First Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

39 Elizabeth II

Chairman
Mr. Jack Reimer
Constituency of Niakwa

VOL. XXXIX No. 3 - 5:30 p.m., THURSDAY, DECEMBER 13, 1990

MG-8048

ISSN 0713-9586

Printed by the Office of the Queens Printer, Province of Manitoba

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARR, James	Crescentwood	Liberal
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHEEMA, Gulzar	The Maples	Liberal
CHOMIAK, Dave	Kildonan	NDP
CONNERY, Edward, Hon.	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	NDP
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNESS, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack, Hon.	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Thursday, December 13, 1990

TIME — 5:30 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Jack Reimer (Niakwa)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Connery, Ducharme, Enns

Messrs. Alcock, Carr, Ms. Friesen, Messrs. Helwer, Martindale, Reimer, Rose, Mrs. Vodrey

APPEARING:

Val Perry, Government Drafter

Hollis Singh, Director, Landlord and Tenant Affairs

WITNESSES:

Frank Cvitkovitch, The Mortgage Loan Association of Manitoba

Herbert William Cooper, Private Citizen

William Snell, Private Citizen

Harold McQueen, The Social Assistance Coalition of Manitoba

Denis Souchay, Royal Realty Services Ltd.

Sharon Grabowieski, Logan Community Committee

Julie Van De Spiegle, Landholders' League of Manitoba

Karen Tjaden, United Church (Conference of Manitoba and Northwestern Ontario)

Stan Fulham, Kinew Housing Company

Peter H. Warkentin, Dart Holdings Ltd.

Richard Swystun, Private Citizen

MATTERS UNDER DISCUSSION:

Bill 13 - The Residential Tenancies and Consequential Amendments Act

Bill 25 - The Ombudsman Amendment Act

* * *

Mr. Chairman: I bring this meeting back to order. We are gathered to consider Bills 13 and 25. We have presenters and at this time we would like to call back Mr. Frank Cvitkovitch who was interrupted at one o'clock.

Mr. Doug Martindale (Burrows): Mr. Chairperson, perhaps you could advise us as to when we are going to do Bill 25?

Mr. Chairman: When we are finished this. At least hear the representation on this Bill, and then we can always do 25 and then go into Bill 13.

* (1735)

Mr. Frank Cvitkovitch (The Mortgage Loan Association of Manitoba): (Continued from Law Amendments No. 2, Thursday, December 13, 1990, 10:00 a.m.) I would ask the Clerk to pass around a very small supplemental to the brief that we submitted this morning. All it is, frankly, is a copy of Section 183, and the relevant sections I recommended that this committee direct the deleted from the Bill before it be adopted for third reading.

If I might just address Mr. Martindale, through you Mr. Chairman, I think that he missed the thrust, or perhaps I did not do a good job of explaining our concern about the tax implication. I would like to point out that what is involved here is not the direction that the repair be carried out or even that the repair be paid for by the owner, which should give enough pressure on the owner to carry out the repair.

What we are talking about here is when the owner has not paid, the rents are not there, who is going to pay for this repair? It is going to be put on the tax bill. There is nothing in here that is going to force the owner to pay anything more than what is already in the legislation.

What this is doing is forcing other people, other than the owner, to pay or to have their prior registered interest in that property downgraded. As a result of that type of regulation, not just covering houses or units that need repair, that legislation will cover all units, and you will end up with the cost factor built into all rental accommodation. What you are accomplishing by this particular subsection is an increase in the rent for all tenants.

Costs will increase because owners and lenders will insure against the liability or charge for the additional risk of losing a portion of their investment, because the taxation authority will be able to be paid first rather than the investor in terms of receiving his funds back or rather than the labourer through his builder's lien or the supplier.

Those are the people who are going to be hurt, but the cost is going to be apportioned—not that $600,000 figure that I talked about, that is small potatoes. That cost will go over the whole range of expenses in placing a commercial residential mortgage loan. Rentals generally will increase in cost, and that is what we are upset about.

We are not upset or we are not trying to suggest, take this out because it puts too much pressure on the slum landlord. It does not put any pressure on the slum landlord.

Mr. Martindale: I am wondering if the delegation is aware that there has been a change from Bill 42 to Bill 13, and I would be happy to be corrected by the Minister if I am wrong, to the effect that now in Bill 13, if the owner or the mortgage holder wants to do the repairs, they will have the opportunity to do so before further action is taken. Perhaps you could even ask the Minister if he would comment on that. I cannot find the relevant section in the Bill.

Hon. Gerald Ducharme (Minister of Housing): As a matter of fact, there is a change in the Bill that consultation will be made with the mortgage company. They will have the first opportunity to do the repairs. That was one of the things that I had down for my questions. You are correct, that is a change in this Bill, from Bill 42.

Mr. Cvitkovitch: Mr. Chairman, I could be directed to the specific change but, regardless, that is a side issue. We are not talking about the mortgagor, where the mortgagor is co-operating and carrying out the repair, which may be 95 percent of the time. That is on the assumption that the investor has equity, and the lender will have some benefit arising out of the repair.

The repair work will be done. I think the Minister's department will confirm that in many instances the institutional lender will co-operate with a department in terms of stepping in and doing those repairs, taking over the property and taking the assignment of rents themselves and paying it back.

That does not deal with the issue of saying, if nobody else pays these, we will let the City of Winnipeg, in terms of core area Winnipeg, collect these as a tax. That is an entirely different situation, and it is one that, as I said earlier, we have not been able to find another place in Canada that allows that to be done.

* (1740)

Mr. Chairman: We now call Mr. Herbert Cooper and Mr. Bill Snell.

Mr. Herbert William Cooper (Private Citizen): Mr. Chairman, I am not a lawyer so this should take no more than 10 minutes.

Mr. Chairman: Do we have a written submission? Thank you. I am going to have to ask you to identify yourself. Are you Mr. Cooper or Mr. Snell?

Mr. Cooper: My name is Cooper.

Mr. Chairman: Mr. Cooper, thank you. Go ahead. Proceed.

Mr. Cooper: Mr. Chairman, our concern with Bill 13, as it stands, is set out very clearly on this sheet of paper I just gave you.

For your information, the figures are the result—the figures on the sheet of paper—of what happened with the deliberate distortion of Section 16 of the present regulations, which deals with amortization of capital costs, as well as Section 17, which requires the Rental Bureau to consider the financial position of the landlord. Now we find in Bill 13 that such protection as these two sections provided in law, but not in practice, has been withdrawn entirely. With 194 pages of material, we cannot think that this is an oversight.

Mr. Chairman, what we are requesting from your committee is that you devise and include in Bill 13 the necessary sections that will replace the foregoing deletions. To be absolutely clear about this, these sections must reflect the fact that when tenants have paid thousands of dollars to buy and turn over to landlords interest-free, new appliances, carpet, cooling towers or whatever, they are finished with it and subject to no further assessment as presently exists.

Secondly, it must be mandatory that the Rental Bureau, in processing their formulas for increases, must also assess the financial condition of the landlord and disallow applications that take profit margins beyond an acceptable level.

We are quite in agreement with the present 45 percent rule of thumb which they tell me is what they use down in the rental office. We are quite in

agreement with the 45 percent rule of thumb, provided the operating expenses are not frivolously inflated to raise the rental base. Stockpiling light bulbs is certainly not a legitimate expense to justify a permanent increase in rental base. We went through that.

Mr. Chairman, we are not a special interest group seeking preferred treatment. We are businessmen who expect rent regulations to be administered on a businesslike basis—fair to landlords and fair to tenants. You have enough material in front of you, on that sheet of paper, to show why the Minister of Housing (Mr. Ducharme) cannot defend a 20.6 percent increase in rent over three years or a profit margin of 55.4 percent when its own rule of thumb is 45 percent.

Another shortcoming of Bill 13 is Section 124. This states that a tenant may file an objection to an increase, but the present right of access to supporting documentation, as Section 24(1)(b) of the Act, is withdrawn. Without this information, how could a tenant make a case for an objection other than an emotional one? We hope that this is only an oversight and not deliberate.

Mr. Chairman, the authors of Bill 13, as it stands, have very obviously done a phenomenal amount of work. However, there are still other sections that require your study and clarification. We refer you to sections dealing with the determination of rent increases, namely: The Act 125(4)(a)(ii), and then The Regulations 194(g), The Guidelines 123-126, The Guideline/Regulations 194(e).

We could read them into the record, but I am sure you would think I am making them up as a joke. The prize of the lot is page 45 of The Guidelines: "These details will be spelled out in the Regulations." Great.

Mr. Chairman, a good deal of our claim is supported right now by the administration. On December 28, 1989—that is almost a year ago—the director of the Rental Bureau conceded to our committee that the system works against the tenants. He also advised that he granted capital cost increases in perpetuity for administrative convenience, although Section 16 of the Regulations does not grant him this authority.

On February 7, 1990, the Rent Control officer advised our committee that only a political decision would make him change his method of calculating rent increases. Thus, the Minister of Housing (Mr. Ducharme) could easily have supplied that decision.

On February 13, 1990, a letter was handed to the Minister of Housing in person. It showed him the figures you have before you—the result of compounding increases. It requested that he do something about this practice which he was condoning without support in legislation. It also requested that, based on these same figures, he disallow a rent increase for 1990.

In his reply of April 3, he disclaimed any authority to discontinue the practice or to disallow the increase. By his declining to address the question of legal sanction for these increases, our committee takes this as tacit admission that he is aware that he is operating outside the law as we see it.

* (1745)

On March 6, 1990, the manager of the Rent Control office advised me by phone that our analysis, as handed to the Minister on February 13, was both relevant and correct, but that there was nothing he would do about it.

On April 11, our committee and some dozen or so tenants, attended a meeting of appeal. The chairman opened the meeting with a copy of our letter to the Minister in his hand to which he had no right since it was privileged so far as we were concerned. He stated that he had discussed it with senior officials on Broadway and that he had no intention of listening to our presentation which, among other things, dealt with the fact that the Minister was condoning a practice not in the law and, therefore, very much a subject for appeal.

On May 31, our committee addressed a letter to Premier Filmon. Once again, the figures before you were set out for his information. Also brought to his attention was the lack of legal sanction for the actions of the bureau.

We received his reply dated July 6. It was unbelievable in its paternalistic condescension to us. We suggest you requisition a copy from his office down the alley.

Mr. Chairman, we think your committee will have no trouble determining what is wrong with the system and, therefore, why Bill 13 is inadequate in protecting the rights of residential renters. Incidentally, we should point out that we have no quarrel with our landlord who is simply taking advantage of a system that works in his favour. We thank you for your attention and hope you will be able to strike a blow for freedom.

Mr. Ducharme: The only comment is, in your fifth article you mentioned that he stated that he had just discussed it with senior—

Mr. Cooper: I am sorry, I cannot hear you.

Mr. Ducharme: You mention in here, it was discussed with senior officials on Broadway. You are saying staff on Broadway, Manitoba Housing.

Mr. Cooper: I do not know who. That is what the chairman of the appeal panel said, that he had discussed it with senior officials on Broadway. That could be all the way up to the Minister or—

Mr. Ducharme: I can tell you it was never discussed with this Minister, by the chairman of the panel. That is all I am saying. I want it for the record, that is all.

Mr. Cooper: I do not know who, but that was enough for him to shut the meeting down.

Mr. Martindale: If I could summarize your main concern, it would be that the current provisions for capital cost pass-throughs are too generous. Is that correct?

Mr. Cooper: No, that is not correct. That is not what I said. What I said is that once they are paid—let me give you an example because Mr. Rosenberg, this morning, had a very interesting one, that it would take 40 years. If, as we have just done, there is $200,000 spent to buy new appliances, that is to be amortized over four years according to Section 16 of the Act. That is $50,000 a year. Now, if you take, using a rule of thumb, a 15 percent interest the landlord has to pay for, then that will cost, on $200,000, that will be $30,000 which will go to interest, $20,000 will go to reducing the principle.

If you extrapolate that even on the long way around, in 10 years the tenants will have paid the $200,000 which is all the interest and all the principle, and the landlord is not out a nickel. That is dandy for him, but this is what I am trying to get at. Also, the fact that the Act does not say that this can be the perpetuity factor which is administrative convenience.

Once we have paid for the $200,000 worth of appliances, whether it is six years properly financed or 10 years, that should be the end of it, and there should be a reduction in the rent. That seems to be such simple arithmetic that I cannot believe with all the conversation we have heard here today that it does not come up.

Mr. Martindale: It seems to me that there would be two different ways of taking care of this. One would be to reduce the rent once the capital costs have been paid off.

Mr. Cooper: That would be dandy.

Mr. Martindale: The other would be to lengthen the amortization period, for example, to increase the number of years from say four years to six years or 10 years.

Do you see advantages or disadvantages in those two systems, and would you be amenable to increasing the amortization period?

* (1750)

Mr. Cooper: I would have to kind of work that out. Frankly, I do not know that it would make a great deal of difference because it actually brings me to what I find very difficult to understand. I do not know what other kind of business operates this way.

In my business, if I wanted to add to a building or whatnot, I had to pay for it out of such profit as I had generated in the business. I could not get my customers, as we do here, to carry the load and hand it to me all paid. That is where I get confused in the whole system.

Mr. Martindale: Would you agree, sir, that it is difficult to pay for the capital costs and then reduce the rent, in that normally the landlord would be applying for a three percent or four percent rent increase each year and, therefore, there would be inherent difficulties in calculating the rent annually?

Mr. Cooper: I am sorry, I am not quite following you there.

Mr. Martindale: If you would like it repeated, supposing there was a rent increase in order to cover capital costs, and after those capital expenses had been paid off the rent went down again, as you have suggested, do you not think there might be some difficulty in calculating rents in that you would have an annual rent increase to factor in as well as the decrease? It gets kind of complicated.

Mr. Cooper: Yes, I can imagine it might be difficult, and that is why the director of the bureau has a neat system for administrative convenience, because he says it would be so difficult with different rental periods, different amortization periods for different things and whatnot. I can well believe that, but that brings us to the other part of what I was saying, Section 17, the financial condition of the landlord. In other words, on that sheet of paper the Chairman has, it shows how the profit has escalated year by

year by year. I do not know where it is going to end, if you try to protect that further.

The rental officer has no interest at all in the end result of what he is doing to us. He has a formula, and he charts it all up on a sheet of paper, and he turns it over and he calculates the increase. It does not matter what he is doing to the tenant, that is the formula. Only a political decision will make him change it. Now I think that is the key to what is wrong. The rental officers and the director should, along with calculating the increases with their formula—I could not care less about that—they should make sure that the thing is not going over the hill, as the figures on that sheet of paper will show you.

Mr. Reg Alcock (Osborne): I think what is interesting about what Mr. Cooper is saying Mr. Chairperson, is that—I think he is making two points, and one is the one we discussed earlier today and yesterday in Estimates. That is that this 45 percent gross profit guideline is meaningless in the face of these regulations, because it allows, as Mr. Cooper has demonstrated here, gross profits to grow well beyond the department's own guideline.

The second thing I am interested in is Mr. Cooper's assertion that, given the way the regulations are struck, the department has no authority to continue to levy the charge for capital costs beyond the period that is specified in the regulations. While Mr. Martindale may have concerns about the math in reducing the rent, in fact if we could supply the department with a calculator, they could probably figure that out, and at the end of the period they could indeed reduce the rent back to the base level and then apply the 3 percent guideline.

Mr. Cooper: Just on that point, it is kind of interesting if and when you get Premier Filmon's letter to us. He said that—this is unbelievable—he has no mandate to remove the assessment after the recapture period. In other words, he is simply saying, okay, we have to recapture this $200,000 for the landlord, but he has no mandate to stop doing it, and we will go on paying it forever. It is incredible.

Mr. Alcock: Mr. Cooper, is it not your contention that he has no mandate to continue doing it?

Mr. Cooper: The wording of his letter says that he has no mandate to discontinue the assessment after the recapture period. That is it.

Mr. Alcock: Yes, that is what the Premier's letter says, but is it not your contention upon reading the Act and the regulations that he has no mandate to continue to levy that?

* (1755)

Mr. Cooper: That to me goes without saying, that if the department, the director, Premier Filmon has a mandate to amortize $200,000 over four years, that is it. He has no mandate to go further. I mean, that seems like anybody out of Grade 6 could figure that out.

Mr. Alcock: Sometimes you have to spell it out very clearly for us.

Mr. Martindale: Mr. Cooper, are you aware of the existing regulations? It seems to me that they are fairly straightforward.

Mr. Cooper: Do you mean the present Act?

Mr. Martindale: Yes, under the present Act, the regulations of the Rent Regulation Act.

Mr. Cooper: I sure am, because I have spent eleven and a half months trying to get to this point.

Mr. Martindale: Good, so you know that some costs can be passed through at the rate of one-third and some at one-quarter and some at one-sixth?

Mr. Cooper: Yes, that is all in Section 16 of the regulations.

Mr. Martindale: Would you therefore agree then that it would be fairly simple to change these regulations just by changing one-third to one-quarter and one-quarter to one-sixth, et cetera?

Mr. Cooper: No, that would not change it. It is the perpetuity factor that screws it all up.

Mr. Ducharme: Just to further that, I think you were present today when we discussed that maybe a type of reserve fund be set up, and that would be they must set up the reserve fund. Were you here earlier today when, instead of that—

Mr. Cooper: I did not understand that, Mr. Minister, because Mr. Rosenberg said that under the law, the landlord could not set up a contingency fund or a sinking fund. That beat me, because I do not remember seeing anything about that, but I cannot think that I got it right because out of his 45 percent, he can do what he likes with it, and it would seem that to protect his investment he should set up a sinking fund so that he can replace the roof 20 years down the road.

Mr. Chairman: Are there any other questions of Mr. Cooper? Thank you very much, Mr. Cooper. There is a switching of positions by mutual consent between Karen Tjaden and Harold McQueen, so we will now call Harold McQueen.

Mr. Harold McQueen (The Social Assistance Coalition of Manitoba): Thank you very much. Mr. Chairman, Honourable Minister, the committee. My name is Harold McQueen with The Social Assistance Coalition of Manitoba, and I represent all of the tenants who live in poverty in this province.

Overall, Bill 13 addresses most of the needs of our people, except a few minor changes in a few of the clauses in the subsection in Bill 13 which do—-you should have a brief in front of you that I have prepared. The first one has to do with Clause 30(3) with "the director to hold in trust". We would like to see it amended to "a security deposit and interest remitted and held in trust by the Government Residential Tenancies Commission" which is the provincial group that would head this new tenancy. This would eliminate Clause 30(4) which says they can turn it back to the landlord by amending the security deposit going to the provincial tenancy commission. It would eliminate the next subsection of that.

The next one deals with the condition reports, Clause 39(1). I do believe that I know landlords would object to having a mandatory clause in here saying that the condition reports would be done, because I find that in the present legislation, there are a lot of loopholes that the landlords can use to get around these. We are not suggesting that a mandatory clause be put in here, but we would like to see in the policy itself that it should be made compulsory between the landlords and tenants before the security deposits are surrendered to the landlord. The mandatory one I do not believe would ever be put in because the landlords would scream too much about it.

* (1800)

In saying that, we would like to have Clause 39(3) reworded to state, "After an inspection under subsection (2) the landlord shall complete a condition report at this time in the prescribed form, accurately recording the results of the inspection, the landlord and tenant shall both sign and date it and the landlord shall ensure that the tenant", and here is where the wording is that we would like to see changed to "is given a copy immediately after it is signed."

Landlords have a tendency to go along with tenants to do these condition reports, but sometimes we do not get a copy until a week or so later, and then a lot of times we have to request that copy, so we would like to see the wording just changed on this one so that the landlord would give the tenant the copy immediately after it is signed. Landlords have a tendency sometimes to make changes before they get it back to you, so we would like to have it in our hands at that time before we move into the suite, or whatever it may be.

The same on outgoing tenancy, that this same agreement would be back in both of our hands that we can compare with any further damage or whatever. That is a protection for both the landlord and the tenant.

Mr. Martindale: Thank you, Mr. McQueen, for your presentation. You will be pleased to know that I am going to introduce an amendment when we go through clause by clause to make condition reports compulsory. Do you generally support Bill 13? Do you think it is a good Bill and makes improvements over existing legislation?

Mr. McQueen: On having Bill 42 that was put forward before and having now Bill 13 in my possession, since I have had it I went over both of them clause by clause. I am not legally inclined, but Bill 13 is more or less a simplification of Bill 42 that the people I represent, a lot of whom are illiterate, will have a lot better understanding than they would have ever had of Bill 42. Ninety-nine point nine percent of Bill 13 is almost identical to Bill 42, but in a simplified form. We endorse Bill 13, other than these small amendments that some of the other landlords and tenants have put forward. A lot of it is rewording to even simplify more, but we would endorse Bill 13 with a few minor changes.

Mr. Alcock: Yes, Mr. McQueen, SACOM was part of Winnipeg Housing Concerns Group, was it not?

Mr. McQueen: Yes, it was.

Mr. Alcock: I was interested when they made their presentation today that, while they were originally calling for compulsory condition reports, they stated this morning that they were prepared to accept the Bill as it was drafted where the condition reports would only be compulsory if a tenant requested it. I understand that your position on it is still the original one from Bill 42, that the condition reports should be

utilized in all cases and compulsory in all cases. Is that a fair statement?

Mr. McQueen: Yes, I was a little disappointed in the Housing Concerns Group with their presentation this morning as they have not been in touch with us as often as, I guess, they should. We have not had as much input into the Housing Concerns Group as we would like. They are taking Bill 13 as is with the condition reports and security deposits.

With Bill 42, since 1982, they pushed so hard on these changes. Now that Bill 13 is basically along the same lines as Bill 42, they no longer require these same changes as had our group. From what I heard this morning on their presentation, it has us disappointed that they could not have pushed on these things that they had so hard on Bill 42.

Mr. Martindale: Mr. McQueen, could you briefly tell us why you think condition reports should be compulsory? What are some of the problems tenants experience that suggest to you they should be compulsory?

Mr. McQueen: With the way landlords seem to be able to get around tenants in the existing legislation, I myself, not being legally inclined, can see some loopholes that landlords can use to by-pass these. They are not going outside of the law, but they have ways and means of getting around these things.

I quoted a little earlier here that one of the loopholes landlords use is that I have seen condition reports that are done in pencil. We do not get a copy for a week and there have been changes made. The idea is that all of these condition reports should be done in pen so that they cannot be changed in any way.

