Legislative Assembly of Alberta

Title: **Wednesday, March 10, 2004 8:00 p.m.**
Date: 2004/03/10
[The Deputy Speaker in the chair]

The Deputy Speaker: Please be seated.

head: **Government Bills and Orders**
Committee of the Whole

[Mr. Tannas in the chair]

The Chair: I would now like to call the Committee of the Whole to order. For the benefit of those in the gallery this is the informal part of the Legislature. In this part members are allowed to move quietly about the Chamber and even to talk quietly with one another, take their jackets off, that kind of thing. In the debate part it can go back and forth between the sponsor of a bill and the members that wish to ask questions about it. One person may speak more than once to the same topic, which is unlike, usually, in the Assembly.

Before we begin this evening, I wonder if we might have unanimous consent to briefly revert to Introduction of Guests.

[Unanimous consent granted]

head: **Introduction of Guests**

The Chair: The hon. Member for Calgary-West.

Ms Kryczka: Thank you, Mr. Chairman. I'm very pleased to introduce to you and through you to all members of this Assembly this evening seven young ladies. I believe I see them up there in the members' gallery. They are Girl Guides in grades 4 to 6, and they are from the constituency of Edmonton-McClung. They meet every Wednesday night in the Westridge community hall in the constituency of Edmonton-McClung. One of their teachers or group leaders is Janine Kolotyluk, and the other one up there, as you can see, is Shannon Dean, who is our Senior Parliamentary Counsel. I would ask these young ladies and their teachers to please rise and receive the welcome of this Assembly.

The Chair: The hon. Member for Edmonton-Meadowlark.

Mr. Maskell: Thank you, Mr. Chairman. It's my pleasure indeed to welcome and introduce to you and through you to the members of this Legislature 39 air cadets tonight. They're from the 699 Air Cadets Squadron Jasper Place, and they're accompanied by four adults: Lieutenant Paul Alberto – Lieutenant Alberto is the nephew of Tan McAra, our Sessional Parliamentary Counsel here in the middle of the room – also Second Lieutenant Trevor Strome, Dr. Ted Greenaway, and Mr. Dennis Lehar. Dr. Greenaway reminds me that I worked closely with him in the days when I was at Jasper Place and provided space to the group. Guests, would you please rise and receive the warm welcome of this Legislature.

Bill 16
Residential Tenancies Act

The Chair: Are there any comments, questions, or amendments to be made with respect to this bill? The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Chairman. I'm happy to have an opportunity to respond to Bill 16, the Residential Tenancies Act. I've listened intently while the debate has occurred about this bill over the past couple of days and look forward to the amendment that I believe is forthcoming, which will strengthen it.

In general, I can say that I support the provisions of this bill. I think that it moves us in a direction where we need to go, giving tenants the same rights as landlords to terminate tenancy, which has been often the problem with constituents in our constituency, and the new changes with evictions ensure that landlords can't punish tenants if they make complaints about them.

However, there does seem to be a discrepancy in this bill, Mr. Chairman. I have a letter from a constituent who has intently watched what has happened over the years with the landlords and tenants act. This fellow, Jim Sexsmith, is a senior. He is keenly observant of what happens in politics and is quite quick, and rightfully so, to express his opinion in writing and in person when he likes or doesn't like something that any level of government is doing. He had a particular concern with this bill and changes that may have been made to it, given that he is a tenant himself, and acts really, I think, as a community captain for seniors in the area who have these and other kinds of issues.

He wrote to me on February 24 of this year in anticipation of this bill having come forward.

> In the February 6/04 *Edmonton [Journal]* the enclosed write-up appeared, Keep Interest on Deposits.
>
> This letting the landlords make money off our deposits. These monies are the property of the tenants.
>
> The interest on $500.00 is $45.00. A landlord with ten thousand tenants would be getting $450,000.00. The . . . government thinks this is not much to mention.
>
> What right has . . . the Justice Department to set the interest rate on our deposits. When money is put into a trust fund in a chartered bank the interest rate is decided by the amount of interest they receive on their investing the deposits.
>
> The Alberta certificates are one of the worst to invest our monies on. And further the government of Alberta is not a trust company. They are the last I would entrust my money to.
>
> I ask that the honorable member bring this matter up in the Legislature and put a stop to this shameful system of cheating the elderly and low bracketed pension earners.

