Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman
Mr. William Jenkins, M.L.A.
Constituency of Logan

4:30 p.m., Thursday, June 3, 1976.

Printed by R. S. Evans — Queen's Printer for Province of Manitoba

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON LAW AMENDMENTS
4:30 p.m., Thursday, June 3, 1976

CHAIRMAN: Mr. William Jenkins

MR. CHAIRMAN: We have a quorum. Proceed. The first bill we have is Bill No. 21, An Act to Amend the Condominium Act (2). The Honourable Minister of Urban Affairs. Could we leave that one for now and go to . . .

MR. GREEN: . . . there were some amendments . . . to have the amendments now. (No mike)

MR. CHAIRMAN: Yes, the amendments could be distributed.

MR. GREEN: It's the Minister of Consumer Affairs that knows about that.

MR. CHAIRMAN: Your bill here, Mr. Green, from the last time, Bill No. 30.

MR. GREEN: I have some amendments, I have . . .

MR. CHAIRMAN: Yes, we withheld that from the last time.

MR. GREEN: But I have some amendments.

MR. CHAIRMAN: Are they here?

MR. GREEN: Very immaterial amendments . . .

MR. CHAIRMAN: Yes, I'll call out the bills that are before the Committee here.

No. 21 - An Act to Amend the Condominium Act (2)
No. 30 - The Conservation Districts Act
No. 37 - The Corporations Act
No. 39 - An Act to Amend the Fatal Accidents Act and the Limitation of Actions Act
No. 46 - An Act to Amend the Pension Benefits Act
No. 56 - The Foreign Cultural Objects Immunity from Seizure Act
No. 54 - which just passed today and I don't think we should proceed with, that's An Act to Amend the Teachers Pensions Act
No. 58 - An Act to Amend the Civil Service Superannuation Act (2), and it's my understanding there are some amendments to that Act
No. 62 - An Act to Amend the Human Rights Act
No. 63 - An Act to Amend the Trustee Act
No. 64 - An Act to Amend the Civil Service Act
No. 68 - The Nuisance Act
No. 75 - An Act to Amend the Public Health Act

Those are the bills that are before the Committee.

MR. GREEN: Well, Mr. Chairman, I wonder if we could proceed with those people who are here.

MR. CHAIRMAN: Bill No. 30.

MR. GREEN: Yes, Bill No. 30 would be all right.

MR. CHAIRMAN: Bill No. 30. Are there any amendments? What is the will of the Committee, want to deal with that clause by clause or page by page?

MR. GREEN: Mr. Chairman, I could inform the honourable members as to what the amendments are when we get to them so that you'll know what I'm amending. There are two words that are being added to various parts of the bill where lands are mentioned it's going to become "rateable" lands and where assessment is mentioned it's going to be "equalized" assessment. So those two words are necessary and when we come to them it repeats itself several times in the amendments.

I think I did give to the Honourable Leader of the Opposition, House Leader, I promised him I would give him some remarks with regard to questions that were raised by various of his members at the last meeting. I've given them to him in writing and I assume he's conveyed them to his members.

MR. CHAIRMAN: Can we proceed then? What is the will of the Committee, to proceed page by page?

Page 1--pass; Page 2--pass; Page 3--pass; Page 4--pass; Page 5--pass; Page 6--pass; Page 7--pass; Page 8--pass; Page 9. The Honourable Member for St. Vital, Mr. Walding.

MR. WALDING: I move, THAT the formula entitled "Sub-district Program" as

(MR. WALDING cont'd) . . . . . set out in subsection 25(3) of Bill 30 be amended

(a) by adding thereto, immediately before the word "lands" in the 3rd line thereof, the word "rateable";

(b) by adding thereto, immediately after the word "total" in the 5th line thereof, the word "equalized"; and

(c) by adding thereto immediately after the word "all" in the 5th line thereof, the word "rateable".

MR. GREEN: Mr. Chairman, I want to read how that will read. If you have the formula I think it would then follow as follows: In this formula total of equalized assessed value of rateable lands, rateable before the word lands, and then (b) total equalized assessed value of all rateable lands in the sub-district, and then the next amendments carry forward in the same way in the next formula.

MR. CHAIRMAN: The motion is moved. Is there any discussion on the motion? Agreed? (Agreed) Page 9 as amended.

MR. WALDING: Mr. Chairman, I move that the formula entitled "District Program" and set out in subsection 25(3) of Bill 30 be amended

(a) by adding thereto, immediately before the word "lands" in the 3rd line thereof, the word "rateable",

(b) by adding thereto, immediately after the word "total" in the 5th line thereof, the word "equalized"; and

(c) by adding thereto, immediately after the word "all" in the 5th line thereof, the word "rateable".

MR. CHAIRMAN: The motion is moved. Is there any discussion? All in favour? (Agreed)

Page 9 and with those amendments--pass; Page 10--pass; Page 11--pass; Page 12--pass; Page 13--pass; Page 14--pass; Page 15--pass; Page 16--pass. Preamble--pass; Title--pass. Bill be reported.

MR. GREEN: Here's the Minister, Mr. Chairman. Go back to the Condominium.

BILL NO. 21, AN ACT TO AMEND THE CONDOMINIUM ACT (2)

MR. CHAIRMAN: Bill No. 21, I believe we can deal with it now, Bill No. 21, The Condominium Act, An Act to Amend the Condominium Act (2). I believe the amendments are being distributed. I believe that there are some on Page 1, is that correct Mr. Balkaran?

Mr. Adam would you move the amendment please.