Other loopholes I can see that landlords can use, and I know they have used because I have been through the experience myself over about 16 years, is when they are going over a place with a condition report, they miss a lot of things that could be damaged that tenants might not see, but the landlord might know they are there, or the caretaker who is working on behalf of the landlord, and they will go over it just lightly. On outgoing tenancy, then they go over the place with a fine-toothed comb and say, well, this is damaged and this is damaged, and we have no idea whether this was damaged before we moved in or not.

These are a couple of legal loopholes that landlords use. By making it compulsory for condition reports, it will start to address some of these legal loopholes that landlords use to protect the tenants.

Mr. Martindale: Mr. McQueen, the kind of stories that I am familiar with are, for example, the tenant moves out, asks for the security deposit back, the landlord says, you are not getting it back because you broke the glass in the front door. The tenant says, oh, no, that was that way when I moved in. It is the landlord's word against the tenant's word. There is nothing in writing to help the department arbitrate the dispute. Would that be typical of the kind of experience that you are aware of that tenants have?

Mr. McQueen: Yes, that is another way of landlords trying to prevent the tenants from getting their security deposits back. It has been our experience over the last couple of years that we have been in existence. We have had countless things like this. Apartment windows are broken or cracked, and over a period of time, the winter cold weather cracks them even more. Then on moving out, the landlord says, well, that window was not that way when you moved in, if it is not in this condition report that this window was damaged to that extent, that it could be damaged even more over a period of time. A lot of landlords do not replace these windows as soon as we would like.

That brings me to one more point in Bill 13 that addresses quite well to the tenants. It is about the outstanding repair orders on these places. If they are not done within a certain length of time, this commission could withhold the rent funds to do these necessary repairs until they are done. That clause in Bill 13 addresses that problem for the tenants quite well.

Mr. Ducharme: First of all, I would like to thank you for your presentation. I am glad you did mention that the second Bill, 13, is much more clear than Bill 42, and that was even during the process of Bill 42 not following through to committee last time. This confirms our idea that we felt it should be redrafted and that it should be more to a layman's type of literature. Would you confirm that it is much of an improvement because of that?

Mr. McQueen: Yes, Mr. Minister. From our last meeting, we had asked you to clarify Bill 42 for us when we met with you before Bill 42 was withdrawn, and the group at the time I was with that made that presentation to you had asked for that simpler layman's language so tenants who are illiterate, it

would make it a lot easier for them to understand. Your department has done that quite well for us.

Mr. Ducharme: The reason why I asked you that is because we keep being told day in and day out that the only reason why we withdrew Bill 42 was because of pressures from landlords. I had tried to say that it was also pressure from different groups who said they could not understand the way Bill 42 was written. I just wanted that for the record.

The other thing I would like to ask is, you mentioned there was not a great difference between Bill 42 and 13. One of the biggest differences is one you had mentioned, that a mandatory condition report would be required if either the tenant or the landlord requested it, which I think is a big movement in that direction. All I can ask in the final question is, was it worth waiting for, the year that we waited or the six months for Bill 13?

* (1810)

Mr. McQueen: Until it actually becomes the law, we agree that it has been worth waiting for. It has taken everybody some time to agree on a lot of things, so it was worth waiting for.

Mr. Martindale: I think the Minister's memory is selective, so I would like to put my recollection of what happened last spring on the record as well. Since I helped organize the tenants' lobby and the low income groups' lobby, I know that we had agreement from the Liberal Caucus and the NDP Caucus to pass it through committee with no amendments. We were urging the Government to get on with Bill 42 and put it into law. Sure, we lobbied the Minister and asked for changes, but we were also prepared, when the Bill was in trouble, to see it go through without any changes.

Even though it was a minority Government situation, the Opposition Parties could have forced changes in committee. The tenant groups were saying, we want this Bill passed; do not hold it up any longer. Now the Minister is going to correct the correction.

Mr. Ducharme: For the record, I had no assurance in that particular case. I had assurance from the Liberals but not the New Democrats.

Mr. Martindale: A final question, Mr. McQueen. Briefly, could you tell us why you think security deposits should be kept in trust by the Residential Tenancies Commission? What kind of problems do tenants have getting their security deposits back?

Mr. McQueen: Under the present legislation that deals with security deposits, some of the problems people have in getting them back are some of the ones I said before, the damage that we will never know whether it was there when we moved in or not. With this being held in trust by the commission itself, a lot of times, landlords have a tendency to use this money for probably repairs on their building or whatnot, so when people request their security deposits back—the time period is supposed to be 14 days before it is returned which is understandable to do necessary paperwork, but some of them are being put off and put off.

In fact, I have one that I have not been able to get back for about two and a half years. In the meantime, the landlord sold the building, and the new landlord says he will not give the security deposit back.

Under this new legislation, that is even covered. It is protecting the tenants on that. We agree with the idea that the security deposits should be put in the provincial Tenancies Commission's trust account, not to be touched by the landlords so that they cannot use it for necessary repairs, or whatever. They have their profit margin or whatever to do that with. I am not above landlords making a profit because otherwise they would not be there, but it is the idea that we have to have some kind of protection for the tenant to be able to get this money back within that allowable time limit.

Mr. Chairman: I will now call on Mr. Richard Morantz.

We will move on to Mr. Denis Souchay with Royal Realty Services. We will just pass out your brief if you can hold one moment, please.

Mr. Denis Souchay (Royal Realty Services Ltd.): Mr. Chairman, I will not read the brief in its entirety. I want simply to say that on behalf of all the companies that I represent, we subscribe entirely to the representation made this morning by Mr. Rosenberg and the Professional Property Managers' Association. However, there are a few—three I think—concerns that I thought I should readdress.

The first one is the method of holding the security deposits in trust. The Bill provides, under Section 29(5), that the security deposits should be deposited in a trust account. It is impossible to do that globally for a company such as ours which manages about

67 different properties and account accurately for the interest earned thereon.

You would have on a daily interest account, which is the account that I think is contemplated in this Act, security deposits moving in on a daily basis, and you would have a global interest payment paid at the end of the period. That would be absolutely impractical and impossible to do.

We have researched also through our banks what sort of daily interest accounts would be available to corporations to receive such a deposit. Such accounts are available. They pay a nominal rate of interest beyond $10,000, not under $10,000. Therefore, a small landlord who would have a building generating less than $10,000 worth of term deposit would be prohibited under this Act to earn interest with which to pay his tenants. Also, the interest would be, in any event, insufficient to pay the tenant the required interest under the regulations. We propose again that the section that was suggested this morning—I will not read it again Mr. Chairman—by Mr. Rosenberg be inserted in the Bill.

Another area of concern is also the lack of time frames for the director to render decisions. If we file a motion in Queen's Bench, we know that we can be heard within five days. I think that what is proposed now is going to—the Bill does not have any time frame for the director to act. I think we are going to find ourselves with great delays in obtaining orders from the director. I think time limits should be inserted in the Bill in some form or fashion.

The penalties under security deposits I think are unconscionable. In the event of missing security deposits, the director can fund a security deposit under Section 154 and 183. That funding of security deposit would rank equal to taxes, therefore it would be a first-ranking charge against the property. The penalties under the previous section, under Section 195(3), provide adequate deterrent penalties.

Mr. Ducharme: Denis, in your presentation on page two—the reason I call him Denis is I went to school with him years and years ago—on here, the landlord must return the deposit within 14 days of the tenant vacating.

What we are saying in the Act is that all you have to do is give notification that you do have a claim, and then you still hold on to the deposit until we release. That is the way it is written up. If you do not present a claim within those 14 days, then you must return the deposit to the tenant.

Mr. Souchay: As long as we can provide a notification to the director that we have a claim without qualifying it, that is fine with us.

Mr. Ducharme: That is what we are saying in the Act, is that you must—it can be by a phone call, it can be by a letter. That is what it says, that it sits there, and then we have the right to demand of you, after it goes to the commission, if it is not clarified, it goes back to the tenant.

Mr. Souchay: Then in this case, I do not have any problem.

Mr. Alcock: I just have a question. I am sorry if you have more to go on in your presentation, but once again we get the same concerns raised about the security deposits and the sense, as I understand it, is simply that if you have the ability to pool the funds, you can put together larger amounts of money and you can seek better rates of interest.

* (1820)

On the tenants' side, we have a request that these funds be held in trust by the department. In a sense, if they were held in trust by the department, you could have one huge pool which surely would allow you to seek the very largest return on investment. How would your organization feel about simply putting all of the security deposits in a trust account held by the department?

Mr. Souchay: I can only speak for myself, but I think the organization too is against this idea. It should be a voluntary action on the part of the landlord to remit the security deposit to the department.

Mr. Ducharme: Just to clarify, Reg, is that we are saying that they can put them in a pool. They do not have to have a separate account for every tenant. They can pool in one bank account, or they can pool with one trust company. We are not saying they cannot do that.

Mr. Alcock: Just for clarification then, perhaps the Minister can explain to me the difference between Bill 13 and Mr. Rosenberg's submission which is being supported by this grouping of landlords.

Mr. Ducharme: I just did not make the comment. At the time, I was not quite sure of what he was saying about the pooling. I knew it. I just did not get involved in the difference. In this particular case, it was made very, very clear from Mr. Souchay that you could not pool them. You can pool your monies. You can pool

them in an account. We are just saying we want to know where that account is. It is the same as a realtor. A realtor must notify where that account is.

Mr. Souchay: Mr. Minister, with respect to the pooling of money, we run into a snag here because under the rules of the Securities Commission, we have to be able to identify the interest earned for all the monies that we have on deposit. We cannot do that if all of the deposits are pooled into one large account.

We would receive then an interest at the end of the month that could not be allocated to all the different properties that would be into that pool. Therefore, we would have to open one account for each of the 67 properties, 67 accounts, a number of which would be under the limit of $10,000 to earn interest, and that property would not earn interest in order to be able to refund the interest to the tenants.

Therefore, what we propose is to be able to have this clause inserted that the landlord would be deemed to be in compliance with the provisions of the Act if he maintains in the bank, trust company, or credit union a trust term deposit or other similar cash security clearly identified as security for security deposits in an amount equal to or greater than the total of security deposits paid to him by the tenants.

This is exactly what we are doing now. Let us assume that a building has received $8,000 in security deposits from tenants. We may decide to lodge $9,000 in a term deposit somewhere to make sure that the tenants' deposits are protected, and we just want to be able to continue to do that.

Mr. Alcock: I understand the case that is being made by Mr. Souchay. I am not certain, is the Minister saying that in fact they misunderstand the way the Act is drafted, and they have that ability under the Act?

Mr. Ducharme: We are just telling them what they have to do with the interest, how they have to set it up in the account. We are saying they must have a trust account, period. How they delve it out and how they develop the interest that is due to each tenant—remember that at the beginning of the year we announced what the interest must be.

Mr. Alcock: The landlords would be deemed to be in compliance with the Act if all the landlords in the city had one account that they deposited all of these monies into, as long as there was a paper trail as to which building it came from?

Mr. Ducharme: Each landlord would be required to establish his account.

Mr. Alcock: Then what this gentleman is saying, and what Mr. Rosenberg was saying is correct, that the current Act does not allow them to pool the money in the way that they—I mean if each one of them has to establish the account, then I am sorry—

Mr. Ducharme: It would be the same as a realtor. Each realtor establishes an account. Each landlord will establish an account. That is what he does. He establishes a bank account. He lets the department know which account it is in, period.

I guess another example I could use of that would be a—I have to keep going back. He has one explanation that he is a little different from a realtor. A realtor establishes the account at the time he sets it up. He has to establish an account for every real estate transaction.

In this particular case, he could establish an account for a block of properties that he has. We are just saying he must tell us what account that is in. You know with computers today, things like that you can establish and work out interest rates for each tenant. You know you can do that.

Mr. Souchay: Mr. Chairman, I have also submitted a second brief with respect to amortization of capital expenditures. There seems to be some confusion. Misconceptions seem to exist with respect to short amortization periods, when the cost of money, that is the interest paid on the money to carry out the expenditure, is omitted in the calculations.

Let us take a capital expenditure of $6,000 for a roof replacement, for instance, which is amortized over a six-year period as per the regulations. That is an increase in rents over the guideline of $1,000 per year allowed the landlord.

First, because the expenditure has to be incurred in a certain fiscal period before being allowed on the varying anniversary dates of apartment rent increases in the next fiscal period, we have established in our office that a delay of an average of one year takes place before all the rents have been increased.

Let us also assume a current interest rate of 1.5 percent over prime, which prime rate today is 13.25. Therefore, the interest rate paid by the landlord is 14.75 percent. Therefore, due to the time lag, by the time the landlord begins to receive payment by way of increased rents, the cost to the landlord has become $6,885. That is $6,000 plus $885 of

interest. The increased rents at $1000 per annum is above or $83.33 per month will take 30 years to amortize the cost of $6,885 as per the standard amortization schedule.

The same calculation at a rate of interest of 15.5 percent, which was certainly exceeded in the very recent past, shows that the increased rents are insufficient to ever reimburse the landlord of his capital expenses. For instance, $6,000 plus 15.5 percent for a year is $6,930. The monthly payments required over 40 years to amortize $6,930 are $86.97 a month, but the landlord receives only $83.33 monthly in increased rents. In the meantime, of course, the roof has had to be replaced two or three more times.

* (1830)

I will now call on Ms. Heather Talocka. Marion Minuk. Stan Fulham. Pardon me, Karen Tjaden. Peter Warkentin. Sharon Grabowieski.

Ms. Sharon Grabowieski (Logan Community Committee): Good evening. As you can see in front of you, our presentation is really, really short and sweet. It is almost a kudo to you.

We have two concerns and we are willing to bypass those, but Logan Community Committee is a non-profit, self-sufficient organization established in '82 to work with the residents of the Logan neighbourhood. One of our primary functions is acting as property manager of 42 rental units owned by Manitoba Housing. It is in this capacity we would like to offer our thoughts on Bill C-13.

First, we would like to applaud the provincial Government for its efforts to address the concerns of both landlords and tenants through the legislation. As a Logan resident, I am in the position of being both a landlord and a tenant. From this perspective, we see the need for legislation that does not put landlords and tenants in an "us" or "them," we-them situation or mentality. It helps when you can work together.

Secondly, although we would have liked to have seen condition reports mandatory at all times and all security deposits held in trust by the provincial Government, we do feel confident to give this Bill our support.

It was spoken earlier about the security deposits and about condition reports, and we do have strong feelings on them but—oh well. Every day at Logan people come to our office to fill out an application for housing. Every day these same people tell us of conditions they are presently living in.

We hear the stories of people living without heat in winter, apartments overrun with roaches, ceilings caving in, tenants having major appliances like stoves and fridges that have not been working for months and the list goes on. To live in substandard conditions people are also paying exorbitant rents. When they leave, the landlord will try to keep the security deposit for damage the tenant has caused or says.

For a lot of people living in poverty, this is their housing reality. It is for people like this we need strong legislation addressing the issues. We believe Bill C-13 is that type of legislation. For the majority who are good landlords and tenants, this legislation will not have a major impact because these people already play by the rules. For the group that continues to suffer, being exploited by landlords that prey on people with few other choices, this legislation will be welcome relief.

The success of this Bill will be in the implementation. Legislation is only as good as the people administering it. We do urge the Government, once the Bill is passed, to take whatever steps are necessary in ensuring the measures outlined in the Bill are used.

We believe adequate, affordable housing is not a privilege reserved only for those who can afford it. It is the right of every individual. It is the responsibility of the Government and all of us involved in the delivery of housing to ensure no one has to continue living in substandard housing in the province.

Bill C-13 is only one piece of the puzzle. We also urge the province to look seriously at development of a housing policy for the inner city where the majority of slum landlords do make their living.

We appreciate the opportunity to present our views and look forward to continue working with you on housing issues in the future.

Mr. Ducharme: Thank you again for your brief. The only thing I wanted to mention is that the mandatory reports—we felt that it allows us to get into the system to see how it is working without them. We did change from Bill 42, as you appreciate, that we said that it would be mandatory if requested by the tenant or the landlord.

Remember, the main idea of the conditional reports was to handle security deposit systems. However, we will see how the new system of the

commissioner and everything else works on Bill 13, to see whether that suffices all those claims that were tough to handle under the old system. That is all I have to say.

Mr. Alcock: I appreciate your presentation. You make the point that things work better when the system is structured in a way that allows people to work together on these.

You reference two things that you are prepared to accept, the lack of the mandatory condition reports and that, I think, is fairly clear what that issue is, and there will be some discussion of that when we get into clause-by-clause analysis of the Bill. You also reference the question of security deposits, and I take from this that you would prefer that they were held in trust by the provincial Government as opposed to the landlord?

Ms. Grabowieski: Yes, we would. It has been a lot of our tenants' experience that security deposits are a problem. Apparently, from what I have heard today sitting here, apparently landlords have problems with security deposits as well, so it might help the landlords. At Logan we do not take security deposits. We work with our tenants and, well, we work with ourselves.

That means everything from—a tenant will come in and say, the window frame is getting loose, so we will help them fix the window frame, or they will come and they will go, "oh, you know, Joe kicked in my door," so we will go and fix the door. We work together on that, so that the costs are borne evenly, so that we do not have the kind of damage that might go on. We also do mandatory condition reports at Logan and that, I think, makes a difference.

If we had security deposits, we would like them tied to the condition reports. Like the Minister said, it is a wonderful idea. If a landlord wants to know that their rental unit, whether it be a house or a suite, is in good condition at the beginning of a tenancy, and if that condition is tied to a damage deposit, they are going to be, I think, a little bit more careful that the unit is actually reported accurately.

There would be fewer hassles at the end with the tenant saying, I did not kick in that door. I did not break that window. It would be right there, and the landlord did not get the deposit in the first place because the report was not filled out. At the end of it, it would be very simple. It is not 14 days. As far as we at Logan are concerned, you are not asking for a 14-day span. You are allowing six weeks.

I, as a tenant, must give a month's notice, minimum, that I am leaving a unit. That means my landlord knows for four weeks that I am going to be leaving. I do not see why it takes six weeks to get money that I had to give the day I signed that lease or rental agreement, if I signed anything. The day that I was there, it only took me one day, but it is taking a landlord six weeks, which I am now hearing is not enough time. I still do not understand that.

Mr. Martindale: Thank you for your presentation. I am sorry, I did not recognize you earlier today. I should have since I met you at Logan house. Can you tell me if the tenants or residents at Logan Housing Corporation are required to fill out a condition report? Is that something you use all the time as a matter of practice?

Ms. Grabowieski: It is mandatory. It is our policy. It is mandatory and the condition reports are filled out with the tenant. Each step is explained along the way—the slightest little crack, the little fracture in the wall, whatever is done and immediately given a copy. We have the sheets, we sign it together. We sign, the tenant signs. They have theirs, we have ours. They go home, we go home—right then and there. We do not have penciled copies or anything—it is mandatory.

Mr. Martindale: Do you consider that it is a good system, that it works well and that it cuts down on the number of disputes when tenants move out?

Ms. Grabowieski: Very well. We have had situations where some people do not have a good grasp of English, or they are basically functionally illiterate, so it means definitely explaining or somebody that they trust, having somebody there, to explain that this means there are no cracks in the walls. You know this part that says "walls," that does not just mean "walls." It means there are no cracks or whatever. It does work very well.

Mr. Martindale: Are you aware there has been a change, and I would consider it a progressive change from Bill 42 to Bill 13, which says that if either a landlord or a tenant requests a condition report, then one shall be completed. Do you think that is an improvement from making it entirely optional?

Ms. Grabowieski: It is an improvement from making it entirely optional. Where it is not going to make much difference is the intimidated tenant anyway. The desperate tenant—and they need a place, and they are not going to stand there going, well, but you have to because the law says you have

to, and the landlord is going to say, fine, go away. You know, there are housing vacancies. There are rental vacancies in this city, but they are not at the low-income spectrum.

Mr. Martindale: You are recommending that Bill 13 be changed to make the use of condition reports compulsory for everyone? Is that correct or not?

Ms. Grabowieski: Yes and no. We are accepting Bill 13 as is if we have to. We would like very much, we would strongly recommend that it be mandatory across the board, not at the whim of a landlord or a tenant because the good landlords are going to comply anyway.

* (1840)

Mr. Martindale: I presume you are here for the discussions on security deposits and do you, either personally, or Logan Housing Corporation, think that it would be an improvement to require all security deposits be held in trust by the Residential Tenancies Commission?

Ms. Grabowieski: Yes, Logan would like to see that it is the province handling it, not the landlord.

Mr. Ducharme: I thought I heard you mention—and I do not think they take security—you do not take security deposits now?

Ms. Grabowieski: No, we do not. We have not for a few years. We stopped a couple of years ago.

Mr. Ducharme: I just want to clarify that for the record.

Ms. Grabowieski: We do Manitoba Housing, so.

Mr. Ducharme: That is right.

Ms. Grabowieski: That is right.

Mr. Ducharme: However, you asked for mandatory conditional reports. Are you also suggesting that there be mandatory security deposits? What do you do now if you go through your mandatory condition report and there is damage, when the tenant is leaving, and you do not have any security deposit?

Ms. Grabowieski: What Logan does is work with our tenants throughout their tenancy, and we do not have that situation very often. I believe from studies we have done ourselves, just asking questions of people, I think we are about the most economical Manitoba Housing unit going as far as the actual costs for damages.

If there is damage, then we do have recourse to the law like anybody else, the same as the landlords. We can try and take the tenants to court for damages. What we find works better is getting the tenants to fix it. We do have tenants come in and say, well, we had a wild party the other night, you know, and the guys next door and gee, we cracked the window. If I get Joe to give me a hand on Saturday, is it okay? Those do not cost us because the tenant is paying that.

Mr. Ducharme: You are confirming to us today that it is the education that is establishing that and you agree with the education fund and the advisory committee that is set up in Bill 13.

Ms. Grabowieski: Yes.

Mr. Martindale: I am glad the Minister brought that up because I think it is far more than education. I think it is having a general manager who is tenant friendly. In fact, Ms. Lori Bell was a tenant activist. She was here in 1982 and presented a brief on The Residential Rent Regulation Act and the amendments to The Landlord and Tenant Act and worked with tenants before she became the manager of a non-profit housing corporation.

I think her attitudes toward tenants are different than many other housing managers. I have often commended her and Logan Housing Corporation as an example of an enlightened management attitude and a very progressive housing corporation.

One example of that that Ms. Grabowieski has given is the fact that their repair costs are very low. They should be commended for that because it is a reflection of how they treat their tenants, how they interact with them and the fact that they can actually encourage tenants to do repairs themselves. I think that is probably unique amongst non-profit housing corporations and it is to be commended.

