capital as shown by the previous years audited annual report.

(4) For the purposes of this section and section 32 “working capital” shall be construed to include share capital, debenture or bond indebtedness, general reserve fund, deferred dividend or participation reserves, and undistributed surplus or deficit accounts.

(5) The annual audited return made by an association to the Supervisor shall be *prima facie* evidence as to the amount of the then working capital of the association.

30. Every association and every director and officer of every association which sells goods, wares or merchandise on credit in any manner not authorized by sections 28 and 29, or which pledges the credit of the association in any way prohibited by this Act, shall be guilty of an offence against this Act.

DISPOSITION OF SURPLUSES.

31. The amount available for distribution to members at the close of each fiscal year of the association shall, within six months thereafter, be allocated in the manner provided by the by-laws in force from time to time.

WITHDRAWAL OF MEMBERS.

32 —(1) Members may from time to time withdraw in the manner prescribed by by-law and subject to the following:

- (a) The directors may require notice not exceeding six months of any proposed withdrawal of a member's equity;

- (b) The association shall not be required to permit the withdrawal in any fiscal year of more than an amount equal to ten per cent of the working capital of the association at the beginning of that fiscal year;
 - (c) The association shall not be required to permit the withdrawal of a member's equity at any time when in the opinion of the Board of Directors such withdrawal would impair the financial stability of the association.
- (2) Upon the withdrawal of a member,—
- (a) where the association has share capital, the association shall purchase at par or the paid up value thereof, all shares held by the member, or if the share capital of the association has been impaired, at such a price as may appear to the directors to be just and reasonable;
 - (b) the association shall refund to the member any amounts held to his credit;
 - (c) the Board of Directors shall make available to the member, his equity, other than shares in the assets of the association, as represented by deferred certificates or book entries in the accounts of the association or both.

DISSOLUTION.

33 —(1) When the Supervisor has reasonable cause to believe that an association is not carrying on business or is not in operation he shall send by ordinary post a letter addressed to the association at the address last known to the Supervisor inquiring whether the association is carrying on business or is in operation.

(2) If the Supervisor does not within one month of sending the letter receive an answer thereto, he shall within fourteen days after the expiration of the month, send by registered post, addressed to the association at the address last known to the Supervisor, a letter referring to the first letter and stating that no answer thereto has been received by him and that if an answer is not received to either letter within one month from the date thereof, a notice will be published in *The Alberta Gazette* with a view to striking the name of the association off the register.

(3) If the Supervisor receives an answer from the association to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive an answer thereto, the Supervisor may publish in *The Alberta Gazette* and send by ordinary post to the association a notice that at the expiration of one month from the date of that notice he will ask the Registrar to have the name of the association mentioned therein, unless cause is shown to the contrary, struck off the register and the association dissolved.

(4) At the expiration of the time mentioned in the notice the Registrar shall, unless cause to the contrary is previously shown by the association, strike the name of the association off the register, and in such case he shall publish notice thereof in *The Alberta Gazette*, whereupon the association shall be dissolved.

(5) In case of the dissolution of an association under this section the association shall nevertheless be considered as subsisting in all respects subject to the provisions of this section so long and so far as any matter relating to the same remains unsettled to the intent that the association may do all things necessary to the winding-up of the concerns thereof; and may sue and be sued under the provisions of this Act in respect of all unsettled matters.

34. When the directors are of the opinion that the association should be wound-up they may pass a resolution to that effect and by the same resolution appoint the Supervisor or any person approved for that purpose by the Supervisor as liquidator and authorize him to take the necessary steps for the winding-up of the association.

35. Upon the appointment of the liquidator all the powers of the directors shall cease except in so far as the liquidator sanctions the continuance of such powers.

36. The liquidator, upon his appointment, shall take into his custody or into his control all the property, effects and choses in action to which the association is or appears to be entitled.

37. The liquidator shall, within sixty days after his appointment, prepare a statement of the assets, debts and liabilities of the association and the values of such assets as shown by his books and records and where the liquidator is a person other than the Supervisor he shall send to the Supervisor a true copy of such statement.