MR. ADAM: Mr. Chairman, I move THAT the proposed subsection 5(1.1) of The Condominium Act as set out in section 2 of Bill 21 be amended

(a) by adding thereto, immediately after the word "contains" in the 1st line thereof, the word "residential";

(b) by adding thereto, immediately after the word "tenants" in the 2nd line thereof, the words "who actually reside therein";

(c) by adding thereto, immediately before the word "tenants" in the 2nd line of clause (a) thereof, the word "residential"; and

(d) by striking out clause (b) thereof and substituting therefor the following clause;

(b) it contains a statement that each residential tenant who on the date of the registration is in occupation under a written lease has been given or will be given an option, exercisable at any time within 30 days after the date of receipt of the option, to purchase as a unit the premises that are the subject of the lease at a price not exceeding the price at which the unit will be offered to the public and on terms that are not less favourable.

MR. CHAIRMAN: We have the motion as moved. Is there any discussion on the motion? Agreed? Mr. Craik.

MR. CRAIK: In the second one (b) if you add this amendment (b) you have here by adding thereto, immediately after the word "tenants" in the 2nd line thereof, it would then read, that's in (a) though?

MR. BALKARAN: Yes, in (a).

MR. CRAIK: So it would read then 50 percent of the tenants who actually reside therein and who have written . . .

MR. BALKARAN: No, no, no.

MR. CRAIK: Well you're talking about putting in . . .

MR. BALKARAN: The second line of the subsection that's up above, a lease to tenants who ought to reside therein, not in the clause . . .

MR. CHAIRMAN: Not in the clause section, Mr. Craik.

MR. CRAIK: Not in the clause? Where are you then?

MR. CHAIRMAN: In the second line of the subsection.

MR. CRAIK: You're in No. 2 there, eh?

MR. BALKARAN: Yes.

MR. CHAIRMAN: No, 5(1.1). Where the property to which a declaration contains buildings that on the date of the registration, are leased to tenants who actually reside.

MR. BALKARAN: . . . who actually reside there.

MR. CHAIRMAN: That's the section there, Mr. Craik.

MR. CRAIK: Yes, so then it would read, "are leased to tenants who actually reside therein".

MR. CHAIRMAN: Right.

MR. CRAIK: Okay, I'm lost on your dossier here on the rest of these.

MR. BALKARAN: I don't know I didn't prepare these amendments, I'm sorry. Rae's not here to take it. Mr. Turnbull have you raised . . . I didn't work on these Mr. Turnbull I can't help him.

MR. TURNBULL: Well this you know really is the bill of the Attorney-General and . . .

MR. CRAIK: No, it's the Member for Fort Rouge.

MR. TURNBULL: Oh, I'm sorry, but I mean the Act is the Act of the AG and you will need Ray in here to explain some of the technical . . .

A MEMBER: Well, maybe . . . Andy did you prepare these?

MR. ANSTETT: No, Rae did and I don't know what the . . .

MR. CHAIRMAN: Would you use the microphone please. It seems that Mr. Tallin prepared these. We're going to get Mr. Tallin down here, would it be advisable just to defer this now until we get Mr. Tallin here to get the explanations, proceed with another bill until he gets here. It's up to the committee. Is that agreed? (Agreed)

Do you want to deal with Bill No. 37?

A MEMBER: Which one is that?

MR. CHAIRMAN: The Corporations Act.

A MEMBER: Oh, no, Snider's not here.

MR. CHAIRMAN: No, okay we'll hold that then. Bill No. 39, An Act to Amend the Fatal Accidents Act and the Limitations of Actions Act. There are some amendments, could we have them distributed. Do you want to go back to 21 now? We have Mr. Tallin here now, perhaps we can get the explanations. Mr. Craik has asked why in subsection 5(1.1) added in the second line thereof after the words "who actually resides in".

MR. TALLIN: It seemed to me what you're trying to do is give the benefit to the residents. If a person doesn't reside therein why would you want to give him the benefit?

A MEMBER: He just happens to have a lease, he's holding it for subleasing or something else.

A MEMBER: For subsequent leasing?

MR. TALLIN: For subleasing. He has the lease, he's moved out and it's vacant now, but he's still got the lease?

A MEMBER: Yes.

MR. TALLIN: He's the one entitled to the lease but nobody resides in it yet.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: But he'll still be primarily responsible as far as . . .

MR. TALLIN: Yes.

MR. SPIVAK: But the problem is that on the basis of what you're saying the person who is the lessee is the one who is responsible whether he's in occupancy or not.

MR. TALLIN: Yes, but the purpose of this I assume, because we were talking about residential premises and that sort of thing, was now to give the benefit of this option to a person who's really residing in it.

MR. SPIVAK: Can I pose this possibility? Someone may very well sublet for a period of a year, but at the same time would want the option of being able to, in fact, purchase if the conversion of the condominium was to take place. And in effect the rights will go to the sublessee rather than to the lessee.

MR. TALLIN: I'm not so sure. If it was an assignment of the lease they would go but I'm not so sure it would if it was a sublease.

MR. SPIVAK: But notice would only go to the lessee then, not to the . . . notice to the sublessee, not to the lessee. He may not even know that the conversion is taking place.

MR. TALLIN: If he's subleasing is he in the same position as a commercial person now?

MR. SPIVAK: Sir?

MR. TALLIN: If he is subleasing is he in the class that this was intended to protect?

A MEMBER: You're talking about the lessee, not the . . .

MR. TALLIN: Yes. But if the lessee doesn't reside in it and is just using it as an investment perhaps, is he the person that you want to give the option to?

MR. SPIVAK: The lessee.

MR. TALLIN: I don't know, you see, . . .

MR. SPIVAK: Either way you're going to be messed up.

MR. TALLIN: I was presuming that what was intended was to give people who were living there, and who are using it for their residence, a right to buy what they are living in, not giving them the right to buy something in which they have a financial interest.

MR. PAWLEY: Right. The residents themselves.

MR. TALLIN: The resident who is actually residing therein and who is under a written lease.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, there are some members of this Legislature who for a short period of time do sublet apartments and that throughout the city while the House is in session. What you're doing here is giving the member of the Legislature in that particular case, the chance to buy rather than the person that he has subbed it from, who in all probability has just gone south for three or four months and then intends to come back again.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: In effect . . .

