Legislative Assembly of Alberta

Title: **Tuesday, March 21, 2006 8:00 p.m.**
Date: 06/03/21
head: **Government Bills and Orders**
Committee of the Whole

[Mr. Marz in the chair]

The Chair: We'll call the committee to order.

Bill 4
Daylight Saving Time Amendment Act, 2006

The Chair: I recognize the hon. Minister of Justice and Attorney General.

Mr. Stevens: Well, thank you very much, Mr. Chairman. I just wish to conclude my remarks from this afternoon by saying that Bill 4 is a bill that we consulted on. We're proceeding with the recommendation of the people that we consulted with, that we should be making this change by adding four weeks throughout the year to daylight saving. It is a good bill for industry; it is a good bill for Albertans. I would encourage all members to support this.

Thank you.

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

Dr. B. Miller: Thank you, Mr. Chairman. It's my pleasure to speak to Bill 4, Daylight Saving Time Amendment Act, 2006. Actually, it's the first time that I've been able to speak about this bill. Bill 4 ensures that our yearly love affair with daylight saving will take place earlier and last longer. So the spring ahead will take place a few weeks earlier, on the second Sunday of March, and the fall back will occur on the first Sunday of November.

I thank the hon. minister for his history lesson about daylight saving in Alberta. I have a very personal interest in this topic because my astronomer father worked in the time service with the dominion observatory in Ottawa. My oldest son actually just moved a few weeks ago to Greenwich, England. As is well known, Greenwich Mean Time is the basis for the world's time zones, which begin on the Greenwich meridian, longitude zero.

Daylight saving time was first implemented by Germany and Austria at 11 p.m. on April 30, 1916, and many other European countries, including Britain, followed suit. Nova Scotia and Manitoba adopted daylight saving at the same time as Britain, and the United States adopted it in 1918. Recently the United States has proposed an extension of daylight saving to begin in 2007, and Ontario, Manitoba, and Quebec have already chosen to follow the lead of the U.S.

As the minister has pointed out, the rationale for following the lead of the United States includes many factors. The importance of remaining in line with our most important trade partner is supported by our financial and business sector. In the realm of agriculture with the transportation of live animals and perishable food across the border it is important that we be on the same page in respect to time. Of course, it's convenient to travelers if flight schedules are on the same time schedule. The argument about energy savings has some merit, I suppose, since more daylight at the evening rush hour reduces energy consumption.

As the minister said this afternoon, Transport Canada advises that the extra hours of daylight in the evening would reduce pedestrian and motor vehicle occupant fatalities and injuries, although this argument has to be balanced by the fact that the morning rush hour will see more darkness. That is not a problem if you live in the U.S., but it's quite wearisome to have to get up in the morning in the midst of darkness for so long during the winter months. Of course, the many hearty Canadians living in the far north would not be impressed by such whining.

I could go on and give an extensive lecture on sun worship, which goes back to paleolithic times when you'd find that the dead were buried facing the direction of the rising sun. Ancient temples, especially in Egypt, were built with their entrances facing the rising sun. But I won't go on with that lecture.

I will conclude by referring to Plato's famous allegory of the cave. He saw the liberation of people from the darkness of the cave moving out into the sunlight as a movement from ignorance into the light of truth. In conclusion, let me say that if this move to daylight saving is also accompanied by a commitment of this government to greater transparency and truth, then so let it happen. Amen and amen.

Thank you, Mr. Chairman.

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Thank you very much, Mr. Chairman. Certainly, after that inspiring speech and in light of the savings that may occur as a result of this bill, I would like to ask the hon. minister if any effort has been made to study the electricity grid to see if there will be at least any modest reduction in electricity consumption in this province as a result of this bill.

Certainly, whenever we look at Bill 4, it is necessary for Albertans, as the hon. minister stated earlier, to remain in sync with our largest trading partner. Our financial interests, our agricultural interests, our transportation interests: all of these sectors need this change to maintain our competitive advantage. If there's a chance again, as I said, to reduce our energy consumption due to this change, even a small saving to the power grid, then certainly I would urge all hon. members to vote for this bill.

In conclusion, Mr. Chairman, I would like to remind all hon. Members of this Legislative Assembly of the importance of our north-south ties. Some people talk about our east-west ties, but our north-south ties are so important, and the integration is much too valuable to be jeopardized by not implementing this bill. This is not just a case of following the Americans. It is vitally important to our economy to remain synchronized with our largest trading partner. The hon. Member for Edmonton-Glenora has talked about the Canadian provinces, and he is absolutely correct, but we also have to be cognizant of our trading partner south of the border.

With that, I will conclude my remarks on Bill 4. I can't imagine any people who would be opposed to this bill. Thank you.

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

Mrs. Mather: Thank you, Mr. Chairman. In looking at the object of this bill, the proposed legislation will mean an extension of daylight saving time by having daylight saving time come into effect three weeks earlier than before, the second Sunday in March, and also falling back by one week, the first Sunday in November. I'm speaking in support of this bill, but I'd like to make some observations.

I think this is about bringing Alberta practice in line with other jurisdictions around us. The alternative is what we see on a current FedEx commercial: offices adding or subtracting from the calendar to deal with the outside world. The United States Congress has made a start here, increasing the number of weeks per year that the clock is advanced to save energy consumption. If this motion

passes, Alberta will be the fourth Canadian jurisdiction to follow suit. Alberta was one of the last provinces to adopt daylight saving time in Canada. Daylight saving time was first invented in 1921. It did not come to Alberta until the end of the 1960s and the Social Credit era due to rural opposition. So now it's about 40 years old.

If Alberta was behind the country in first adopting daylight saving time, we need to remember that Canada led the world in the adoption of standard time. Many Canadians are becoming aware of the legacy of Sandford Fleming, the engineer who surveyed passes through the mountains for two railways, designed the first original Canadian postage stamp, and put together the proposal for standard time that was eventually adopted by the rest of the world. Fleming's contribution is well documented in Clark Blaise's book, *Time Lord.*

There's a philosophical side to this issue also. The Greeks had two words for time: khronos, or measured time, with its sequence of minutes, hours, days, and weeks; and kairos, or appropriate time, the right time to be born, plant, harvest, marry, leave home, as in the 1960s song *Turn, Turn, Turn.* In our world khronos is the only time we know. We try to fit our lives, our children's development, our body rhythms, and our choices into it, but it doesn't always work that way. The time sense of our First Nations, of young children, of the aged, and of artists, a time sense that we call primitive and underdeveloped, has something to teach us here. It is in the nowness of their needs that our children call us more fully into life and rescue us from the tyranny of the clock time.

If we adopt this bill – and I believe we will – let's see that time becomes a tool, not continue as a tyrant. Thank you.

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

Dr. Pannu: Thank you, Mr. Chairman. I rise to speak on Bill 4 in committee. I spoke on this bill during second reading and spoke in support of it, so I won't repeat the reasons for support. I think they are the reasons that were well articulated by the Minister of Justice and Attorney General in introducing the bill, and we agree with those reasons for bringing forward the changes.

8:10

There were some concerns expressed by several members when speaking on this bill with respect to how changing daylight saving time in the spring, in particular, would cause young children to walk to school when there is not enough daylight, perhaps, for them to walk to school safely. So some concerns expressed that this might expose our children on their way to school in the morning to some increased risk of being involved in a traffic accident, if not entirely run over. I think that's something that needs to be considered.

We make all kinds of assumptions when we either propose legislation or speak to it. Often we hope that those assumptions are sound, but sometimes only experience tells whether or not every one of those assumptions is indeed sound and things turn out as they're supposed to. So I would suggest that we monitor for the next year or two, as we make this change, the incidents of young children involved in accidents in the morning rather than pedestrians at the closing end of the day, if I may use that term, as has been the case in the past, and see if there's a change needed then. If we need to revisit, we'll do it then.

Certainly there is more than daylight hours that affects the safety of our roads. If we are intent on protecting our children walking to school in the morning, especially as a result of these changes that we are making – and we should be – we must obviously teach our children better road safety rules as well as address other outside factors such as the behaviour of motorists. For example, according to Stats Canada, young pedestrian victims under 14 years of age are most often at fault for their injuries. Clearly, there is some room there, therefore, to educate our young children with respect to traffic rules and their own safety. As for motorists' behaviour, aside from increasing penalties for drunk drivers and speeding, we must also address the issue of cellphone use while driving, which has been banned in other places, including the United Kingdom, for example.