Mr. Chairman: Mr. Ken Campbell. Pardon me, Ms. Ruth Rattai. Jack Van Dam. Helen Peterson. Gordon Rajotte. Kathleen Horkoff. Gordon Katelnikoff. Peter Thiessen. William Redlick.

Julie Van De Spiegle. Are you representing the Landholders' League of Manitoba?

Ms. Julie Van De Spiegle (Landholders' Legue of Manitoba): I would like to make one point from myself personally before I present the case for the Landholders' League of Manitoba. Is it okay if I use a tape recorder, mainly because I do not have a written submission?

Mr. Chairman: I will ask the will of the committee, if there is consensus.

Ms. Van De Spiegle: The purpose of it would only be so that I can prepare a submission later.

Mr. Ducharme: Everything is going to be discussed, and you can get a copy of the Hansard from the Hansard people. Everything that is discussed here will be in writing and we will get you a copy.

Mr. Chairman: You have a written brief, I believe, also?

Ms. Van De Spiegle: No, not really. We have a couple of sheets that we will be handing out as we go along.

Mr. Chairman: That is just for clarification, that is fine.

Mr. Martindale: I thought I heard Mrs. Van De Spiegle say—

Ms. Van De Spiegle: I am sorry, it is Ms.

Mr. Martindale: —Ms. Van De Spiegle say, for a presentation later. Are you planning to make a presentation of this committee later?

Ms. Van De Spiegle: No, I am making one for myself personally and then immediately after that, I will proceed with the Landholders' League one.

Perhaps what I would like to indicate too is that the last half dozen names that you mentioned just before you called upon me are all people whom I believe were committed to making presentations. They are people whom I recognize, and they were committed to making presentations. I do believe that it is—

Mr. Chairman: I would like to point out that the Clerk has contacted these people, so they have been contacted and informed of the meeting. You may proceed.

Ms. Van De Spiegle: My name is Julie Van De Spiegle. The term landlord is an antiquated one. It is one not in keeping with what has happened in the last 20 years in terms of the women's movement. As a woman, I do not like to have to file court documents and refer to myself as a landlord, because lord implies man and I am not a man. I am proud of being a woman, and I think that we should make every effort—I know it is not going to be easy because so many documents and the real estate Act and all kinds of Acts have always referred to landlord, but I think a committed Government would make a real effort in changing that term and getting rid of that antiquated, ridiculous medieval term.

That is the end of my personal presentation.

Mr. Chairman: You may proceed then. You are making a presentation now as—

Ms. Van De Spiegle: No questions in connection with the—no statements? Mr. Ducharme had his hand up.

Mr. Ducharme: Yes, I have one. You will notice that the whole Bill is now called The Residential Tenancies Act.

Ms. Van De Spiegle: Yes.

Mr. Ducharme: That is the reason why we got away from The Landlord and Tenant Act. Legally, we cannot change the word "landlord." It is used so various throughout the whole legal system.

Ms. Van De Spiegle: Can we make an attempt?

Mr. Ducharme: We have to keep ours—we did. We have now listed that and made a very big move, because now we have it written that way.

Ms. Julie Van De Spiegle: From the Landholders League of Manitoba, I do not believe that I was going to be the official spokesman for the organization. We did have one lawyer who was going to do it for us, and another lawyer whom I spoke to just last night who felt he would require more time.

We thank the Government of Manitoba, and we welcome the opportunity to present a reply to Bill 13, The Residential Tenancies Act. The Landholders League of Manitoba represents in part and not in whole the private and public housing rental industry numbering approximately 125 units, which if estimated at an average of $30,000 per unit totals well over $3 billion.

We welcome the opportunity to comment on Bill 13, but we do want to bring forward our concerns. There are some provisions and perhaps some of the approach that we are of the conviction that Bill 13 should have some amendments made to it. We would like to say that Bill 13 is considerably improved over Bill 42.

Just as an overview, we want to indicate that administrative costs will increase. There will be more documents required, more keeping of records in order to ascertain the position of both the tenant and the landlord, and that ultimately will mean that the cost of shelter could perhaps rise.

In the third paragraph of the preamble, it does put forward that there is a desirability of preserving ongoing harmonious relationships between landlords and tenants and requires innovative dispute resolution that is fair, informal—sometimes

I wonder about the informal because some informalities have led to what I consider to be denial of due process—accessible, inexpensive, expeditious, and amicable.

* (1850)

Sometimes I find that the actions of some people or there are at least two or three sections of the Act that allow for the director to initiate an investigation. I would say that is not conducive to a harmonious relationship between landlords and tenants because when the tenants are approached, they indicate that they have no complaint. They are happy with the agreement they have with the landlord, but apparently a third party is coming along and raising dissatisfaction and promising the tenants that they will get money through rent rollbacks if they appear at the hearing. I consider that to be somewhat—perhaps could be considered to be a bribe. The tenant does not have an objection but is told that because of the rent rollback they will be getting money, and that is the only reason they appear at the hearings. It is not for any other reason, because they do not have any other arguments. That may not be true in every case that is being heard, but it certainly has been true in some cases that I am aware of.

In the definitions, I think we need a clearer definition of what constitutes who has possession of a rental unit. The definition should have a clear definition of what a vacancy is.

One word that is used throughout the proposed Act in about a dozen places is the word "implied." In some cases it may be appropriate, but I find it a little offensive that the word "implied" could mean that a tenant has made application for a suite, has implied that he is going to rent, and then if the landlord holds the tenant to it, what protection does the tenant have?

One thing that I believe has not been addressed so far is the importance of a confidential application for tenancy. That confidential application constitutes the basis of the original contact between the individual who is seeking shelter and accommodation and the individual who provides that shelter. That application form seems to be not mentioned anywhere, and I would consider it to be almost as important a document as the rental unit condition report.

I am somewhat concerned with—while I would want to study it further—Section 1(2), vacating premises. It seems as if what is written in that section somewhat contradicts or is not completely compatible with the Act later on dealing with when premises are vacated. One thing that comes to mind is abandoning premises. Vacating and abandoning premises need to have a closer look because according to Section 3, it says for the purpose of this Act, a unit is abandoned if the rental monies that have been paid plus the security deposit constitute or have been exhausted.

That could mean that on the first of December a tenant has paid rent, which means that along with the security deposit the monies are not exhausted until January 15. That is six weeks. During that time if the premises appear to be abandoned, no one has seen the tenant, the tenant in actual fact could be lying dead in the apartment.

Therefore, your provisions under Section 3 need further clarification. It could be that clarification is provided later on in the Act. Our position has always been that if it appears as if a rental unit has been abandoned, we send a letter, leave a letter in the mailbox, if necessary post a notice on the door asking that the tenant contact the landlord, and if that tenant does not contact the landlord within a specified period of time, usually about three to five days, the landlord will declare the premises abandoned. That is a much better way of handling it because we do not know what we may find in that house if we wait six weeks to enter if we have not heard from the tenant.

As mentioned earlier by a brief that was presented, we have some concerns about the application of the Act retroactively. For the protection of some individuals, perhaps probably most of the Act could be applied retroactively. We need to have a closer look, and I would say one of the things that could not be applied retroactively would be if a financial institution has provided monies on the basis of the time that they made the agreement, there should be careful consideration given to any liens that might be placed against a property.

On page 9, or Section 2, again we referred to the term "implied." "Implied" would open the door to certainly some abuse.

In going through the Act, there are many, many areas where the word "reasonable" is used. I would hope that "reasonable" would not be interpreted to mean reasonable to one specific person. What is

reasonable to you may not be necessarily reasonable to this guy or to me.

One thing that we would like to propose that is not in the Act—because some of the existing blocks do not have amenities that can be distributed to each and every one of the tenants—is that each agreement that is made between a tenant and a landlord is a brand new agreement that would happen prior—like when I bought a coat from Eaton's last week, my sister who was going to buy a coat next week does not ask Eaton's, "Well, how much did my sister pay for her coat?"

Under Section 13(1), I would like to think that there should be a brand new agreement, if it is a new tenant. If it is a sublet or an assignment it is a different story, then the existing agreement is in force. If a new tenant comes along, and he has a bicycle and he wants that bicycle stored, does that mean that every person in the building is supposed to be given a place to store his bicycle? I do not understand. I do not have the exact section of the Act in front of me, but if a tenant wants a new carpet or wants such an amenity, he cannot go to the landlord and ask for this amenity. Apparently that permission can only be given by a director, and I would say that when you have as much interference and power as the director is given under this Act, then we end up with a dictatorship.

As someone has mentioned previously, there is no other industry anywhere in this democracy that is as closely scrutinized and regulated, and it is making it more and more difficult for people to want to provide a needed service, the needed service being shelter.

Contrary to what some people on the committee have suggested earlier, landlords are not making a killing. They very frequently have a negative cash flow.

Mr. Chairman: If I could just ask you one question: Are you going through this clause by clause? Is this your intent?

Ms. Van De Sploegle: No, because I am already on pages 13 and 14, and I did not go through it clause by clause. I am sort of just bringing—

Mr. Chairman: I was trying to follow. I was not too sure where you were in your presentation, that is all.

Ms. Van De Sploegle: I probably will be jumping off and going off on tangents occasionally, referring to what I may have read but have not been able to jot down in the manner of which—I have never presented a brief in this form in all of my life.

* (1900)

Mr. Chairman: I was just looking for some sort of direction on your—

Ms. Van De Sploegle: I am going to be going from front to back, not really clause by clause because there are many clauses in here that are good clauses. I probably will not be dealing with those, but those which create some concern, I would make mention of them. Occasionally I might be referring to some place ahead of ourselves, because I have not been able to give the entire document due deliberation.

Mr. Chairman: We usually work off of a written brief, and it makes it easier for the committee to follow. This way it is rambling.

Ms. Van De Sploegle: Over the years I have presented many briefs, and I have never been called to a committee as quickly as this. I worked all night. I am wearing the same clothes that I wore yesterday when the bombshell was dropped on me.

Mr. Chairman: I am just pointing out that it makes it harder for the committee to follow your line of presentation.

Ms. Van De Sploegle: Yes, I can appreciate the difficulty, and I am sorry also that is the way it is.

Mr. Chairman: Mr. Minister would just like to make a comment.

Mr. Ducharme: Just for the record, I know that when you met with the staff, you advised that this legislation would be passed before Christmas. That is all I—

Ms. Van De Sploegle: You what? I did not hear it, I am sorry.

Mr. Chairman: That is okay. You can continue. I was just trying to get a little direction on your presentation, but continue.

Ms. Van De Sploegle: The other part in terms of the tenancy agreement is that I am concerned that—we are talking about 21(1), 21(1) says that a tenancy agreement should be renewed for the term or for the same length of time, which is what I understand to be term, as the original agreement, and mind you there is a rider to that. I am not sure why it would be put in the Act and then there would be a rider to it, because it binds the tenant as much as the landlord. If a tenant does not want to renew for seven months when he originally was there for seven months, he

wants to be there for the whole year, then he can be denied that. I do not feel that it has much place being put in here.

I think it should be a somewhat informal agreement that landlords and tenants can make between themselves. It would be administratively more expensive to renew a lease every seven months just because the original term was seven months. It may not be in keeping with when the tenant wants to move out, or when the landlord does the major renewals, usually on a 12-month basis.

In payment of the security deposit, when anybody rents a car, they are required to put out $500 or more deposit on an asset that is valued at maybe $15,000 to $20,000. A rental unit can be valued at considerably more. Consideration should be made for the security deposit to be one full month because a half a month's rent is not sufficient to pay for damages that do occur. When I say damages, I mean unpaid rent as part of the damages.

In Section 32(1), I would like further clarification of what is meant by extraordinary cleaning—32(1) and 32(2). Go to 36(1) with unclaimed security deposits. I think the idea of having an interest-accruing account that would benefit both tenants and landlords in terms of education and acquire some indication of what the Act is all about is a good idea, but I would like to promote that, particularly if there are any funds that are left over and not claimed and not used for educational purposes, that consideration be made to make that available to landlords whose units have been trashed by irresponsible tenants.

I have some concern about the manner that is outlined for assignment and sublet. It is a new concept; perhaps it will work. I think administratively there could be some problems also.

In 43(2), 43(3) and 44(1), administratively there are extra costs involved in subletting because the tenant will have to be provided with additional copies. The agent or the landlord will have to put out additional time, and the minimum it costs to do a rental unit condition report is $25. That, along with getting the assignments signed and so on, I would say administratively the costs would be $50 for a sublet or an assignment if we have to go through all of these details.

We have a lot of concerns about 46(3) because we have always advocated that landlords not entertain back-door tenants, because that is when problems start. The original tenant moves out, gives his keys to someone else who has not placed an application to be an occupant or tenant, and suddenly lives there. Under 46(3), it says that the transfer of occupancy is deemed to be an assignment or subletting. Nothing should be deemed in a situation like that, because back-door tenants are the ones who have created the most problems for small landlords. The small landlord, perhaps not being as knowledgeable as he should be or maybe not having the time because his major source of income is from some other area, is not there to see what is happening, and suddenly there is someone else living there. Those are the types of situations where most damage occurs.

I have some notations with reference to Section 50(1) and Section 50(2), however I need to review that. Also Section 48, I have some notations with respect to that.

In Section 54(1)(f)(iii), in terms of privacy and lawful entry, not only the mortgagee or the insurer, but there are other people who may require inspection of the premises such as an appraiser, or if—okay the prospective purchaser is dealt with in four so that is—

In Section 56 we are dealing again with vacant possession. On the one hand the Act provides for a tenancy to terminate when the tenant bodily leaves the unit; meanwhile a commitment may have been made by the landlord to another tenant. Is it the landlord's obligation to the outgoing tenant or to the incoming tenant? There could be a lot of costs involved perhaps to the overholding tenant if he remains there stubbornly refusing to move when a commitment has been made. That overholding tenant is very inconsiderate in terms of a new tenant who is expecting to move into the premises. Therefore, if emergency lodging is going be to provided for anybody, it should not be the incoming tenant but the outgoing tenant.

* (1910)

Mr. Martindale: If you could provide us with a ruling on the appropriateness of hearing a delegation going clause by clause through a Bill. I think this is rather unusual and maybe extending a privilege to this person. I would like to hear the Chairperson's ruling on that.

Ms. Van De Spiegle: We have already covered more than one-third, and I was given to understand

this morning that there would not be a limit on the time allotted for a presentation?

Mr. Chairman: Yes, that is true. You can continue.

Ms. Van De Spiegle: I believe under 61, we are dealing with the public utility. Frequently that utility is the responsibility of the tenant. If it is in a single family home, the tenant there is usually the one who applies for the utility. Under the provision of 61, we are given to believe that the landlord is God. The landlord is God and is supposed to be able to provide all things to all tenants. Now sometimes that is an absolute impossibility.

If the landlord has contracted for utilities, that is, if the tenant has contracted for utilities, that is the tenant's responsibility. Under Section 61 and Section 62, I believe that the onus is being put on the landlord to provide utilities, even if it is the tenant's responsibility and has contracted for them.

Again, under 59(b), we are suggesting here that services and facilities are expressly or impliedly promised by the landlord. Occasionally, it is not only the landlord who implies certain things, but tenants imply that they are definitely always going to have their rent on time. They also imply other things, and still no mention is made of the fact that if there is an implied situation it should apply equally to both parties.

Section 61(1) again refers to "impliedly." I am not going to read the whole thing now. I just know that the word "impliedly" is used again. Section 61(2) also uses the word "impliedly." Okay, my notation with respect to the landlords being responsible for utilities is not under 61(1), but in fact under 61(2).

Under 66(1), the term there, "implied," could conceivably lead to deterioration of security in a rental complex, because occasionally we do find intruders walking down the hallway of an apartment block. He has somehow or other gained access to an apartment block. He may in actual fact not be there legally but say that he is going to suite 10 or suite 9 or suite 8. That could erode the security of an apartment block.

Under 68(5), we would like to submit that there be a limit placed on any compensation or that "compensation" is a valid item for compensation because our experience has been to the contrary, that tenants will claim compensation for items they are not entitled to be compensated for.

Under 69(2), there is too much latitude given there because tenants already use all kinds of excuses for vacating premises without notice. Therefore, this section could definitely be open to abuse.

Number 73(a), I think someone mentioned that also in their submission this morning, that under 42, Section 44 has been omitted and under no circumstances should a tenant be able to enjoy the premises as used here for "usual purposes." "Usual purposes" leaves a loophole so big it could be used for illegal purposes.

In some areas a tenant cannot conduct a business from a shelter unit, and therefore that needs to be closed. It cannot be used for any purpose that the tenant thinks is a usual purpose because there could be complaints from neighbouring tenants. There could be a lot of complaints. So "usual purposes" needs to be tightened up and perhaps go back to 44 of Bill 42.

In 76, 77 and 78, these are all good clauses. It spells out what is expected in terms of the obligations there.

Number 83 is definitely not acceptable. We are talking about the overholding tenant. We have mentioned it before. If a tenancy is terminated, then that tenancy is terminated and no one should be inconvenienced because someone thinks they can just stay on longer.

* (1920)

I have some concerns with 82 and 84(3). Again, we are dealing with terminations. Number 89(1) will provide fodder for many, many disputes which contradicts the preamble "preserving harmonious relationships."

Under 89(4), frequently a rental unit or a home has been made uninhabitable by the tenant. Just yesterday a landlord came to our office, was given an order, I believe under the City of Winnipeg by-law, telling him he had to shampoo the carpet. That carpet was a new carpet when the tenant moved in. After a few months that carpet has been soiled. Now, soil or dirt is not wear and tear.

If we have a tenant who has a a pet and that pet poops on the carpet every week, does the landlord go down there and pick it up? That is exactly the kind of order the City of Winnipeg wants to give to a landlord. Dirt is not wear and tear; dirt is the responsibility of the tenant. He is responsible for ordinary cleanliness. We have too many people, including people who have never been landlords, who do not distinguish between dirt and wear and tear. There is a distinction. If I scratch your table,

that is wear and tear; if I leave all my crumbs on there, that is dirt. I clean my dirt off the table or off the carpet. That is not the responsibility of the landlord.

I have a notation beside 90(1), a tenant expects the unreasonable. In 94(1), well, it is a good provision and I am not objecting to it, but at the same time our social agencies should find out why some unsophisticated tenants move frequently, without regard for their children's education.

I have indicated beside 95(3) and 95(4) that these are positive insertions in the Act. With respect to "Termination by Landlord" and termination by tenant, as outlined on pages 52 and 53, I did indicate that I would like to have a closer look at those. So at this point I am not sure if there is any submission I want to make.

Under 99(2), I do believe it is in the interests of tenants, because I do not believe that people should be migrating, that they should be highly mobile. Therefore, making tenants—or for whatever reasons, tenants are asked to leave their home, I think that is a good provision. On the other hand, it is a bit of a dilemma. I am not asking you to change it, although sometimes I do think that having only two months notice would be sufficient, especially in times of high vacancy rates. We find that once the landlord gives notice under this provision the tenant usually moves out within 30 days. Therefore 60 days may be sufficient, except 60 days would certainly not be sufficient in times of low vacancy rates.

I think sometimes planning could be better done if there were only a 60-day leeway, but that provision should be made if the vacancy rate is at a certain level. If a vacancy rate is at zero, perhaps a tenant should not ever be asked to leave his unit except for maybe required renovations.

Under 99(3), I get the feeling that the sky is the limit sometimes in asking for compensation, and it begs the question: Would a tenant purposely create a situation that the landlord would give him the three months notice or ask him to move for whatever reason, and the tenant's main idea is to go to a $600 suite. So that for the next 12 months the landlord would be paying the difference between the $300 the tenant was paying and then the $600?

I think there should be a limit set to the amount of compensation that a rental unit of comparable value, or within a range of what they were paying before would be more acceptable and that also would apply to Section 99(5).

Throughout this Act, I do not hesitate to say that the powers given to the director are greater than the powers given to any judge in a court. As a matter of fact, further on down I will probably be citing two or three incidents where the director is the accuser, the investigator, the prosecutor, the judge and jury and lets out the sentence. That is too much power for one individual, whether it is me or you or anybody else.

Under Section 106(3), where it says "The director may permit the landlord to dispose of personal property in a manner and subject to conditions set by the director." I do not think that one person alone is capable of making a decision of disposing of personal property.

As a matter of fact, I would like to see that all tenants who have inadvertently or through no fault of their own, or even if the tenant has been remiss and abandoned the premises and has some personal documents, including photographs, things that are of a very intimate nature, I would say that those should never be destroyed, and let the director store those away forever and a day.

Just recently I dealt with a caretaker in connection with a tenant who was in touch with me, who offered to pay for storage, did pay some money towards storage and the caretaker without discussing, without consulting with anybody destroyed the personal property of that tenant. I do not think any tenant should have to go through that. Some of the items were probably sold, distributed to friends, because they were items of good quality, but there was a photo family album. That tenant wanted that photo family album back and was not able to get it.

I have a blank sheet here indicating I wanted to make a comment but probably was going to go back to it and did not have time; that is on page 60. I will have to review those later and that would not be dealing with mobile homes. I must say that my experience and knowledge with mobile homes is virtually nil. I would have to very closely either read, discuss and meet, before I could make any kind of an intelligent comment in connection with mobile homes.

I am a little disturbed that under Section 121(1) laundry facilities has been singled out as being an amenity which is given some kind of special attention, special consideration. No laundromat

would put up with that kind of interference from a Government body.

Under 125(1), I have put a notation, "dangerous powers to the director".

Section 125(2) seems to involve a fair amount of red tape. There again, red tape can be as much of a hindrance to those people who require shelter as to anyone else.

I would like to inquire as to what the purpose would be for 125(3)(f) "if the residential complex has been sold in the preceding 3 years". I do not seem to get a connection there.

In Section 125(3)(h) "other prescribed matters", somehow or other that seems to leave a big loophole for any kind of prescribed matters.

Section 127(1) is again referring to special treatment of laundry facilities.

* (1930)

In Section 130(1), the very last sentence seems to be out of context: "shall apply to the director for an order determining the amount that may be charged for the facilities by the other person for a period of 12 months following the effective date of the increase." Nowhere does it say that 130(1) deals with an increase. Still it ends up by saying "12 months following the effective date of the increase" when there was no mention that an increase was part of that clause.

Is there anyone on the committee who can fathom the volume of paper that is required every year for a form to be filed because of an increase?

(Mrs. Rosemary Vodrey, Acting Chairman, in the Chair)

I am sure there are many unsophisticated landlords who do not ever do that, and therefore inadvertently and innocently become in contravention. Unless it can be enforced it should not be there. Also, except for the mounds and mounds and mounds of paper that are being filed in a day when we need to be thinking about the environment and creating less paper, really is the filing of notice increase in the interest of anybody?