MR. TALLIN: . . . if you have doubt about it don't pass that part of the amendment.

MR. SPIVAK: Well the other way is to provide another . . . The owner would have noticed that there has in fact been a sublet, because he knows that someone else is in residence and I would assume the management knows, so all you're going to have to do is provide that notice be given to the lessee in the event there's a conversion. So if you provided a provision that notice be given to the lessees, there's no problem.

MR. TALLIN: You want notice to be given to all lessees.

MR. SPIVAK: You have a provision that notice has to be given to all lessees. You've got the written consent the registration be obtained, but I assume that there is one point that there has to be notice given to the tenants so that in effect if you're talking to those who are in residence you can also provide that it has to be given as well to those who are lessees.

MR. TALLIN: I don't think this requires notice to all lessees. It requires consent of 50 percent of the tenants.

MR. SPIVAK: Mr. Chairman, I am caught in a bit of a box, I don't think this legislation should be passed. That's another problem. I don't know at what point we're going to talk about whether it should or not because I don't think really the ramifications of this if we really went into this. I know the intent of the Honourable Member for Fort

(MR. SPIVAK cont'd) . . . . . Rouge and realize there was a problem within his constituency and he dealt with it fairly directly. But I think, you know, there are a number of principles involved in this and I think that there should be some consideration given to that, and I'm not sure that the government itself has considered all that. And the problems we're having right now are the problems that arise when, you know, the overall considerations to this have not really been considered, because I think, you know, what we're really doing is we're dealing with a very specific kind of thing. If in fact you're telling me now that notice is not necessarily be given to all the tenants but in effect there's a capacity for 50 percent of the tenants to agree without the other 50 percent knowing about it, then I think, if we're going to have it that way, that's wrong. And you know, I think that those are the kind of things that we have to deal with effectively to be able to understand it. And you know, again, all I can do is look at the amendments that the Act itself, or the bill itself and the Act, and realize that there are going to be problems of operation.

MR. CHAIRMAN: Mr. Green. Come to the mike please.

MR. GREEN: I'm quite sure I understand the Member for River Heights . . as was stated, and I'm just listening to the discussion, notice will have to be given, consent will have to be obtained from over 50 percent of the tenants. Notice does not then have to be given to any of the lessees but the lessees are on leases. The acceptance of the notice or the conversion to a condominium does not undo a lease that is held by a tenant.

At the present time, an owner of any block can go and convert it to a condominium. He can decide as each tenant his lease is expired he is going to sell the apartment, or he's going to register a condominium and then sell each of these apartments. This won't make that position any less available, the only thing that will have to happen is that he will have to receive 50 percent of the consents. That's what Legislative Counsel is saying. If he's got 50 percent of consent then he can do what he is now doing. He can convert the title to, I gather, a series of titles, with a title for each suite, and if and as and when he has the power to do so, or I guess he could sell that title to somebody who would then have to wait until the tenants completed their leases which and when the tenant's lease is up, that person can move in. Or, what he would more likely do, and what the Act requires, I gather, is that he give the tenants the right of first refusal of the sale of the suite that he would want to be making. That is also provided in the Act, is that not so?

So I don't know what problem the Member for River Heights has. If he says he wants the landlord uninhibited to convert to a condominium I can understand that, that is a position, and one can take that position; but if he wants the tenant to have a certain amount of control over this conversion, that is what the Act provides. Once the consent is obtained he is virtually back in the same position. He cannot tell a person who has a two year lease, you're out. That two year lease continues to exist even if he sells the apartment. --(Interjection)-- Of course, it doesn't matter but at the end of the lease that person can be asked to leave, which is the way it is before the Act and the way it is after the Act.

MR. TALLIN: Whether it's within the condominium or without the condominium.

MR. GREEN: That's right. The tenant can be asked to - I gather when a tenant's lease expires, the landlord is not required to renew that lease, although some of the new provisions of the Landlord and Tenant Act perhaps make a change, but the substantial change that I take it as taking place here is rather than the landlord being able to walk into the Land Title's Office convert his title to 50 titles, he has to get 50 percent of the consent of the tenants, and he then has to give each of the existing resident tenants . . .

MR. TALLIN: Under written leases.

MR. GREEN: . . . under written leases the right of first refusal if he wants to sell the apartment. And what the lawyer who was here told us, well, you know, that makes such obvious sense that is what we are doing in any event but if you want us to do that we will do it. And if the landlord doesn't want to do it he can let the lease expire, he cannot renew, he can put them on a monthly lease and then sell it to whomever he wants to. That is possible. The Act makes his rights, the landlord's rights a

(MR. GREEN cont'd) . . . . . little more restricted or a little more complicated if he chooses to try to get around it. Isn't that the effect of it? And if that is not the effect of it, then I would like to be corrected.

MR. CHAIRMAN: Mr. Craik and then Mr. Spivak. Mr. Spivak.

MR. SPIVAK: The question really is one of principle. I'd rather just sort of deal with this in answer to the Minister of Mines and put this to the Committee. The purpose I think is the protection of the individuals who've rented the properties, who should not be put in a position of jeopardy, and who should have a clear understanding of any arrangement that would be arrived at in which they are going to be directly affected. I think that's the purpose and, you know, that can be accomplished in other ways than this proposal by provision of sufficient notice no matter what particular lease arrangements exist, whether written or oral, and in addition to whatever protections that now exist with respect to the Landlord and Tenant Act, because the reality is that in terms of the operation of the Condominium Act, as I understand it in terms of time limits, you're going to have a time spread for anybody who's going to be providing the conversion, so that in effect the sort of a right of first refusal or the requirement of an offer to be made on the terms and conditions that will be offered to everybody else, along with sufficient notice, is another way of handling it rather than having it in this proposal. And the question really is: Which is the better way? --(Interjection)-- If you want to translate that in . . . you can. But the fact is it's a question of which is a better way of handling it. I'm not so sure this is a better way of handling it. That's all I'm saying. And I really wonder whether any consideration has been given to that other possibility.

