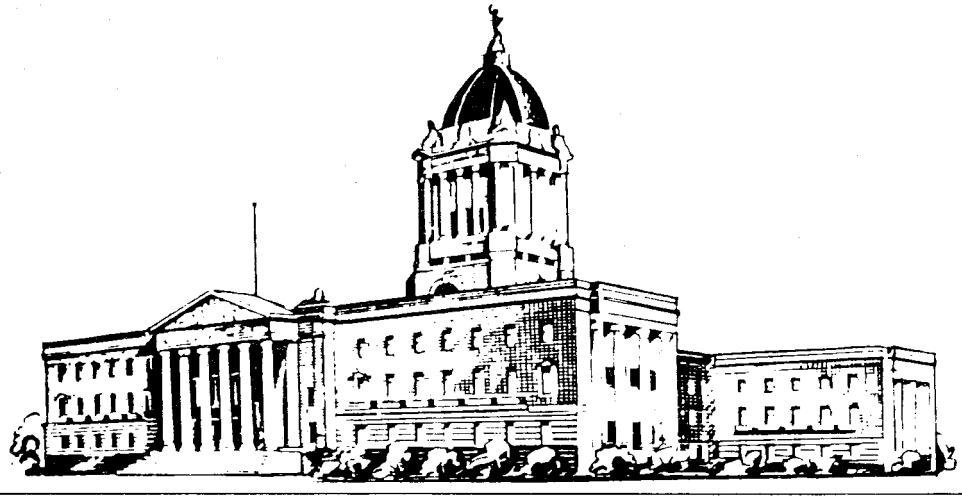
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

LAW AMENDMENTS

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



10 a.m., Monday, April 19, 1976.

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

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON LAW AMENDMENTS
10 a.m., Monday, April 19, 1976.

Chairman: Mr. William Jenkins

MR. CHAIRMAN: If we have a quorum, we can start. When we left off the other day, we finished off at 13(2). 13(3). Mr. Walding.

MR. WALDING: Mr. Chairman, I move THAT subsection 13(3) of Bill 19 be amended by adding thereto immediately after the word "excess" in the first line thereof, the word "rent".

MR. CHAIRMAN: 13(3) as amended--pass. Mr. F. Johnston.

MR. F. JOHNSTON: On 13(3) the time limit of two months would, I'd like to say that I think that will create a hardship on some of the smaller property landlords to pay back. Could we consider having a six month provision in there with the accumulation of rent on the amount of rebate commencing 30 to 60 days following the enforcement of the Act. You would still be accomplishing the same thing, the interest rate would be accumulated after the commencement of the Act, but the smaller landlord or the landlords would have six months in which to pay it back. I think that would be a situation where you would create less of a hardship on some of the smaller landlords, and they would still have to pay the interest, but they would have a longer time to pay it back.

MR. TURNBULL: Are you speaking to 13(3)(a)?

MR. F. JOHNSTON: Well, 13(3) has the two month provision.

MR. TURNBULL: But there are four equal amounts, you see, in (b)(2). That's why I was . . .

MR. F. JOHNSTON: I beg your pardon.

MR. TURNBULL: He has two months as I understand it, he has two months under which to make the payments and then he can rebate rent for four equal payments; but you're referring to a situation where you have to get it back in - where he can't rebate in other words. You're referring to a situation where we cannot rebate the rent because the tenant left.

MR. F. JOHNSTON: Well, the four equal payments in (b)(2) takes care of the person that, yes, that's available, but the person that's not available has six months to pay it back. There may be a provision where he can't find them, but the rent would still be - I'm saying the interest would still be accumulated and available to the person.

MR. TURNBULL: Well, my rejoiner to this would have to be, Mr. Chairman, that 13(a) which the Member for Sturgeon Creek is referring to, would apply to presumably a very small percentage of the number of people who were in occupancy when the rollback period would be effective in July, and the number that would move out would be presumably quite small.

MR. F. JOHNSTON: Well, Mr. Chairman, I would ask the Minister then, what provision, this seems to me to be very definite, and if the person can't be found is the landlord going to be in trouble over this for not having paid it in two months. That's one thing, and then the six month period would be better providing the accumulation of the interest is there.