These issues may sound peripheral to the daylight saving debate, a change in the daylight saving hours, but these come from questions raised during the second reading of this bill, so we feel that they ought to be addressed as clearly as other issues.

In general I think that I am in support of the bill. Let's move on with the passage of the bill. Thank you.

The Chair: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Briefly. Thank you, Mr. Chairman. I think the Member for Edmonton-Strathcona makes a good point, that we should monitor the early morning hours of this extension. In that regard, I know that the information we have regarding the potential effect of this from a safety perspective has been provided to us by Transport Canada, and I'll ask my department to follow up with that organization to ask them, when they next consider this matter, if they could take into account the point of additional dark time in this four-week extension of daylight saving. I think that's an excellent point, and I do appreciate your comment in that regard.

For Edmonton-Gold Bar there's no doubt that in the information that's available on this, the Americans used energy saving as their number one reason for bringing in the bill. I can also tell you that independent of that I've seen anecdotal evidence that there will be some modest saving simply because there will be more daylight in the latter part of the day when more of us are up. Hence, the idea is that less lights will be turned on during that time, and as a result there will be some modest saving. Time will tell.

In any event, I appreciate the members' comments and would call the question.

The Chair: Are you ready for the question on Bill 4, Daylight Saving Time Amendment Act, 2006?

Hon. Members: Question.

[The clauses of Bill 4 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 5
Justice Statutes Amendment Act, 2006

The Chair: The Minister of Justice and Attorney General.

Mr. Stevens: Thank you, Mr. Chairman. I have some brief comments I'd like to make with respect to Bill 5, Justice Statutes Amendment Act, 2006, in committee. I do appreciate the input and comments of the hon. members in second reading. This bill, once again, deals with minor amendments to three pieces of justice legislation: the Civil Enforcement Act, the judicature amendment act, and the Mechanical Recording of Evidence Act.

Briefly, Mr. Chairman, the Civil Enforcement Act amendments will further refine and clarify the process for seizing property that is already under seizure so that all types of creditors can use the same process under the act.

The amendments to the judicature amendment act, which had been originally introduced in 2004, will refine and clarify original amendments that allow structured settlements in injury and death cases so that payments can be made in instalments rather than in a lump sum.

The last amendments relate to the Mechanical Recording of Evidence Act. The hon. Member for Edmonton-Strathcona is correct. The reason for these amendments is in large measure as a result of going digital in about the year 2000, so much of what is involved in these minor amendments is to bring us up to date in the 21st century. I can tell the hon. member that we continue to have court reporters even though we are digital because there are certain cases, for example, that require daily transcripts, and where daily transcripts are required, it's my understanding that court reporters do continue to attend in the courtroom.

In any event, I appreciate the comments of the members to date. These are practical amendments to three pieces of justice legislation which will improve justice in Alberta, and I look forward to receiving the support of the members for this particular bill. Thank you.

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

Dr. B. Miller: Thank you, Mr. Chairman. I would like to thank the Minister of Justice for his explanation of the recommended amendments in his addressing this bill in second reading. This bill deals with minor amendments, I think, to three different pieces of legislation.

First, the amendments to the Civil Enforcement Act. These amendments simply refine the process for creditors who seize properties. At first I had difficulty understanding the language, which is the case for most of these bills, but the minister's explanation is very helpful. We are dealing here with two different kinds of creditors: the distressed creditor, someone like a landlord who is owed rent by a tenant and who has the right to seize property, and an enforcement creditor, who can seize property under a court order. So with the changes being suggested, if the distressed creditor has a recognized interest in a property, the enforcement creditor may also give notice of his interest and vice versa.

There's no point in my summarizing the points already made by the minister. My understanding is that these changes are rooted in recommendations of the Uniform Law Conference. Frankly, I did not know about the existence of such a body. The Uniform Law Conference was founded in 1918 and charged with the task of harmonizing the laws of the provinces and territories of Canada. It meets every year bringing government policy lawyers together to consider where harmonization of laws would be of benefit. It sounds about as exciting as a group of bishops getting together to decide cannon law or the creeds of the church, but I assume that someone has to do this kind of work and make the right kinds of recommendations. The legal advice that I have received is that this is just fine-tuning of procedures and that I do not need to ask any questions or comment further.

8:20

The second part of this Bill 5 is an amendment that has to do with awards by courts in respect to injuries or death. My understanding is that traditionally the courts have awarded lump-sum damages for personal injuries, and there has been pressure over the years to allow for structured settlements which can provide for the plaintiff a steady stream of money.

One of the important issues here is the tax situation. If the lump-sum award is invested in order to produce money as needed for years to come, the income earned by the investment will be taxed while in the plaintiff's hands. What needs to happen is that the whole sum of the award must take this into consideration so that the income generated by the award and the investment will pay the tax and provide what the plaintiff needs.

The changes recommended here in this bill provide guidelines for courts to order structured settlements in such a way that the plaintiff doesn't have to worry about the tax issues. The positive value of this is that the plaintiff doesn't have to worry about investing the money, money he might be tempted to spend right away, and he doesn't have to worry about the taxes. So this is a good thing, and I have no issues about the wording of this amendment.

The third part, the Mechanical Recording of Evidence Act, proposes to update the definition of a reporter as defined in the *Alberta Rules of Court*. It repeals Section 1(b)(f) and updates the language of "reporter" to refer to "a person who is appointed by the Minister as a court reporter for the purposes of this Act or an agent or employee of that person." Given the evolution of recording of court actions from typing to digital recordings by machine, the amendment allows for the certification of such records by the court official in charge of the sound-recording machine. There are other additions in this amendment in respect to the storage of records and the keeping of records for 10 years, after which they may be erased.

My only question – and I think the minister has already alluded to it – is about the traditional role of official court reporters, which has been quite important. They have been, it appears, independent officers of the court charged with the task of making a record of the proceedings, then transcribing the record, and under oath certifying the accuracy of the transcription. This is extremely important because in the case of an appeal to a higher court, there must be an accurate account of court proceedings. It's very important to recognize the independence of the court reporter, who does not work directly for the judge or the lawyers but is the "official court reporter."

Now that the government has installed digital recording devices, does this mean that such official court reporters are unnecessary? Section 4(b) is amended, and it is no longer necessary for a transcript to be certified by a court reporter. Who is it that certifies digital recordings? The substitution of 3(1) states that a record must be certified "by the judge or the court official in charge of the sound-recording machine." Who is this court official? Presumably, the reporter as referred to above in this amendment, a person appointed by the minister or an agent or employee of that person. I don't know. Is something lost here in terms of the independence of court reporters? I think one could see that independence and the role of court reporters as a kind of check or a safeguard on court proceedings, and I'm just wondering if that independence, that safeguard is somehow compromised here. So that's my only question.

Thank you, Mr. Chairman.

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

Dr. Pannu: Thank you, Mr. Chairman. I spoke to this bill in its second reading and dwelt on the importance of the maintenance enforcement program and how it has helped children and families who find themselves in a situation where maintenance support is necessary, so I won't repeat that. I indicated our support for the bill in general. I asked some very general questions. Those questions are on record, but they're not questions of the sort that would either

lead me to propose any amendments or express any serious reservations while supporting the bill. So that said, I simply conclude my remarks by reiterating our general support for the legislation.

Thank you.

The Chair: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Thanks, Mr. Chairman. Just briefly to the point raised by the hon. Member for Edmonton-Glenora. There are less reporters today as a result of the conversion to digital. Prior to digital the reporters took the record and when necessary converted it into transcript. Today the digital equipment takes the record, and where necessary the reporter converts it into transcript. So the role of the reporter in terms of ensuring that the record is correct for either use in court in the first instance or on appeal remains identical to that before. They're just using the digital recording rather than the mechanical recording devices that they had previously. So I think I can safely say to the hon. member that the role of the reporter in that regard is the same. It hasn't altered whatsoever.

I would call the question.

[The clauses of Bill 5 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 6
Maintenance Enforcement Amendment Act, 2006

The Chair: The Minister of Justice and Attorney General.