38 —(1) The liquidator shall have power,—

- (a) to bring or defend any action or other legal proceeding in the name and on behalf of the association;
- (b) to carry on the business of the association, so far as may be necessary for the beneficial winding-up thereof;
- (c) to appoint a solicitor to assist him in the performance of his duties;
- (d) to employ an agent to do any business which the liquidator is unable to do himself;
- (e) to make any compromise or arrangement with any creditors or class of creditors or any person claiming to be a creditor, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages

against the association, or whereby the association may be rendered liable;

- (f) to make any compromise or arrangement in respect of calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the association and a contributory, or alleged contributory, or other debtor or person apprehending liability to the association, and all questions in any way relating to or affecting the assets or the winding-up of the association on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability, or claim, and give a complete discharge in respect thereof;
- (g) to sell the real and personal property and things in action of the association by public auction or private contract, with power to transfer the whole thereof to any person, or to sell the same in parcels;
- (h) to do all acts and to execute, in the name and on behalf of the association, all deeds, receipts, and other documents, and for that purpose to use, when necessary the seal of the association;
- (i) to prove, rank, and claim in the distribution of the estate of any contributory for any balance against his estate, and to receive dividends in such distribution in respect of that balance, as a separate debt due from the estate of the contributory, and rateably with the other separate creditors;
- (j) to draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the association, with the same effect with respect to the liability of the association as if the bill or note had been drawn, accepted, made, or indorsed by or on behalf of the association in the course of its business;
- (k) to raise on the security of the assets of the association any money requisite;
- (l) to do all such other things as may be necessary for winding-up the affairs of the association and distributing its assets.

(2) Where the liquidator is a person other than the Supervisor he shall not exercise the powers referred to in paragraphs (a), (b), (d), (e), (f) and (k) without first obtaining the approval in writing of the Supervisor.

39 —(1) If a liquidator, not being the Supervisor, resigns, dies or is removed from the office of liquidator the vacancy thus created may be filled by appointment by the Supervisor.

(2) The liquidator shall be described by the style of the liquidator of the particular association in respect of which he is appointed and not by his individual name.

(3) The liquidator shall receive such remuneration as may be fixed by a Judge of the Supreme Court on application of the liquidator.

(4) The acts of a liquidator shall be valid notwithstanding any defects which may afterwards be discovered in his appointment or qualification.

40.—(1) When the liquidator has realized all the property of the association or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation and has distributed a final dividend, if any, to the creditors and adjusted the rights of the contributaries among themselves, he shall apply to a Judge of the Supreme Court for directions as to the filing of his accounts and to fix a day for the hearing of an application to a Judge of the Supreme Court for an order approving the liquidator's accounts and fixing his remuneration and discharging the liquidator and declaring the association dissolved and in fixing such day the Judge shall give all necessary directions as to the notices to be given and the evidence by affidavit or otherwise to be adduced on the application.

(2) Upon the hearing of the application the judge may grant or refuse the same in whole or in part and may make such order as in the circumstances he deems proper having regard to the evidence adduced before him.

(3) The liquidator shall file a true copy of the order with the Registrar within fifteen days from the date of the order.

OFFENCES AND PENALTIES.

41 —(1) It shall be an offence against this Act if any association,—

- (a) fails to give any notice, send any return or document, or do, or allow to be done, any act or thing which the association is by this Act required to give, send, do or allow to be done;
- (b) wilfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the Supervisor or Registrar, or other person authorized under this Act, or does any act or thing forbidden by this Act;
- (c) makes a return, or wilfully furnishes information, in any respect false or insufficient.

(2) Every person who or association which violates any provision of this Act shall be guilty of an offence against this Act whether otherwise so declared or not.

(3) Every offence by an association against this Act shall be deemed to have been also committed by every officer of the same bound by the by-laws thereof to fulfill the duties whereof the offence is a breach, or if there be no such officer, then by each of the directors, unless the officer or director is proved to have attempted to prevent the commission of the offence; and every act and default under this Act

constituting an offence, if continued, shall constitute a new offence in every week during which it continues.

(4) Every person, not being an association or other corporation, guilty of an offence against this Act for which no penalty has been specifically provided shall be liable on summary conviction to a penalty of not less than fifty dollars nor more than five hundred dollars or in default of immediate payment to imprisonment for not less than thirty days nor more than two months with or without hard labour.