So he is referring to a situation where a set rate for the interest on damage deposits is established, and the interest paid on the Alberta savings certificates then is subtracted by 3.5 per cent. That money is held by the landlords, and if the average interest rate for the year is not greater than 3.5 per cent, then tenants get no money back on their deposits. So it's three years that tenants have had no money back on deposits that they've held. Mr. Sexsmith feels that this is very much an unfair practice.

We do not see anything in this legislation that addresses this particular issue. I would hope that we would get some response from the sponsor of the bill on this particular issue: whether or not it was under consideration, whether or not it could be under consideration in the next little while. He believes that landlords should return the full amount of the interest to the tenant. They've had the ability to hold that money for some time and earn additional interest off that, so he feels that people should be getting their money back.

I will, Mr. Chairman, table the appropriate number of copies of this particular letter so that they can be a part of our permanent record on this bill.

With that, I'll take my seat because those are my concerns. Thank you.

The Chair: The hon. Member for Edmonton-Mill Woods.

Dr. Massey: Thank you, Mr. Chairman. I, too, would like to make a few comments about Bill 16 at the Committee of the Whole stage. I'd like to focus my comments on section 70, if I might, and that's the section that outlines the areas in which the minister may make regulations. The regulations that concern me are those in section (k), the regulations that will be enacted with respect to alternative dispute resolution mechanisms.

If you read through that section of the bill, Mr. Chairman, it outlines that the minister may make regulations respecting the establishment of alternative dispute resolutions and then talks about

(i) providing for the establishment of one or more dispute resolution bodies,
(ii) providing for all matters relating to the appointment of members to a dispute resolution body,
(iii) respecting the kinds of disputes that a dispute resolution body can deal with.

This is all very formal, Mr. Chairman. Make regulations respecting the proceedings that come before that body, authorizing a dispute resolution body to make rules governing its proceedings, and it goes on at some length to section (x), even talking about levying fees. As I read those regulations, it did seem to me that it was very, very formal, and I wondered if we wouldn't be better off with a mechanism that was more community based and one that was made up of people involved more directly in the neighbourhood, one that would be far less formal.

8:10

I looked again at the growing number of mediation efforts on the continent. We find attempts to resolve conflicts through mediation panels everywhere now: in grade schools to resolve conflicts among youngsters and students, in high schools, and in neighbourhoods in this area. I know that there's a neighbourhood disputes board in Beaumont that helps neighbours there when they have conflicts with their neighbours over noise and property lines and other kinds of disputes that often arise between neighbours. The board out there is extremely busy and extremely successful.

There are examples elsewhere of less formal boards working. The Bellevue neighbourhood mediation program is a program that is designed by the city and neighbourhood, but it's able to help citizens with any civil disputes. They assist with the resolution of disputes involving landlords and tenants, just what this bill is about, business partnerships, elder care, consumer conflicts, in addition to neighbourhood concerns. But what is so striking about the Bellevue program is how it contrasts with what's proposed in the bill.

I have to admit that the bill doesn't fully explain how this is going to be set up. It lays out some of the parameters, but there seems built into it this fairly high, centralized, paid group of individuals who'd be involved in disputes resolution, although it does say that they can create other boards. It seems to me that if we could have a more local, more neighbourhood, more community-based disputes resolution mechanism for landlords and tenants, we might solve a lot of problems before they could get to the point where they're carried on into court or into some more formal body for resolution.

I noticed that the Bellevue model had trained 47 volunteer mediators and counsellors. They worked in eight different languages. They were community based, and they had a very high success rate, Mr. Chairman. Their success rate was 80 per cent with respect to solving disputes that included landlord and tenant disputes.

I would ask the mover of this bill if consideration was given to a more community-based disputes resolution mechanism, one that could refer disputes from police officers, from bylaw enforcement officers. One that would be more neighbourhood oriented and one that would be seen in the eyes of citizens as much more user friendly than the central body that I think is being proposed here. I would be interested in hearing from the mover of the bill.

So with those comments, Mr. Chairman, I'll conclude. Thank you.

The Chair: The hon. Member for Grande Prairie-Wapiti.

Mr. Graydon: Thank you, Mr. Chairman. I'll try and answer a couple of the questions that were raised just this evening.

Firstly, on the return of the full amount of the interest: I think the amount of the interest that is retained is in recognition of the administrative work that's involved. Just checking through the bill, I see that there are four pages dedicated to security deposits, interest on security deposits, return of security deposits, obligations of the landlord regarding security deposits, obviously a lot of red tape involving security deposits and where the money has to be deposited, the records you have to keep. All of this doesn't come without some kind of cost. So I think that as long as the costs are reasonable, it's reasonable to expect that the landlord would be able to retain a small amount of the interest in order to cover those costs of administrating that part of the act.