Mr. Stevens: Thanks very much, Mr. Chairman. It's my pleasure to make some remarks with respect to Bill 6 in committee. There were a number of points raised by hon. members in second reading, and I would like to try and address some of those points at this time. I certainly appreciate the feedback that I received from members and their genuine interest in this very important program, the maintenance enforcement program.

The hon. Member for Edmonton-Strathcona asked a number of questions. His questions centred on the bill's provisions regarding financial examinations and maintenance enforcement support agreements. First, I'll speak to the financial examinations. Perhaps it will clarify some things for all members if I take the time to explain in more detail exactly what a financial examination is.

Simply put, the act allows the director to require a debtor to appear at MEP's office to be examined on their finances. Mr. Chairman, these are seriously defaulting debtors that are examined. During these examinations staff reviews debtors' financial particulars so they can negotiate a repayment schedule with the debtor. Financial examinations give MEP and debtors another avenue to resolve matters before using the courts.

This is still a very formal and serious process; however, the financial examination gives the debtor the opportunity to talk to a MEP representative and to come clean with a fresh start. The debtor is able to obtain referrals to organizations such as creditor counselling or addictions counselling and begin feeling responsible again by making payment arrangements. MEP is also able to update its files with relevant information on the debtor and children to ensure that correct amounts are being collected.

Mr. Chairman, in almost all cases the financial examination process involves MEP and the debtor only. The court is not usually involved whatsoever. Currently the courts only become involved in the financial examination process at the request of MEP's legal counsel. This request would be made when the debtor fails to appear for the financial examination or where a debtor appears but still refuses to provide full financial disclosure to the director. MEP may then apply to a court for an order compelling the debtor to attend at MEP or provide disclosure to MEP. Should the debtor still fail to comply with financial disclosure, MEP may then apply for a further order finding the debtor in contempt of court, and should the debtor still fail to appear before the director, MEP may apply for a warrant for the debtor's arrest.

8:30

Mr. Chairman, Bill 6 seeks court assistance with financial examination in a couple of other key areas. First, the bill would allow the court to grant substitutional service orders for summoning debtors to appear at MEP's office. This means that a summons can be served to someone who knows the debtor in substitution for serving the debtor personally. I can tell you that this is a standard procedure under the rules of court in ordinary civil litigation proceedings. Currently MEP is required by its act to personally serve someone with a summons to appear for a financial examination. That means having a process server hand the documents directly to the debtor. However, there are debtors who are difficult to serve. In fact, some people go to great lengths to evade service. For example, they may refuse to come to the door when a process server arrives or tell people at work to say that that person is not there if someone comes calling.

In these cases, Mr. Chairman, Bill 6 will enable MEP to go to the courts, explain the past problems in service, and ask for an order allowing for service of the summons in a different way. This might mean allowing MEP to substitutionally serve through the debtor's relative, friend, or employer or allowing the documents to be posted on the door of the debtor's home. With substitutional service MEP will be able to call more debtors to attend at financial examination, and since financial examinations have been very successful, it will provide MEP with the tools that will almost assuredly have more dollars collected for the creditors.

A second area where the member asked questions for clarification was regarding alternative arrangements for examination. Bill 6 seeks to provide MEP with the court's assistance by allowing the court to order alternative arrangements for financial examination of the debtor. This will give MEP the ability to conduct financial examinations in locations other than MEP's office. Examples of when this would be useful would be if a debtor were incarcerated or unable to travel. Again, the intention here is to give MEP more ability to conduct the examinations and to be flexible in where the examination takes place.

The member also had a question about adjournment of financial examination. The purpose of this amendment is to provide MEP and the debtor with greater flexibility and less paperwork. The amendment will allow MEP rather than the courts to grant the adjournment. For example, if the debtor has not brought all the necessary documents or if the debtor or MEP staff cannot complete the examination in the scheduled time, they will be able to adjourn the examination to a time that is agreeable to all without the requirement to re-serve the debtor. Also, if the debtor calls MEP after first being served and requests the examination to be rescheduled to avoid the debtor's missing another important obligation, the amendment will facilitate this. Mr. Chairman, the provision for adjournments will allow MEP to accommodate debtors' schedules, and this will likely result in greater attendance.

In short, the changes in the Maintenance Enforcement Act to support financial examinations will result in more efficiency and client satisfaction. The changes will also result in higher collections and greater resolution of arrears because more financial examination will occur.

Before I leave this particular topic, I'd like to address a comment made by the Member for Edmonton-Mill Woods. She was concerned that alternative arrangements for financial exams might allow debtors to get accountants in and paint a bleak picture of their finances so that they can get out of paying support. This certainly is not the intention of Bill 6, nor will it likely be the result. As mentioned earlier, the intention of allowing the court to order alternative arrangements for financial examinations is to grant the ability to conduct examinations at places that are more convenient for MEP and the debtor.

As for debtors trying to get out of paying support, MEP's experience with financial examinations so far shows that the collection rate is very high. Staff is well trained to identify when a debtor may be exaggerating hardship. In these cases if MEP feels that a reasonable payment arrangement cannot be negotiated, a default hearing may still be scheduled in court. This is a separate process, that MEP has had in its legislation for many years, requiring a debtor to appear in court to explain why they have not been paying maintenance. In other words, where MEP feels that debtors are not being truthful, those debtors may be asked to convince a court of their position. Bill 6 does not in any way change that default hearing process.

Referring back to the Member for Edmonton-Strathcona's comments, I'd like to address his question regarding the registration of maintenance enforcement support agreements. As I understand it, the member is concerned that parties may feel that there is a loss of control by allowing MEP to file their agreement. Mr. Chairman, it's important to underscore the fact that the ability of the parties to file their maintenance enforcement support agreements themselves is not compromised whatsoever by this amendment, and there are no legal implications resulting from this change. If the amendment is passed, the parties will still be able to file and serve their own agreements. The benefit is that they will also have the option of having MEP do the filing and serving for them. For many people courts are intimidating. Even filing a document is a burden for some. The amendments here will allow MEP staff to take on, if requested, those responsibilities of those people who wish to register with the program, and in my perspective, access to justice, which is one of the primary objects of Alberta Justice, will be advanced.

Those are the comments I have, Mr. Chairman, with respect to the questions raised by hon. members in second reading, and I would encourage all to support this very good bill, which amends an important part of the work we do in Alberta Justice under the maintenance enforcement program.

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

Dr. B. Miller: Thank you, Mr. Chairman. There are a number of amendments to the Maintenance Enforcement Act here, and the purpose of these amendments is to facilitate better access to justice for families dealing with MEP. I thank the hon. minister for his explanations although when he gave his speech in second reading, the first amendment he discussed is actually the last amendment. He discussed them in reverse order, causing me considerable confusion for about 30 seconds, but then I realized what he was talking about.

I don't have many comments. In the first amendment, which is number 2 in the bill, section 10.1 is amended by adding a clause that allows for the director to file documents on behalf of either party with the Court of Queen's Bench and to give notice of the filing to either party. This seems to facilitate the process on behalf of the parties involved since they do not have to serve notice of the filing to the other party. MEP will do this and inform all involved, and there seems to be no problems with that. That facilitates things.

Amendment 3. Section 17.1 of the act is amended by adding (2.1), which allows the MEP to access funds that a debtor has in locked-in retirement funds, or LIRAs. Previously such funds were not accessible, and this was changed in 2004. This is obviously in the best interests of children, who need the financial support right away instead of waiting for years and years. But as the minister has pointed out, in practice financial institutions have insisted that such funds cannot be accessed until the debtor is at least 50 years old. This amendment makes it possible for families to access these retirement funds right away, and this amendment makes it clear that when a financial institution is given notice to pay out from a retirement fund, it is not entitled to deduct anything for charges or for any tax withheld. So there are no problems with that.

Amendment 4. Section 24 is amended and allows for the director to apply to the Court of Queen's Bench "for alternative arrangements for the examination of a debtor" and his financial circumstances. The hon. minister has explained in great detail the importance of these meetings with the debtor concerning his employment and his financial circumstances. I have a greater appreciation of the complexities involved and what MEP has to confront in dealing with people who owe money for the support of children, and I recognize the success that MEP has had in dealing with debtors, bringing in about $900,000 a month.

8:40

The changes proposed under subsection (5) assume that there is a problem with the debtor appearing before the director because many debtors try to evade their responsibility, so this addition allows for more flexibility. I don't know whether it was intended to make the process less confrontational so that debtors would be encouraged to come in and discuss their special circumstances. Such a change would allow debtors to come in and deal with their circumstances and responsibilities before they risk arrest. This would obviously save the court's time.