(5) Every association or other corporation guilty of an offence against this Act for which no penalty has been specifically provided shall be liable on summary conviction to a penalty of not less than one hundred dollars nor more than one thousand dollars.

REGISTRAR'S FEES.

42. The services of the Registrar for which fees are payable shall be those set out in Schedule "B" and the amount of the fees shall be as set out therein, and all sums paid to the Registrar on account of such fees shall be paid into and form part of the General Revenue Fund.

PART II.

MARKETING ASSOCIATIONS.

43. In this Part "association" shall mean any association incorporated under this Act having as its principal objects the marketing of agricultural products or fish on a non-profit basis and objects necessarily incidental thereto and any association heretofore incorporated under *The Co-operative Marketing Associations Act*, being chapter 251 of the Revised Statutes of Alberta, 1942, or *The Co-operative Marketing Associations Act*, being chapter 5 of the Statutes of Alberta, 1924.

44. The provisions of this Part shall apply to associations as defined in section 43.

45. In addition to the ancillary powers set out in section 12 of this Act, the association shall have the following ancillary powers, namely:

- (a) To undertake and carry on all kinds of businesses or operations connected with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of fish or any agricultural product, produced or delivered to it by its members, or the manufacturing or marketing of the by-products thereof;

- (b) To acquire or hire all kinds of supplies, machinery, or equipment, and to make provision for the sale or hire, or for the extension of the use of the same to its members.

MARKETING CONTRACTS.

46.—(1) The association may make marketing contracts requiring its members to sell for any period of time not over seven years all or any part of their agricultural products or commodities specified in the contracts, exclusively to or through the association, or any agency created or indicated by the association.

(2) In any case where a person having entered into a marketing contract with the association and become a member of the association by virtue of entering into the contract, does not, within twelve months of the date of the contract, make any delivery of the products or commodities which he is required by the contract to deliver, he shall, notwithstanding anything to the contrary contained in the contract, thereupon cease to be a member of the association and he shall have no right or interest of any kind in the association or its property.

47.—(1) The contract may provide that the association, whether buying from the member, or acting as agent of the member, shall pay over to the member the price for which the products or commodities are sold or re-sold, as the case may be, after deducting all necessary selling, overhead and other costs and expenses, including interest on preference shares not exceeding five per cent per annum, and reserves for retiring the shares, if any, and other proper reserves and interest not exceeding five per cent per annum upon ordinary shares.

(2) The directors shall have power from time to time by resolution to pay over to the members of the association such part of the price of the commodity or commodities so sold as they shall deem advisable but such resolution shall not be deemed to create a debt due or payable by the association to the members or any of them.

48.—(1) Notwithstanding any of the other provisions of this Act the following persons and no others may be admitted as members of the association, namely:

- (a) Persons who are engaged in the production or marketing of any agricultural product or fish which is to be handled by or through the association, or who are the tenants of land used for the production of any such product, and persons who are landlords and who receive as rent all or any part of any such product grown upon land leased by them; and
- (b) Any other association having objects wholly or in part similar to those of the association; and

- (c) If they are permitted to be members pursuant to a supplemental by-law passed pursuant to subsection (2) of this section, persons who are the consumers of any agricultural product.
- (2) An association may pass a supplemental by-law permitting persons who are consumers of any agricultural product handled by the association, to become members of the association, and may prescribe the conditions, rights and privileges of such members.

PART III.

SUPERVISION.

49. Subject to the provisions of *The Public Service Efficiency Act*, the Lieutenant Governor in Council may appoint a Supervisor of Co-operative Activities and may, subject to the other provisions of this Act, prescribe his powers and duties.