When it comes to the alternate dispute resolution process, it's very much a work in progress. Lots of work to be done on that yet. I can assure the hon. member that his comments are recorded, and they will be taken into consideration as the more definite rules are developed around this alternate dispute resolution process.

There are two real purposes for the alternate dispute resolution. Those are, one, to reduce the time that people have to spend getting disputes resolved and, secondly, to reduce the expenses that could be incurred. The minute you start going to court, you start involving lawyers and time and court time and running up the bills. If we can come up with an alternate resolution process that is satisfactory to both landlords and tenants – and that is the ultimate goal – then we will reduce the time and the expenses involved. I think that should be the goal of all of us.

Thank you.

The Chair: Okay. The hon. Member for Edmonton-Centre.

Ms Blakeman: Thank you very much, Mr. Chairman. I have an amendment I'd like considered. I've left it at the table. If it's possible to get that distributed, then I can discuss it.

So I'd like to move the amendment that I have put forward, and I guess we'd be calling this amendment A1. I am asking that the Residential Tenancies Act, that is, Bill 16, be amended in section 30(3) by striking out "within 5 days" and substituting "within 10 days."

The Chair: Hon. member, I think most people have it by now, or almost all members, so we'll note that the amendment here as moved by the hon. Member for Edmonton-Centre will be amendment A1.

Ms Blakeman: Thank you very much, Mr. Chairman. This is the suggestion that I was making last night, so I've turned it into something concrete by way of an amendment for the committee to consider.

The issue that I was raising last night is that particularly where we have landlords who are what I was calling small landlords, meaning that they were people who were renting a suite in their house, or perhaps they owned one or two properties in which there were a couple of suites, or a house with a main floor and an upper suite or a basement suite, something like that. I wasn't particularly intending this for larger landlords, because they don't encounter the same kind

of issues. The situation that I was finding was that people that aren't professionals in this but are doing it to help pay their own mortgage or to build a nest egg for themselves or for whatever reason tend to be pretty normal folks – they're not lawyers – and they, generally speaking, don't like to get into . . .

Oh, I'm sorry. That wasn't a dig against lawyers. It just came out that way. Oh, dear. I'm just going to keep moving on here. [interjection] Yup. Can't get out from underneath that one. Sorry to the lawyers in the crowd. But, essentially, people I think generally avoid conflict.

8:20

Often when you get to a situation that would require the use of section 30(3), you are pretty close to a conflict situation as a landlord with your tenant. In all likelihood, at that point you have given them a 14-day notice to vacate. The five days comes into play here, and you have five days after they have failed to vacate at the end of that 14-day period or during a 14-day period in which to take your failure to vacate to court, pay your $100 fee or whatever the regulations deem it to be at the time – but it's $100 right now – and get the court involved with this, get a court notification, in other words.

A couple of things here for the individual landlord or the smaller landlord. One, they're not keen to fork out another hundred dollars if they're already in a situation where they've had to issue the notice to vacate because somebody didn't pay their rent. That just puts them more money out-of-pocket, and I'm sure they're not very keen to do that. Also, it's usually involving some kind of conflict directly with the tenant that's failed to vacate, and people tend to avoid it. What happens is you end up with your five days going by and you haven't in fact gone to court. Now, if that's the case, you have to start all over again with the 14-day notice.

Most small landlords will only let that happen to themselves once, and the next time they won't bother being nice. In other words, the process that's in place right now with the five days really does force people to be hard-hearted, and it forces the process towards the courts rather than towards an alternative dispute resolution process. I'm trying to remove the barriers for a successful alternative dispute resolution process with this new Residential Tenancies Act.

So that's why I've brought forward this motion which would expand the amount of time you've got from five days to 10 days. That's giving you a week and a half. That should give you enough time to in your normal schedule as a smaller landlord be able to get by your rental property and check it out, see that in fact your tenants have not vacated. Now you've got a problem. You've still got time to get to court and act on it, or you can then go to them and say: "Okay, this really isn't working. You guys didn't get out. We've got to make something work here, either, you know, one more chance to pay the rent or we can go to this alternative dispute process," which, I think, most people do want to take advantage of, particularly if it's not going to cost them the $100 that the court fee is going to cost them.