I guess that in general the only question I have – I mean, I appreciate all the complexities. I don't know whether this question even makes sense. I think we have to ask in relationship to the children who are affected: what are the gains and losses with this change? Is the attempt to facilitate the process to speed it up so that the debtor is dealt with in a quicker way before you have to go to the court? Will more people respond when they have that opportunity before the courts get involved? I guess that's the question. You know, there's a problem here. I guess it's necessary because debtors keep trying to evade their responsibilities, even moving their residence and fleeing to other provinces, so there have to be some steps to facilitate this process. It is very complex. That's all I have to say.

Amendment 5. Section 36 is amended by striking out "periodic payment" and substituting just the words "payment or payments." This will ensure that families will get the current funds owing to them under a maintenance order before any arrears or any fees and charges are collected. So families owed by the debtor will receive the money currently owed to them before the issue of arrears is addressed or the issue of penalties for late payments is addressed. This change is clearly a good thing because the families need the money right away.

So those are my comments. Other than the one question, that is all I have, Mr. Chairman.

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

Mr. Elsalhy: Thank you, Mr. Chair. I appreciate this opportunity to stand up and respond to Bill 6, Maintenance Enforcement Amendment Act, 2006, in this stage of debate.

Undoubtedly this is one of the main or major concerns that each of us here in this House receives in his or her constituency office. Family maintenance is probably one of the main topics, you know, for walk-in traffic in the constituency office or people phoning asking for help or clarification: where to go, who to talk to, and things like this. It's apparently a growing problem. It's not an urban-only issue or a rural-only issue. It's evenly spread out across the province and across Canada, for that matter. The issues surrounding family maintenance and the issues surrounding child care and custody and all these things are really a growing concern not only for us as elected officials but for the parents that have to go through them or for the government agencies like the maintenance enforcement program, that looks after the collection component of that formula.

I'm looking at some statistics here. I realize that in Committee of the Whole we are supposed to mainly focus on the provisions one by one or the line-by-line stipulations in the bill, and I'm going to do that in about a minute. But I'm noticing here that, for example, in the year 2004-05 the maintenance enforcement program had a collection rate of 84 per cent, which amounts to about $167 million. I'm getting this from the government backgrounder that accompanied their press release on February 24. In 2005-06, which is this current year, the MEP was projected to have a collection rate of 88 per cent, which amounts to about $182 million.

Now, I look at these statistics in two ways. One, that, yes, we are scoring more success in our collection efforts, which is great. We still have a bit more to do, or some more road to travel, which is acceptable because things seem to be improving overall. But it also shows that $182 million was pending or in transition between the debtors and the creditors, or between one parent and the other. So we have to look at other ways to further address this concern.

I keep thinking that there has to be more education for parents. There has to be more sort of a heavy-handed approach, like you get one strike and the second strike you're out type of thing. We have to be extra vigilant in our collection efforts. We have to be extra forceful in those collection efforts because some people get away with things. They think that the system is too relaxed or too easy on them.

I have been exposed to many situations where the children are used as leverage. They're used as a bargaining chip from one parent to the other. Mostly the parent that has custody would use the children to arm twist or blackmail the other parent. They deny them visitation. They prevent them from seeing the kids, and there is a lot of emotional and psychological trauma to those children. We all know that children typically and normally require care and love and attention from both parents, and now they're being used as leverage, or a bargaining chip, and it's really traumatic for them.

You also hear cases about, you know, some settlements or payments that are being done outside of the MEP. Sometimes one parent would tell the other that it's an emergency or that it's needed for this or that. They both either agree or by negligence fail to report it to the MEP, and then these payments or settlements are never registered. I'm telling every person that walks into the constituency office in Edmonton-McClung: "No, don't do things outside of the program. Register every payment on the program because that's proof that you've actually done your part and you're abiding by the collection notice."

Another angle that caught my eye is that based on surveys, the client – and I don't typically like that word, but anyway, being the debtor or the creditor – satisfaction with the MEP has also steadily climbed from 54 per cent in 1999 to 68 per cent in 2005. Again, you can read numbers either way. You can look at the percentage approval, or you can also think about the percentage disapproval. I think that dissatisfaction would either stem from deadbeat parents who are forced to comply, and they don't like it and they're complaining about it, or from the other parent who is going through difficult times and the program doesn't seem to be delivering. There is a failure to collect, which places a bigger burden on the creditor. So, again, I refer back to the issue of education and enforceability because no deadbeat parent should get away with it, and we should be looking at ways, like we are today in this Bill 6, to streamline and improve the process.

Now, I'll talk about the section-by-section analysis, the different provisions in this bill, and I promise to do it briefly. Section 2, which amends section 10.1 of the Maintenance Enforcement Act, adds a clause which allows the director on behalf of either party to file documents contained in a maintenance agreement – that is to be done with the Court of Queen's Bench – and to give notice to either party. This is good. It allows the MEP staff to take care of certain processes on behalf of the parties. So really what we're doing here is facilitating and intervening on their behalf, which is a positive direction to take.

8:50

Adding the new subsection (2.1) in section 17.1 allows the MEP to access funds that the debtor has in a locked-in retirement vehicle, which is great. These debtors, if they're sneaky or if they're trying to cheat the system by locking some of their money into RRSPs or some long-term GICs or stuff like that, would now face the same exposure because the MEP can actually go in and take some of that. So I also support this.

Adding section 24, allowing the director to apply to the Court of Queen's Bench for alternative arrangements for the financial examination of a debtor, makes the process less confrontational. I agree with that too because, you know, emotions are running high as it is. There is usually confrontation. There is animosity between the two parents or the two partners. It's really difficult for the kids and difficult for them, too, as it is. So it alleviates some of that.

In section 5 the amendment ensures that families get the current funds owing under the maintenance order before any penalties are collected for late payments or failure to pay and so on. In other words, families owed by the debtor will receive the money currently owed to them before looking at any outstanding debt or penalties for late payments. Once the current balance owing is paid out, 90 per cent of any remaining money will be allocated to the arrears and the remaining 10 per cent will be allocated to the fees and charges payable to the MEP. So that's good.

I really support this bill. I think it's a step in the right direction. I would just add before I conclude that one area that I think should be addressed by the government from now on is cross-jurisdictional or interprovincial co-operation because some parents might leave Alberta and go to B.C., for example, and it takes longer to talk to the equivalent of the MEP in B.C. and try to get the money from there. Maybe talk to the federal government, that they can possibly take over the MEP program and administer it federally, and we could be the Alberta branch, and British Columbia would be the B.C. branch, and so on and so forth and have cross-jurisdictional co-operation. Having one database where all the payments are registered, where all the outstanding debts are catalogued and listed, and then having one agency federally looking at it would definitely alleviate a lot of

pain and suffering. People change addresses. They move from one jurisdiction to the next. It makes it really difficult to track the money and to track the debtor to extract that money from him or her.

With that, Mr. Chairman, I thank you for this opportunity, and I invite further comment.

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

Dr. Pannu: Thank you, Mr. Chairman. I'm pleased to rise and speak to Bill 6, Maintenance Enforcement Amendment Act, 2006. I want to thank the minister for addressing in some considerable detail several of the questions that were raised in the debate on this bill in second reading. Certainly, for me many of those questions have been addressed to my satisfaction. I had questions about substitutional service orders, allowing for alternate arrangements, financial examinations. Those have been answered. The director of MEP's power to file maintenance orders with the court on either party's behalf was another set of questions that I had. They've been answered.

Mr. Chairman, having heard the minister address those questions in detail, I really don't have much more to add to what I've already stated with respect to my support for this bill. With those questions addressed and clarification provided, I'm happy to support the bill because I think it will make life easier for everyone and certainly make the MEP program much more effective.

I have one question here, and it just occurred to me as I was going through what the minister had said. The discretionary powers of the director of the MEP are quite considerable. Perhaps they have been further enhanced. There's always a question of how good the director's judgments are when they allow that kind of discretionary power to one office or to one person holding that office. That's the only question that came to mind. Are there any ways in which a director's use of discretionary powers can be either challenged or examined by a third party or can be appealed? Those sorts of things come to mind. You know, to have a fair procedure, which is very important in matters of dispensing justice, is an important one, I think, and I just raise it as a question that I'm curious about. It's an enormous amount of discretionary power to the director, and I hope that it works well. It will address, I think, many of the problems that the minister and his staff have identified and then have proposed legislation to address.