Under 134(4), again, excessive powers have been given to the director.

Under 142, "If the director has reason to believe that a landlord has charged rent" there should not be reason to believe, the onus is on the director or anyone to make that kind of an accusation, and at the director's own initiative, enquire into the matter. I say that it smells high of a witch hunt.

The entire part of 140(2) and 140(3)—under 140(2), for example, is not compatible with paragraph three of the Preamble. The director under Section 140(3) is the accuser, the investigator, the prosecutor, the judge, the jury and metes out sentence. All of that without the person being accused in a position of even defending themselves, because in some instances there has been no proof, no evidence that the landlord has committed a wrongdoing but is being punished.

The one part which I wanted to give a great deal of time and attention to, and I have not been able to do that, and I will be doing that, I will diligently be following the progress of what happens under Part 10. Every single word in Part 10, I will be sleeping with it, I will be eating with it, we will be monitoring it because our experience with the informalities of the existing appeal panel has been that just hearings were difficult to be had. I would ask you this: Informality cannot be used to the extent that there is no—I have lost the right word. It will come to me.

From what I read here, the commissioner is going to be the new name given to what we now seem to know as the rent appeal co-ordinator. It seems as if that is just going to be an interchange of title.

People who sit on the tribunal or who sit on the hearings or who sit on the commission should be people who are knowledgeable about the rule of law. It is not difficult. You could learn the rule of law in 10 minutes. The rule of law has been used in British law and in traditional law and is used by other boards, but it seems to be denied the landlord and perhaps the tenant, but certainly the landlord.

* (1940)

I ask you now, if the police lay a charge against you for rape, and you get a lawyer and that lawyer prepares your case on that charge, but then when you appear before the judge, the prosecutor is standing there and saying, well, the victim did not die, but we are going to charge you with murder. That has happened on more than one occasion.

On almost every case that I have been on in front of the appeal panel, they will not stick to the issue at hand. They will not stick to what the landlord has been charged with or accused of, but will do an investigation and will come up with all kinds of things that have nothing to do—and when we call them on a point of order, the panel chair says that they can

conduct the hearing in any manner in which they see fit, in any manner which they want to or choose. Even a judge does not have that kind of power.

The last hearing I was at I had no choice but to relay to the panel chairman that it was a kangaroo court. If a Tenancies Commission is run in the same way as that is run, I want no part of it. I want my day in court, and I will do without the Tenancies Commission. The Tenancies Commission could be fair if it were impartial and if the chair or the judge of that tenancies commission is an independent body just in the same way as the judiciary of any Government body is totally independent of the administration and the other bodies, totally independent. This Tenancies Commission does not provide for that, and therefore justice will be denied.

I would like to think that anybody who would be a commissioner or a hearing officer would be somebody who is qualified and is not necessarily an appointment for whatever reason. It should be somebody who is qualified to conduct hearings.

Under 153(5), I may take that out because I think I did see in one section that I had indicated here was not in actual fact the case. I was left with the impression that if compensation were to be made, usually—when I say usually, to me it seems that if in all cases that compensation was deemed to have been made by the landlord, but in actual fact, when landlords lose rent and when tenants create damage, why should compensation be awarded only one side? Whoever is responsible for damage in whatever way, whether it be the tenant or the landlord, should be paying for the compensation. Compensation should not be deemed to be one-sided.

Again, when we are dealing with the director's authority under the rent regulation, the director has too much authority. For any person to have that much authority leads to more than a dictatorship. It interferes with the everyday life of people.

In dealing with the appeal to the commission, there again I have many, many reservations about the appeal process, but I need to do more research. I need to get together with a couple of legal heads, but the one thing I will say is that when there is a small claim that is being heard in a Small Claims Court, and then if it is appealed, the appeal is seen to be a totally new case—there is a Latin term for it "trial de novo" or something—and the Small Claims officer does not make a submission to the Queen's Bench or to the Appeal Court. As a matter of fact we have a diagram which perhaps you could distribute at this time—I am sorry I have arthritis. This was made under Bill 42, but it still stands in terms of—

The Acting Chairman (Mrs. Vodrey): Ms. Van De Spiegle, would you speak into the microphone, please? Thank you very much.

Ms. Van De Spiegle: This form that is being distributed now was prepared under Bill 42 and, therefore, some of the references are definitely not accurate. It does outline our reservations about the director or the commission being able to make a submission to the Court of Queen's Bench.

The Court of Queen's Bench should be able to hear evidence under the ordinary rules of evidence and maybe that does include a submission by a director, I am not sure. I have never yet seen a Small Claims Court Judge make an appeal to the Court of Appeal. Therefore, for justice to be served I am wondering if this is not in contravention of the Charter of Rights. This could very well be justice denied.

The Acting Chairman (Mrs. Vodrey): Ms. Van De Spiegle, I would just ask you, considering your arthritis, would you like to sit down? Would that be helpful to you and you could speak from the microphone?

Ms. Van De Spiegle: I guess it has been some time since I have stood this long and did not realize that I was going to encounter—thank you.

I would like to think that even if the Tenancy Commission is informal, that the informality should not deny justice.

Under 169(1) I had some question, some reservation about the rules of law respecting evidence applicable to judicial procedures. Perhaps that can be relaxed some if we have an informal situation, but wherever possible, because the rule of law is not difficult to learn and can be explained in 10 minutes, hearings should be conducted in a consistent manner. That was the word I was looking for before.

Every time we go in front of an appeal panel, the panel chair indicates that he can conduct the hearing in any manner in which he sees fit; will tell me I cannot speak; will deny me; but only grant after a long argument that I have a right to a summation, that I have a right to cross-examination. We were in danger of being denied these rights.

Under 165(3)—maybe I will by-pass that because I made a notation about it. The notation—I am looking for a clarification, but that is not the only part of this Tenancies Commission that I want clarification for. I want to study it as I have indicated. I want to discuss it, and I want it to be applied in a consistent manner. The way it is written now does not provide for consistency, does not provide for fair hearings by knowledgeable chairpeople on the panel.

In Section 172(d), I question that, but I am not saying I am an authority on it. I would like to think that if there is a written submission, that written submission would be open to cross-examination. Now, I am open minded on that, maybe that is not entirely necessary, sometimes a written submission can provide a lot of credibility.

I am glad to see that the appointment of the receiver-manager has some modifications, perhaps in cases of where individuals who are providing shelter do not live up to their obligations need to be shook, need to look closer before putting out money and thinking they can provide shelter when perhaps they do not have the ability to provide that kind of service.

* (1950)

I would like to think that part of the Act would be applied in such a way that the least number of people would suffer in having to go through the process.

I think that the orders of the court as outlined in 182(2)—there is at least one section where I have sort of indicated where due process is denied. I think on the whole that is a fairly good provision, but I would like to think that just because the owner has not been able to live up to his obligations that anybody who is in a receiver-manager position would manage that property judiciously and in such a way that the property is not going to be managed so it becomes an unviable operation.

If there are monies outstanding from having gone through the process, from what I understand of 183(2), is that if there is an outstanding amount to be paid that it can be put on municipal taxes. I would wonder about that kind of a provision. I think that should be a last resort because it does mean that the property could be in a position of being in a tax sale.

General Provisions—I think it is implied, but I am not sure that under 184(1)(a)(i) "if the person is a landlord, by handing it to an agent of the landlord", I would say that agent would be someone who is an adult also as provided for in the clause below that under (ii).

I am a little perplexed by Section 184(4) despite the other provisions of this section "the director or the commission may direct a notice or document to be given in a manner that is not described in this section". What other method could be used?

I would say that 185(1), entering premises without a warrant and so on is contrary to the rules of search and seizure and perhaps would be contrary to the Charter of Rights.

(Mr. Chairman in the Chair)

Under 185(2), it seems as if the tenant is granted privacy by making sure that no one is going to unlawfully enter the suite, but pray tell me, why would a director be able to contravene that section of the Act? He can walk into a tenant's suite anytime he wants to. A director should be subject to the same rules as anybody else in terms of entering a rental unit.

Under 187(1), justice would be denied under that section. If there is a technical irregularity, and I have seen some very bad ones, where we have asked for dismissal on more than one occasion; we have had to ask for dismissal because when we got there, we were not taught under Section 85 of the Act but under 90, and it was not in writing. They pull their own rules from the air once we get there even though we prepared for something else. That is happening too frequently, and 187 should be thrown out. There is no way that I will accept that and our membership will not accept it.

I have a lot of reservation. I want to explore it further under 188. To me it seems that justice could be denied. I should have my day in court if I need it; if I am denied justice I should have my day in court.

I have not had a chance to review Offences and Penalties; however, 195(3) strikes me as being very strange. Someone could be a corporation and own only 10 units, but that same someone could be, just because they are a corporation, subject to a $50,000 fine. Now, no 10-unit shelter situation could survive a $50,000 fine, but a landlord may have 1,000 units, not be a corporation, and be subject to a $2,000 fine. Pardon me, I am using the wrong figures. I think in Bill 42 it was $50,000, but now it is $2,000 and $10,000.00.

However, I think wherever possible we should have people who will provide shelter, who will have the required resources to provide shelter, but those resources could very well be eroded at the expense of tenants if fines are that high and if the landlord is seen to be the one that is the criminal. It seems as if the landlord is criminalized.

He may have 500 units, but if three of those units are trashed by bad tenants, then the landlord is labelled slum, he is criminalized and all the rest of it, when all that landlord is doing is breaking his back trying to provide shelter for those people who, for whatever reason, even though some of them want it, are denied the right to own their own homes. That is one thing that is not addressed by all of this, and I suppose this is not the place for it, but part of the problem is that people who want their own homes are denied that right because of certain legislation—either provincial or federal.

I want to thank you for taking the time and trouble to hear me in spite of the fact that we do not have a written submission. I am hoping I will get a transcript, so that we can make a submission for our own records and a final thought for everybody. I am sure there are other things that I would like to add and that I should add, but I will not ramble on about the problems that I mentioned this morning.

* (2000)

I would just like to say that you people are admirable; you work until long hours of the night and that everybody is concerned about shelter.

Mr. Martindale: Yes, just before I ask Ms. Van De Spiegle one question, I would like to congratulate the Minister of Housing (Mr. Ducharme) tonight at the Press Gallery reception, in his absence he was presented with an award and the award is a lifetime membership of the Manitoba Landlords Association, so I would offer my congratulations. Sorry he was not there to receive it in person.

I would like to make a comment—

Point of Order

Hon. Harry Enns (Minister of Natural Resources): Mr. Chairman, I appreciate it that my colleague is probably charitable in that facetious comment he put on the record. I appreciate the event that he just attended, but nonetheless when read in the cold light of day, six months from now or two years from now, to suggest that the Minister has received some particular award from a group that has a vested interest in the Bill that is before us, and that is a contentious and controversial Bill and suggesting in the manner in the way the Honourable Member did that the Minister is being singled out by one side of the persons who have to do with this Bill is, I think, uncalled for. Thank you.

Mr. Chairman: I should point out there is not a point of order, Mr. Martindale, on your question to Ms. Van De Spiegle.

Mr. Martindale: Well, perhaps it was inappropriate if it was a different organization, but perhaps you are right that maybe it was inappropriate.

* * *

Mr. Martindale: At the beginning of your remarks you said that the rent regulations staff tell people that they will get a rollback and that this is a bribe to people to request a rent rollback. Are you alleging that the staff at the Rent Regulation Bureau are involved in offering bribes to tenants? If so, that is a very serious allegation, and I think you should substantiate it with evidence or withdraw it. A lot of the staff are here tonight; I have worked with them for a number of years, and they are all fine people. I think that is a rather serious allegation, and you should either clarify it or withdraw it.

Ms. Van De Spiegle: It is not a hard and fast allegation, but it is a perception. It appears as if tenants will appear and act as witnesses, even though they are not sure what the process is all about because they have been promised that by participating they would have some monies rebated to them.

Mr. Chairman: I thank you very much for your presentation, Ms. Van De Spiegle. I would now like to call for the second time presenters who possibly were not here before, and I will start with Karen Tjaden.

Ms. Karen Tjaden (United Church (Conference of Manitoba and Northwestern Ontario)): Thank you, Mr. Chair, and Members of the committee, I am sorry I was not here when my name was called—

Mr. Chairman: I am sorry. I just wanted to put on the record that you are with the United Church Conference of Manitoba and Northwestern Ontario.

Ms. Tjaden: That is right, representing a group of people who presented a brief to Government and Opposition Parties last week, and you have that before you, I believe. I am going to refer especially

to recommendation No. 3 and No. 4 on page 13, and also to page 11 of the text. I would like to speak first, with the Chair's permission, on behalf of that Government brief committee of the United Church and then to offer some comments as an individual.

I work at St. Matthews-Maryland Community Ministry in the west central area of the city. I have read the Bill and would like to make some additional comments beyond the scope of the brief presented by the United Church. I will begin by speaking on behalf of the United Church.

The paper before you represents concerns around urban issues, especially housing issues for low income people, and they are the concerns of the constituency of the United Church, especially in the province of Manitoba.

It is our belief and my experience from working in a low income neighbourhood that housing relates to every other aspect of people's quality of life. When people come to our church asking for food or clothing, that is very often a housing related concern. They are short of food money because they have paid a damage deposit or because their rent is too much or they have had to move five times in the last seven months to try to find adequate housing for themselves and their families. I speak out of that context where housing is very related to peoples' entire quality of life.

We want to affirm the direction of this Bill. We believe that it is a tenant-friendly Bill, that it is in the interests of the tenants, and that there are many positive directions and aspects to the Bill. If it is passed, as we hope it will be, that tenants will benefit.

I want to refer specifically to our two recommendations. One is recommendation No. 3, where we suggest that the Bill be passed, but also that we suggest an amendment. In our conversations with United Church people and to low income people, it is our belief that some kind of central registry would be helpful in addition to what is already contained in the Bill.

A central registry would allow tenants to find out relevant information about potential landlords. The central registry could also provide a way for the Government to track where taxpayers' dollars are going. It is estimated that $40 million to $60 million a year is being spent in the form of housing allowances by Governments, municipal and provincial. It is our belief that taxpayers want to know where that money is going and want that money to be going to quality housing, not housing that is substandard or even unsafe for tenants.

We would also like to see some kind of housing advocacy office established. This follows closely along with Section 36 of the Bill, where you are suggesting that there be money set aside for education. We see a housing advocacy office as a way to offer that education in a format that is really accessible for low income people who may have language barriers or cultural barriers that prevent them from going to the usual kind of Government office and accessing information.

We have the Landlord and Tenant Affairs pamphlets at the ministry where I work, but it is not something that people automatically pick up. Many people have literacy needs so that written materials in the traditional form are not that useful for them. The concerns that we have about people not knowing their rights would be well-served by some kind of housing advocacy office which could be funded partially through that education money that will be set aside from the trust funds.

Do you want to ask questions about these particular recommendations before I speak more specifically to the Bill, or do you want me to continue?

Mr. Chairman: We will wait until the end of your presentation and then we will ask questions, if that is okay.

Ms. Tjaden: Okay. As an individual who has worked in the inner city for several years, I would like to speak to some specifics of the Bill and to raise some concerns. I will certainly acknowledge that there are improvements in the Bill around three particular areas that I would like to address, that is: condition reports, damage deposits, repairs, how they are done, and who makes sure that they are done.

My experience is that people have a lot of difficulty getting security deposits back. I was here this morning when Mr. Rosenberg was speaking, and it is my guess that one of the reasons that people take so long to claim damage deposits or never claim them is because they have given up trying. That is my experience, that a lot of people just do not bother because it just one more hassle in a life that is full of hassles. The people I see who will be affected positively by the changes that you are suggesting in the Bill already have to struggle with difficult financial constraints living on welfare which

provides an inadequate income for them. Housing problems are just one more thing on top of an already unbearable situation that people are expected to live in.

I have a concern I guess that the Bill allow for people to make sure that damage deposits are returned to people who are deserving of them. I would see a provincial trust fund as a way to ensure that. The trust funds that are provided for in Section 30 and other places in the Bill are a step in the right direction, but I would see there being room to strengthen that even further and to have some kind of provincial trust fund.

* (2010)

It is my hope that the advisory committee that is recommended—I believe it is Section 96, is that right? Anyway, you all know. You are sick to death of all the sections, right? Anyway, the section that recommends that the advisory committee with tenant and landlord reps, it is my hope that will provide a mutual ground for concerns around damage deposits to be resolved. If what is proposed and amended and finally comes to be law is not working, that there will be room for changes to that.

With regard to Section 96, around repairs, the question on who decides what a reasonable time is, and again, voice my concern that that determination of what a reasonable time is be a mutual decision, taking into account the perspective of landlords and tenants, and I think that serves both parties well.

Condition reports are another concern. Most of the people who I work with do not know anything about a condition report. They have never heard of one before, and they do not know that they have a right to ask for that. So the requirement that they be provided with a condition report if they ask is helpful, but I am not sure if it goes far enough, because just allowing them to ask for it does not mean that they will know that they can ask for it. There is need for education in that realm and perhaps for stiffer requirements around condition reports.

That is what I have to offer as my concerns. I believe that the Bill is a good Bill, and that if passed, it would improve the quality of life and access to quality of life for the people who I work with. In the end, I believe that it is good for landlords and tenants, and it is my firm belief that the whole community will benefit when people have access to secure quality housing. If you have any questions.

Mr. Ducharme: Yes, I want to thank the presenter. We had a very good meeting with the Premier, myself and other Ministers in regard to your brief. I know I did go over your concerns in regard to the condition reports and the security deposits. I explained to you some of the differences between this Bill and Bill 42, but I just wanted to thank you for your presentation.

Mr. Martindale: Thank you, Ms. Tjaden, for your presentation. Would you say that using money from the education fund for the advocacy office and a registry is appropriate and a good way to use the money in the education fund?

Ms. Tjaden: I am only speaking for myself, and I firmly believe as a community worker that needs to be decided by the community, but I do feel that is a positive direction to be moving in. That is a way to provide education to a large number of people in a way that is appropriate and accessible for people. Our idea of the housing advocacy office is a place staffed by people who have an experience themselves of being on welfare, of the struggles, and people who would be able to speak different languages than English.

Mr. Martindale: There is at least one landlords' organization that has been called the blacklist. Would you see the housing registry as being something that is open not only to tenants, but to anyone so that the information could be verified as to its accuracy, and if it was inaccurate, it could therefore be corrected?

Ms. Tjaden: My personal opinion would be that is an important way to do it, otherwise there is no trust. Again, I am just speaking from my own personal opinion and not based on conversations with community people on that particular issue.

Mr. Martindale: You mentioned the Minister's advisory committee. Would you be interested or willing to suggest names of tenant representatives on that committee?

Ms. Tjaden: Yes.

Mr. Martindale: I am not sure how knowledgeable you are of different sectors of the housing market, but are you aware that most management companies require the use of condition reports? That is quite standard and is probably true of most high-rent apartments. It is quite common in co-op housing units to use condition reports. Would you agree or disagree with that?

Ms. Tjaden: I cannot make any comment because it is not something that I am familiar with.

Mr. Martindale: Okay. You say that most low-income tenants have never heard of a condition report and do not know what they are. If you assume that they are quite common in other parts of the market and seem to work well, do you think it follows that this is something that should be required in order to protect low income tenants, especially at the termination of a tenancy so that they get their security deposit back?

Ms. Tjaden: I think it needs to have a mandatory status; that is already in the Bill as it is. I guess I have a concern about setting up rules that cannot be governed or cannot be monitored. It could be written in the Bill, but if there is no way to monitor it, I am not sure that it is going to be that helpful.

Mr. Martindale: Do you consider that Bill 13 is an improvement over Bill 42 in that it says if a landlord or tenant requests a condition report, there shall be one filled out?

Ms. Tjaden: I am not familiar with the exact wording of Bill 42, but I am in agreement with the wording of Bill 13 around condition reports with the proviso that if that does not work, the advisory committee would be able to suggest recommendations and have some teeth to do that if they are needed.

Mr. Martindale: Of course, if it is only an advisory committee, they can only advise the Minister to make changes.

Mr. Chairman: Are there any other questions of Ms. Tjaden? I would like to thank you very much for your presentation. I would like to now call for the second time Richard Morantz. I would also like to call Mr. Reg Loeppky. I would like to also call Heather Talocka. I would also call Marion Minuk. Mr. Stan Fulham, I understand that you have a written brief that we are being presented with. You may proceed.

Mr. Stan Fulham (Kinew Housing Company): Mr. Chairman, ladies and gentlemen, I am the manager of Kinew Housing. Kinew Housing, just to give you a bit of background, was established by a group of tenants in 1970, 20 years ago, to provide decent and affordable housing for Native families in the city of Winnipeg. It was the pioneer in Canada, and since then it has developed. We have 340 homes scattered over the older sections of the City of Winnipeg.

There is something that I would also like to mention to you. Since it was set up by tenants, it is a non-profit company. It is a private company, non-profit, but the tenants rule the company. They appoint the board of directors. There are 10 Native people on the board. We meet with them once a year. They approve the financial statements and any other policy matters dealing with the company. This brief is part of the things that they wanted the board of directors and myself to present to you today.

* (2020)

I want you to recognize that we are looking at this not only from a landlord's point of view but also from a tenant's point of view.

In regard to our brief, it was done very much in a hurry, because the board heard something about Bill 13 being up before the House, so they called me in and said, "Look, we had better get our brief over there as fast as possible." I was laid up with the flu, but I managed to get it done in a matter of a few days, and unfortunately, it is not as good as we would like it to be.

For example, the title is very misleading. We call it an alternative to public housing. That is a misnomer. We recognize there is a need for public housing. What it should have read is, "An Alternative to Bill 13," and maybe "A Supplement to Public Housing," because we feel that public housing is needed now and perhaps even more so in the future. I wanted to clarify that matter.

In regard to the intent of Bill 13, to deal with slum or substandard housing, to protect the financial interests of the tenants and to ensure that rental accommodation meets acceptable standards that provide a healthy and comfortable environment for the tenant. We agree with these objectives. Bill 13, however, is not the answer. It may be politically expedient, and we can appreciate that you are anxious to do something. We appreciate that as well, but we find that this Bill 13 is going to be an administrative nightmare. We deal with these matters on a day-to-day basis, and we recognize the implications of what you have written, or whoever it is. Our board of directors who reviewed this have said that whoever wrote this certainly never has been in property management, because he would realize that you are talking about a massive staff at tremendous cost to implement this kind of thing.