From our point of view as legislators it will steer people away from that expensive and time-consuming court process. Let's face it: having the lights on in a courtroom with all of the protection services there, the lawyers in place, the judge in place – that's a lot of money that's sitting there that one way or another we're going to have to cover the cost of. So the alternative dispute processes are certainly an economical way and also a less hostile, a less adversarial way of dealing with some of these landlord and tenant issues.

So that was the set-up that I was working with, and as I looked through it, I realized that there's another part to this issue. I mentioned it last night, and it involves the Member for Calgary-Currie and his MLA Review Committee on Secondary Suites building regulations in that we are trying to draw people out and make use of the secondary suites that already exist but that are not legal. In other words, they're not legitimate. People are not fessing up to actually having them. Well, what's part of the reason about fessing up? Well, you then have to participate in legitimate processes, which some people may be avoiding till now, and of course there's also the building codes and fire codes issues that the member and his committee are looking at at this point.

But part of my hope with this motion A1 that I brought forward is that, again, it would make it easier for those individual landlords that have in all likelihood secondary suites. It would help them to be on the right side of the legal blanket, so to speak, to become legitimate and help to draw them out so that they could be more up and up with their suites and more involved in the processes and following all the rules that we need them to follow.

I think my suggestion here is giving room to allow for human nature. That human nature is to avoid direct, one-on-one adversarial conflict and to ease people towards the use of these alternative possibilities. This is a situation that I've run into a number of times, and this was my solution to it.

I did give a copy of the wording of the resolution to the sponsoring Member for Grande Prairie-Wapiti last night in the hope that he would bring it through his internal legislative process. I've heard some rumour that it's not going to be accepted, so if that's the case, I'm really hoping that the member is going to get up and tell me why, because I think this is one of those rules that gets in place, and then it just tends to stick there. Not that there's a really good reason for it to stick there, but nobody else – they kind of go: well, we had it, and we don't really remember why any more, but we can't really remember why we'd want to change it either, so we're going to leave it as it is. I think we've got an opportunity here to start moving in the direction that we say we want to move in. I see the government put that up as a standard. They say that they want to go there, and then they don't follow through with the rest of the things that make it possible.

One of the things that we have to remember as legislators is that human nature causes us a lot of work. If people did what they were supposed to do, we could save ourselves an awful lot of legislation, but the truth is they don't. They do tend to avoid conflict. They do tend to stall and procrastinate. They do tend to not do the things legal paper-wise that we need them to do. So we end up with things like intestate succession laws because people won't write wills because, of course, they're putting it off and delaying and hoping it won't happen. Well, that causes us a whole other raft of problems.

So I'm hoping that the government members will be able to support this amendment. In my research I can't see any reason why we can't do this. We're not totally abandoning the time limit that's in place here; we're just expanding it to allow for human nature. I don't think it would be fair to remove that time limit completely, but essentially that leaves a landlord with the ability to wander around with a 14-day eviction notice hanging over somebody's head ad infinitum. The point of this was to give people enough room to manoeuvre so that they wouldn't have a bad experience, which is what tends to happen, and the next time they get into this situation, they wouldn't be going straight to the courts without passing go. The idea was to encourage people to explore other possibilities.

So I think I've laid out my arguments, and I certainly did at length last night. I'm going to take my seat now, but I'm certainly willing to answer any other questions or engage in any other debate that people feel necessary. If they need it in order to support the amendment, I'm more than happy to help them out with that. Otherwise, I'm hoping I can engage the Member for Calgary-Currie maybe from his point of view with the work that he's trying to do on

the secondary suites, if this sort of thing would be helpful, and as well the sponsoring Member for Grande Prairie-Wapiti on whether or not the government is willing to accept the amendment.

Thank you very much.

The Chair: The hon. Member for Grande Prairie-Wapiti.

Mr. Graydon: Thank you, Mr. Chairman. I'm happy to respond and to speak, unfortunately, against the amendment, but I think I have good reason to do so. As we reported several times during debate on Bill 16, there has been very extensive consultation with both landlords and tenants on this bill, and I must admit that this particular issue, this particular clause, did not come up in any of that consultation. That's not to say that this was not a big issue. If we go back a couple of years in history, at that time if you had this situation, you had to appear before Queen's Bench to get this order removing the tenant from the property, and that tended to be a lengthy and very costly process.