With that, Mr. Chairman, I will conclude my remarks. Thank you.

The Chair: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Thank you very much, Mr. Chairman. A few brief comments. The hon. Member for Edmonton-Glenora asked in general why we are making some of these changes. I think it's to facilitate the process so that it is going to be easier for those who are part of this process. I must say that the debtors who become part of the financial examination process, I would think, in many cases would be some of our more difficult cases because people who are paying and who are complying clearly don't get into that particular process.

That being said, I rely upon the information that is provided by the experts; that is, the director of the maintenance enforcement program. I am told that there is incredible success when people actually get into the financial examination process. There is great confidence by the director and other people from the program that these changes, while on the surface appearing to be of a conflict nature, the fact that they're in the same room and they'll be able to discuss these matters, gives the director and his staff a belief that they will be more successful in accomplishing the goal of collecting the money and entering into meaningful and successful repayment programs. That is what I am told. That is why we are bringing it forward, and we will monitor it like we monitor all of our changes to see whether or not our belief is in fact ultimately reflected in the product.

To the Member for Edmonton-McClung and to the Member for Edmonton-Strathcona I would say this about the future and future potential changes. The last examination of this bill was a number of years ago. In fact, it was just a few months ago that we brought in the last of the recommendations from that particular review. I would anticipate that in a couple of years or so we will probably be considering reviewing the program again in light of the fact that we brought in a number of amendments over the years to examine how they are working, to see how other jurisdictions are operating. This is clearly a program that will continue to be under review. We want it to be as efficient and effective as possible. We are all in agreement as to the appropriateness of the goal of the program.

I certainly appreciate the support and the comments of the members who have spoken to it and look forward to your continuing support as we move this through. Thank you.

The Chair: Are you ready for the question on Bill 6, the Maintenance Enforcement Amendment Act, 2006?

Hon. Members: Agreed.

[The clauses of Bill 6 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

9:00 **Bill 7**
Motor Vehicle Accident Claims Amendment Act, 2006

The Chair: The Minister of Justice and Attorney General.

Mr. Stevens: Thank you very much, Mr. Chairman. It's my pleasure to make a few comments with respect to Bill 7, the Motor Vehicle Accident Claims Amendment Act, in committee. I'd like to thank the hon. members for Edmonton-McClung and Edmonton-Strathcona for their comments in support of the bill at second reading.

The Assembly heard from me in second that the amendments are designed to adjust wording to clearly indicate that a personal injury lawsuit involving the motor vehicle accident claims program can be commenced in either the Court of Queen's Bench or Provincial Court, and accordingly terminology in the act will be changed to reflect that.

I'd like to provide some additional explanation to the hon. Member for Edmonton-McClung, who had some important comments to make. The question was asked whether a person could begin his or her own action without a lawyer as the system works today. In fact, Mr. Chairman, the ability does currently exist, but in this particular piece of legislation it's not as clear as it could be, and it's that lack of clarity that gives rise to the amendments here although it's certainly clear that whether you're in Provincial Court

or whether you're in Queen's Bench, you can go there and proceed on your own as a self-represented litigant.

The concern is that the act here uses language that is particular to the Court of Queen's Bench. Therefore, a citizen wishing to commence a lawsuit for personal injuries in Provincial Court may read the act and be left with the mistaken impression that they cannot do so. That clearly is not the practice today, but we're trying to ensure that our legislation reflects the practice.

They may read the terms of the act that are different from what they may be reading from other sources. For instance, a person reading an Alberta Justice publication or viewing the Alberta Justice website on how to commence a claim in Provincial Court will notice certain key words such as "civil claim," "dispute note," and "notice of application." All of these terms are associated with the Provincial Court. In the current legislation, however, these terms are referred to as "statement of claim," "statement of defence," and "notice of motion," and all of those terms are associated primarily with the Court of Queen's Bench. Once again, we want to ensure that there is no confusion or misunderstanding as to a person's legal right to sue under the act in Provincial Court or to act without legal counsel.

One amendment, Mr. Chairman, deals directly with wording that is more inviting to a self-represented litigant. In the current version of the act section 25(2)(h) states that a barrister and solicitor but not a self-represented litigant may be paid for costs of services performed subsequent to the judgment being obtained. The amendment is removing the words "barristers and solicitors" so that self-represented litigants can be reimbursed for any costs they incur as well. As you can see by this example, these changes are important to our overall goal of improving speedy and efficient access to justice for Albertans.

Further changes to the act, Mr. Chairman, include the following: wherever the act says "statement of claim," it will also now say "or civil claim." Wherever the act says "statement of defence," it will also now say "or dispute note." Wherever the act says "notice of motion" or "originating notice," it will also now say "or notice of application."

Section 4 of the act is being amended to reflect that an agent other than a barrister and solicitor in Provincial Court may represent the Administrator. In section 4 the act is being amended to specify what the Administrator may do on behalf of the defendant in Provincial Court or the Court of Queen's Bench, since procedurally there are certain differences between the two levels of court and they are governed by different legislation.

Section 18 is likewise being amended to state that legislation governs how to proceed with an action, depending on the level of court the action is commenced in.

Also, for housekeeping purposes some other changes are being made. Wherever the act says "solicitor," it will now say "barrister and solicitor" instead because these terms are not differentiated under Alberta law.

For consistency with the rest of the act section 11 is being amended to say "defendant" instead of "person."

Section 17 is being amended to reflect that the plaintiff may receive payment by either a judgment or a settlement, as the case may be. Current wording uses only the term "judgment."

Mr. Chairman, the Motor Vehicle Accident Claims Act protects victims of uninsured and unknown drivers by ensuring that they have someone from whom to recover. This is a very important program for Albertans. It's important that these changes proceed so that the act reads clearly and that there is no confusion or complication for people who access Provincial Court relative to this piece of legislation.

Thank you, Mr. Chairman.

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

Dr. B. Miller: Thank you, Mr. Chairman. Just a few words about Bill 7, the Motor Vehicle Accident Claims Amendment Act, 2006, now in Committee of the Whole. I appreciate the reference to the importance of the Motor Vehicle Accident Claims Act and its ability to protect victims of uninsured drivers by facilitating the process of appealing for damages for personal injury. Very important.

I guess it's important to smooth things out, to make sure that it's clear that there's a reference both to the Court of Queen's Bench and to Provincial Court. My understanding was that most people would go to Provincial Court because that's an issue of small claims. Right? For anything below $25,000 you go to Provincial Court; if it's over $25,000, you go to Queen's Bench. Is that the distinction?

Mr. Stevens: Right.

Dr. B. Miller: This simply facilitates this so that a person knows what direction to go, I guess, in order to recover damages for personal injury.

This amending act allows for the provision that litigants can choose to pursue a case without legal counsel and represent themselves, as was mentioned. I assume that that would speed up the process for some people. The hon. minister mentioned the words "barrister and solicitor," and I wasn't sure why that was added. In the world I come from, there are cardinals and bishops and priests and so on. I guess that in every profession there have to be lots of categories, and this is an attempt to be more inclusive.

I went through this very carefully line by line, but I have nothing to add in terms of questions, so there's no doubt that we'll support it. Thank you, Mr. Chairman.

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

Mrs. Mather: Thank you, Mr. Chairman. As I looked at Bill 7, I realized that the current wording of the act presumes that all actions are resolved in Court of Queen's Bench and that all litigants must be represented by legal counsel. This amendment changes these provisions to allow an action to be commenced in either Court of Queen's Bench or Provincial Court. It also allows for the new provision that litigants can choose to pursue a case without representation. An effect of this is also that litigants will not have to have representation by a lawyer to commence action.

The move to allow actions in Provincial Court means that the litigants are bound by the Provincial Court Act, which has a less complex process and does not require a lawyer. This act will improve access to justice for Albertans involved in these types of claims by giving a choice of whether to have representation or not. As well, it will free up time in Court of Queen's Bench to hear cases of a more serious nature. I support the intent of this bill, and I'd like to thank the minister for the explanations.