We do not pretend to have all of the answers, but 20 years of experience has taught us that we are dealing with human problems, and as such, there is

no final answer, there is no total answer. There will always be problems. I think even Christ said that the poor shall always be with us. I think he must have known something about this.

For example, on damage deposits, agreed that there is abuse of damage deposits, agreed that there must be controls, but again, Bill 13 is not the answer. I do not wish to belabour this point, because others have very adequately covered this topic. For example, in regard to 14 days notification, Kinew deals with this problem all of the time. I have people calling my office—tenants, mainly Native families—who are experiencing problems in collecting their damage deposits and this sort of thing. We do our best to help them, but there is a limit to what can be done. It makes us realize how much work is involved in this. If a family comes to see me, and I have to contact the landlord and then go back to the tenant—this sort of thing—I may have to spend two or three days dealing with one particular problem. Can you imagine if you are dealing with hundreds?

We have even had landlords call us and say: "Can you locate this family? They are a Native family. Do you know where they are?" Not all landlords are a bunch of irresponsible thieves. Believe me, there are a lot of very good, responsible individuals out there, and we have dealt with them. I think that will resolve this problem if we recognize that there is good and there is bad.

Damage deposits cannot be effectively handled by imposing a heavy-handed bureaucratic system to supervise it. Why? Because we cannot work at least fairly unless there are condition reports.

A previous group suggested that Government officials should go along with the tenants to do condition reports. I do not think they are aware of just how massive this problem would be. Can you imagine the hundreds of inspectors or whatever you would require to do this?

In a Winnipeg housing report that was published about a year ago, it stated there were 1,500 moves amongst welfare families alone on the Winnipeg welfare rolls in the City of Winnipeg per month, not per year. We thought it was per year. It is per month. I checked this out with their social service department, and they said that is right. Mind you, a lot of them are singles, but still a lot of them are families. We are not including the ones from the province. I do not know how many there are there, but thousands more.

We are dealing with a massive problem here if we are talking about 1,500 moves, and we are going to provide condition reports for these 1,500, never mind what the province has. What we are saying to you is that by superimposing a bureaucratic system to govern this it would be absolutely impossible. We are saying, involve the community. We do this in Kinew Housing. We have new tenants coming all the time, and sometimes we will even, whenever we can help it, help Native families to get condition reports when they are moving in elsewhere.

We are saying that there are people out there, churches, with ones like Karen, who was just up here a minute ago, involved with the United Church, and I know her interest in this matter. We have the Winnipeg Housing Concerns, and there are many others. Why do we not use them? We have 340 families plus many others with whom we deal and assist on a voluntary basis. Surely, the Winnipeg Concerns Group, representing, they say, 260 tenants, can help these tenants in getting these condition reports, and I think that is extremely important.

There is also one other factor, which is that you are dealing largely with people on welfare. You are dealing with single parent families. Seventy-five percent of all the families we deal with now are single parent. That tells a story. When I came into Kinew Housing 16 years ago, the reverse was true. We had 70 percent who were working full-time or on revolving jobs, and 30 percent were on social assistance. Today, that is reversed. Seventy percent are on social assistance and almost 70 percent of them are single parent families.

When they go up before the landlord, a lot of them are lost, and they do not know how to cope with this landlord. They are browbeaten and that sort of thing. Somebody should protect their interests all right, but I think we cannot have people going to take their hand and lead them from one house to another to resolve this problem. An educational program would probably assist in doing this, and that has been talked about earlier on, and we agree with that.

The other thing, too, that I have found is that, just recently in this past couple of weeks, we have had a couple of cases come to my attention at Kinew Housing where there was some concern or some dispute in regard to the damage deposit. In this

case, the social worker got involved and got it settled very amicably between the landlord and the tenant, and we say great.

These people work with these tenants on a day-to-day basis or almost that. Why are they not given this responsibility? Why are they not the ones to deal with this? Why would you want to hire additional staff to do this kind of thing? We are saying again that your damage deposits will not function fairly and practically unless you get these condition reports done, because unless the condition report is done fairly and objectively, the landlord is going to abuse the system. Only the tenant can be protected if a condition report is filled in properly. Again, we say, involve the community.

We have looked at the administrative implications of Section 13, and we have looked at the court. You are talking about a judge, a Crown prosecutor, a court recorder and supporting staff. That may run you, lawyers tell me, about $2 million a year. You are talking about inspectors, and there must be many of them to do this kind of work. You are not talking about five or six inspectors, and the other supporting staff to do all of the work that you are recommending should be done. You are talking about investing several million dollars, and we are concerned about that. We think there are alternatives.

* (2030)

One of the alternatives that we would like to talk about, and we mentioned it in our brief, is based upon the findings of the Native Homefinders Program that we established about a year and a half ago. The reason why we established the Homefinders is that we applied to the Government for the last 15, in fact, 20 years, trying to get a program like this. About a year and a half ago, we managed to get a bit of money out of CORE and out of Winnipeg Foundation and we set up the Homefinders Program with two people: a girl Friday, a secretary who does all kinds of things—I found out she just does not answer the phone; there are so many other things involved that she had to get involved in many other things—and a home placement co-ordinator.

In a year and a half, they now have approximately 2,000 applications—1,970-some, I believe it is—applications from Native families alone who are not out on the street, but they want to upgrade themselves to better housing, because they are unhappy where they are, they are too far away from schools and this sort of thing. There are 101 reasons why they want to upgrade themselves. Some of them are in slum housing as well.

They have also done a survey in this work and Lorraine, the girl who does this, the home placement tells me that the shortfall between this, where they are, and the better housing, what they want to move to, is between $50 and $150 per month. We are talking about a shortfall of $100 a month. I did not know this before, but we certainly have the evidence that is the case today.

I wanted to mention about the Homefinders and how it is worked because also Karen mentioned something about a registry. The Winnipeg School Division say they have a registry of one thing or another, we are aware of these things.

How is this thing working? It is working very, very well, indeed, because what she has done, she has gone out to see a lot of landlords, including so-called slum landlords, but also she has gone out to see the tenants whom she is going to place in these homes, because any program you have dealing with this issue will not work unless you get square pegs in square holes.

If you have a good landlord, and there are a lot of them in the city of Winnipeg providing good, decent accommodation—and strangely enough in many cases at rental rates almost the same as they have in slum housing. If you wanted to make use of these people, you have to put in a responsible family and you can only do so if you go and do a home visit.

This is what Homefinders is doing. This one woman is doing this by herself. That means to say she goes all day long, she travels out, she goes out to see the landlord, she goes out and sees the families, and then she places them into these decent homes.

Now the thing is it is working very well. A lot of landlords we have dealt with are extremely happy with the situation, and as a result, we have this situation. We have had landlords call her and say, how come you have not given us any tenants? Lorraine will tell them, the reason why you do not have any tenants is because your place is filled with cockroaches, because the place is in a terrible condition and we will not deal with you until you rectify that problem.

There are, as you know—this is what is reported to me—approximately 5,000 rental apartment

vacancies in the city of Winnipeg. A lot of these people are suffering today. They would like to get more tenants and the Homefinders could help them, but they will only help them on condition that they upgrade their property. We think that is the "carrot" approach and is probably far more effective than to impose a big bureaucratic system to oversee this kind of a thing.

Also, the tenants are getting the message and, Mr. Chairman, I would like to point this out, our tenants get very irate. I have heard one of them here just the other day talking to Lorraine and cursing her on one thing or another that she is not doing a thing to find them a better house or in this case a better apartment. She said, no, I have been to your place and it is a real pigsty, and there is no way I am going to place you with a good landlord until such time as you have cleaned up your house and taken better care of the property. So it works both ways and it has to work both ways. If it does not, then the whole system would collapse.

Then we are talking about substandard housing, you can call it slum housing—how to deal with it? Well, the "carrot" of course we are saying is that just as I mentioned a subsidy to meet this shortfall of approximately $100 per month is what is required.

There is another way of dealing with the slum housing and you do not need Bill 13 in order to do it, and I want to impress upon you about this. We made a brief to the City Council about a year ago and we have been talking about this for the last, seems to me 20 years, certainly 15 years, ever since I have been in Kinew Housing. It seems every municipal election, we get would-be politicians who are getting up there crying, and they are very concerned about these slum landlords, and it is a terrible situation, and we need something like this Bill 13 to deal with them.

We say, what for? You have the authority now to deal with it. When I appeared before the City Council a year ago, just two weeks before that on television we saw one of the inspectors from the Public Health Department at the City of Winnipeg closing up some of these apartments in the city of Winnipeg. They have that authority. They have the authority to close any residence which is a hazard to health or safety to the tenant. Why are they not doing their job? We say, fine. We said Kinew Housing is strongly behind this. You go ahead and close them down, except for one thing. Before you do, you tell us what you are going to do with these families you put out in the street, because you are dealing with multiple-problem families in a lot of cases, the people who need the help the most. You tell us, what are you going to do with them? You just cannot throw them out in the street.

Mr. Chairman: Are you ready to entertain questions?

Mr. Fulham: No, I just want to finish up. I have just a couple of items here.

So much for the landlords, now as I mentioned, what about the tenant? The multiple problem families are a serious part of the problem, and again we cannot resolve any problems dealing with housing, and I cannot stress this too strongly. We cannot resolve this problem unless we recognize that the problem is a landlord-tenant problem. When we look at it that way, then we might be able to deal with it.

The multiple problem families are not a landlord's responsibility. They are not even Kinew's responsibility. They are Government's responsibility.

I would just like to mention to you that about 10 years ago, we made a proposal to deal with these families. We made a recommendation that we put up special housing for them, no basements, concrete slabs, acrylic instead of glass for the windows, solid core doors with steel frames, and this sort of thing. CMHC strongly supported it; MHRC supported it; the City of Winnipeg would not.

I got a call several days after we presented our brief, and they said, no, Stan, you cannot do that kind of thing. I said, why not? Well, he said you are identifying a group of people out there with a special problem. He says, that is contrary to, I do not know whether he said the Human Rights Act, or whatever it may be, and so I said to him then that it is better to leave these people out on the street, because who is going to take them? Nobody will take them, and so they end up in slum housing.

Again, and I repeat, they are not the landlord's responsibility, they are a Government responsibility and we should look into that. I do not think we are going to resolve any problems of housing unless we deal with that issue, and there are hundreds of families out there. We have to deal with all kinds of problems. You mentioned that.

They are the ones needing the help. Of all the people who require housing the most, they are the ones. Again, we say, before eviction under Section

13, what are you going to do with these families? That is it, Mr. Chairman.

Mr. Chairman: Thank you very much, Mr. Fulham. Are there any questions for Mr. Fulham? Thank you very much then.

I would like to call on Mr. Peter Warkentin then. Mr. Warkentin is with Dart Holdings. Do you have a written submission?

Mr. Peter H. Warkentin (Dart Holdings Ltd.): No, Mr. Chairman, I do not and pardon my cold.

Mr. Chairman, Honourable Members of this Legislature, Members of this committee, we manage a couple of hundred suites and have personally managed with hands on to ascertain in my view the variations that apply to management of private rental units. I have studied Bill42 extensively and found a number of pitfalls in many areas left wanting. Due to time restraints, I have not had the opportunity to—

Mr. Chairman: You are referring to Bill 42. We are dealing with Bill 13.

Mr. Warkentin: Yes, Mr. Chairman, I made reference that I had spent extensive time—

Mr. Chairman: I am sorry. I thought you were bringing forth Bill 42.

Mr. Warkentin: No, we are dealing with Bill 13.

Mr. Chairman: I am sorry, proceed.

* (2040)

Mr. Warkentin: Due to time restraints, I have not had the opportunity to study this proposed Bill 13 and its guidelines in detail. It has been suggested to me that the proposed Bill 13 is virtually the same as Bill 42. If so, the shortfalls, in my opinion, are included, but not limited to the following.

In general, one, if Bill 13 is concisely written, then why are the guidelines required? If the guidelines are more clearly written than the Bill, why not make the guidelines the Bill?

In my view, the Rentalsman's Office would have to be expanded manifold. Example, we have processed approximately 165 security deposits in a period of time, while three out of this 165 went to the Rentalsman where they got involved.

Under the proposed Bill 13, if the landlord and the tenants have not come to terms by the 14th day of the month, the landlord has no alternative but, one, must cut the cheque to the branch and, two, submit his claim on the security deposit and, three, the branch now, out of a $300 security deposit they got the cheque for with $50 in dispute, (a) have to cut a cheque for $250 to the tenants so that they do not have to continue to wait, and (b) deal with the other $50 which may go to appeal. In any event, once settled, has to cut a cheque for the balance, being the $50, either back to the landlord or to the tenant in order to settle the file.

In the past, the Rentalsman, out of the 165 files, dealt with three files. The landlord dealt with the other 162. Now the branch office is exposed to dealing with 165 files on the first part, the $250, and another 165 files on the second part. Therefore, totalling 330 files that they now have to deal with, where before they dealt with three, because the landlord dealt with the rest.

It does take more than 14 days, as has been mentioned earlier, to finalize a file like this with the landlord being involved in his office. Now it becomes the responsibility of the branch office.

Time is not sufficient and the penalty too great not to comply in a timely manner set out under the Act. We favour condition reports where staff work for the tenants. When a condition report is made at the time of move-in, we request and require the tenant to go with the inspector—we call him the inspector in our office—and the inspector works for the tenant. We tell the tenant where possible to please make sure that everything gets on that condition report before they sign it.

As a whole, we feel we have a very detailed condition report, and when we first introduced it, we had some difficulties because tenants did not understand it. We have substantially improved our relationship with tenants since then. Security deposits should be an amount equal—this is on another point—to one month's rent.

Car rental companies hand out a $15,000 car and collect a $500 deposit. Here we have a $30,000 suite and collect $250.00. It does not make logical sense, resulting in an increased rent to good tenants by way of pass-through for damages, cleaning, messy equipment, and a deteriorated building where the loss of or unpaid rent cannot be collected out of the security deposit not being sufficient, again a detriment to good tenants.

There are some matters that I believe are missed in the definitions, for instance, rent. Re: Discounts, recommended to change to incorporate review committee's recommendations No. 2,—this is going

back to 1987—when a discount or a coupon is offered, and the terms, conditions and duration of the discount are spelled out as part of the lease, then the base rent upon which the next increase is calculated is the rent paid plus the amount of the discount. However, if the terms, conditions and durations are not spelled out in the lease, then the base rent is to be considered as the actual amount paid by the tenant. This is the recommendation back in '87.

Recommend to specifically exclude any coin-operated machines or mechanized equipment in common areas of the residential complex, including but not limited to laundry equipment, drink dispensers, food dispensers, smoke dispensers, et cetera, from reference to service and facilities. These costs should only be borne by the user—user-pay.

Residential complex: I recommend that the residential complex should be defined and limited to a building or one group of buildings on the Certificate of Title of land. Where a complex is comprised of a group of buildings, each building in the group should therefore be recognized independently of the other buildings for its five-year exemption from the rent controls, the effective date being the latter of (a) the date of the occupancy permit being issued, or (b) the date of the first tenant having taken occupancy of a rental unit within the building after the occupancy permit has been issued.

The tenancy agreement: We recommend that the definition be rewritten to read oral agreements or implied agreements have force and effect only in the absence of a written agreement. Then it would make sense in my view.

Tenant: What we have is the assigned tenant or sub-tenant under page 6 of the proposed Act. I recommend that the definition be rewritten as follows: Assigned tenants or sub-tenants means a person who makes application with the landlord, whom the landlord approves and grants permission to take occupancy of a particular rental unit under conditions set out in the tenancy agreement. This person is to pay rent or on whose behalf the required rent is paid.

The purpose of this change is to eliminate the situation of tenants and sub-tenants making agreements amongst themselves without consultation with and the approval by the landlord. These arrangements are often made to the detriment of other tenants. To eliminate that, I feel very strongly that we should include that so we definitely have every person who lives in a building on an application, then on the lease, then you have control. You know whom you are looking at. Otherwise, we do not know. To me, that is a very important fundamental requirement in the definitions.

The other thing is we have scattered all through the Act matters of a vacant suite, vacating and vacant premises, but we have nothing of a definition of what makes up, spells out as to what is, what establishes a vacant suite. In my view, where a tenancy agreement has expired or has been terminated by written agreement between landlord and tenant, and the tenant has vacated the rental unit together with all furniture, personal belongings, dirt removed, and damages repaired for which the tenant is liable, then we know when the suite is vacant. If the person picks himself up at five minutes to twelve and leaves all the furniture, dirt and damage behind, we have a problem, because the Act in another section says that when the new tenant comes and arrives at the door at five minutes to twelve midnight, and the furniture is not gone, the place is not clean, the damages have not been repaired, he can take off and go to another landlord and rent another suite. It does not make sense. There must be some teeth in this matter, and not just some more brush piled on top of brush.

* (2050)

Then we have the abandonment of premises. For the purpose of this Act and the regulation, premises are abandoned where the tenant has, in person, ceased occupancy with or without having left the rental unit vacant—dirt, furniture, whatever—and the tenancy agreement has not expired or been properly terminated by the written agreement between the landlord and tenant. In such case, (a) the rental unit remains the responsibility of the tenant for maintenance under his or her care, custody and control as set out under the tenancy agreement in force; (b) the rental unit remains the responsibility and liability of the tenant until the expiration date of the tenancy agreement, because the landlord has responsibilities and so should a tenant in an agreement.

The tenant should remain responsible and liable for (1) the payment of rent and all associated costs to be paid monthly by the tenant or (2) for the subletting of the rental unit to mitigate his or her

responsibility and liability, subject always to the approval of the landlord which shall not be unreasonably withheld, or until (3) the landlord applies to the director for an order (a) declaring the rental unit abandoned and (b) obtaining possession of the vacant rental unit, thereby terminating the vacancy agreement on the possession date.

The tenant shall remain liable to the landlord respecting the contravention of his tenancy agreement. The monthly payments of all rents and associated costs shall remain the tenant's liability under the tenancy agreement until the expiration of the tenancy agreement in force, or until the rental unit has been rerented by the landlord. We are talking about mitigating liabilities. This way the landlord is mitigating his liability and the tenants are mitigating their liabilities. I think that is only fair, so it is a balanced Act.

The other thing is criminalizing rent theft, property damages and forgery. We propose making rent theft, willful damage to property, NSF cheques for security deposits and rents a criminal offence.

One of the things that this Act has not covered to the serious detriment to the tenants, I suggest, is the insurance that this Act should cover to bring to the attention of the tenants that, hey, you need tenant package liability insurance. If there is damage created by the tenant, fire or whatever, then the tenant is left to deal with the insurance company, and the insurance company is much more powerful than one tenant. There is nothing in this Act that brings to the attention of the tenant what protection they may have for a few dollars a month to obtain that.

Therefore, we recommend provisions to be made for the tenants to be responsible to carry tenant package insurance to protect themselves against a loss of furniture and personal belongings, theft of furniture and personal belongings, and third-party liability insurance, including all-risk tenant liability insurance. The tenants thereby protect themselves against subrogation rights of the primary insurers and exposure to any of the third-party liability claims.

I would like to now just go through some of the steps in the Act itself that I feel need some attention. For instance, if we go to page 6, Clause 1(2)(a), "the tenant has left the rental unit and informed the landlord that he or she does not intend to return." I suggest it should be made in writing and that they leave all keys behind, because what happens is that sometimes they go down the corridor and mutter something to the caretaker who does not fully understand English in some cases. Then you have a tenant who claims that they have given notice, the caretaker did not understand what they said, the keys were never left, and so we have no clear indication as to the intent of the tenant. If they leave the keys behind that they got in the first place when they moved in, surely this would make a clear indication as to their intent. Otherwise, saying something or muttering something is not the answer, and we are exposed to all kinds of charges if we do not comply.

Under page 6, Clause 1(2)(b), security deposits for damages or losses, creating an increase in rent to all good tenants. What this says here is that if a tenant, under the "Vacating premises," has not paid sufficient rent, has used up the security deposit for the balance of their rent—if the rent is $500 and they have paid $250 and there is a $250 security deposit; if that is used, it leaves no money for the damages that the tenant has created. You cannot spend a dollar twice, and this is one of the things that we find in here.

Under Clause 1(3)(a), "the tenant has left the rental unit and informed the landlord that he or she does not intend to return." I believe that should be in writing again and that the keys should be delivered so that we know what the intent is of the tenant, not just the intent of the tenant for themselves.

I would like to take you to Clause 39(1), "Landlord or tenant may request condition report." This deals with where a tenant has a contract for a 12-month period and the tenant either consigns or sublets their suite, the landlord now is supposed to get involved in doing a condition report. Who will pay for that service? These are expensive services. We do not mind rendering them; in fact, we prefer them, because personally I have dealt with tenants who have sat in my office saying: I subletted my suite; I got the money out of the incoming tenant, so that I would not have to face you the landlord with the damage that I have created.

I much favour this clause, but it is a very involved clause, and I feel that that service—a sublet fee was $20.00. This service fee I would suggest to be worth about a cost of $60 by the time you are through.

Under Clause 50(2) "Failure to terminate subletting." If a sub-tenant does not move out, you

may have a problem. We had a tenant in there. The tenant subletted to a sub-tenant, and a sub-tenant does not move out and the tenant does not deal with him, now we have under this clause, the landlord inherits a sub-tenant who he never met, insofar as filling out an application or saying, yes, you may live here. That to me is something that I feel should be changed.

Clause 54(1)(d), page 33, "the landlord inspects the rental unit on the day the tenant is required to vacate the unit to complete a rental unit or furniture condition report or to determine if the tenant has fulfilled the tenant's obligations under this Act and the tenancy agreement, and the inspection takes place at a reasonable time;".

Are we talking now about an hour? Are we talking about the hour or are we talking about time? If a tenant moves out -(interjection)- I am not sure what the Act means here. Are we talking about the hour being midnight, because that is what the Act spells out as the day and the hour that a tenant has to give up the suite at time of termination. If we talk about time, does that mean at 11:55 you may go in as a landlord and check out the condition report with the tenant that moves out and another one who is down the hallway ready to move in? What is meant by that? If it is meant the hour, then let us say so.

On page 35, Section 56, "Obligation to make rental unit available. A landlord shall give vacant possession to the tenant of a rental unit on the date the tenancy begins."

* (2100)

As I mentioned before, if the overholding tenant under Section 83 chooses not to move out, I believe that there should be a penalty of an amount equal to a minimum of three months rent plus costs, or he is automatically renewed his tenancy agreement because the other tenant turned around and drove off. Somebody has to pick up the liability. The landlord cannot sit there and say, hey, what happened? There has to be some responsibility on both parts.