MR. TALLIN: There are two provisions. One is the recovery provision that the tenant can take under a later section in which he can go to the rent review officer, obtain an order for payment, in which case there will be interest payable. The other provision is that there is the possibility of a prosecution under the penalty section. Any person who violates or fails, or neglects to comply with any provisions of this Act is guilty of an offence.

MR. TURNBULL: What I'm looking for, Mr. Tallin, is the provision for notifying or getting hold of the tenant who has gone out of occupancy.

MR. TALLIN: Well that's the responsibility of the landlord.

MR. TURNBULL: If he cannot find him, that's what I want to know.

MR. TALLIN: I suppose he could pay the money into court.

MR. F. JOHNSTON: I didn't get that last statement, Mr. Turnbull.

MR. TURNBULL: He could pay the money into court, I presume, or perhaps the Rentalsman might act as a repository for that type of payment.

MR. F. JOHNSTON: Well would the money in time come back to the man if this person can't be found?

MR. TURNBULL: He keeps the money, you see. The landlord has to take reasonable steps to locate the tenant that's gone out of occupancy. I don't know what the test of reasonableness

(MR. TURNBULL cont'd) . . . . . would be in this province, but, once he's taken the most reasonable steps to find him, he can prove it, I don't know what action he would be open to. But in the time that it takes him to find the tenant who's gone out of occupancy, the landlord retains possession of the money from the rent. So he's not out of pocket at that particular time, and he has these two months. Now, the only thing that happens if he does not get it back, and the tenant wants it, is the tenant, as I understand, has to take action under 13(4), and the tenant does have recourse through the courts to try to get the landlord to pay out the money.

MR. F. JOHNSTON: Mr. Chairman, I'm possibly reading this wrong, but in the second line, or to read the whole thing, "If a tenant to whom the refund is payable no longer occupies the residential premises, the landlord 'shall' pay the amount of refund directly to the tenant within two months after the coming into force of the Act." When I say that it's probably going to happen in most of the cases of smaller landlords, if you have say a house or something of that nature, people move around the province and the country, or North America, pretty fast . . . a single person or something of that nature, If the landlord - well as I stated first of all, had six months, but he still has to have the accumulated interest 30 or 60 days - if he can't be found, is the man going to be in real trouble, so to speak, or if he has to pay it to somebody, does he get it back in a reasonable length of time?

MR. TURNBULL: First of all, he doesn't have to pay it to anybody, he keeps it. If he can find the tenant, he has to pay it back within two months. If he can't find the tenant then I think we come to the problem that you're posing, and it in my mind would rest on the reasonable steps that the landlord has taken to find the tenant. We are then in a point of law and I have to rely on Tallin to tell it, to explain what might happen at that point.

MR. TALLIN: I'm afraid I'm at a loss to know what would be reasonable steps, too. I would think that the normal enquiries that you make when you are looking for a person who owes you money, would be the kind of enquiries you should be making when you're trying to find the persons to whom you owe money.

MR. TURNBULL: In any case, I don't know if extending the time period solves the problem, because the landlord may - don't forget he's got possession of the money all this time, and even if you do make it six months he may still be in the same problem, and that's the problem of proving to the tenant, such as the board I suppose, or eventually to the courts, that he has made every effort to find the tenant.

MR. F. JOHNSTON: Mr. Chairman, I'm only trying to overcome what I can see being a bit of a problem within this, as to what he has to do before he declares the person not found, and if he doesn't comply with all of these, what happens to him. I think that there is just something within that that could create a bit of a problem.

MR. DILLEN: I was just wondering if it wouldn't solve Mr. Johnston's problem if we had a provision in this Act which would require the landlord to pay money on behalf of the tenant who he was unable to find, to the Rentalsman, and then it could be advertised clear enough that anybody who feels that he has some rent to be returned to him could make applications through the Rentalsman for the return of that excess rent that he has paid. I just throw that out as a . . .

Mr. Henderson asks if the person could not be found at all, in which case there may be a provision similar to that which exists in the Labour Relations Act where a person who does not pay union dues as a result of conscientious objection may wish to have that money paid into a charity, and this may be another possibility that we could look at.