MR. CHAIRMAN: Mr. Craik, then Mr. Axworthy.

MR. CRAIK: Mr. Chairman, when we had the former Condominium Act (1) before us when I spoke on it in the Legislature, I indicated at that point that a system whereby you somehow protect the tenants that maybe have to change residency as a result of conversion should be a prime objective of any legislation. And I expressed a concern at that time that this would protect 50 percent of them and the other 50 percent would still be victim to the same sort of thing that would happen if you didn't have that particular clause in this legislation. And I personally don't feel that this Act is going to do very much to protect those that have to move as a result of a conversion.

Now all it's going to do is slow down the process. That's essentially what this Act's going to do, just going to slow it down a little bit. It isn't going to buffer very much the inconvenience of a person having to shift if he doesn't wish to buy.

I think the reason we're concerned, and maybe we all have different answers to it, is that there's very likely to be - we haven't had any conversions, and as a matter of interest I was involved in carrying out the first conversion that was done of an apartment building in Winnipeg. I am involved in that sort of work. I am not involved in any now so I have no problem. Speaking to you about it, I am involved in condominium work but it's new construction, but I was involved in the first conversion that was done in Winnipeg so I have some familiarity with what's being done. And in that particular case, there were only four out of 24 people that stayed in the building so that there would be way under the 50. And if that was the ruling criteria and that only, I'm sure that this bill if it was interpreted like some people are intending to interpret it, that there would be no conversion if 50 percent opposed it. That you would get absolutely zero conversions from here on in, and then you have to ask the question if that's what you want or not. Because what you really --(Interjection)-- but I think that what this bill does in effect, if I'm reading it correctly, all it does is it slows down the process and by attrition you can get down to the point where you have less than 50 percent of your leases being written and then you can convert to condominium. But it still doesn't attack the basic problem that may arise if you get a rash of conversions. Now nobody knows whether you're going to get a rash of conversions or not. I suspect you're probably going to get a lot of conversions with rent control coming in. But I don't think anybody really knows that yet. But for instance someone now has a building and the interest rate on their mortgage is going to jump from 9 to 12, which is pretty characteristic of the five-year change in interest rates, that person may as well say, well I can get condominium mortgages at the same rate, and I might as well since it's not going to change the rent structure much

(MR. CRAIK cont'd) . . . . . differently than it would have if I could apply the new interest rate, then I might as well convert to condominium. And I wouldn't be surprised you'll see a lot of conversions.

On the plus side, you don't want to rule out conversions or condominiums because what it does is it provides people that I would say tend to be in the lower income sector, at least not the sector that predominates those buying single family, that income group, you're providing an opportunity for people to buy their own accommodation and they then become - what they do is they gain themselves a hedge against inflation, which many can't do now because the prices are so high in regular housing. So that's on the plus side. You don't want to discourage condominium because it allows people to invest in a home even though it's not a single family dwelling.

But on the other hand you're faced with the difficulty of those that for one reason or another did not want to buy and had to move, should they be given a consideration that is different from the consideration that would be given to a person that is now in a single family home where the owner wants to live in it himself.

And this bill is saying that you're going to reduce the problem by 50 percent but you're not going to reduce you know, the whole problem. And I don't think this bill is the entire answer. There may not be an entire answer. I think it could be improved if it had a clause added that - and I know that again there won't be entire agreement on this, and I checked it, got some legal advice, I've talked to Mr. Tallin as well on this. But I'd suggest that perhaps a clause should go in here adding to it saying that there could be a provision made where the person's moving expenses were provided to him if he had to move as a result of conversion to condominium. And this person can then speak for himself and he says, well that is not provided now in a normal tenancy. If for some reason or other in a normal tenancy because the person has sold the House or renovates the buulding the tenancy is terminated, that person isn't provided with any sort of moving expenses.

But really what you're facing here is that if you get a sudden surge of conversions in condominiums is that you're going to have people that tend to concentrate say the end of October, at the end of a lease period or perhaps at some interval that tends to come just after that, or whatever the timing works out to be, then you've got X hundred people looking for alternate rental accommodation. And that's what you're trying to offset. Now you don't know you have that problem yet because it hasn't happened. But it has happened in other centres and what you're trying to do is predict what would be equitable if it did happen. Or it brings down the problem that the 50 percent clause here as this is written, as I see it, all it does is spreads out the period. It doesn't really . . . It in part gets at the solution to it here by making sure that the person gets the first chance to buy it. Well he'd get that chance anyway because it's much better if a person that lives in a building, buys it; he doesn't have to move. In fact it's worth quite a bit of money to the person that converts if the person lives there. The person that's converting it, it's to his best interest if the person living there buys it so there's not all that inconvenience of people moving out and moving in, and all the other things that happen.

Now if you really want to solve the problem what you got to do is either say there's going to be no conversion or if there are conversions, consider whether or not you want to try and buffer the impact of an undesirable move of a tenant by saying, well the owner should provide an interval of notice and share in the cost of the moving expense or something else. Now that has been done at least one other place in Vancouver. The costs of the move are specified at I think $150. If a person has to move somewhere else in the Vancouver area, there's a contribution made to his move of $150. It doesn't solve his problem it just sort of buffers the impact of it happening. I don't think that this bill solves the problem. It goes part way. If you want to go part way and then change it next year, if you've still got a real problem, fine, you might be just as far ahead to draft some sort of regulatory power that would allow some amount to be set for assistance in moving.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I've been reminded I guess of the old axiom that when people attempt to clarify they end up confusing, and I think that's been the end result. For a bill that has been around for about three months for all of a sudden in the last moment to erupt, but let me deal with the issues.