Then 65(1)—I have a few left and I am done— "Restraint of trade prohibited". We heard a lady here earlier who said, at least I understood her to say, that she did not mind at all if the tenants repaired their own damages. Well, we certainly do, we certainly mind if a tenant starts repairing their own work or own damages for the simple reason that they very often (a) bring in tradespeople after hours and start sawing and cutting while the other tenant next door likes to have the peace and quietness when they come home.

The other thing is that in most cases the repair does not meet our standard, and then they claim they have paid the previous contractor, repairperson and now you want to sock it to us again. It is nothing but an argument, so I believe that there should be a clear definition. If some landlords want to have and permit that, fine, but I think there should be latitude here, because not all buildings have the same standard.

The other thing, under 65(2) should be limited to tenants' appliances, because I do not feel that I want a tenant to hire Joe Blow from outside to come start working on our air conditioners and ranges. It is our responsibility in the first place, and I do not want to have someone there because they have mucked it up, and now they are starting to bring in their own repairmen using strange parts, and then the next tenant moves in and says it does not work. This other tenant did not complain, because they were the ones who hired that tradesperson. Those are the problems we feel should be definitely eliminated, and we can do it under this Bill.

The other thing under Section 69(1) "A tenant shall pay the rent and furniture rental, if any, to the landlord on the dates specified in the tenancy agreement." I would like to add "and all utilities to the utility companies," because as you know that if the tenant does not pay the water bill on a home or whatever, then ultimately that becomes added to your tax bill, and the landlord then pays for it. If we are going to write a Bill to make it current and applicable to the present-day situation, then surely in my view that should be added.

Under Section 70, "Obligation to keep unit clean" to include—and this is a very serious point. We have had many wrangles with the Rentalsman's Office who say carpet shampoo is wear and tear and not dirt. I say that when that carpet is soiled, when you vacuum it, you may vacuum only the loose stuff off that carpet, but you are not removing the spores, the diseases or whatever has been walking over that carpet or spread on that carpet. We believe that it should be professionally shampooed, disinfected and cleaned, because the other section of the Act calls for it to meet health regulations.

If the Rentalsman will continue to say that carpet shampoo is not part of the tenant's cost to clean,

such as they clean the bathtub surround, they clean the toilets, they clean the kitchen sinks and cabinets, wash the floors. If the carpet shampoo is not part of cleaning, but is wear and tear, I do not understand how this can pass and not be written in the Bill. It just does not make logical sense. Tenants should be responsible for shampooing that carpet just like they are responsible for cleaning and washing the floor.

Under Section 71(1), "A tenant shall not alter or redecorate a rental unit or residential complex without the prior consent of the landlord" in writing, because again you are getting the situation, well, I understood him to say that it was okay. If you have it in writing, you have it. Thank you ladies and gentlemen.

Mr. Chairman: I appreciate your presentation very much. Are there any questions? Thank you very much, Mr. Warkentin. I will now call on Mr. Ken Campbell, Ruth Rattai, Jack Van Dam, Helen Peterson, Gordon Rajotte, Kathleen Horkoff, Gordon Katelnikoff, Peter Thiessen, William Redlick, Paul Kammerloch. We have a request for Mr. Richard Swystun to come back. What is the will of the committee?

Mr. Ducharme: What we did was we took Mr. Swystun's recommendations and we drafted them. We have used a couple of his recommendations, but we did suggest that we would give him a call if we required any further assistance in going through those.

Our legal counsel did work for approximately three hours today. We thank him for his presentation because it was very, very good, and we are going to be using a couple of his suggestions when we go through and make our amendments to the Bill.

Mr. Chairman: Thank you, Mr. Minister. Since all present -(interjection)- I will ask the will of the committee. There is a mention of five minutes. Is this agreeable? You may proceed for five minutes, Mr. Swystun.

Mr. Richard Swystun (Private Citizen): Mr. Chairman, Members of the committee, as you all know, earlier today I provided your committee Members with a copy of a brief that addressed legal concerns. It was rather technical, and I did not propose to read through it at that time. At your suggestion, I did review the matter with Val Perry from the Legislative Counsel's office, and happily I am able to say that I am now confident that the great number of concerns addressed in this brief will be dealt with.

I have no need to read through the thing and no intention to read through it from cover to cover. There are though a few brief comments that I would like to make, and I think I can make those inside the five minutes allotted.

The first is a comment of a general nature. The association applauds the effort that has been made to add certainty to the law in this area. The lengthy definition section at the beginning is welcomed. We do have some concerns though relating to a number of sections in the Act that are worded rather vaguely and contain some uncertainties, and those sections are outlined in the brief.

Making the general comment as I do now, I do not think I have to go through them, and I do not intend to go through them. It is an over-riding concern and the reason that we have the concern is this: At the end of the Act, any breach or contravention of any provision in the statute is made a summary conviction offence, and we are worried that people can find themselves subject to quasi-criminal sanctions for breaching provisions which on the surface are uncertain. That is the main reason for that comment and that concern. There are a number of sections in the Act that use language like "implied obligations," "things reasonably related to the use and occupancy" and that sort of thing. We are fearful that people may find themselves subject to summary conviction offences in cases where they had no idea that they would be.

That is an overriding concern that goes throughout the brief, and with that out of the way, I do not have to comment on many other sections in the brief.

I would flip first of all to page 3 of the brief in Section 28, there is a section there, 28(2), which obliges landlords to give notices of proposed rent increases three months before the proposed rent increase, even when the suite is vacant. We would suggest that is a bit onerous, cumbersome. Many landlords are tenant motivated, I guess, when they have a tenant in place, they are able to set procedures in place to issue notices and such. When a suite is vacant, it is difficult for them to keep track of the three-month period, and I believe it is caught later on in the Act, so the recommendation comes on page 3 that section be deleted. It is covered later.

* (2110)

Under part 3, the security deposit provisions, the only comment I would make would be to reiterate what Lewis Rosenberg said earlier today about the practical concerns about generating the interest that is required.

That said, I can flip over part 4. In part 5, most of the comments I make there are about the uncertainties, but there is one comment that I would like to address and direct your attention to and that is Section 65.

Section 65(1) and Section 65(2) together appear to prevent a blanket restriction on soliciting in a rental complex. We see them all over town, rental complexes with "No Soliciting" signs in the front window, desirable from both the point of view of the landlord and the tenant. We see no reason why that should be prohibited in cases when the tenants feel themselves that is desirable, and we would ask your committee to look at that and see whether it might be appropriate to allow a blanket restriction on soliciting where it is appropriate.

I can flip over now to page 6. The comment I would like to make here is in relation to the overholding tenant concerns that a number of people have addressed today. One of the problems that the association is concerned about is that an overholding tenant can cause all sorts of damage to a landlord by preventing the incoming tenant from coming in, and there are no specific sanctions to deal with that in the Act. We have two recommendations that, one, we would suggest that Section 83 be amended to ensure that the overholding tenant is not only responsible for compensation costs but to pay reasonable damages caused by his overholding.

The other alternative might be to have a deemed renewal of the tenancy in the case of an overholding tenant.

The rest of the comments that I make under "Part 6 Termination of Tenancy Agreements" relate for the most part to the uncertainties that I have already mentioned. One concern we have with respect to 95(2), when a landlord notifies a tenant that he is going to terminate for non-payment of rent, the tenant is to also get a notice that he is entitled to dispute it. We just think that might give rise to more disputes than there might otherwise be if that notice were not given.

There are a couple of sections where we have a common comment to make, and that is under Section 99(7) and 105(2), rights of first refusal are given to tenants in certain circumstances to come back, for example, to a renovated unit. Our suggestion there is that is appropriate, but only in cases where the tenant is not in breach of his or her obligations under the Act, the tenancy agreement, and the regulations beforehand.

If you have a delinquent tenant in, and you renovate and improve, why should you be forced to offer that spot back to the delinquent tenant in the way of a right of first refusal? We make that comment with respect to both of those sections.

Section 101 causes some problems. A landlord must give certain required and prescribed notice before terminating a tenancy to re-occupy it for his own use or to give it to a new purchaser or to renovate or demolish, that sort of thing. This section allows a tenant on receipt of such notice to terminate on one month's notice in reply. What we find is there might be circumstances where landlords will give a generous notice period of four months, five months or something of that nature, because they are going to demolish, for example, or that they are going to renovate only to find that the tenant walks after one month and they are stuck with the stub period that they are unable to do anything with, because they cannot fill it, and they have lost the income for that period. We would urge you to look at that.

Have I overstepped my five minutes? I think the other comments that I would like to make were addressed this morning already regarding the procedure, and I would like to leave with the one comment about the appropriateness of making all of the contraventions of this Act subject to quasi-criminal sanction in the way of summary conviction offences. It seems a bit drastic. The present legislation does not do that, and I would urge you to reconsider that. Thank you very much for allowing me to come back.

Mr. Ducharme: Just on behalf of the committee, you will see, by probably amendments introduced by the Government, that your efforts were not in vain.

Mr. Chairman: Since all presentations have been heard regarding Bill 25, The Residential Tenancies and Consequential Amendments Act, we will proceed with detailed consideration of the Bill. Does the Minister have an opening statement?

Mr. Ducharme: I have nothing further to add.

Mr. Chairman: No further comments? On Bill 25, Mr. Martindale.

Mr. Martindale: Well, I will try to be as brief as I can in view of the lateness of the hour—

Mr. Carr: Are we now going through clause by clause of Bill 13 or Bill 25?

Mr. Chairman: Bill 13.

Mr. Carr: I thought agreement was that we would deal with—

Mr. Chairman: No, 13, I am sorry. I marked that down wrong, it should have been 13.

Mr. Carr: I thought there was agreement to deal with Bill 25 first.

Mr. Chairman: Now we have heard presentations on both Bills 13 and 25. We will have no further presentations. We will now proceed with Bill 25 clause by clause.

Mr. Martindale: Mr. Chairperson, I would appreciate it if you would alert me when we come to Section 2, because I have an amendment, but I do not have the Bill in front of me. I am substituting for my colleague from Wolseley right now. The Clerk is getting me a copy of the Bill.

Mr. Chairman: On Bill 25, the Bill will be considered clause by clause. During the consideration of a Bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee. We will start with Clause 1. Shall the clause pass? Pass.

Clause 2, shall the clause pass?

Mr. Martindale: I have an amendment. I think the Minister has an amendment as well.

Mr. Ducharme: Mine is after yours.

* (2120)

Mr. Martindale: Okay, I am going first then.

I move

THAT Section 2 be amended by adding the following section:

Five year sunset clause
15.2(1) Subject to subsection (3), Section 15.1 expires and is no longer in force and effect on the fifth anniversary date of the coming into force of the section.

(French version)

Il est proposé que l'article 2 soit amendé par adjonction de ce qui suit:

Disposition de temporarisation
15.2(1) Sous réserve du paragraphe (3), l'article 15.1 cesse d'avoir effet le cinquième jour anniversaire de son entrée en vigueur.

Review by Assembly
15.2(2) Upon expiry of Section 15.1, the Standing Committee of the Assembly on Privileges and Elections, or such other committee of the Assembly or other committee or person as the Assembly may specify by resolution, shall review the services provided by the Ombudsman to the City of Winnipeg under Section 15.1 and shall, no later than six months after expiry of Section 15.1, table a report, with or without recommendations, in the Assembly.

(French version)

Examen par l'Assemblée
15.2(2) A la cessation d'effet de l'article 15.1, le Comité permanent des privilèges et élections ou tout autre comité de l'Assemblée ou tout autre comité de l'Assemblée indique par résolution se penche sur les services fournis par l'ombudsman à la Ville de Winnipeg en application de l'article 15.1 et, au plus tard six mois après la cessation d'effet de cet article, dépose un rapport, accompagné ou non de recommandations, à l'Assemblée.

Services continue during review
15.2(3) Notwithstanding subsection (1), an agreement between the Ombudsman and the City of Winnipeg under Section 15.1, entered into before expiry of the section, shall, at the election of either party, remain in force and effect until such time as the Legislature otherwise provides.

(French version)

Maintien des services
15.2(3) Malgré le paragraphe (1), l'entente visée à l'article 15.1 demeure, au choix de l'une ou l'autre des parties, en vigueur jusqu'à décision contraire de la Législature, si elle est conclue avant la cessation d'effet de cet article.

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 15.2(1), 15.2(2), 15.2(3), with respect to both the English and French text, shall the motion pass? Pass.

Clause 2, as amended—pass. Clause 15.1—pass.

Clause 3, shall it pass?

Mr. Ducharme: I have an amendment to Clause 3.

I so move

THAT the Bill be amended by striking out Section 3 and substituting the following:

Delay of ombudsman's service

3 Notwithstanding Sections 65 to 73 of The City of Winnipeg Act, the City of Winnipeg may delay providing the services of an ombudsman under that Act until an agreement under Section 15.1 of The Ombudsman Act is concluded or July 1, 1991, whichever first occurs; and no action or proceeding may in the meantime be taken against the City of Winnipeg in respect of Sections 65 to 73.

(French version)

Il est proposé que le projet de loi soit amendé par substitution, à l'article 3, de ce qui suit:

Prestation des services de l'ombudsman différée

3 Malgré les articles 65 à 73 de la Loi sur la Ville de Winnipeg, la Ville de Winnipeg peut différer la prestation des services de l'ombudsman en application de cette loi jusqu'à la conclusion de l'entente visée à l'article 15.1 de la Loi sur l'ombudsman ou jusqu'au 1er juillet 1991, si cette date est antérieure. Dans l'intervalle, aucune action ni aucune instance ne peut être engagée contre la Ville de Winnipeg à l'égard des articles 65 à 73.

Coming into force

4(1) This Act, except Section 3, comes into force on the day it receives royal assent.

(French version)

Entrée en vigueur

4(1) La présente loi, à l'exclusion de l'article 3, entre en vigueur le jour de sa sanction.

Section 3 retroactive

4(2) Section 3 is retroactive and is deemed to have come into force on November 3, 1990.

(French version)

Article 3 - 3 novembre 1990

4(2) L'article 3 est réputé être entré en vigueur le 3 novembre 1990.

Mr. Chairman: On the proposed motion of the Honourable Minister to amend Clause 3, Clause 4(1), Clause 4(2), with respect to both the English and French texts, shall the motion pass? Pass.

Clause 3 as amended—pass. Clause 3 is so passed in English and French. Preamble—pass; Title—pass.

Shall the Bill as amended be reported? Agreed. Is it the will of the committee that the report be amended as amended? Agreed.

Okay, now we will go to Bill 13?

Mr. Ducharme: Can we go page by page?

Mr. Chairman: We cannot go page by page.

Mr. Ducharme: Can we get an agreement to go page by page, and then if you have a change on the page, you make your amendment then?

To the committee, could we suggest that we go page by page, unless there is a change on the page, then you enter in your amendment. -(interjection)- Group of clauses then?

Mr. Chairman: Is there an agreement to go by groups of clauses? Groups of 10? Sections then?

Mr. Ducharme: It is easier to go page by page.

Point of Order

Mr. Enns: To serve notice to the Clerk's staff that when next we meet, we will be doing this page by page.

Mr. Ducharme: I think it should be page by page. It is easier than going section by section.

Mr. Enns: It has been the tradition of this House to, under these circumstances, if there is agrement of the committee—we after all rule the committee. We have done these kind of things Bill by Bill.

I will not make an issue with the Table officers on this occasion. We shall go clause by clause.

Mr. Chairman: I will read this into the record, Mr. Enns. We do not proceed page by page. It is not procedurally correct. May I suggest that if the committee wishes to consider clauses in blocks, for example, Clauses 2 to 15, that would be acceptable.

Mr. Enns: On the same point of order, I wish you to read me, into that page, on what legislative sitting, what committee made that ruling?

Mr. Chairman: I will have to get a ruling on that.

Mr. Enns: That is right.

Mr. Ducharme: Okay, so for tonight we are going to go -(interjection)- Yes, but if it is there then you have problems.

* * *

Mr. Helwer: Mr. Chairman, it is permissible to go groups of clauses or blocks of clauses, so I suggest we go by blocks of clauses. Let us get on with it.

Mr. Chairman: Is there a willingness to go groups of clauses? We will proceed.

Mr. Martindale: I would like to make some remarks before we start the groups of clauses, and I will try to be brief. We support the intent of this Bill and most of its contents. There are many good things in it, and there are indeed improvements over Bill 42.

However, I believe that Bill 13 could be strengthened to provide better protection for tenants, and therefore at the appropriate clauses I plan to introduce amendments regarding security deposits requiring that all security deposits be held in trust by the director; an amendment making condition reports mandatory; changes to the education fund so that all monies are directed to the education fund; and changes to the capital expense passed through provisions to protect tenants from exorbitant rent increases. I will be introducing those amendments at the appropriate time.

I would seek guidance from the committee as to which number is the first amendment to be addressed, which clause?

Mr. Enns: Mr. Chairman, I think the practice would be that the mover of the amendment would bring to the attention, when we are dealing with the group of clauses, that he has an amendment to make and then we would consider the amendment at that time.

Mr. Alcock: Could I just make one further comment on the process for tonight. I would like to reference it with a concern that has been expressed many times before committee about the way we end up dealing with very complex matters as the night grows late. We have our, I think, close to 100-page Bill here. Mr. Martindale has a large number of amendments. I know the Minister has a number of amendments. We have a number of amendments.

It strikes me that one of the problems we often run into is late in the wee hours of the morning we, in our wisdom make an amendment that causes us nothing but grief further down the road, and for whatever reason that seems to be the process that we inevitably embark upon when we do Bills.

What I would suggest is given there is a majority on the committee, on the Government's side, there are a number of amendments that I think the Government is prepared to consider, and that as we approach those amendments we deal with them, strictly on a short discussion, and let the Minister and staff sort out the most appropriate forms, so that we do not twist the intent of this Bill in some way that it forces us to come back and repass it at some later date, as we have done twice in my short experience in this House.

So just to try to move the process along in a way that allows us to have the important discussions and not produce a camel.

Mr. Ducharme: We are going to go how many clauses at a time?

An Honourable Member: We start with Clause 1.

Mr. Ducharme: Clause 1, Subsection 1(1) definition of "tenant."

I move

THAT the definition of "tenant" in subsection 1(1) be amended by striking out "who pays rent or on whose behalf rent is paid in return for the right to occupy a rental unit" and substituting "who occupies or is entitled to occupy a rental unit under a tenancy agreement".

(French version)

Il est proposé que la définition de "locataire", figurant au paragraphe 1(1), soit amendée par substitution, à "qui paie un loyer ou au nom de laquelle un loyer est versé pour le droit d'occupation d'une unité locative", de "qui occupe ou a le droit d'occuper une unité locative aux termes d'une convention de location".

To be very, very quick, this was suggested by one of the presenters today. It improves the definition of "tenant" by making it clear that a person is a tenant if they are entitled to occupy a rental unit, not limited to a person who pays rent as the section is now worded. That is the reason for the amendment.

* (2130)

Mr. Chairman: On the proposed motion of the Honourable Minister to amend Clause 1(1), in respect to both English and French, shall the motion pass—pass.

Let us see if we can get this thing in sequence here. Clauses 1 through 15—pass; Clauses 15 through 20—pass.

Clauses 20 through 30, shall they pass?

Mr. Ducharme: I have one on Section 29 and I will have it distributed.

I move

THAT paragraph 2 of section 29 be amended by striking out "other than at the beginning of the

tenancy" and substituting "except at the time the tenancy agreement is entered into".

(French version)

Il est proposé que le point 2 de l'article 29 soit amendé par substitution, à "qu'au début de la location", de "qu'au moment de la conclusion de la convention de location".

The reason for that amendment is it makes it clear a landlord can request a security deposit to be paid when the tenancy agreement is entered into and not just on the day the tenancy begins.

Mr. Chairman: On the proposed motion of the Honourable Minister on Clause 29, in respect to both English and French, shall the motion pass—pass.

Mr. Martindale: Do we need to approve the other paragraphs? I have an amendment on paragraph 5. When we get to paragraph 5, I have an amendment.

I move

THAT paragraph 5 of section 29 be struck out and the following substituted:

5. On payment of a security deposit, the landlord shall without delay remit it to the director.

(French version)

Il est proposé que le point cinq de l'article 29 soit remplacé par ce qui suit:

5. Sur versement du dépôt de garantie, le locateur le remet sans délai au directeur.

Mr. Chairman: On the motion of Mr. Martindale to amend Clause 5 of Section 29, with respect to both the English and French texts, shall the motion pass? Yeas and Nays.

With respect to both the English and French texts, all of those in favour say aye. All opposed say nay. In my opinion the nays have it. The motion is defeated.

Mr. Alcock: I just have a question for the Minister on this particular clause, and it relates to the discussion that took place relative to the establishment of trust accounts. I note that the Landlords Association has made a very specific provision that I do not believe is in conflict with the intent the Minister has written into the Act about the identification of trust accounts and the holding of such trust accounts, but which they believe clarifies the position and creates proper trust arrangements that does not prevent them from maximizing their returns on those trusts for the tenants involved. The wording of that is included within the presentation that was made.

I am wondering if the Minister has had an opportunity to review that, and whether the department is prepared to accept a friendly amendment to that effect.

Mr. Ducharme: Also, the advice that I have received is that they—if you are talking about in pooling their monies. Is that what the Member is referring to?

Mr. Alcock: What they have recommended doing is in this Section 29 adding a Subsection 6 with the following wording: A landlord is deemed to be in compliance with the provisions of the Act if he maintains in a bank, trust company or a credit union a trust term deposit or other similar cash security clearly identified as security for security deposits in an amount equal to or greater than the total of security deposits paid to him by the tenants.

Mr. Ducharme: We are instructed that if they are in deposits, then we have a much easier time putting our hands on that than if it is say in a Treasury Bill or something like that. We would have a difficult time following a Treasury Bill because that is the problem with that.

Also, probably if you had it in, I guess, an extended note or a—what is the word for them?—GIC or something, then you would have a problem with them. That is why we are suggesting as outlaid.

Mr. Alcock: Rather than prolong the debate, the Government is not prepared to accept that amendment?

Mr. Ducharme: That is correct.

Mr. Martindale: On Clause 30, I have an amendment.

I move

THAT Section 30 be struck out and the following be substituted:

Director to hold in trust:
30 A security deposit and interest remitted to the director shall be held in trust.

(French version)

Il est proposé que l'article 30 soit remplacé par ce qui suit:

Dépôt détenu en fiducie par le directeur
30 Le directeur détient en fiducie les dépôts de garantie et les intérêts qui lui sont remis.