MR. TURNBULL: I have so far kept the concept of paying moneys into a government trust account out of the bill, and I don't think that helps the landlord who is in a short cash position. If he has to pay out the money that he does owe to his tenants to a government trust account, the landlord's going to be in a difficult position.

The point here, really through 13(3) and 13(4) is that, you know, if the landlord can't find the tenant and the tenant doesn't care about getting his rebate, and therefore doesn't notify the rent review board, then the landlord keeps the money. I think that is as reasonable a way to proceed as is possible. To change it merely means, what? - that there's a long description of the steps that the landlord has to go through.

The landlord is not in a bad position, he keeps the money anyway. If he can't find the tenant, and the tenant just doesn't give a hoot about getting the rebate, then fine, really in effect, the two parties presumably have reached an agreement, by indifference, if nothing else. If, on the other hand the tenant does want the money he can get the money paid to him through a

(MR. TURNBULL cont'd) . . . . . court order, I suppose. So that if the tenant is entitled to the money, wants the money, needs the money, he can get it; if he doesn't, the landlord keeps it. So I think that 13(3)(a), you know, is a practical way of dealing with the problem. Extending the time limit doesn't solve the problem of what steps the landlord has to go through. That's my only concern about the six months rather than two months.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, it boils down to basically, does this section have the flexibility the Minister is speaking about. I think the man should retain the money. I don't really think that we want to pay it into government trust funds or things of that nature anyway, and if the landlord knows that he probably will have to pay this out, should the person come forward after, let's say, a reasonable amount of advertising or looking, he's going to be very foolish not to try and have the money available. But, you know, the steps, does he advertise twice, three times, or what, and I just want to ask if section (a) has that type of flexibility in it, so that the landlord will not be in a problem if the person is not found and he hasn't paid the money out.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, I wonder if you can explain if the amendments have been moved, the new amendments . . .?

MR. CHAIRMAN: We have an amendment where a landlord is required to refund, after the word "excess" the word "rent" under subsection (1). That has been moved by Mr. Walding.

MR. PATRICK: I see. Is that the one that also says that the interest rate of 12 percent per year compounded annually, and calculated from the date that amount . . .

MR. TURNBULL: No, this is 13(3)(a) we're on.

MR. CHAIRMAN: The bottom of page five.

MR. TURNBULL: Yes, the amendments at the bottom of page four, and the section we're on is right at the bottom of page five.

MR. CHAIRMAN: The matter of payment of refund under subsection (1) 13(3) and in the first line "Where a landlord is required to refund excess" and after the word "excess" insert the word "rent" under subsection (1) and (a) - there's no amendment to the (a) portion of it. Mr. Craik.

MR. CRAIK: The basic question, Mr. Chairman, is whether there is enough flexibility the way it's worded to do what the Minister has indicated, as he sees is the way it will operate. It would appear that there's a pretty substantial breach of the law if you don't catch up with the tenant. And the question is, if that's going to be happening, which the Minister has indicated it will be happening on occasion, the person, the landlord to whom it happens really is in pretty serious breach of the law. That's the way it's written, that's the way it appears. Now I'm not familiar enough with the drafting of legislation to say that doesn't happen regularly, but I'm looking more for legal advice here, than anything else.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: I wonder if I can try and hopefully get the approval of Mr. Tallin, that we have the same opinion, which would be a very unique thing for two lawyers to have the same opinion, but I'll try in any event. I think that 13(3)(a) creates the terms of the debt; that what happens is, that if a landlord does not return it within two months, that it is not yet due or that he could plead that it is not yet due, but after two months there is a legally constituted debt owing by the landlord to the tenant, and that the tenant is then entitled to sue for that money. There is no penalty as I see it, and I've looked through the Act as a sort of quasi enforcement penalty, so that unless one was to assume that the general law which says that any violation of a statute is punishable, applies, and I don't think that that would apply when a debt is created. That all that is being done here, and I don't agree that the landlord would have to necessarily seek out the tenant, what would happen is that if you try to sue before two months, a court would say that the debt is not yet payable; that if he didn't pay it within two months you would sue and you would be entitled to recover that amount of rent. Now that's much different than what Mr. Craik is worried about, that there is some violation of the law in respect of a debt being payable, the same as wages are payable. Like in the Wages Recovery Act, it says that you will pay wages within 14 days. Now there is also a penal provision if you don't. In this case there is no penal provision --(Interjection)-- 31 is penal? I looked at that. It says: ". . . with order, decision or determination of a rent review officer, who fails to comply with any of the provisions of this Act or regulations." So, there could be a penal provision. I'm

(MR. GREEN cont'd) . . . . . sorry, then I'm not correct.