8:30

Approximately two years ago the Provincial Court Act was changed and allowed this type of action to proceed through the Provincial Court system, which is much quicker and not as costly. In fact, the way it's set up now, you do not need a lawyer. It's basically a fill-in-the-blanks form. You can print it right off the web site if you are at home with the computer and you want the form to fill in before you head down to the provincial courthouse. You print it off, fill in the blanks, take it down there – no muss, no fuss, no lawyers' fees – and you proceed.

I can appreciate the arguments about extending from five days to 10, but I think that those people who procrastinate and don't make the five-day limit will probably be there on the ninth day or the 10th day with the same list of excuses: gosh, I was out of town, or I was ill, or whatever the situation may be. But an extra five days probably isn't going to cut it, so I think we should stick with the five days that is in the bill. As I said, it has not been an issue with landlords or tenants that were consulted in working on this bill, and the changes that were made two years ago did address the concerns that were around at that point in time.

Thank you.

The Chair: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Chairman. When I looked at the calendar, I noticed that there in fact is a five-day period across the last Christmas holidays in which the courts were not open. What does the member suggest is the remedy in that case? Had one gone to the courts after about 11:30, I think, on the 24th, you would not have been able to have filed your notice for a five-day period. What was the remedy that was available then?

In other words, I think my argument for an extension beyond five days is a good one. It didn't take me very long at all to come up with one very recent example of a five-day period when someone would not have been successful, even if they were trying to stay within that five-day limit.

Mr. Graydon: I would look, maybe, for some direction from the Justice minister. There must be other situations where if the court's not sitting for five days, there are some allowances made of some sort. So I'm not sure if anyone else can enlighten me on that or not.

The Chair: The hon. Government House Leader.

Mr. Hancock: Well, just because I was asked. I'm not sure that I could help on that point. I think there's a fair point to be made, actually, that in five days you may end up, the way it's written here – it would be subject to the Interpretation Act whether these days are calendar days or business days, but it says "days," so I would have to interpret this, on the face of it, to be calendar days, which would mean that you might have, for example, a weekend, which would limit your available court days to three, and if you were on a holiday like a Christmas holiday, you might in fact not be able to have access to an open court within the five-day period.

So I would have to agree with the Member for Edmonton-Centre. In some circumstances if a landlord was not alert in providing the termination notice and wasn't alert to the rules, they might get themselves into a bit of a jam on that particular point.

I'm going to keep talking because I understand that they're consulting over there a little bit.

I have to say that the amendment is not wholly helpful in this regard, because you would not only have to amend section 30(3), but you would also have to do a corollary amendment to 30(5) because in 30(5) you're also talking about that five-day period. The effect of this section is that if the notice of termination is served and the 14 days expires and the person fails to move out of the suite or the rental premises, then the landlord has five days after the termination date to apply to the court for an order confirming the termination of the tenancy or any remedy that might be granted under section 26. Then sub (5) indicates that if the landlord has not applied to confirm the termination, then the termination is in effect void. So, essentially, the landlord is in a position where they have to start over.

If this bill were to pass with this section as it is, then what that would mean is that a landlord would have to be on his toes or her toes, as the case may be, and would have to be alert to those time frames in serving a notice of termination and then be alert to the five-day period.

So it's workable, but I tend to agree with the Member for Edmonton-Centre that it puts a fairly tight time frame on a landlord to be precise and make sure that they know what their time frames are and know what their time frames are when they prepare and serve the notice of termination so that they don't fall into that holiday trap.

The Chair: The hon. Member for Grande Prairie-Wapiti.

Mr. Graydon: Thank you, Mr. Chairman. In speaking to the minister involved and listening to our minister there and to the hon. Member for Edmonton-Centre, it has certainly brought up some compelling arguments to accept this amendment, so at this point I am going to recommend to our caucus that we do accept the amendment she has brought up. This business of the Christmas break is a very important issue and one, I must admit, that I hadn't thought of. So if we put something in that's impossible to meet, we should be flexible enough to change that.

Thank you.

The Chair: We have a variety of individuals standing, and the Government House Leader is the one that is recognized first.

Mr. Hancock: Thank you, Mr. Chairman. I wonder if it would be in order to propose an amendment to the amendment. I would hope that it would be a friendly amendment. It would be to be amended in section 30(3) and 30(5). It would just be adding "and 30(5)" after "30(3)" so that you'd change both of the five-day periods to 10 days, and in that way the amendment would actually be an effective amendment.