I would like to speak to this amendment. Sorry that I did not speak to my previous amendment, but I would like to explain the purpose of it, which is to require all security deposits to be held in trust, which I believe would be of benefit to tenants, especially low-income tenants who frequently experience problems, and also to make life easier for civil servants who spend a considerable amount of time tracking down security deposits in order to mediate disputes.

I also believe that if this provision were enacted there would be considerably more monies available for an education fund or a housing fund; namely, the interest on that money over and above the interest that had to be returned to tenants.

Mr. Ducharme: Probably one of the reasons why we cannot support this, and I guess the main reason is—we think it does not benefit the tenants. We are having control of the security deposits, and with the system we have to follow them, we feel they are being protected. The tenants also will have to go into the office with the security deposit, then go to the landlord and sign the lease.

What happens if cheques are NSF, there is tenancy void—I am giving you an example. Of the 120,000 tenancies in the province, about 20,000 are collected and paid out every year all over the province. This would require, we believe—especially to get this Bill or this very, very large Bill going, we feel that would be a massive emphasis on the current staff. That is why we do not agree.

We feel that the tenants are improved. They do have the benefit of us controlling those security deposits by them being in trust. Under the way we have them set with the 14-day clause and the notices that are applicable, we figure we have covered it well enough.

Mr. Martindale: I have a question for the Minister.

Could you assure the committee that when the regulations are printed, the requirements governing security deposits held in trust by landlords will be similar to the provisions that were in Bill 42. There were quite a few requirements that were spelled out as to how those security deposit monies were held in trust, and I would like to know if those requirements or similar requirements will be in the new regulations for Bill 13?

Mr. Ducharme: All I can to say to the Member right now is that we will make sure that when the regulations are drafted they are proper, that they do protect the tenants for making sure their money is money that you can trace very quickly without a long delay. I think we have covered that in our commission structure that we have set up.

Mr. Alcock: Just some guidance, Mr. Chairperson. We just defeated an amendment in 29(9) that called for the director holding security deposits in trust, so if we proceed with amendments like this, are we not creating a conflict in the Act? We say that under the security deposit requirements, we do not require the director to hold them in trust. Yet we go into 30 and bring in a clause that says they will be held in trust by the director.

Mr. Ducharme: To be fair, I do have an amendment dealing with 31(1) because of the change in Section 29. I should have brought them in at the same time but because the Member for Burrows (Mr. Martindale) did have his amendment, I did not bring mine. I have a change for that dealing with that predicament.

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 30 with respect to both English and French, shall the motion pass? All those in favour say aye. All those opposed say nay. In my opinion, the Nays have it. The motion is defeated. We will now move on to Clause 31 to 40.

Mr. Martindale: I have an amendment to Sections 32 and 33.

Mr. Ducharme: I would like to move my 31(1) so that we can clarify 29. Could you withdraw his intent to move so that I can move my 31(1)?

* (2140)

Mr. Martindale: Yes, I will withdraw.

Mr. Ducharme: I so move

THAT subsection 31(1) be amended by striking out "from the date the tenancy begins until the security deposit is disbursed" and substituting "from the date the security deposit is paid until it is disbursed".

(French version)

Il est proposé que le paragraphe 31(1) soit amendé par substitution, à "à partir de la date à laquelle la location commence jusqu'au déboursement du dépôt de garantie", de "à partir de la date de versement du dépôt de garantie jusqu'à son déboursement".

The reason for that is made necessary because of the change to Section 29. The tenant will be entitled to interest on a security deposit from the date the deposit is paid and not just from the beginning of the tenancy.

Mr. Chairman: On the proposed motion of Mr. Ducharme, the Honourable Minister, to amend Clause 31(1) with respect to both the English and French texts, shall the motion pass? All in favour say aye. Anybody say nay. In my opinion, the Yeas have it. The amendment is accordingly passed.

Shall the clause as amended pass—pass.

Mr. Martindale: I do not have any further amendments until Section 36.

Mr. Chairman: Shall Clauses 31 through 35 be passed—pass.

Mr. Martindale: I move

THAT Section 36 be struck out and the following substituted:

Director to use funds for education

36 The director shall hold in an interest-bearing account money that is:

(a) forfeited to the Crown under subsection 35(3);

(b) remitted to the director under subsection 31(2); and

(c) deposited in the account under subsection 107(3);

and shall use the money to meet the costs of providing educational programs for landlords, tenants and the public.

(French version)

Il est proposé que l'article 36 soit remplacé par ce qui suit:

Sommes destinées à des programmes éducatifs

36 Le directeur détient dans un compte portant intérêt les sommes:

a) confisquées au profit de la Couronne en vertu du paragraphe 35(3);

b) remises au directeur en vertu du paragraphe 31(2);

c) déposées dans le compte en vertu du paragraphe 107(3).

Il utilise ces sommes pour le paiement des frais liés à la mise en oeuvre de programmes éducatifs à l'intention des locateurs, des locataires et du public.

I would like to speak to this briefly and point out that the change is mainly that Section 36(2) is dropped and we just have Section 36, no (2). The difference is that any money left over at the end of the provincial financial year, March 31, not be turned over to the Consolidated Revenue Fund.

In other words, all of the interest money that accumulates would be put in the educational fund for use by landlords, tenants and the public. Today, we heard a number of briefs whereby organizations recommended that this money be used for various purposes. The intent of my amendment is that there be more money available to use for the purposes in the Bill and also hopefully some of the suggestions that were made in briefs today.

Mr. Ducharme: First of all, the whole idea of the education has been talked about and probably introduced by this particular Government, and we are suggesting that we still would like to have Section 36(2) to give us that discretion on what we do with those monies. I think that is very, very important.

Mr. Martindale: In Housing Estimates, we were talking about the need for education, and I had suggested that perhaps tenants would be better served if the department did the same amount of education on tenant rights and responsibilities as they did on the rent guidelines every year. It seems to me that there is a great need for tenant education, not just for tenants, but for landlords as well, and the public, for renters and potential renters. Therefore, it is desirable to have as much money in this fund as possible.

When you set something up for education, why would you return any unspent revenue to the Consolidated Revenue Fund at the end of the year? Why not keep it there and provide more and better education? In fact, there were suggestions made that a tenant advocacy office be set up. There were recommendations for a housing registry for tenants as well. There are many things that could be done that could be considered educational that I would recommend could be done using my amendment.

Mr. Ducharme: We are not saying we are not going to use it for education purposes. What we are saying is that at the end of each year, at least you know what your balance is in that particular fund. We are not saying that we are not going to use it for education in what Member has referred to. We are leaving it in that fund. At least at the end of each year

you have a calculation of what is available for, if you are doing your budgeting, what you are doing for the next year. There will always be a fund that you can use.

Mr. Alcock: I would like to speak to this amendment because I think Mr. Martindale has an appropriate and a sound amendment. These monies are not monies that are appropriated through a tax and therefore part of the annual budgeting process of the department. These monies come out of the operation of the trust funds and the accounts that are unclaimed accounts and interest earned on those accounts specifically from tenants. I think it is wrong for this to revert to the consolidated fund.

We have seen this happen over and over again where Governments accrue quantities of money in the name of some good Act and the environmental fund was one. All of the sudden, it slips away into the Consolidated Fund. We saw the same thing happen with Lotteries.

I think that 36(2) is completely unnecessary and in fact it calls into question the sincerity of the Government in proposing this provision in the first place. You can keep the money; you can account for it; you can move it forward year to year to support different programs. Unless the Minister has some other rationale than trying to figure out how much money is in the account, which presumably he can do with a calculator, I cannot see any reason for placing these monies into the Consolidated Revenue Fund.

Mr. Ducharme: I gave my rationale.

Mr. Martindale: I would like to add to the comments from my colleague for Osborne and say that not only should the money be kept, but if you look up the other Sections, 35, 31, 107, it is fairly obvious that this is interest on tenants' money, so what better way to spend it than to spend it on educational programs that would benefit tenants.

This kind of reminds me of some of the problems in pension funds. For example, my wife had joined a company pension plan whereby she made contributions on a payroll basis and could only use the company's money and all the interest if she stayed employed with that company for five years or more. What happened was she left the employ of the company after three years, got her money back, but of course no interest on her money, so was really loaning the money to the company.

This has happened to many, many people with many different pension plans, so I think it could be argued that this is interest on tenants' money. Therefore it makes sense to keep it, and the stipulation about education is quite broad—education for landlords, tenants and the public. I think this is an eminently sensible use of the monies, and I think it would be a sign of good faith on the part of the Minister if he would agree to this amendment and not turn over unspent money to the Consolidated Revenue Fund.

Mr. Alcock: Could the Minister tell us then, in the financial impact statements that were done preceding the implementation or the tabling of this Bill, how much money is anticipated will accrue as a result of these provisions?

Mr. Ducharme: We were looking at, within a couple of years, we would have about $100,000.00.

Mr. Alcock: So maybe then the question comes, it is a relatively modest amount of money, given the size of the program: Why does the Government feel compelled to take this money into general revenue? Why can it not carry this year to year to fund the very worthy programs that it itself says need to be funded?

Mr. Ducharme: I have put on record what I feel about the clause and I have given my point. I explained to him how I felt about it, and there is no use repeating myself.

Mr. Alcock: I am sorry, Mr. Chairperson, what the Minister said was that it was a method whereby they could get an accounting of what was in the account at the end of the year, if I recall his remarks correctly. That strikes me as an insufficient reason to steal money from tenants' accounts into the general revenue of the Government.

Mr. Ducharme: Yes, that was one of the reasons; however, I do believe in the Consolidated Revenue Fund, and I will leave it at that.

Mr. Alcock: The Member for Portage (Mr. Connery) says they do that in the real estate, but they do not assign a specific use for that money in The Real Estate Act. It is surplus money and it goes into general revenues. There has been a question raised about the same thing, but this Government has made much of its intention to inform the community. That is one of the principles upon which this Bill is based and the very provision that underwrites that, they have now shown is essentially a bogus provision.

* (2150)

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 36, with respect to both the English and French texts, shall the motion pass? All in favour say aye. All opposed say nay. In my opinion, the Nays have it. The motion is so defeated.

We will move through Clauses 36 to 40.

Mr. Martindale: I have an amendment when we get to 39.

Mr. Chairman: That is where we are right now. Clauses 35 to 38.

Mr. Martindale: I move

THAT subsection 39(1) be amended

(a) by striking out the heading and substituting "Landlord and tenant to complete condition report";

(b) by striking out the words following "tenancy agreement," and substituting the following:

the landlord and the tenant shall complete a condition report for the rental unit and, if the rental unit is furnished, for the furniture.

(French version)

Il est proposé que le paragraphe 39(1) soit amendé:

a) par substitution, au titre, de "Etablissement obligatoire d'un rapport";

b par substitution, au passage qui suit les mots "convention de location," de ", le locateur et le locataire établissent un rapport sur l'état de l'unité locative et, si celle-ci est meublée, sur l'état des meubles.

THAT subsection 39(2) be amended

(a) by striking out "When a request is made under subsection (1)," and substituting "For the purpose of completing a condition report,";

(b) by striking out clause (b) and substituting the following:

(b) inspect the rental unit at the time of a subletting or assignment; and

(French version)

Il est proposé que le paragraphe 39(2) soit amendé:

a) par substitution, à "Lorsqu'une demande est faite en application du paragraphe (1),", de "Aux fins de l'etablissement du rapport,";

b) par substitution, à l'alinéa b), de ce qui suit:

b) inspectent l'unité locative au moment de sa sous-location ou de sa cession;

I would like to speak to my amendment. There was considerable discussion today about condition reports. There was considerable discussion today about condition reports. We heard a number of groups, representing low-income tenants, recommend that all condition reports be mandatory, and I have spoken to this in second reading of the Bill. It is something that I believe would protect, especially, low-income tenants who are the ones who are the most vulnerable.

In fact, I believe they are the only ones that are not, on a widespread basis, protected by the use of condition reports in the rental market. I believe it is quite standard. A very common procedure for property managers and owners of large numbers of units to use condition reports to protect themselves and their tenants.

I know that in the co-op housing sector condition reports are standard. I have never heard of a co-op housing organization that did not use a condition report, but it is not very common amongst low-income tenants. It leads to all kinds of problems, whereby when tenants move out there is a dispute over the return of the security deposit, and frequently the landlord wins because there is nothing in writing. I know from my experience with the branch that when tenants do use condition reports they are much more likely to be treated fairly and to get their security deposit back.

In fact, I was involved with a tenant who last September moved into a suite in West Kildonan. She filled out a condition report. I walked to the suite with her and I signed the condition report. She gave it to her landlord, who in this case is a City of Winnipeg building inspector, and the landlord said he did not want it. He said he would give this tenant his own condition report, but, of course, he did not.

When the tenant moved out, the landlord refused to return the security deposit and claimed that the tenant had done damage to the suite. The condition report was taken into the department and was accepted as good evidence of the condition of the suite upon the commencement of tenancy. In fact, the department called in the security deposit and the tenant got 100 percent of it back. This is a low-income tenant who otherwise would not have had this kind of protection, so I am recommending that it may be made mandatory for all tenancies.

Mr. Ducharme: Just for the record, I guess we have on the record where we have done—there has been

a little change from Bill 42 that is mandatory, if either person asks for it. We would like to try that basis while we are getting introduced to our Bill, and while we are getting the operation of the whole Residential Tenancies Act on its way.

I stressed earlier during presentations that the mandatory condition report was suggested originally only as a means of dealing with the delays and handling security deposits. We are confident the new structure is more efficient, and we would like to see you give it a chance to work. That is why we are suggesting that we leave the clause as is.

Mr. Alcock: I would like to, again, speak in support of this. I have an amendment that is drafted similarly. I shall not read it into the record at this point, but, just to make the one point, the bulk of the landlords—and I have, as the Minister knows, the highest percentage of landlords in the city—but the landlords in my riding use condition reports voluntarily. It is the ones that do not, that should be. It is the ones in the lowest cost, worst condition, most poorly kept, that should be doing it because that is where the abuses lie.

The trouble is that the people they are dealing with are the people that are the most vulnerable, the most defenceless and the least likely to enforce the provisions that the Minister has provided them. Once again, like the discussion we just had, we have a provision here that simply is window-dressing and not reality. It is quite sad, frankly, that we would allow a Bill that has the kind of power that this Bill has to be undermined by a provision such as this.

Mr. Martindale: I appreciate the support of my colleague from Osborne here. I am not surprised given the large number of tenants that he has in his constituency, including low-income tenants. I am sure that it is based on experience with tenants that he suggested this.

Also knowing that the Member for Inkster (Mr. Lamoureux) had his own Bill, Bill 2, last year on this same topic, I anticipated that they would have a similar amendment.

Before the Government defeats this amendment, I would like to ask the Minister if the staff have anticipated the kinds of requests or the numbers of requests that might come in. Do you have any projections about how many requests you might get as a result of this change, which, I will admit, is an improvement over Bill 42?

Certainly tenant advocacy groups are going to be encouraging tenants to request a condition report and informing them that when a request is made one shall be produced. I am wondering if the department or the staff have any projections as to the number of requests that will come in.

Mr. Ducharme: Yes. We do have a history, as you know, of how the security deposits have been handled and the delays. We are saying that with our new commission and the structure that we have to dealing with them that we feel that the clause the way we have set out in the legislation is sufficient at this time.

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 39(1) and 39(2), with respect to both the English and French texts, shall the motion pass?

All in favour say aye. All opposed say nay. It is my opinion the Nays have it. The amendment is defeated. Moving through Clause 40 to 45—(pass); 45 to 50?

* (2200)

Mr. Ducharme: I have one on Section 50(2). I will wait till it is distributed. In moving the Bill:

THAT subsection 50(2) be amended by adding the following at the end of the subsection:

"except that, for the purpose of Part 3, an assignment is deemed to have taken place 60 days after the end of the term of subletting".

(French version)

Il est proposé que le paragraphe 50(2) soit amendé par adjonction, à la fin, de ce qui suit:

"Toutefois, pour l'application de la partie 3, une cession est réputée avoir eu lieu 60 jours suivant la fin de la période de sous-location.".

It was suggested earlier in the day by a delegation that it corrects an error in the Bill, makes it clear that when an assignment is deemed to occur under this section, the landlord is not required to comply with the security deposit requirements immediately. This, we feel, clears that up.

Mr. Chairman: On the proposed motion of the Honourable Minister to amend Clause 50(2), with respect to both the English and French texts, shall the motion pass?

All in favour say aye. All opposed say nay. In my opinion, the clause as amended—pass.

Moving from Clause 51 through 55—(pass); 55 through 60?

Mr. Ducharme: I have an amendment that I am suggesting on 60(2).

THAT subsection 60(2) be amended

(a) by striking out "not less than 7 days;" and

(b) by striking out "gives notice in writing to the director" and substituting "advises the director in writing".

(French version)

Il est proposé que le paragraphe 60(2) soit amendé par substitution, au passage qui suit le terme "sauf", de "si elle avise par écrit le directeur, avant la date à laquelle la fourniture des services doit être interrompue ou entravée, de son intention de le faire.".

To deal with concerns—there was quite a presentation by Winnipeg Hydro—and then we will allow a utility to give a one-day notice of cutoff of service. Also, the notice can be by fax instead of by mail.

Mr. Alcock: I was going to raise a question about this, too. I just want to ask the Minister, the presentation the Hydro made was to the effect they already had provisions that protected the people; it was a 90-day notice or provision and then there was a 63-day notice for water. By making these two changes, is what you are doing allowing their discontinuation process to be the sort of first order?

Mr. Ducharme: I would suggest you repeat right from the start.

Mr. Chairman: I am sorry. Would you repeat the question, Mr. Alcock?

Mr. Alcock: I see the two amendments here. Now "the not less than 7 days," I understand that relative to the Hydro's concerns. The second one, frankly, maybe the lawyers can tell me what the difference is between "giving notice in writing" and "advising in writing." I trust there is some significant difference, but it is something that slips—

Mr. Ducharme: I am told that we define the word "notice" by giving and mail—given notice. Well, maybe what I can do is I can pass it to our legal and have her explain because that was really the intent; it was the legality.

Mr. Alcock: For the sake of time, rather than do that, you could just nod your head and it may answer my question. The other part of their case that the Hydro representation made was they had a discontinuation process that was fairly well structured and working they felt fairly well: 90 days for Hydro; I believe 63 days for water. Do the changes that are recommended here basically allow that process to continue, or does it substitute it with the process that was outlined in the Act, or do they become one and the same?

Ms. Val Perry (Government Drafter): The amendment does not address that particular issue. No.

Mr. Alcock: So then, what will the time frame be for disconnection under this amendment?

Mr. Hollis Singh (Director, Landlord and Tenant Affairs Branch): It will not be interfering with the process, 60-day and otherwise, for shutting off services. This is just a time limit to notify the office and allowing them to do it by fax quickly, so that we could proceed to a subsequent section, which gives us the authority to stop them.

Mr. Chairman: On the proposed motion of the Honourable Minister to amend Clause 60(2), with respect to both the English and French, shall the motion pass?

All those in favour say aye. All opposed say nay. In my opinion, the Yeas have it. The motion is passed. Is the clause passed as amended?

Moving along through Clauses 60 through 65—(pass); 65 through 70—(pass); 70 through 75—(pass); 75 through 80—(pass); 80 through 85—(pass).

Mr. Alcock: Not yet, I am sorry. Keep going. You are doing fine.

Mr. Chairman: 85 through 90—(pass); 90 through 100—

Mr. Alcock: I have a motion to make.

Mr. Chairman: On which clauses?

Mr. Alcock: This is on 93, and it is

THAT Bill 13 be amended by adding the following after proposed Section 93.

Termination by a tenant entering a personal care home

93(1) A tenant of a rental unit who for reasons of advanced age or physical or mental infirmity wishes to enter a personal care home, nursing home or other like facility may terminate the tenancy by giving the landlord one rental payment period notice

of termination effective on the last day of a rental payment period.

Notwithstanding that, if not for this section, the notice of termination would be required under this Act to exceed one rental payment period.

I would like to speak to this, if I may.

Mr. Chairman: Yes, Mr. Alcock.

Mr. Alcock: The intent of this is something that was brought to the attention of myself and, I believe, also to the Minister, by a group of people. It is simply that a person who is of advanced years and becoming increasingly infirm, in order to have accommodation, may have to renew a lease that may commit them to 12 months of rent. They may only receive four or five days notice of the availability of a bed in a nursing home, and they need to avail themselves of that as soon as that opening becomes available.

All this allows them to do is to terminate their lease, even though they may have a lease with several months left to run. They can terminate that lease on one rental payment. I have discussed it with the Landlords Association; they are in agreement with it. They think it is a reasonable provision. There are similar provisions. There already is a provision here that says that you can terminate a lease; 92 says, on a certificate from a medical practitioner, so this is much the same. The reference is the specific problem that one has in accessing nursing home care.

I have also discussed this with the Minister. I believe he is supportive of this particular amendment.

Mr. Ducharme: Can we recess for five minutes? There is a problem with the numbers, the way you have addressed it. Five minutes. I will have the two counsels get together, and they can—

Mr. Chairman: Is there agreement to recess for five minutes?

* * *

The House took recess at 10:08 p.m.

After Recess

The House resumed at 10:16 p.m.

Mr. Chairman: I call this meeting back to order. I will remind the Honourable Members we are dealing with the amendment to Clause 93.

Mr. Alcock: Mr. Chairperson, the persuasive abilities of the Minister have convinced me that I should withdraw the amendment I proposed and replace it with the following amendment. I would like the permission of the committee to withdraw that amendment.

I would like to move

THAT section 93 be amended by—

Mr. Chairman: Is it agreed that it be withdrawn? Agreed. Proceed, Mr. Alcock.

Mr. Alcock: I thank the Member for Lakeside (Mr. Enns) for his leadership of that agreement.

I would like to move

THAT section 93 be amended by renumbering subsections (1) and (2) as subsections (2) and (3) and by adding the following as subsection (1):

Termination re move to personal care home
93(1) If a tenant of a rental unit has been accepted into a personal care home, the tenant may terminate the tenancy by giving the landlord a notice of termination that is not less than 1 rental payment period effective on the last day of a rental payment period.

(French version)

Il est proposé que l'article 93 soit amendé par substitution, aux numéros de paragraphe (1) et (2), des numéros (2) et (3) et par adjonction de ce qui suit:

Emménagement dans un foyer
93(1) Le locataire d'une unité qui est accepté dans un foyer peut résilier la location en donnant au locateur un avis de resiliation qui est d'au moins un terme et qui prend effet de dernier jour d'un terme.

I would like to just speak to that particular change, Mr. Chairperson.