(MR. AXWORTHY cont'd)

I think the previous speakers, particularly the Member from River Heights have totally confused the issue. I think the bill is very clear and it's based upon a very clear precedent in several other jurisdictions. If 50 percent of the people who reside therein do not agree to consent, the building does not become a condominium, period. It is not registered as a condominium and therefore it is not a condominium. That is the whole purpose of the bill. So to say there's other ways of getting around it, there isn't. That is very clear in the bill. That if 50 percent do not agree or consent, the building cannot be registered as a condominium unit and therefore a condominium will not and cannot be performed, it will stay as a rental unit. That's very clearly set out in the bill. Now if you want to disagree with that principle, that's fine but it is not a matter that simply gives one right of first refusal. That I think is quite explicit and direct and it is based upon the experience in several other jurisdictions. Now the arguable point might be what should be the required percentage. In Vancouver it's 90 percent now is required for a conversion to take place. In Toronto under local option, it's 100 percent. In Ottawa, what happens the municipality decides whether the conversion will take place. In Quebec, it is 50 percent and in American jurisdictions you can find a variety of percentages, but the whole point of it is, it really means that a majority of tenants must agree before the building can be converted. If not, it is not a condominium.

Lease tenants, now, and this is perhaps where the issue should be clarified and maybe the wrong words here is the word "written" lease because the definition of the Landlord and Tenant Act in this province is that you don't have to have a piece of paper to have a lease, that you can have a lease simply by occupying the unit and you are a tenant in good standing, and that is the law, and I think that that should really be in, so maybe the confusion here is in the word "written" lease and that we should simply be using lease as it is interpreted under the Landlord and Tenant Act, that the tenant who has the powers of leasehold under the Landlord and Tenant Act is the tenant to whom we are referring to in this Act. I think that would certainly clarify some of the questions that were raised.

Now, Mr. Chairman, just to address myself to Mr. Craik's remarks about is it a solution or isn't it, and I wasn't too sure whether he was saying, it's a partial solution but it could be better, but I don't know whether it should be better other than maybe helping people move. Well, Mr. Chairman, I don't pretend it's the 100 percent solution, but it's better than nothing frankly and nothing was what we were going to have. And the fact of the matter is that all the conditions under which conversions were going to take place by the experience of others were in fact existing now in the City of Winnipeg, and I think that certainly with the introduction of the rent control bill that from direct discussion I could tell you that there was nine or ten in my own constituency that were going to go on the blocks unless there was some restraint being provided. I think in this case the Member for Riel is correct. It will not totally put an embargo on all conversions. It does require the owner, however, to get the agreement of fifty percent of the tenants residing at that time with a leasehold to agree. I think the experience that they've had in Vancouver in particular . . . I just met with a fellow named Mike Harkley who is an alderman in Vancouver who explained it, said that what they have found is that the conversions tend to be approved in the smaller units where there tend to be more and where there are also a fair degree of amenities but not in the larger units, so it means that it is giving some choice based upon the kind of unit that you're dealing with, that they have had a variety of experiences but that they are recognizing the right of option or the right of tenant to be able to exercise this discretion. And that's I think what this bill, as I say, is not to put, if I gather what the Member from Riel was saying, either put a total embargo on or don't put any embargo on and help the guy move. I don't think that those are particularly useful solutions either, frankly. I think that a total embargo would not be an effective way of dealing with the problem because there should be some units that are converted and are liable to conversion and all we're simply doing here though is insisting that the choice is not simply that of the owner but tenants themselves have some right. And let me also say this, Mr. Chairman, that one of the other things that has to be considered in this issue, and people are going to say, well now should the owner not have that right and I can understand that. A large number of apartment blocks, especially the larger ones in Winnipeg are now owned by absentee landlords, large

(MR. AXWORTHY cont'd) . . . . . corporations are headquartered in Montreal, Toronto, Geneva, Los Angeles, New York, who couldn't care less about the rental situation in Manitoba, what the requirements of people are, it's simply a matter of cash flow and if their cash flow falls down, that they convert, that they have no consideration whatsoever. So in dealing with those questions that were raised, I think that I would suggest, Mr. Chairman, perhaps Mr. Tallin might comment, that in order to bring it in total correspondence with the understanding of leasehold under the Landlord and Tenant Act the word "written" should be eliminated and we should just have "those who have a leasehold", in that way it would be consonant with the Act.

MR. TALLIN: I would suggest you just strike out "who have written leases".

MR. AXWORTHY: Okay.

MR. CHAIRMAN: We have to have a motion. We have a motion before us. I wonder if we could deal with that motion and then have a subsequent motion. We have the motion that was moved by Mr. Adam. (a),(b),(c),(d). Mr. Green.

MR. GREEN: Are we on just strike out written leases.

MR. CHAIRMAN: Yes.

MR. GREEN: Well, Mr. Chairman, I'd like to speak to that.

MR. CHAIRMAN: Mr. Green, come to the mike please.

MR. GREEN: Well I really don't see why and there has to be a little bit affinity. The landlord is not entitled to the tenant to stay on continually month after month. Why is he hung up by a guy who can leave 15 days later and the opposite is not true. I think that the provision with regard to written leases is a good provision because it at least implies that there has been an arrangement between the tenant and the landlord both places, that they are going to stay together. If you have a situation where you have complete, sort of tenancies at will, or month to month tenancies, then I do not know whether the tenant who can leave at the end of the month or on one month's notice should have the right to stop this type of conversion. I think that the term written leases is a good one.