Then we have to go back to Mr. Tallin's suggestion that whether on a charge that he has not paid, I would think that it would be a very acceptable defence that he was unable to locate the tenant, and that would be the defence to such a charge. But if he made no attempt then he could be guilty of an offence.

MR. CHAIRMAN: Any further discussion on the motion?

MOTION presented and carried.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: If that's the way it works and a man just has to prove that he has tried to find the tenant, if he's charged, that's fine.

MR. GREEN: Yes.

MR. CHAIRMAN: (Remainder of Section 13 was read and passed.) Mr. Walding.

MR. WALDING: I move that Section 19 be amended by adding thereto immediately after Section 13 thereof the following section:

"Application for Relief against Section 13.

13.1(1) Within two months after the coming into force of this Act a landlord may apply to a Rent Review Officer to relieve him from the strict compliance with Section 13 insofar as it applies in respect of residential premises described in the application.

Order of Rent Review Officer.

13.1 (2) Where an application is made under subsection (1), if the rent review officer is satisfied

(a) that under an arrangement made before March 1st, 1976 between the landlord and the tenant of the residential premises or under a written tenancy agreement, the rent payable for the residential premises during the period of construction is to be increased upon completion of construction by an amount in excess of that permitted under Section 13 or

(b) that the increase in expenses incurred by the landlord in respect of the operation of the residential premises is determined by the rent review officer in accordance with the regulations exceeds the amount of the increase permitted under Section 13, the rent review officer may, by order, fix a rent payable by the tenant to the landlord for the residential premises at a rent that is higher than permitted under Section 13.

Deferment of refund. 13.1(3) Where an application is made under this section, any refund of rent required to be made under section 13, and any revision of a tenancy agreement required under section 13, is deferred until the application is disposed of, but interest at the rate of 12 percent per year compounded annually and calculated from the date that the amount would otherwise have been payable, is payable by the landlord to the tenant on the amount of any refund

(a) payment of which is deferred under this subsection; and

(b) which, after adjusting the amount in accordance with an order made under this section, if any, is still required to be paid or rebated by the landlord.

Effect of order. 13.1 (4) Where a rent review officer makes an order under subsection (2), the amount of any refund of rent for the residential premises affected required to be made under section 13, and the revision of any tenancy requirement in respect of the residential premises required to be made under section 13, shall be varied in accordance with the order of the rent review officer.

Application of subsections 16(2) and (3). 13.1(5) For the purposes of an application under this section, subsections 16(2) and (3) apply mutatis mutandis.

Disallowance of increase. 13.1(6) Where an application is made under this section, if the rent review officer does not make an order under subsection (2), he may, by order, reduce the increase in rents payable for the residential premises in respect of which the application is made which could otherwise be permitted under section 13, and in that case the amount of refund of rent for the residential premises required under section 13, and the revision of the tenancy agreement in respect of the residential premises required under section 13 shall be varied in accordance with the order of the rent review officer."

MR. CHAIRMAN: I wonder, Mr. Craik, it was my intention to start with 13.1(1) and then 13.1(2) and I believe you have a sub-amendment to 13.1(3).

MR. CRAIK: Right.

MR. CHAIRMAN: I wonder if we could deal with them in that order. (Agreed) 13.1(1) --pass; Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I just wanted to ask the Minister, does this section, in this case it just refers to landlords. Does the tenant not also have the right to appeal?

MR. TURNBULL: Well 13.1 applies to the initial period and there's no tenant appeal in the initial period.

MR. AXWORTHY: There will be no tenant appeal in the initial period?

MR. CHAIRMAN: 13.1(1)--pass. 13.1(2)(a)--pass: (b)--pass. 13.1(2) . . .