As a victim of a motor vehicle accident I find this bill one that I can identify with in many ways. My accident was in June 1972, a few months after the province deemed to no longer have the unsatisfied judgment fund, I think it was called. I was hit by someone who was an assigned risk driver who had no insurance or driver's licence. The anguish my family experienced with my injuries was exacerbated by the anxiety about a possible settlement or going to court and experiencing costs with no likelihood of a reasonable outcome. So we chose not to proceed but to release that energy and that concern and focus on moving forward.

9:10

I notice that the limit for small claims was changed in 2002 to $25,000 from $7,500. This is positive, but it is pitifully little when injuries result in lifelong pain and need for accommodation. I believe now – and I'm asking: is this correct? – that victims still would have to sue and hope that compensation will actually happen if the $25,000 is deemed not to be appropriate for meeting their needs. If that's the case, this is unfortunate, and it's unfair when the victim does not get the settlement even though the court system rules such an award. I do know of many cases where that has been ruled, but the victim does not get the money. Every effort is made to get it, but it just doesn't come.

That's my only concern, and that's sort of an aside because this bill serves to increase access to justice for Albertans, and that's a positive step. It's a good move for those who are attempting to obtain damages for injuries suffered from a motor vehicle accident. It is a positive step as long as those injuries aren't so severe that they should have, I think, more compensation.

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

Dr. Pannu: Thank you, Mr. Chairman. I'm pleased to take part in debate in committee on Bill 7, the Motor Vehicle Accident Claims Amendment Act. Thanks again to the minister for providing some additional clarification information on the various subsections of the bill. Since we're dealing with two different courts, and there are two different procedures for the courts, some changes are simply clarifying which rules apply to which court.

One thing that caught my attention was when the minister said that given that the small claims amount has been increased to $25,000 – I think it's about three years ago or four years ago that it happened. Since then, according to the minister's comments during second reading, more Albertans are now opting to go the route of the Provincial Court, the small claims court, and they're doing so because it's often faster, less expensive, and legally less complex and complicated. It all sounds very plausible, but this would have then led, I think, to an increase in the caseload for Provincial Court. I wonder if the capacity of the Provincial Court to deal with an increased caseload has been enhanced. If not, then the assumption that going to the Provincial Court will expedite, you know, the matters I think would be frustrated if the number of judges is the same, if the number of court hours is the same, and more people are going there to seek settlement. So that's the main question that comes to mind.

The second one. I heard, at least read somewhere, I suppose in the press some day, that the courts are becoming a little bit frustrated with people who represent themselves as they go to the court. Certainly, the Provincial Court allows people to appear before it without any legal advice or without any person representing them, without legal representation. If that is also the case for the Court of Queen's Bench, I think it's with the Court of Queen's Bench that some frustration has been expressed by judges with respect to those people who choose to represent themselves. Given the complexity in the way the Court of Queen's Bench proceedings happen, that may make matters even worse, you know, when you allow people to go there on their own. Any changes by way of these amendments that might cause more frustration at the level of the judges in the Court of Queen's Bench? If not, that's fine, but the other questions certainly remain. You know, what happens to the caseload in the provincial courts as a result of this?

Other than that, I think the changes are helpful. They'll certainly allow settlements to happen without too much cost, without too complex a legal route to be followed by the people who go to these courts. So I support the bill in general.

The Chair: The hon. Member for Edmonton-Gold Bar.

Mr. MacDonald: Thank you very much, Mr. Chairman. It's a pleasure to rise and participate briefly in the debate this evening on Bill 7, the Motor Vehicle Accident Claims Amendment Act, 2006. Earlier I was reviewing this act with our critic on this side of the House, the hon. Member for Edmonton-Glenora. At first glance I thought this legislation was a result of changes that had been made to the Insurance Act, specifically the cap on pain and suffering. I'm cautious in my support of this bill and certainly do not think that is the reason why there has been a need for this bill.

When we review this bill, we see that the small claims court limit was raised to $25,000 going back three and a half years, Mr. Chairman. When that happened, making that at the time the highest ceiling in Canada – the increase then had been from $7,500 – it was thought that it would take some of the judicial load out of the Queen's Bench and into the Provincial Court, but I'm not so sure that this bill is a consequence of those changes.

Now, I understand that this change was made necessary by an increase in actions in the Court of Queen's Bench. I don't know why we have waited three and a half years, but so be it. We certainly have to ensure that there is timely access to justice. If there have been problems in the past three and a half years, hopefully these changes will address those problems.

With those comments, Mr. Chairman, I will cede the floor to any other hon. member that may wish to speak on this matter. Certainly, as I have a look at this, it seems to be in step with what occurred in 2002.

Thank you.

Mr. Stevens: Mr. Chairman, I'd like to start out by thanking the hon. members for their most excellent observations. There are a few points I'd like to make. The purpose of this legislation, really, is to ensure that the wording reflects the practices in both Provincial Court and Queen's Bench. That's the essence of what we're doing here. It was drafted with a Queen's Bench lens, and it is necessary to have a Provincial Court lens also. That is what we are doing, so it reads for both.

9:20

I'm sure that it should have been drafted with both perspectives in the first instance; however, the increase in the limit of Provincial Court from $7,500 to $25,000 enhanced the likelihood of personal injury actions being brought at Provincial Court and, hence, the likelihood of actions where there are uninsured or unknown drivers giving rise to personal injury being advanced in Provincial Court. It's just simply a combination of things that could have been drafted this way initially, but we're doing it now to bring it up to date. That's the thrust of it.

Just a few observations. The hon. Member for Edmonton-Strathcona asked some questions. The self-represented litigant issue is an issue that we have in all of our courts, whether it's a Provincial Court, Queen's Bench, or Court of Appeal. In fact, last year when I met with the representatives of the three courts and I said to them "Let's see if we can identify one issue that is common to all of us, whether it be the courts or Alberta Justice, that we can work on together in a unified fashion to see if we can enhance the issue," it was the self-represented litigant issue that was identified.

I can tell the hon. member and all members that at this point in time we are devoting energy and resources, including representatives from Provincial Court, Queen's Bench, and Court of Appeal together with Alberta Justice representatives, to develop strategies to enhance information to self-represented litigants appearing in all courts. That is going to be an ongoing effort for some time. You don't solve and don't deal with that issue in a year or two. I can tell you that all of the courts and Alberta Justice are working on it. So you're right: it is not simply a Provincial Court.

The court capacity did expand in Provincial Court in a modest way, and I think tomorrow, perhaps, if you pay keen attention to the budget, there may be some good news relative to Alberta Justice in that regard. I can't tell you any particulars. I just want you to pay keen attention tomorrow afternoon when the hon. Minister of Finance provides us some very good detail on what may be occurring there. Of course, you will have an opportunity to grill me later, perhaps in April or May, and I'll be happy to provide the detail at that time.

You can bring an action in Queen's Bench for any amount. There is no threshold amount. Practically speaking, I think it's fair to say that you're not going to be commencing too many actions in Queen's Bench for a modest amount of money because the cost associated with the process is relatively high compared to a provincial court. I'm talking about filing fees and things of that nature. Of course, if you use legal counsel, it becomes very difficult to justify for modest amounts. That's why people are self-represented litigants at Provincial Court, for those two reasons. But you don't have a minimum amount in practice.

We use barrister and solicitor because in Canada, in Alberta, you are upon becoming a member of the Law Society of Alberta a barrister and solicitor. The English practice is to be a barrister or a solicitor, and the reason that we're changing it here is so that there's consistent wording. There's no magic to it. It's just that barrister and solicitor is what they are called. Albeit that they probably practise as a barrister or as a solicitor, they are called both.

The hon. Member for Edmonton-Mill Woods made a couple of points. I believe that the limit under this motor vehicle accident claims fund legislation may be a hundred thousand dollars. I don't have the material in front of me. If you have a claim for greater than $25,000, you have two choices: you can bring it in Provincial Court and waive the amount above $25,000 and seek a judgment for $25,000 or less, should it be that that's all you can establish, but you can sue for more in Queen's Bench, and there's a maximum amount that you can claim under the act.