Now, I have understood and I pointed out to the Member for Fort Rouge the problem, but I think it's a bit remote that the landlord is going to let every lease expire and then put people on month to month at the end of them. I think that that is quite a contrivance and it will be difficult to perform. I think that Mr. Craik is right, that this will discourage some, which is what the attempt is, and as a matter of fact I doubt whether there is a real fear that in order to avoid the fifty percent, it will take a couple of years to start evaporating the leases and switching them from month to month and then he doesn't know when he's going to lose a tenant, etc., it is a real problem. But I do not think that just because a person is there from month to month, that he should have that control over the owner's property.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I just want to put the other thesis. I'm not disagreeing with the Minister of Mines and Natural Resources, that's why I held the mike up for him. But I want to present the other thesis and I say that as legislators we have a responsibility. I think our objective here is consumer protection, in this case the tenant being the consumer, and to protect his interest and his right, and without question I think that that is our purpose and I think that we then come back to the possibilities of other ways in which to handle this.

One of which is to provide a notice requirement which, without question will protect his interest, no matter what happens, it could be a year if a conversion is to take place, so without question there is at least a year's notice and the tenant then is in a position to make all the adjustments that are required. The other would be to accept in principle the kind of thing that the Member for Riel has suggested in terms of re-allocation costs if something was to occur. The third would be in fact to give the tenant the right of first refusal on the basis of the offering that's made so that in effect he's not put in a position where he has lost that opportunity, I think you can provide those kind of benefits and at the same time protect the consumer's interest and I think that that's not the same thing that the Honourable Minister of Mines and Natural Resources said at all, but I think that's another way in which to deal with this and I don't think that that should be lost, because, in effect, as legislators, our objective is to protect the consumer and I have to come back . . . The landlord also has some rights and the convertability should be

(MR. SPIVAK cont'd) . . . . . there but under conditions in which the consumer, the tenant is protected, and protected properly. And those things can be written in. That's not really the thesis of the Member for Fort Rouge who in effect is saying that the tenants will in effect have a basic propriety interest in the piece of real estate which gives them an interest in the private property of someone with whom they only have a lease obligation. Not a long-term lease necessarily.

MR. CHAIRMAN: Mr. Axworthy.

MR. WALDING: Mr. Chairman, on a point of order. I wonder if we could deal with the amendment that's before us before we debate an amendment that is not before us.

MR. CHAIRMAN: Very good idea. I think we're going to get bogged down otherwise. I understand the tenor of the amendment that you want to make to this, but can we deal with the motion that was moved, which was in four sections and contains the new clause whereby another amendment will be moved subsequently, I understand. Is there any further discussion before I call for the question? All those in favour? Or is there any opposition to it passing? Pass? Agreed.

Now, we have adopted the motion that has been distributed, (a) (b) (c) (d) with a new subsection (b). Any further . . . --(Interjection)-- All right then, Page 1 as amended--pass. The second amendment is the one I want the honourable members to understand that if you want to strike out the clause "that have written leases" it's within this new subsection (b).

MR. TALLIN: No, it's in (a).

MR. CHAIRMAN: It also occurs in (b) too, doesn't it?

MR. TALLIN: Yes. That's a question of option.

MR. CHAIRMAN: Oh, I see. Well then it is in (a), if someone wishes to move that motion.

MR. AXWORTHY: Mr. Chairman, if I could raise this tonight, it's a little . . . I'm in a position where I have to amend my own proposal because written leases is what I put in in the first place. --(Interjection)-- I realize that, I don't want . . . to your practices. I simply want to raise this kind of question, Mr. Chairman, and it may be that the Minister of Consumer Affairs, who I believe is still here, would comment.

The point that the Minister of Mines and Resources raises is that the fifty percent should have a written lease because that would in effect eliminate the nuisance tenant or the transient tenant, and why should they have the right to get themselves involved. And if the owner is so committed to conversion that he's prepared to go through the time, long sort of, problem of having leases spin out over two years then that's probably worth the effort. I'm not so sure that that is a realistic description of conditions as they now exist. Certainly it's my understanding that a large number of apartment owners are now moving away from one year written leases, and are simply either going on month to month leases, not by the tenant's choice but by the landlord's choice, because of the, partially the confusion created by the Rent Control Act or Rent Stabilization Act so that many, many leases are not being offered at all, that they're going on month options and in some cases are not given any recent written leases or any agreements but are simply going on the basis of the lease description as its contained in the Landlord and Tenant Act. I think that that is as much a problem, so it's not a matter of a nuisance tenant, it may be in some cases the question of the intention of the landlord not to want to offer annual leases anymore which is becoming a much more common practice.

In that regard, Mr. Chairman, I really would want to speak against the Member from River Heights' assumption that providing information is a form of consumer protection. That's ridiculous. It's the weakest form of consumer protection of all; simply by providing information is a warning, that's all, but there is no protection of rights. I think to try and dissemble it as a form of protection is really not being straight. I think that it is simply a way of providing some anticipation. It does not go to the heart of the matter though, and that is that if conversions take place that there are lack of rental units being built, which is the case in Winnipeg right now, then these people, they have a year to scramble around still trying to find something, which is an unsatisfactory relocation. That is not a form of protection, I just think that I can't accept that thesis. I think he's trying to put an elegant phrase on what is a fairly paltry proposition.

(MR. AXWORTHY cont'd)

So, Mr. Chairman, I do want to, before moving the idea of the written lease, would really want clarification perhaps from the Minister of Consumer Affairs in terms of the way in which that definition of the Landlord and Tenant Act is now working in relation to the legal concept of lease as it's contained in that Act.

MR. CHAIRMAN: Order please. Now this just is a very good illustration of when the Chair gets lax and we allow a discussion on something that isn't before the committee. We are now debating whether we are going to take out written leases or not, and we don't have no motion; so if there is no motion then I'm not going to allow any more debate on it.