The Chair: The Government House Leader has moved a subamendment to amendment A1 to extend this to "30(3) and 30(5)." I would

want to check with a couple of people here before I hear further. We now have a subamendment on the floor.

The hon. Member for Edmonton-Centre on the subamendment.

Ms Blakeman: Thank you. On the subamendment. I'm willing to accept the subamendment as a friendly amendment being as it's simply after the number "30(3)" inserting "and 30(5)" and then carries on with "by striking out," et cetera, the rest of the amendment. Yes, I'm willing to accept that as a friendly amendment.

Thank you.

The Chair: Now the hon. Member for Calgary-Currie on the subamendment.

Mr. Lord: Yes. Thank you, Mr. Chairman. This is a bit unusual this evening, but the committee that I co-chair with my colleague from Calgary-East was brought up. I do think that some of the arguments that have been put forward previously on the amendment and now on the subamendment do make sense to me, so at this time I would certainly be speaking in favour of the subamendment and the amendment that gave rise to it and would urge my colleagues to support it as well.

The Chair: The hon. Member for Grande Prairie-Wapiti on the subamendment.

Mr. Graydon: Just speaking in favour. It makes complete sense. Thank you.

8:40

The Chair: We'll go through this slowly so that I understand it, and correct me if I've not got it right. The hon. Member for Edmonton-Centre has moved amendment A1, to which a subamendment has been offered and moved by the hon. Government House Leader. This subamendment is really a consequential subamendment because 30(5) would have to be the same as 30(3). They'd have to be in agreement. So we'll need to vote twice on this thing to get it all right.

[Motion on subamendment carried]

[Motion on amendment A1 as amended carried]

The Chair: The hon. Member for Edmonton-Centre.

Ms Calahasen: She's so excited.

Ms Blakeman: I am so excited.

Thank you very much. I know that there are others who wish to discuss this in committee, and I would now move adjournment of Bill 16.

Thank you.

[Motion to adjourn debate carried]

The Chair: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Chairman. I'd move that the committee rise and report progress on Bill 16.

[Motion carried]

[The Deputy Speaker in the chair]

The Deputy Speaker: The hon. Member for Clover Bar-Fort Saskatchewan.

Mr. Lougheed: Mr. Speaker, the Committee of the Whole has had under consideration and reports progress on Bill 16. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly. I would also like to table copies of a document tabled during Committee of the Whole this day for the official records of the Assembly.

The Deputy Speaker: Does the Assembly concur in this report?

Hon. Members: Agreed.

The Deputy Speaker: Opposed? The motion is carried.

head: Government Bills and Orders
Third Reading

Bill 12
Financial Administration Amendment Act, 2004

Mrs. Nelson: Mr. Speaker, I'm very pleased to move on behalf of the Member for Little Bow Bill 12, the Financial Administration Amendment Act, 2004.

The Deputy Speaker: The hon. Member for Edmonton-Ellerslie.

Ms Carlson: Thank you, Mr. Speaker. I am happy to speak to third reading of Bill 12. We've had a good look at this bill, and we agree with the government that it streamlines and clarifies how government manages and invests funds by clarifying words and definitions and making some other technical amendments.

The part that we particularly like is that it updates the legislation to allow the province to use electronic fiscal transactions within its investment portfolio. That's a very smart move to have made. I'm on the Heritage Savings Trust Fund Committee, and we repeatedly ask the question with each quarter update about why we're paying such high fees to the investment companies who are managing the funds, and in fact this is part of the answer. Beforehand, everything had to be done on paper, which is not a very efficient way to manage investments in today's world.

The money paid out in investment management transaction fees I believe will be lower in most instances as a result of this bill having been passed. Liberals aren't just about taxing and spending; we're also very much about being fiscally responsible. This bill moves this government's position into a more responsible position, so we do support it, Mr. Speaker.

[Motion carried; Bill 12 read a third time]

head: Government Bills and Orders
Second Reading

Bill 18
Maintenance Enforcement Amendment Act, 2004

[Adjourned debate March 9: Mr. Hancock]

The Deputy Speaker: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Speaker. I'm pleased to rise in second reading on Bill 18 and follow the minister's comments on the Maintenance Enforcement Amendment Act, 2004. Well, sometimes it's good, and this is one of those times.

The point of the maintenance enforcement program is that the court is ordering maintenance payments for children, and I think a lot of times we get knocked off kilter here with a lot of personal arguments about, you know: "I'm not giving money to the custodial parent of the child. Nuh, nuh, nuh. Nope. We're not going there." This is about maintenance payments for the children, and that's what we always have to keep in mind. The point of this is for the children.