Essentially there is no difference in the amendment from the previous one, other than it is perhaps more legally correct in that it references only "personal care home" instead of the three references I gave. "Personal care home" was a term recognized under the other Acts of this Legislature, so this just tidies it up and renumbers it properly. I would ask the support of the committee.

Mr. Ducharme: We support the motion by the Member. What it does is it does allow that the problem with people in the personal care homes, waiting, being on a list and then all of a sudden their

date comes up to go in. They can now get in through this particular type of motion.

Mr. Chairman: On the proposed motion of Mr. Alcock to amend Clause 43, with respect to both the English and French texts, shall the motion pass? All in favour say aye. All opposed say nay. In my opinion, the Yeas have it. The motion is passed. Shall the amended motion be passed? The motion is so passed.

Moving through, Clauses 93 to 95—pass; 95 to 100—Mr. Minister, on Clause 97.

* (2220)

Mr. Ducharme: I move

THAT Subsection 97(4) be amended by adding ", unless the director orders otherwise" at the end of the subsection.

(French version)

Il est proposé que le paragraphe 97(4) soit amendé par substitution, à "Le", de "Sauf ordre contraire du directeur, le".

This was requested. There was a presentation by one particular group that allows a landlord to terminate a caretaker's tenancy, even though the caretaker was a tenant before he became caretaker, if the director authorizes termination.

We are saying that answers their question that somehow if the caretaker is one who should be shown that there is a real drastic reason for removing, they still have to go to the director who can authorize that termination.

Mr. Martindale: Just a question for clarification, I guess I should know this from reading the Bill, but just a concern about due process for the caretaker. Presumably the caretaker could appeal the decision of the director, just as any other kind of decision, if the caretaker thought it was unfair for example?

Mr. Ducharme: Yes, we are told that it would be handled like any other complaint that comes forward where you have a complaint between a tenant and a landlord. There is always the appeal mechanism, and we are suggesting, and we know there will be appeal here.

Mr. Chairman: On the proposed motion of Mr. Ducharme, the Honourable Minister, to amend Clause 97(4) with respect to both the English and French texts, shall the motion pass? All in favour say aye. All opposed say nay. In my opinion, the Yeas have it. Shall the amended motion be passed—pass. Shall the clause as amended be passed? Pass.

Moving through 97 through 100—pass; 100 to 110—pass; 110 to 120—pass;

Clauses 120 through 125, shall they pass?

* (2220)

Mr. Martindale: I have an amendment, Mr. Chairperson.

I move

THAT Section 125 be amended by adding the following after Subsection (1) -(interjection)- I will wait.

Mr. Alcock: I have a question about 121. I am wondering if we want to deal with them in order or if we will deal with 125 and then 121?

Mr. Chairman: We will deal with maybe 121 first.

Mr. Alcock: I have an amendment, but before I decide whether to move it or not, I simply want to raise something with the Minister and his staff.

Look at 121, "Objection by tenant Notwithstanding that a rent increase does not exceed the maximum increase permitted by the regulations, a tenant affected by a notice of rent increase may, not later than 60 days before the effective date of the intended increase, file an objection with the director on the ground that the increase for the tenant's rental unit is not justified."

The ground is a lack of justification. The question that was raised was whether or not there should be a second, a (b) section to that, and that is the landlord is materially in contravention of this Act or tenancy agreement applicable to the rental unit.

Mr. Singh: Are you referring to Clause 121?

Mr. Alcock: Clause 121, yes. The intent of it is that the only grounds for a tenant objection is an increase exceeding the guideline—not even exceeding the guideline, just in terms of the increase in the rent. This broadens it to include, in addition to, that the rental increase is not justified, but the landlord is materially in contravention of this Act.

Mr. Singh: No, this limits it to the tenant being of the opinion that the expenses experienced by the landlord do not justify an amount equal to the guideline.

Mr. Alcock: The concern that is being raised here is that while the rental amount may not itself be in contention, the conditions that the unit is being kept in, the other conditions that this Act imposes upon

landlords, may not be met. We are wondering whether we should be entering into this ability for the tenant to object other grounds than simply the increase in the rent.

Mr. Singh: My response to that would be that if the tenant has other issues, they can be raised at any time and that the Bill has provisions otherwise that would deal with those problems.

Mr. Alcock: Okay, there is no amendment, Harry.

Mr. Chairman: There is no amendment on 121. We are working—125, which is an amendment put forth by Mr. Martindale, 125, yes.

Mr. Martindale: I have an amendment on Section 125.

I move

THAT section 125 be amended by adding the following after subsection (1):

Conditions respecting capital expense
125(1.1) Where the determination of a landlord's actual expenses includes a capital expense, the director may include any of the following conditions in an order made under this section:

(a) that the portion of the rent increase determined by the director to be a capital expense shall be charged as part of the rent in an amount and for a period of time determined in accordance with the Schedule and the regulations;

(b) that the landlord shall cease to include in the rent the amount of the rent increase attributed to the capital expense when the amount of the capital expense is recovered by the landlord from payments of the increased rent;

(c) that part or all of the rent increase attributed to the capital expense shall not be included in the rent for the purpose of calculating any increase in the rent under section 120, for such period of time as may be fixed in the order;

(d) that a copy of the order shall be delivered to each tenant required to pay the rent increase;

(e) where the rent increase is for a fixed period, that a copy of the order shall be posted in the residential complex or delivered to each tenant at such future times and in such manner as are specified in the order, until the amount of the capital expense is recovered by the landlord from payments of the increased rent.

(French version)

Il est proposé que l'article 125 soit amendé par adjonction, après le paragraphe (1), de ce qui suit:

Conditions concernant les dépenses en capital
125(1.1) Lorsqu'est incluse dans la détermination des dépenses réelles du locateur une dépense en capital, le directeur peut, dans l'ordre qu'il donne en vertu du présent article, prévoir:

a) que la partie de l'augmentation de loyer qui, d'après lui est une dépense en capital, fasse partie intégrante du loyer et qu'elle corresponde au montant et soit exigée pendant la période déterminés en conformité avec l'annexe et les règlements;

b) que le locateur cesse d'inclure dans le loyer le montant de l'augmentation de loyer qui est attribuable à la dépense en capital lorsque le montant de cette dépense sera recouvré sur les paiements faisant suite à l'augmentation de loyer;

c) qu'une partie ou que la totalité de l'augmentation de loyer attribuable à la dépense en capital ne soit pas incluse dans le loyer aux fins du calcul de l'augmentation de loyer visée à l'article 120, pour la période fixée par l'ordre;

d) qu'une copie de l'ordre soit remise à chacun des locataires tenus de payer l'augmentation de loyer;

e) lorsque l'augmentation de loyer s'applique à une période déterminée, qu'une copie de l'ordre soit affichée dans l'ensemble résidentiel ou soit remise à chaque locataire aux moments et de la manière que précise l'ordre, jusqu'à ce que le montant de la dépense en capital soit recouvré sur les paiements faisant suite à l'augmentation de loyer.

I would like to speak to my amendment. I think there are a couple of crucial parts to this amendment, the first of which is in the first paragraph under 125(1.1) where it says "the director may include any of the following conditions . . . ." This is an optional provision, it is not mandatory. It does not say the director shall include, it says the director may include.

The problem that it addresses is the problem that was referred to by a number of the delegations today, namely landlords being compensated for capital cost improvements but the rent staying up at a new plateau and also the problem of cost

pass-throughs which are considered to be excessive.

Mr. Ducharme: Just to add to it, I know we went through this discussion. I know we went through it at Housing Estimates, we went through it earlier today, and I still say that it can be handled in the regulations.

What has been considered by, and moved by the Member for Burrows (Mr. Martindale), is that for the industry, will the new owner face reduced rental income in the first few years? I have no idea. All I am saying is that we do not allow, and it must be mentioned, interest on capital expenses. We do not allow that.

I think there was discussion with the delegation today whether there could be a type of reserve or some other means. We felt that we could address this one by drafting the regulations for that. That is why I suggest it at this time.

Mr. Alcock: First, I have a question for Mr. Martindale on his amendment. Is he saying that this shall be an optional requirement? Is that why the director "may" rather than the director "shall"?

Mr. Martindale: Yes, that is why the word "may" is there is that it is optional. It is at the discretion of the director.

Mr. Alcock: I am just wondering if Hansard understand the word "wuss"? Can the Minister tell me then whether or not he is intending from his remarks there to include a regulation, a provision that allows for a capital accrual or he is going to examine that?

Mr. Ducharme: What I am saying is that in the regulations, yes, there will be considerations to be done, simply because, as we discussed earlier, there is an incentive, there has to be an incentive for the landlords to do the repairs. What we are saying is that we will have to look at the discussions.

There were complaints by tenants, there were complaints by the critics on the shortness of the spread of the span of those capital.

We are saying that legal advice to us is also to put the details in regulations.

To the Member for Burrows (Mr. Martindale), the same advice was given to his particular administration in 1982. They accepted that, so what is the problem? Why all of a sudden do we now want to take it out of the regulations and put it in the legislation? I am saying that again we are addressing new legislation, we would like to address the situation.

We are quite answerable to the concerns of the critics. We know that there is something there that has to be done, in regard to the spread of capital costs. We will look at it. There can always be consideration that when the regulations are drafted, we can even publish what the regulations will be, and then have some comments, have a public hearing of some type to hear what your regulations are, but that could be available.

Mr. Alcock: As opposed as I am to the amount of this Bill that has disappeared into regulation, I am prepared to support the Minister on that rather than a provision that just broadens the discretion of the director.

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 25, with respect to both the English and French texts, shall the motion pass? All in favour please say aye. All opposed say nay. In my opinion, the Nays have it. The motion is so defeated.

* (2230)

Mr. Chairman: Moving through Clause 125 to 130, shall they—

Mr. Martindale: I have an amendment to Section 125.

I move

THAT section 125 be amended by adding the following after subsection (3):

Considerations re capital expense

125(3.1) Where the determination of a landlord's actual expenses includes a capital expense, the director shall consider, before making an order under this section,

(a) any capital expense allowed in a previous order made under this section in respect of the rental units in the residential complex;

(b) any prescribed allowance for management and administration in respect of a capital expense.

(French version)

Il est proposé que l'article 125 soit amendé par adjonction, après le paragraphe (3), de ce qui suit:

Cas où une dépense en capital est faite

125(3.1) Lorsqu'est incluse dans la détermination des dépenses réelles du locateur une dépense en

capital, le directeur, avant de donner l'ordre visé au présent article, considère:

a) toute dépense en capital permise aux termes d'un ordre précédent donné en application du présent article à l'égard des unités locatives de l'ensemble résidentiel;

b) toute allocation de gestion prévue par règlement à l'égard d'une dépense en capital.

Mr. Ducharme: First of all, under (b), we do that in the regulations now. Under (a), we could consider that. I would suggest to the Member that again we consider that in the regulations. Already, we are going to be drafting and putting in legislation, and I think the Member for Osborne (Mr. Alcock) originally said to us, let us not put in piecemeal. Especially since this is a big change. I think we can handle that in the regulations.

Mr. Martindale: I think at this point, I probably have a theological problem, and that is that I am required to put blind faith in the Minister and his regulations. Over and over again, we have heard, we will take care of that in the regulations, but we do not know what is in the regulations. So we are being asked to put our trust in the Minister and put our blind faith in the Minister.

An Honourable Member: Harry trusted you in '82.

Mr. Martindale: To his credit, he supports his Bill this time and is going to stand behind and has worked very hard to get it into place over the last two years, and for that, he should be commended. Going back to my point, we are being asked to put a lot of faith into what the Minister is saying. We will put it in the regulations, but we have not seen the regulations, we do not know what is going in them, and in fact because they are approved by Cabinet, we do not have a hand in the regulations, unless of course the Minister would like to consult all three Parties and get some help in writing the regulations. We would be quite happy to do that.

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 125(3.1) with respect to both the English and French texts, shall the motion pass? All in favour say yea.

Mr. Martindale: I have an amendment to add after Subsection 4.

Mr. Chairman: Can we deal with this amendment first? I will repeat. On the proposed motion of Mr. Martindale to amend Clause 125(3.1) with respect to both the English and French texts, shall the motion pass? All in favour say yea. All opposed say nay. In my opinion the nays have it. The motion is so defeated.

Mr. Martindale: I move

THAT Section 125 be amended by adding the following after subsection (4):

Determination of actual expense
125(5) The director shall determine a landlord's actual expenses under clause 125(3)(b), subclause 125(4)(a)(ii) and clause 129(2)(b) in respect of a rent increase after December 31, 1990 in accordance with the Schedule to this Act and the regulations.

(French version)

Il est proposé que l'article 125 soit amendé par adjonction, après le paragraphe (4), de ce qui suit:

Détermination des dépenses réelles
125(5) Le directeur détermine les dépenses réelles visées à l'alinéa 125(3)b), au sous-alinéa 125(4)a)(ii) et à l'alinéa 129(2)b) relativement à une augmentation de loyer qui a lieu après le 31 décembre 1990 en conformité avec l'annexe et les règlements.

Mr. Chairperson, I would like to speak to this. I will not read the regulations that have been drafted on my behalf, although I would love to read them in their entirety. Since I am entirely in favour of revealing my regulations, I do not require you to have blind faith in my regulations. What the regulations which are attached do is they change the amortization period for capital cost expenses, and I am sorry that I do not have the current regulations in front of me. I removed them from the room.

What I have done is changed the periods. If you look in the schedule under 2(a), (b), (c), (d), the changes are to increase the length of time so that the costs are amortized over a longer period of time with the result that rent increases are not so high. This amendment that I am proposing is a result of representations by many tenants who claim to have experienced excessive rent increases based on a capital cost recovery period that is too short.

The Minister has discussed this with me on several occasions and he keeps bringing up the fact that the rent regulation Act and its regulations came in in 1982 when the Government of the Day was an NDP Government, and has said, well, if it was good enough for that Government, what is the problem? One of the problems is that I believe those regulations—and I could be corrected; I would like

to be corrected if I am wrong—were drafted at a time when inflation was quite high and this was deemed to be reasonable, also when interest rates were very high. I believe interest rates were at about 22 percent, for personal loans anyway, in the fall of 1981. Times have changed. Interest rates are lower, inflation is lower, and therefore I would argue that the regulations need to be changed, and I am recommending that the amortization period be extended.

Mr. Ducharme: Just to comment that unless it falls with what we have been discussing on all the clauses that have been suggested, and that is the—I know you do not like to use the word—regulation. Well, I already mentioned about high interest rates. You have to also realize in '82, when it was suggested and it was accepted, was when we had a vacancy rate that was very, very low. I am saying that those are the conditions that change, I agree. However, I think those are the reasons why you should put them in regulation because they can change.

Mr. Martindale: Is any change in the regulations contemplated at the present time under this provision for amortization of capital cost expenses?

Mr. Ducharme: Definitely, we will be looking at the regulations. We have said that all along, and consultation with—we hope as quickly as we can—the advisory group that would be established.

Mr. Alcock: We have had this debate to great length, and I am a little reluctant to support one regulation in an item that is as complex as this. We seem to have lost the battle about bringing things from regulation into legislation. I think it is best that—because the amortization period is an issue, and it is an important issue. That is why it has been raised a lot. The Minister recognizes that, but it is only one part of the issue. Accrual is another question that may make it unnecessary to have it in.

The reduction of rents based on the ending of the amortization period may be another way to address it; so I would like to see the full package of regulations rather than sort of try to fix one thing without having considered the whole range of the problem. I will take the question now.

Mr. Chairman: On the proposed motion of Mr. Martindale to amend Clause 125(5) with respect to both the English and French texts, shall the motion pass? All in favour please say yea. All opposed please say nay. In my opinion the nays have it. The amendment is so defeated.

Moving through Clauses 125 through 130—(pass); 130 through 140—(pass); 140 through 150—(pass); 150 through 155—(pass).

Clauses 155 through 160.

Mr. Ducharme: I will have to say it is my last amendment, I can assure you.

I so move

THAT subsection 157(2) be amended by striking out "An order of possession made by the director" and substituting "If an order of possession made by the director is not complied with by the date specified in the order, the order".

(French version)

Il est proposé que le paragraphe 157(2) soit amendé par substitution à "Tout ordre", de "S'il n'est pas observé au plus tard à la date qu'il précise, l'ordre".

There was also a delegation that was in today that suggested that it corrects a technical problem in the Bill, makes it clear that the Queen's Bench will issue a writ of possession, an eviction notice, only after an order of possession by the director has not been complied with.

Mr. Chairman: We have, just for a matter of clarification, passed Clauses 150 through 156. We are now dealing with Clause 157.

Mr. Martindale: Can the Minister explain his amendment again in simple language, please?

* (2240)

Ms. Perry: Bill 13 does not make it clear that a writ of possession issues out of the Queen's Bench only after the director's order has not been complied with. The director's order is usually issued with 10 days to comply. You can get the writ out of the QB only after that 10 days has passed. It was an inadvertent mistake in the Bill.

Mr. Chairman: On the proposed motion, of the Honourable Minister, to amend Clause 157(2), with respect to both the English and French texts, shall the motion pass? All in favour, say aye. All opposed, say nay. In my opinion, the Yeas have it. The amendment is passed. Shall the clause as amended be passed—pass.

Moving through Clauses 158 to 160—(pass); 160 to 165—(pass); 165 to 170—(pass); 170 to 175—(pass); 175 through 180—(pass); 180 through

185—(pass); Clause 185 through 190—(pass); Clause 190 through 195—(pass).

Mr. Alcock: This is a matter that has been discussed before. It has to do with some provisions that were in Bill 42, relative to the intimidation of tenants by landlords. The real question is, given that we have taken—we have not allowed for mandatory condition reports. We have left things so that the relationship that exists between the two was felt that there should be some of the provisions that existed in 42—

Mr. Chairman: Excuse me, just as a matter of clarification, are you addressing Clause 195?

Mr. Alcock: Clause 195(1).

Mr. Chairman: Okay, go ahead.

Mr. Alcock: It is a lengthy amendment. Perhaps I will move it, and then we can have the Minister hear what we are proposing, and then can tell us whether he is prepared to go with it or not.

I move

THAT the following subsection be added after subsection 195(1):

Offences respecting landlords
195(1.2) A landlord and any person acting on behalf of a landlord who directly or indirectly

(a) intimidates, coerces, threatens or harasses a tenant or—

Mr. Chairman: Can you wait until we have it distributed, please?

Continue, please.

Mr. Alcock: Now that the Minister has an opportunity to read the amendment:

A landlord and any person acting on behalf of a landlord who directly or indirectly

(a) intimidates, coerces, threatens or harasses a tenant or a member of the tenant's household or any person permitted in the residential complex by the tenant, with a view to deterring the tenant from exercising any of his or her rights under this Act;

(b) retaliates in any manner against a tenant for exercising his or her rights under this act;

(c) verbally or in writing collects or attempts to collect money owing to the landlord by the tenant by stating an intention or threat to proceed with any action for which the landlord does not have lawful authority;

(d) communicates by telephone, in person or otherwise in such a manner or with such frequency, or both, as to constitute harassment of the tenant or members of the tenants household;

(e) communicates by telephone, in person or otherwise in such a manner or with such frequency, or both, as to constitute harassment of a person in an effort to determine the whereabouts of a tenant or a prospective or former tenant;

(f) makes a telephone call or personal call or attempts to make a personal call to or on a tenant to demand payment of rent on

(i) a Sunday

(ii) a holiday, or

(iii) any day except between the hours of seven o'clock in the morning and 9 o'clock in the evening; or

g) without lawful authority, uses any summons, notice, demand or other document expressed in language of the general style of any form used in a court of the province, or printed or written in such a manner as to have the general appearance or format of any form used in any court in the province;

is guilty of an offence.

(French version)

Il est proposé d'ajouter ce qui suit après le paragraphe 195(1):

Infractions des locateurs
195(1.2) Commet une infraction le locateur, ou toute personne agissant en son nom, qui directement ou indirectement:

(a) intimide, contraint, menace ou harcèle un locataire, un membre de la maisonnée du locataire ou une personne que le locataire a autorisé à pénétrer dans l'ensemble résidentiel dans le but de décourager le locataire d'exercer les droits que lui confère la présente loi;

(b) use de représailles envers un locataire qui a exercé les droits que lui confère la présente loi;

(c) perçoit ou tente de percevoir de l'argent que le locataire doit au locateur en menaçant le locataire ou en lui faisant part de son intention d'intenter des poursuites que le locateur n'est pas légalement autorisé à intenter;

(d) communique par téléphone, en personne ou autrement avec le locataire ou des membres de la maisonnée du locataire d'une maniére ou avec une fréquence telle qu'il commet du harcèlement;

(e) communique par téléphone, en personne ou autrement avec quelqu'un dans le but de déterminer où se trouve un locataire, un locataire éventuel ou un ancien locataire, d'une manière ou avec une fréquence telle qu'il commet du harcèlement;

(f) afin d'exiger le paiement du loyer, fait un appel téléphonique à un locataire, se présente chez lui ou tente de se présenter chez lui:

(i) le dimanche,

(ii) un jour férié,

(iii) entre vingt et une heures et sept heures;

(g) utilise, sans autorisation légale, un document, notamment une assignation, un avis ou une mise en demeure, dont le langage, le style et la présentation s'apparentent à ceux des formules qui sont utilisées devant les tribunaux de la province.

Mr. Ducharme: I will get the legal counsel to answer to yours. Val Perry, maybe she can explain to the Member why we changed it from Bill 42.

Ms. Perry: Clause (b) of Section 195(1) is an attempt to, in a shorter form, deal with that issue. It applies both to landlords and tenants.

Mr. Alcock: I understand that counsel is of the opinion that Clause (b) does what this amendment attempts to achieve or is it not a diminution of the rights that were formerly offered tenants under Bill 42?

Ms. Perry: I cannot give you a guarantee that every offence you could have under the provision in Bill 42 you could also have here, but it is very similar.

It is the same provision that is in the Human Rights Code, to deal with a similar kind of situation, and that is where it was taken from.

Mr. Alcock: That should clinch it for me. Okay, we can have a vote on it. The motion is before you.

Mr. Chairman: On the proposed motion of Mr. Alcock to amend Clause 195(1.2), with respect to both the English and French texts, shall the motion pass? All in favour please say aye? All opposed say nay? In my opinion, the Nays have it. The amendment is so defeated.

Moving through Clauses 195 through 200—(pass); Clauses 200 to 207—(pass); Preamble—(pass); Title—(pass). Shall the Bill as amended be reported? (agreed) Is it the will of the committee that I report the Bill as amended? (Agreed)

Committee rise.

COMMITTEE ROSE AT: 10:48 p.m.