MR. AXWORTHY: Mr. Chairman, I asked for clarification of that particular . . . I think we want to make sure the legislation works right and there have been questions raised about it. We are now asking for clarification from the Minister who operates the Landlord and Tenant Act as to what is the situation in relation to written leases or whether the Landlord and Tenant Act concept of leasehold is as contained in it.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Before we get to explanations. The honourable member has used a phrase that I did not hear, nor did I intend to convey it. Nuisance Tenants. I don't know who these nuisance tenants or transient tenants are. I was talking about tenants who live in a place on a month to month basis, which I have done and I didn't consider myself either a nuisance or a transient. And there are many people, honourable tenants, who live in places on a month to month basis. What I said is why should a tenant who has the right to terminate his relationship with the landlord in a period of 30 days have also the right to say that the landlord cannot sell his property for life. It seems to put into a tenant who has a small commitment, honourable but small, a right over the landlord which goes much beyond his . . . so I want to make it clear that it's Mr. Axworthy who talks about them as being a nuisance, not I.

The other feature of it is that I am quite prepared to have these people considered for the option if they are living there, that they be given the option to purchase, because the landlord is not then in any way sort of being bound to them in a way which sort of overbalances the commitment that they have to him. I understand that in both cases that the word "written lease" is used. I'd be prepared to have the word "written" taken out of the ones he gives an option to purchase and would so move, Mr. Chairman. Would so move.

MR. CHAIRMAN: Section 5(1.1) Clause (b) . . .

MR. GREEN: I trust the legislative counsel to know which one that it comes out of.

MR. CHAIRMAN: . . . the 4th line thereof, that before the word "lease" the word "written" be deleted.

MR. GREEN: The other feature that I understand - and I'm not going to be the legal adviser on this nor would I even give the same trust to the legislative counsel on this question as I did on the other because I'm not certain that he can be that certain - that the Landlord and Tenant Act does entitle, or says it entitles a person with a lease to be granted another lease, and I am not quite certain of the effect of that, whether a landlord has to give perpetual leases but it certainly is not as clear-cut that he can let it expire and then put him on month to month. There may be argument about it. I wouldn't want to make a commitment on that one way or the other.

MR. CHAIRMAN: It's my understanding now then that Mr. Green has moved that Clause 5(1.1)(b) be amended by striking out in the 3rd and 4th lines thereof the words "under a written lease". Now, Mr. Spivak.

MR. SPIVAK: I just want to reply to the Honourable Member for Fort Rouge. I think I have to, the last remark. The propriety interest that the tenants would have arises today, from what you say, because of the horrible situation that exists with respect to the ability of the tenant to find accommodation. Now, in effect what you're saying is that at this time tenants have a right with respect to the apartment that they lease because of conditions today not because of any other principle. That's in effect what you're saying. But that's what you said. --(Interjection)-- But then you said that notice isn't sufficient. You say notice is not sufficient where I argue and I think that our obligation is to protect

(MR. SPIVAK cont'd) . . . . . the consumer in terms of his ability to manoeuvre, recognizing what the situation is today.

But I think aside from all the other arguments that may advance there is a very solid argument to advance that in effect you are providing a tenant with a right with respect to the property and the ability of the owner to handle this property that does not stem from anything other than conditions being what they are today. I think conditions are difficult in the city and I think that there is a recognition of that and we're probably going to live under this situation for some time until sufficient housing is built and sufficient rental accommodation is built.

But having said that we also are dealing with fundamental rights and I don't understand, you know, the basic argument. If you're saying to me that the tenant has the right, then that's one thing; if you're saying the tenant has a right because of conditions that exist today, that's another thing. I think if you argue the first you'll then set aside the argument that notice is to be given.

If you argue the second, then I think notice and provision for allowances is one satisfactory way of answering it. I'm not sure that I understand your position. I would perceive that what you're saying is the tenant has the right, automatically. He has a propriety right in the property because he's a lessee, whether he be a lessee for six months or a lessee for a year or a lessee for two years and therefore the owner is not entitled to be able to deal in the property as he so wishes. I question whether that principle is a correct one.

MR. CHAIRMAN: We have the motion. Is there any further discussion on the motion? 5(1.1)(b) as amended--pass; Page 1 as amended--pass; Page 2 - Mr. Adam.

MR. ADAM: I move that the proposed Section 7.1 of The Condominium Act as set out in Section 3 of Bill 21 be amended by striking out the word "and" at the end of Clause (d) thereof; and by adding thereto at the end of Clause (e) thereof the word "and" and by adding thereto after Clause (e) thereof the following clause: "(f) a copy of the declaration or the proposed declarations."

MR. CHAIRMAN: The motion as moved--pass; Page 4 as amended--pass - I'm getting all muddled up. Page 2 as amended--pass; Preamble--pass; Title--pass. Bill be reported.

We have Bill 39 which is a small one, an Act to amend The Fatal Accidents Act. I believe there are amendments and they have been distributed. Bill 39. Mr. Walding.

BILL NO. 39 - AN ACT TO AMEND THE FATAL ACCIDENTS ACT

MR. WALDING: Mr. Chairman, I move that Section 5 of Bill 39 be amended by striking out the words and figures "July 1st, 1975" in the last line thereof and substituting therefor the word and figures "April 1st, 1974".

MR. CHAIRMAN: Order please. The motion as moved--pass.

MR. PAWLEY: Mr. Chairman, I think I should just add one short comment by way of explanation because generally I would be most hesitant in doing anything of this nature because it could in fact be assisting somebody who, by their own negligence, has contributed to a situation. I think that it can be said that when we altered The Limitations Act in order to deal with injuries, at the same time we failed to proceed with altering The Limitations Act to simultaneously deal with damages arising from deaths on the highway. We did in fact make a mistake which could have added to some uncertainty or confusion. So that is the background to this amendment just introduced before the committee.