Since this program was put in place in Alberta, we have actually increased our collection numbers to the point where they're not bad. They're not too shabby; 78.4 per cent was the collection rate in the 2002-2003 fiscal year. But that does still leave us a bit more than 21 per cent of $187.4 million that we're not collecting on behalf of children in Alberta. Often that has to do with people who are chronically avoiding this court-ordered payment.

8:50

Over the years the maintenance enforcement program, often with this member's support, has strengthened its enforcement arm. It's given itself teeth to pursue these chronic nonpayers or chronic debtors. What we see in this legislation is a bit more fine-tuning, some more enforcement teeth, and some minor administrative cleanup, just the lessons we learn as you administer a program over a long enough period of time. You learn to fine-tune it, and I think the minister is taking the opportunity to do that at this point.

Let's be clear here. When we're talking about chronic nonpayers, we're not talking about someone who occasionally misses, or perhaps they are a seasonal worker and sometimes it's a bit tough for them, and that always seems to roll around in the spring of the year. No, no. That's not what we're talking about. And we're not talking about somebody who, you know, accidentally leaves the cheque near the back door, and it blows out the door, and they forget once. I mean, that's not what we're talking about.

We're talking about people here that change their jobs so they don't have to pay. They hide their assets under somebody else's name so they don't have to pay. They move around often enough that we can't locate them, and they don't have an address that we can track them through. These are people that are taking deliberate action in their lives to avoid making these payments.

We need to be able to get at them and get these payments because these are children that we are talking about. These are children that are owed this money, and the courts have said that's reasonable that these kids get this money to live their lives.

It's not as though they're living high on the hog for the most part, by the way, folks. This is to pay for their participation along with their classmates in all the things that Albertan kids hope to be able to and usually can participate in, things like school sports and field trips and some kind of extracurricular activity and some entertainment and movies that you don't have to wait until they come out on video or DVD. You want to be able to go to the movie theatre and see them. This is reasonable, and we have people that are being unreasonable.

The tools that we're talking about using here to encourage, if I can put that in quotation marks, these chronic debtors are things like being able to take lottery winnings, which seems perfectly reasonable. That's a windfall to begin with. This legislation is contemplating that any lottery winnings over a thousand dollars could be picked up here. Again, we're talking chronic nonpayers. These are people who have a long history of not doing this, and then they default for six months in a row, which then allows the director of maintenance enforcement to open the door and a number of these enforcement possibilities become open to them. But it's only after that six consecutive months. So this is a lot of messing up that has gone on prior to this.

We were able with recent legislation to cancel driver's licences, which would make them have to appear, and in order to get their driver's licence again, they would have to make arrangements to make payments on the arrears that they owed. The other thing that's been added to that list now is hunting and fishing licences. For those people that are really keen on those activities in the summer or in the fall, they're going to have to settle up their maintenance arrears before they're going to get their hunting licence, and I have no problem with that whatsoever.

There's also the ability to report noncompliance with a maintenance order to the governing body of one's professional association, and that's an interesting way of reminding us all that people who choose to not pay maintenance enforcement cross all socioeconomic lines. Sometimes in order to get somebody to pay up, you've got to embarrass them a little, and if that involves going to the pharmacists' or the dentists' or the engineering technologists' professional association and reporting that you have a significant noncompliance with a maintenance order and that will result in the debtor paying up, so be it. Good. Another tool to use.

This legislation is also adding in municipalities, utility and insurance companies, nongovernment organizations, and cheque-cashing companies to the list of groups that are required to provide information if they have it. Remember I was talking earlier about people that hid their assets and changed their home address or their mailing address so you couldn't find them? Well, usually somebody somewhere along the line knows they're paying for a phone or a cell phone or utility bills in their name. It's another way of tracking them and finding them to be able to get hold of them and get the payments from them. So this is a good way of being able to gather more information there.

It also adds in other government departments. There was a situation where when we were trying to garnishee people's cheques, if they were with the credit union or Alberta Treasury Branches, you had to serve the garnishee on the correct branch of Alberta Treasury Branches or the credit union. This is changing it now so that the Treasury Branches or the credit unions will designate one central location that their garnishees will go through, and that again is helpful as an administrative process to try and collect the monies.