One of the other things that's changed since 1972 – and I don't know whether it was offered then – certainly is the prevalence as an option in insurance coverage of the SEF 44 coverage, which is the uninsured motorist coverage. Effectively, the way it works is that you can buy coverage that says that the amount of your insurance policy that you have for third-party liability will apply for your benefit in the event that you are involved with an uninsured or unknown motorist who causes injury to you. You buy basically third-party liability for your own benefit and the benefit of people who are insured under your policy and who are riding with you in your vehicle. I don't know if that was available in 1972, but certainly it is pretty prevalent today, and it is something that I think is wise for people to take because it provides probably more than $100,000 in terms of coverage for the type of situation that you were involved in, unfortunately.

Those are my comments, Mr. Chairman.

The Chair: Are you ready for the question on Bill 7, the Motor Vehicle Accident Claims Amendment Act, 2006?

Hon. Members: Question.

[The clauses of Bill 7 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 8
Trustee Amendment Act, 2006

The Chair: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Thank you very much, Mr. Chairman. I'd like to start by clarifying a few points raised by members in second reading of this Bill 8, the Trustee Amendment Act, 2006. First, Mr. Chairman, it's important to note that this bill is not a correction of past errors but is part of a planned process leading to the modernization of the investment rules in the Trustee Act. The amendments introduced in 2001 were intended as a first step to better investment rules. The passage of time was necessary in order to give trustees of pre-existing trusts time to become familiar with the 2001 changes.

The second point, Mr. Chairman, relates to the other acts that are amended by this bill. Some of the other ministries impacted have chosen to establish investment rules by regulation. This does not mean that these departments were not willing to co-operate. Consequential amendments were made to legislation of other departments. It's up to those other departments to decide how to set up their own investment rules. Each of those departments will be consulting with their appropriate stakeholders in the development of their regulations, and we encourage this due diligence. Putting investment rules into a regulation makes it possible for those rules to be updated more regularly. This ensures that the regulation remains consistent with the existing investment options.

In terms of regulations to the Dependent Adults Act, at this time we are not making any substantive changes to the investment rules because that act, along with the Personal Directives Act, is currently part of a comprehensive review. The ministries of Seniors and Community Supports and Justice initiated the review in the summer of 2005 and have conducted extensive public consultations regarding possible changes to the two acts. The review, which is being chaired by the hon. Member for Calgary-Shaw, is looking at many issues, including the rules that should govern investment by trustees under the Dependent Adults Act.

Mr. Chairman, I'd also like to address specific questions regarding the prudent investor rule and how the trustee is monitored. These amendments do not change the rules regarding monitoring of investors and penalizing of improper or inappropriate investment. The act does not provide for the government to monitor trustees. The person who set up the trust, the beneficiary, or other interested party monitors the trusts. Under the act trustees can seek from the court an opinion, advice, or direction on any question affecting the management or administration of the trust property.

If a trustee is believed to have improperly handled or invested trust funds, the court can be asked to determine liability and assess the damages payable by the trustee. It should be noted, though, that less than optimal returns are not sufficient grounds for the court to find the trustee liable. If someone believes that the trustee has acted improperly, the potential plaintiff would have to do more than show

that the trustee could have adopted a different investment strategy that would have produced better returns. The plaintiff would have to show that no trustee exercising reasonable skill and prudence would have invested in the way that the defendant trustee invested.

Those are some responses to the questions that were raised in second, and I seek the support of the hon. members. Thank you.

9:30

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

Dr. B. Miller: Thank you, Mr. Chairman. The purpose of the bill is to replace the legal list and all references to it in other legislation. Given the acceptance of the prudent investor rule, I turned to something provided by Alberta Justice – namely, Amendments to the Trustee Act Change Investment Guidelines for Appointed Trustees – to try to make some sense of this.

> Proclaimed on February 1, 2002, the Trustee Amendment Act 2001 legislated the "prudent investor rule", which specifies that a trustee must make investment decisions based on reasonable returns while avoiding undue risk.

Then the guidelines go on to explain some of the highlights of this legislation, referring to, "Unlike the 'legal list approach', the prudent investor approach expressly instructs the trustee to consider [other] matters" in terms of investments.

As the hon. minister has said, there's a kind of staged-in process where the legal list now needs to be taken out of the legislation and set aside. Given what was there before, it was necessary. If a trustee wanted to go beyond that list, the trustee was bound to go to the Court of Queen's Bench for an order permitting the trustee to invest funds in accordance with prudent investment standards. So this facilitates things considerably by removing the legal list. That's my understanding, and I don't think the bill really goes any further than that. Most jurisdictions and other places have replaced the legal list approach with the prudent investor approach, and this is something that seems quite in order.

Thank you, Mr. Chairman.

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

Dr. Pannu: I'll be very brief, Mr. Chairman. Thank you for the opportunity to speak on Bill 8, the Trustee Amendment Act. I indicated our support for the bill in its second reading.

I had raised a question about: if the prudent trustee rule doesn't work and imprudent decisions are made, who does the monitoring? I understand that this bill surely does not deal with that issue, but I wonder if the Trustee Act itself does. This is the amendment to the existing one. You had mentioned how it works, but there must be some statute that gives people on whose behalf the trust is administered by the trustee that if they're not satisfied with the way the trust is being administered or the investment is being made, they have some legal recourse. Which particular statute defines that procedure and opportunity for the plaintiffs, I guess, to go ahead is something I was sort of curious about. I know that the existing piece that we're discussing here is not about that. It's only about dealing with the transitional arrangements which no longer are needed, so we're simply saying that they're not there, that they won't be there. I understand that.

Mr. Chairman, with respect to what this particular Bill 8, the Trustee Amendment Act, seeks to accomplish, we are happy about that and in agreement. Thank you for the opportunity.

The Chair: Are you ready for the question on Bill 8, the Trustee Amendment Act, 2006?

Hon. Members: Question.

[The clauses of Bill 8 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

Bill 11
Architects Amendment Act, 2006

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

Ms DeLong: Thank you, Mr. Chairman. I'm pleased to speak in Committee of the Whole on Bill 11, the Architects Amendment Act, 2006. The Architects Act was amended in March 2004 to provide an up-to-date definition for the restricted architectural practice of interior design. The Architects Amendment Act is needed to enable the Alberta Association of Architects to require its member architects and licensed interior designers to demonstrate continuing competence in their professions. By doing so, they will maintain their membership with the association.

These amendments would include licensed interior designers within the definition of authorized entity and would allow these individuals to be governed by all the pertinent provisions of the act. It would clarify that licensed interior designers and their employees can engage in the practice of interior design. It would allow licensed interior designers full voting rights to elect architects and interior designers to the association's council. These amendments would also ensure that up-to-date regulations and bylaws can be developed for licensed interior designers and ensure that they are registered in the same manner as the architects.

Mr. Chairman, this act will help to clarify and strengthen the architect profession by allowing the Alberta Association of Architects to clarify its governance of licensed interior designers and enforce the requirement for mandatory continuing competence in their profession.

Thank you.

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

Mr. Elsalhy: Thank you, Mr. Chair, for this opportunity. This time I rise to participate in the debate on Bill 11, the Architects Amendment Act, 2006, in committee, and I thank the hon. member for sponsoring this bill. Bill 11 proposes changes that would allow the Alberta Association of Architects to clarify their governance, licensing interior designers and enforcing the requirement for compulsory continuing competency, which is great. I come from a profession myself that has strict regulations and guidelines as to the scope of practice and for continuing education that are strictly enforced every year. Professionals who fail to accumulate enough continuing education credits are sometimes suspended, and within a certain period of time if they continue to fail to meet the requirements, they're permanently struck off the register and have to go through many, many hoops and hurdles to requalify. So this is good because now it shows that interior designers are moving towards a better governance structure and more competency in their field, which is tremendous.

The bill also clarifies that licensed interior designers and/or their employees, because sometimes they're big companies, can engage in the practice of interior design and allows them full voting rights when it's time for them and their colleagues, the architects, to vote on people who they want to elect to their association's council. Basically, it's a good bill to ensure that up-to-date regulations reflect the current practice and to make this organization comparable to other similar professional bodies, which is good too.

We all know that Canada and particularly this province, Alberta, are going through a very hot housing market. There is a building boom in this province, and there is more need for the services of architects and interior designers. Parallel to this, there is also a lot of need from owners of older homes who want to either renovate or upgrade. Sometimes they are increasing space or adding things like secondary suites, for example, or just doing renovations and upkeep to continue to live in their quarters.