MR. CHAIRMAN: The amendment has passed and the Honourable Attorney-General actually was out of order. Page 1 as amended . . . Oh there's another amendment. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that Section 6 of Bill 39 be struck out and the following section substituted therefor: "Commencement of Act. 6. This Act comes into force on the day it receives the Royal Assent and Sections 1 and 4 are retroactive and shall be deemed to have been enforced on, from and after April 1st, 1975".

MR. PAWLEY: Is that correct or should it be the other date?

MR. WALDING: It's self-explanatory.

MR. PAWLEY: Maybe legislative counsel, since there's been a request to explain, would like to . . .

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Well the first one is the date of death should be "April 1, 1974" in Section 5, because that's when the death takes place and that's when the limitation period begins. The limitation period that would begin on that date for a person who died on that date would expire on April 1st, 1974 and therefore the amendments have to come into force and those amendments comes into force on that date to extend the limitation period.

MR. GRAHAM: The date of July 1st that was in here, in effect, did absolutely nothing then, did it?

MR. TALLIN: It would have extended it for people who currently had pending claims.

MR. GRAHAM: But at that date that is there right now, they already are covered because it would pass before the 1st of July, 1976, and they're already covered under 12 months.

MR. TALLIN: It was just to provide a specific date so that people could look at the date quickly and ascertain rather than having to look at a date of assent. This would take it back so that anybody who died after April 1st, 1974, which is the date that should be in on Section 5 of the bill, would have a two-year limitation period.

MR. GRAHAM: Will this then eliminate some of the private bills Praying for the Relief of?

MR. TALLIN: If they get their actions in quickly. Only Mr. Kernested's application or Mrs. Kernested's, whatever the application was, that's the only petition I think that would be affected. I don't think there's any other bill before the House that falls under the same category.

MR. CHAIRMAN: Motion as moved--pass. Page 1 as amended--pass; Preamble --pass; Title--pass. Bill be reported.

BILL NO. 46 - AN ACT TO AMEND THE PENSION BENEFITS ACT

MR. CHAIRMAN: There's the Pension Benefits Act. Are there any amendments to The Pension Benefits Act, No. 46? Bill No. 46: Page 1--pass; Page--pass; Preamble--pass; Bill be reported.

BILL NO. 56 - THE FOREIGN CULTURAL OBJECTS IMMUNITY FROM SEIZURE ACT

MR. CHAIRMAN: Bill No. 56 - page by page.

MR. GREEN: Mr. Chairman, I'll put all the cards on the table. If somebody wishes to move an amendment to self-destruct then let's see whether we want to do that.

MR. PAWLEY: I have a wording of a self-destruct motion. I do not want to move it because I don't agree with it but I know that there are members here that would like to probably move such a self-destruct motion.

MR. GREEN: If somebody wants to move it, let's have it. Well let's go on.

MR. CHAIRMAN: Page 1--pass; Preamble--pass; Title--pass. Bill be reported. Bill No. 62.

MR. GREEN: Bill 62, I believe that the Member for River Heights wants to talk on 62. Maybe we'll put that over till tomorrow.

BILL NO. 63 - AN ACT TO AMEND THE TRUSTEES ACT

MR. CHAIRMAN: No amendments to Bill 63. Page 1--pass; Preamble--pass - The Honourable Member for Birtle-Russell.

MR. GRAHAM: Mr. Chairman, I believe when we were in committee the other night the Attorney-General indicated that there was some possibility of changing a couple of words in Bill 63.

MR. PAWLEY: Well I don't think I made any wild promises. I think there was some discussion as to whether or not it was clear, the wording was clear, and the trustees were suggesting that legal counsel had advised them that from the wording every application would have to be submitted to the courts. Every application, even with the beneficiaries had in fact consented. I believe our legislative counsel feel that that is not the case. Now Mr. Tallin has received a letter today from Mr. Scarth acting on behalf of the Trust Company Association suggesting an amendment.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I really think that the trust companies have hedged on their position. They really want to have a right to set a fee with the testator because if they say that if any beneficiary objects they are prepared to go to court, then that really is the situation. If all of the beneficiaries agree they could pay him whatever they want to pay him and therefore I think they have just hedged themselves a little bit and they really can't sustain that position. If all adults and representatives of infants agreed to the testator's fee I couldn't see a chance in a million, and even that is a conservative estimate, that any court would intervene with that.

MR. PAWLEY: Mr. Chairman, I would say that from my point of view no amendment should be introduced to this bill, that the wording is quite clear that it is as stated by the Minister of Mines and Natural Resources. If all the beneficiaries in fact did waive, that the courts would not interfere. And too, that not every estate would have to be processed through the courts and the fees established as in fact had been suggested last night by the Trust Companies Association.

MR. CHAIRMAN: Any further discussion? Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I guess I can make reference to the letter. The thing I think that he says, which is not my understanding of the wording, is that in effect there has to be a court approval before the prearranged amount can be applied. And that's not the case.

MR. TALLIN: It's not binding. It can be applied just the same as any fee could be applied. If one of the beneficiaries doesn't want to give his consent then they have to go and get the . . .

MR. SPIVAK: So then what he's saying is wrong. Well it can be applied. If there's a disagreement it would have to go to court.

MR. TALLIN: But after the fact, not before the fact.

MR. SPIVAK: I don't want to quote this out of context. It is apparently being interpreted as preventing such a procedure and requiring court approval before the prearranged amount can be applied.

MR. CHAIRMAN: Preamble--pass; Title--pass. Bill be reported.

BILL NO. 68 - THE NUISANCE ACT

MR. CHAIRMAN: There is no amendment. Page 1--pass; Page 2--pass; Preamble--pass; Title--pass. Bill be reported.

Bill 75 there are no amendments. Can we deal with that? Bill No. 75, an Act to Amend the Public Health Act. Page 1--pass?

MR. GRAHAM: The Minister of Health is not here.

MR. GREEN: Well then put it over. We'll try to get the Minister to be here tonight.

MR. CHAIRMAN: Committee rise.