The legislation is also requiring proof from debtors. They have to provide proof of the facts necessary to administer variable orders, or the maintenance enforcement program can charge the highest amount. In the past the onus has been on maintenance enforcement to run around and get the proof on that. Often it's not possible to do so, and it also costs maintenance enforcement money, which costs taxpayers money, and/or it's money that's not going to children. So this is a good update.

It also allows for a fine for failure to provide the statement of finance, which is another sort of point of argument that chronic debtors will often do: you know, claim that their circumstances have changed but then they won't provide that financial information. So this is saying: fine, if you're going to do that, then you're going to pay a fine for it.

It allows MEP to get at the locked-in retirement plans, the LIRAs, another way of accessing money for children.

Then there are a number of sort of administrative adjustments that have been made, things like the liability for the maintenance enforcement program, the ability to explain how the reciprocal programs work, streamlining the interjurisdictional support orders, which was a piece of legislation we had in here last year, I think, or the year before, but it's allowing all of those processes to be explained to people, which we haven't had previously.

Clarifying the whereabouts: when we talk about the debtor's whereabouts, we mean the whereabouts of their assets as well as of the individual themselves.

The program can charge a fee for serving documents. In maintenance applications now it can be for any documents.

The debtors can request that there be direct withdrawals from their bank accounts, which again is another really simple administrative thing that can be done that makes it all easier.

So nice work from the maintenance enforcement program to work through all of this and to keep an eye on the ball at all times. We are trying to make sure that if you're going to parent a child, then you are going to support that child. If it has to be court ordered, so be it, but this gives the province the ability to secure those funds on behalf of those children. I am very supportive of anything that can be done there.

I'm not saying that, you know, we need to take debtors and turn them upside down and shake them until every last penny comes out of their pocket, but frankly if the last penny was part of the maintenance order, I'm willing to go there. Congratulations to the minister and to the program for following through and continuing to uphold the maintenance enforcement program with this kind of legislation.

Thank you very much.

[Motion carried; Bill 18 read a second time]

9:00 **Bill 19**
Public Trustee Act

[Adjourned debate March 10: Mr. Hancock]

The Deputy Speaker: The hon. Member for Edmonton-Centre.

Ms Blakeman: Thanks very much, Mr. Speaker, for the opportunity to rise and speak in second reading to Bill 19, the Public Trustee Act. I think the original Public Trustee Act has been in force since 1949. I believe this has been the first major update and overhaul of the legislation, so it's quite overdue.

I have gone through what's being suggested here, and it breaks down into a couple of categories. One is clarifying the legal status of the office of the Public Trustee. A number of things have changed over time where we regard, you know, corporations as legal persons and things like that, so it's important to clarify that changing legal status so that we keep up with the times. There are a number of sections in there that are dealing with the ability to hold legal title to property and things like that.

Another area that's updated in the bill and cleaned up, really, is the whole area of the trust funds, because the Public Trustee does hold money on behalf of people, whether they're a missing person or a person that's been deemed a mentally incompetent adult or a minor or someone that dies without a will. It's adding in some newer things like even if they weren't designated the executor, they can do that over the estate under certain circumstances. It also really cleans up the way they hold the trust accounts.

Before, there were two different accounts, basically, that had to do with the investment of the money, and that's been cleaned up and turned into one account. For people that have significant estates that need a different treatment for their money over the longer term with larger amounts of money, it still allows for that to be dealt with appropriately. Basically, the people whose money is being held always come out ahead, and that's fine.

We are looking at a new Minors' Property Act, which is Bill 20 this year, but in some cases the minor's property may well fall under the purview of the Public Trustee, in which case it has to be built into the legislation what's going to happen so that it's all clear. That's the third part of what's happening here. It's adding in how to deal with missing persons and clarifying that, and I think it's also updating the mentally incompetent adults.

Now, as far as I'm aware, I've had no negative feedback from this in any of the feedback loops, stakeholder groups that I tend to put this legislation out with to see if they've got anything to say about it. It's been out there for quite a while. I've had no negative feedback on it. I sometimes get feedback once we've commented in second reading, so I may well be back here in Committee of the Whole with additional things to say. But from what I've seen, I have no problem supporting this act in principle in second reading. To my eye it appears to be the modernization and updating of the act that we need as we are now several years into the new millennium.

So I'm happy to support this new Public Trustee Act in second reading. Thank you, Mr. Speaker.

[Motion carried; Bill 19 read a second time]

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. I move that we adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 9:06 p.m. the Assembly adjourned to Thursday at 1:30 p.m.]