9:40

Interior designers are hard-working men and women, a huge majority of whom are professional and trustworthy. They make our living spaces more beautiful, more inviting, and more enjoyable. I commend them on wanting to take this direction and going down this path that would regulate their industry and their profession more. I have a lot of respect for organizations that want to adopt such a governance model.

I know that committee stage is definitely for sectional analysis, studying the various provisions one by one, line by line, or clause by clause, but this time I'm not going to do that because overall it is a positive bill. I know that there were stakeholders that were consulted. The Alberta Association of Architects – they use the acronym AAA – were consulted and are supportive. Also, the Interior Designers of Alberta, who really this act affects the most, voiced their support when we in the Official Opposition asked them what they thought. For these two reasons, I would definitely voice my support and encourage all hon. members to do the same.

I will now take my seat and encourage further discussion. Thank you.

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

Dr. Pannu: Thank you, Mr. Chairman. Very, very brief on this Bill 11. It simply seeks to include under this act licensed interior designers, so the changes are being made in every section or subsection of the bill to represent that addition of licensed interior designers.

I notice that there are some requirements with respect to the kind of training, skills, and abilities that they need to have and how they're going to be certified. It's certain that licensed interior designers meet those educational and training and professional requirements. I don't see anything else that really is of a great deal of significance that should require extended debate.

Interior design is an important occupation. It's growing in significance. They certainly inject life and colour and design to all kinds of spaces, small and big, and make workplaces and places where we spend time, either for living or for working, pleasant places.

Mr. Chairman, I don't have much more to say on it. I think it's a fairly simple matter. It's an extension of the Architects Act to include the licensed interior designers, and that's all for the good, I think. Thank you.

The Chair: Are you ready for the question on Bill 11, Architects Amendment Act, 2006?

Hon. Members: Question.

[The clauses of Bill 11 agreed to]

[Title and preamble agreed to]

The Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Chair: Opposed? Carried.

The hon. Deputy Government House Leader.

Mr. Stevens: Yes. Thank you, Mr. Chairman. I move that the committee rise and report bills 17, 12, 13, 4, 5, 6, 7, 8, and 11 and report progress on Bill 10.

[Motion carried]

[The Deputy Speaker in the chair]

Dr. Brown: Mr. Speaker, the Committee of the Whole has had under consideration certain bills. The committee reports the following bills: Bill 17, Bill 12, Bill 13, Bill 4, Bill 5, Bill 6, Bill 7, Bill 8, and Bill 11. The committee reports progress on the following bill: Bill 10. 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.

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

Hon. Members: Concur.

The Deputy Speaker: Opposed? So ordered.

head: Government Bills and Orders
Third Reading

Bill 4
Daylight Saving Time Amendment Act, 2006

The Deputy Speaker: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Yes. Thank you, Mr. Speaker. It's my pleasure to move for third reading Bill 4, Daylight Saving Time Amendment Act, 2006.

I believe that we've had a full discussion with respect to this matter in second and in committee, and I would ask for support again from the hon. members in third.

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

Dr. B. Miller: Thank you, Mr. Speaker. I would like to just say in third reading on Bill 4 that I want to express my thanks. I'm not going to repeat this for all the bills that are coming, but I want to express my thanks to the hon. minister for his openness and his willingness to share the contents of these bills beforehand, which was very helpful, and also his explanations, a little bit of history on these bills, which are very complex. A lot of the issues come out of the courts, not this one in particular but most of them. I found it very helpful to have the explanations offered.

Now, with Bill 4 there's no question that we would support this, and the debate has been good. Thank you, Mr. Speaker.

The Deputy Speaker: The hon. minister to close?

Mr. Stevens: Question.

[Motion carried; Bill 4 read a third time]

Bill 5
Justice Statutes Amendment Act, 2006

The Deputy Speaker: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Yes. Thank you, Mr. Speaker. It's my pleasure to at this time move for third reading Bill 5, Justice Statutes Amendment Act, 2006.

I'd like to thank the members who participated in debate for their thoughtful comments, and I would ask for continued support. Thank you, Mr. Speaker.

The Deputy Speaker: Are you ready for the question?

Hon. Members: Question.

[Motion carried; Bill 5 read a third time]

Bill 6
Maintenance Enforcement Amendment Act, 2006

The Deputy Speaker: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Thank you, Mr. Speaker. It's my pleasure at this time to move for third reading Bill 6, Maintenance Enforcement Amendment Act, 2006.

From the comments of the hon. members it's very clear that the purpose of this bill is well understood and very much supported, and the amendments are supported because they will enhance recovery for this important program, which at the end of the day supports the children of this province who are receiving support. So, Mr. Speaker, I would at this time ask for the continued support of the hon. members.

The Deputy Speaker: The hon. minister – the hon. Member for Edmonton-Glenora.

9:50

Dr. B. Miller: Thank you. I was a minister actually. I still am a minister. Not a government minister, but I am a minister, a reverend. You know, that kind.

Thank you, Mr. Speaker. I'm pleased to speak on third reading of Bill 6. Now, this Maintenance Enforcement Amendment Act has given many hon. members a chance to talk about MEP because in our constituencies we all receive many people coming to complain about the process and so on. Many of the people that come, their complaints are not necessarily justified because the whole point of the MEP is to protect families and take care of children in this province. There are a lot of difficulties, and most of the people who come to complain to me are men, actually, who feel that they haven't been treated fairly. So the provisions in this bill to allow a chance for people to go in and meet with the director and discuss their financial situations before they have to deal with court orders and threats of arrest is very important.

The effect of this bill, Mr. Speaker, I think would be to really facilitate the whole process of MEP, and anything we can do to facilitate the process is good. So I fully support this bill.

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

Mr. Elsalhy: Thank you, Mr. Speaker, for this chance to rise on third reading of Bill 6, the Maintenance Enforcement Amendment Act, 2006. I promise to be brief, you know, seconding the opinion of my hon. colleague from Edmonton-Glenora that the reason we're supporting these amendments is that they are geared towards providing funds to creditors more quickly. As indicated by my hon. colleague, again, children seem to be the group that is most affected by problems with custody and with financial support from one parent or one partner to the other. Any change that allows for those children to obtain the funds owed to them by debtors is a positive change, and it should be supported.

The amendments address some of the problems with application in practice, specifically allowing for the MEP to access locked-in retirement funds, as was previously discussed and as was the intent in 2004, the review that the hon. minister alluded to. These changes ensure that the debtors cannot hide a chunk of their income owed to the creditors.

This bill also brings maintenance agreements into line with provisions in the Family Law Act and encourages families to use these agreements as an alternative to going to court. This is a tremendous development, and it should be encouraged. Maybe it should be looked at for similar or other quarrels or disputes as a means of settling such disputes. The idea of using MEP staff as facilitators instead of always resorting to going to the Court of Queen's Bench is also a positive development.

This is just a brief summary of why myself and most of my hon. colleagues in the opposition felt that it was a worthy bill to support, and I voice my support in third reading. Thank you.

The Deputy Speaker: The hon. Minister of Justice and Attorney General to close debate.

Mr. Stevens: Question.

[Motion carried; Bill 6 read a third time]

Bill 7
Motor Vehicle Accident Claims Amendment Act, 2006

The Deputy Speaker: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Thank you, Mr. Speaker. It's my pleasure at this time to move for third reading Bill 7, the Motor Vehicle Accident Claims Amendment Act, 2006.

The Deputy Speaker: Are you ready for the question?

Hon. Members: Question.

[Motion carried; Bill 7 read a third time]

Bill 8
Trustee Amendment Act, 2006

The Deputy Speaker: The hon. Minister of Justice and Attorney General.

Mr. Stevens: Thank you, Mr. Speaker. It's my pleasure to move Bill 8 for third reading. Bill 8 is the Trustee Amendment Act, 2006.

The Deputy Speaker: Are you ready for the question?

Hon. Members: Question.

[Motion carried; Bill 8 read a third time]

The Deputy Speaker: The hon. Government House Leader.

Mr. Hancock: Thank you, Mr. Speaker. In light of the fact that the Minister of Justice and Attorney General has succeeded, I think, in having a record number of bills passed through two stages this evening, I think we ought to reward ourselves by taking the rest of the evening off. I therefore move that we adjourn until 1:30 p.m. tomorrow.

[Motion carried; at 9:55 p.m. the Assembly adjourned to Wednesday at 1:30 p.m.]