MR. AXWORTHY: Mr. Chairman, I think the question that we would have at this point is to whether the determination of the criteria for appeals or for changes should be, in fact, left up to regulation and, in fact, there should not be included in the bill basic principles or guidelines set down that would inform the basis for which appeals could be made so that landlords would have some sense of what would be allowable under the statute itself and not be subject to either the arbitrariness really, of the rent review officer - that there would be some protection on that basis gathered through the landlords to make sure that there is a criteria there, which might also, in fact, again decrease the amount of wrangling that may occur under this particular provision.

We would like to suggest amendments to that, Mr. Chairman, but perhaps first the Minister would like to explain or describe why in fact, he would include all this in the regulations and not insert into the Act certain basic guidelines that would be applicable.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: Well, first of all, Mr. Chairman, the legislation is legislation to deal with cost pass through. You see, we're talking about expenses and what should be allowed with regard to expenses. And the reason that these are not spelled out in the statute is that I think spelling them out in a statute rather than giving landlords some assurance of what might happen, may simply so rigidify the administration of the statute that will put landlords in a - some of them - in an untenable position; and that would mean that, you know, the rent review officer just would not be able to make an order which would accommodate the peculiar positions that some landlords find themselves in. And one of the things that seems to have been very evident from the hearings that we've had here on this bill is that many landlords are in rather unique positions. I would not like to try to draft the legislation in such a way that a person who - you know the draftsman and I and the committee here did not envisage that that person, that landlord would really be caught and put into an untenable position. So that is why we have 13.1(2)(b) drawn the way it is. There will be, of course, regulations and the board presumably will be able to draft regulations in such a way as to accommodate unique positions of landlords.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I just have some questions and the first is the statement made by the Minister that the only basis for an appeal will be the cost pass throughs. Now, by that he means, I assume, basic operating costs of the building. Does it also include things like property taxes and these kinds of things; and does it also include a management fee or some reasonable rate of return on the building itself?

MR. TURNBULL: Here, you know, one is getting into the position of doing by statement here what I don't want to do in the legislation. So that, you know, let's realize that although I'm attempting to explain here the way in which the board will administer the Act, there is no necessity here of confining the board in its administrative operations. But the point here is to enable the board to pass through those costs that are legitimate costs of the operation of the building. And if the building in the past had resulted in management fees, that presumably would be a cost which would be legitimate, is traditional, historic for that premise and would be allowed. So would such things as taxes, utility costs where paid by the landlord, those things that were traditionally and normally paid for by the landlord would be considered to be operating costs for the premises.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I come back to a point that we tried to raise last time in the committee again, and that is that part of the designing of an Act like this must be to avoid the inherent confusion in an appeal procedure, and I think what again I see happening is that if we're going to have a bill pass which doesn't state any guidelines at all, the appeals have been allowed two months after, then frankly everybody's going to appeal, unless there is some instruction or guideline as to what is the basis for an appeal. And if you are leaving it up to a board, the bill comes into effect, the board has to sit down and wrangle over it, come to its conclusions, and then all of a sudden come June 1 or July 1, whenever the

(MR. AXWORTHY cont'd) . . . . . appeal board opens its doors, you're going to have 10,000 landlords on your doorstep, because there's no basis for them determining whether in fact their particular units apply under the Act or not. And I think that to try and say that - I mean where I take issue with the statement is that it's not possible to set down some basic guidelines. I agree that the application of them requires some judgment and some discretion, but surely some basic guidelines as to what is allowable as a basis for an increase based upon formula, for example, as the Minister knows in the conclusions made by the review study commission in British Columbia where they looked at that particular problem, examined it and said there should be a formula, otherwise you're going to get yourself into a lot of trouble. It would seem to me that the same argument probably applies here. They went through the experience of it, came to the conclusion that a basic formula then giving grounds upon which a review officer could exercise some discretion really simplifies the procedures and eliminates some of the potential confusion and mass application of appeals which I'm sure is bound to come. That's why I was just wondering whether in fact there shouldn't have been some inclusion of those criteria, such as basically saying uncontrollable costs such as taxes, utilities, insurance and so on, that a certain amount for maintenance upkeep and improvement, such charges as that be included in the Act.