50. It shall be the duty of the Supervisor,—

- (a) to examine the memorandum and by-laws of all proposed associations desiring to be incorporated under this Act and to inquire into all the conditions under which any proposed association will operate and to confer with and advise the promoters of any association as to the formation and organization of the association; and, having regard to the result of the inquiries made, to approve or refuse to approve any memorandum and by-laws for registration;
- (b) to examine all applications for the incorporation of any society under *The Alberta Co-operative Rural Credit Act*, and the conditions under which the society will operate, to confer with and advise the persons promoting the society as to its formation and organization, and having regard to the result of inquiries made by him, to approve or refuse to approve any such application;
- (c) to confer with and advise any person interested in, or the directors of, any association with reference to its activities and generally to provide and encourage the development of a co-operative enterprise;
- (d) upon requisition in writing, signed by ten members or ten per cent of the members, of an association, whichever is the greater number, or upon the order of the Minister, to hold an inquiry into the affairs of the association, and to make a report of the results of the inquiry to the Minister;
- (e) to receive and consider all returns made by any association pursuant to this or any other Act, and to complete therefrom statistical reports;

- (f) to prepare and deliver to the Minister as soon as possible after the close of the fiscal year, a report covering that year as to the following matters;
- (i) Inquiries made by the Supervisor with respect to any association and the result thereof;
 - (ii) The total number of associations operating in the Province and the financial standing of each association;
 - (iii) General statistics as to the activities of associations.

51.—(1) No association or society under *The Alberta Co-operative Rural Credit Act* shall be incorporated until the incorporation is approved by the Minister pursuant to this section.

(2) In case it is made to appear to the Minister by the report of the Supervisor, that it is desirable and proper so to do, the Minister may approve in writing the incorporation of an association or society under *The Alberta Co-operative Rural Credit Act*.

52. If it is made to appear to the Minister by the report of the Supervisor made after investigation that the affairs of an association are being mismanaged or are not being conducted in accordance with co-operative principles, or are being conducted on an unsound basis, he may in his discretion cancel the incorporation of the association, or may direct the Supervisor to call a general meeting of all the members of the association, and thereupon the Supervisor shall,—

- (a) call the meeting by advertising a notice of the meeting in a newspaper circulating in the district where the association had its registered office or main place of business, in an issue published at least five days before the date of the meeting; and
- (b) attend the meeting and submit to the meeting his report, and any other information he has with reference to the affairs of the association; and
- (c) following the meeting submit a report thereon to the Minister;

and after receiving the report the Minister may, if in his opinion it is advisable so to do, direct that the affairs of the association be wound-up and appoint the Supervisor the liquidator for that purpose.

PART IV.

REPEAL.

53. *The Co-operative Associations Act*, being chapter 250 of the Revised Statutes of Alberta, 1942, and *The Co-operative Marketing Associations Act*, being chapter 251 of the

Revised Statutes of Alberta, 1942, are hereby repealed provided that the repeal shall not affect the incorporation of any association under either of the said Acts.

54. *The Co-operative Activities Supervision Act*, being chapter 249 of the Revised Statutes of Alberta, 1942, is hereby repealed.

55. This Act shall come into force on the day upon which it is assented to.

SCHEDULE "A".

(Section 4.)

FORM OF MEMORANDUM OF ASSOCIATION.

We
(insert the name, occupation and address of each subscriber), do hereby express our desire to form an association under the provisions of *The Co-operative Associations Act*. The corporate name of the association is to be.....
..... (insert name of association), Limited, and the objects for which the association is to be formed are.....
(insert objects for which association is formed); the number of shares is to be unlimited; and the capital is to consist of shares of..... (insert amount of shares) each, or of such other amount as shall from time to time be determined by the by-laws of the association. The number of Directors who shall direct and supervise the concerns of the association shall be..... (insert the number of Directors), or such other number as shall from time to time be determined by the by-laws of the association, and the names of such Directors, until their successors are appointed under the by-laws of the association to be formed are (insert names), and the name of the place at which the head office or principal place of business is to be situated is.....
..... (insert name).

Dated the..... day of....., 19.....

Witness:

.....
.....
(Signatures).

SCHEDULE "B".

(Sections 4 and 42.)

TABLE OF FEES TO BE PAID TO THE REGISTRAR UNDER THIS ACT.

Application for registration and filing by-laws or rules	\$5.00
Each search25
Every cancellation of registry.....	2.50
Filing amended by-laws or rules.....	1.00

No. 68

THIRD SESSION
TENTH LEGISLATURE
10 GEORGE VI
1946

BILL

An Act Respecting Co-operative
Associations.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. GERHART.

EDMONTON:
A. Shnitka, King's Printer.
1946