MR. TURNBULL: Well, Mr. Chairman, the whole point of keeping the legislation the way it is is to avoid confusion and to make it as clear as is possible; and the landlords that I have spoken to, you know, if you talk to them about their costs of operating the premise, it's pretty clear to them what that means. That is what the legislation is designed to deal with.

The Member for Fort Rouge should not, of course, think that the bill itself, if passed, is all the guideline that the review officer is going to have. There will be regulations that the review officer will have to follow. In those regulations there will be provision for what costs will be accepted and these will be the costs that that premise has historically experienced plus, you know, whatever obvious increases and legitimate increases have occurred in those expenses.

On the other hand, you know, there may be some costs that clearly are not legitimate. For example, interest fees supposedly at 22 percent or 25 percent, something like that, where it was evident that the person operating the premise could have got that money at a less cost some place else.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Well, the question here is, is return on investment regarded as an expense if a building has been operating on the basis of some return on investment and the party comes to the board and shows that his costs have gone up in the way of direct expenses such as utilities, taxes and so on? And if those costs go up by less than 10 percent, not including a return on his investment, a return which he's probably been achieving perhaps over a long history of the building, do you allow those increases in pass through costs to first of all eat up his normal return on investment before you allow an increase above the 10 percent; or do you allow a return on his investment that is some portion of what he is - I think you referred at one stage of the game to 95 percent of the average over the last five years or something, whether you were talking about return on investment I don't know - but anyway does return on investment enter the picture here when you're calculating a pass through cost? If it had a history of some return, supposedly under 10 percent, is that going to be continued to be allowed as a cost in determining his rent?

MR. TURNBULL: Well, the rate of return that the landlord enjoyed would be the historical rate of return that he's enjoyed on that premise. That's the intention here. But if there are costs that are occurring which are occurring within the 10 percent rent increase figure, then to that extent his rate of return presumably would not continue in the historical way that it has.

MR. CRAIK: I think that answers it then. Basically if it has the history of paying back a certain return, that certain return continues plus pass through costs, providing the return is . . .

MR. TURNBULL: That is not what I'm saying.

MR. CRAIK: Okay I've got you wrong then. If a building over this five-year previous period was paying a return calculated on some basis as say being seven or eight percent and you're now facing this period July, 1975, and he appeals to you on the basis that to keep his rent at ten percent would reduce that return from seven or eight percent to one or two percent, what do you do? --(Interjection)--

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, what I'm worried about is that there will be an attempt here to try to suggest that there are commitments as to how this thing is going to be interpreted and perhaps taking the transcript before the board and saying this is what the Minister said and this is how it was said it would happen. I think like any other law that a jurisprudence is going to develop before the board. Now having said that, Mr. Chairman, I believe that there is some difference of opinion as to the philosophy of the Act.

I do not regard the Act and I sort of hasten to say that I don't want my position to be used as an argument before the board with some type of transcript because that's what can happen if we attempt to say here how that board is going to interpret its views. But I regard it as being an Act to deal with rental increases, not to determine what is a fair rent. Now having said that, this is the kind of anomaly you could have occur and I recognize it and I don't think that there's anything that one can do about it.

You could have a man who has purchased a block, let's say 15 years ago, and purchased it at a figure of $100,000 and has been content to charge rent on the basis of that purchase price. Another man buys a block next door of the identical variety, buys it 15 years later and pays $200,000 for it and has been charging rent on the basis of trying to recover his investment on the basis of $200.00. He will be entitled to an increase of ten percent of his rentals even though his rentals may be higher than the block next door because that is the rental that he has established. The man next door will be entitled to charge a rental and charge an increase in rent of only ten percent more even though he is giving a much bigger bargain, let us say, to his tenants based on perhaps his failure to sort of take advantage of every opportunity for increase up until that period.

Now then in dealing with the increase in rent and in the appeal, what I understand is being attempted here is that if an increase in rent as permitted by the Act is not satisfactory to the landlord on the basis of his increased costs, then he will have to show that his increased costs are higher than the amount of the increase. The increased costs will be, as I understand it, increased taxes, increased utility rate, increased water rate. I do not see how a management rate can be increased because it is a percentage of rent generally. It's generally a percentage of rent - it's possible that it's not but it is generally a percentage of rent and therefore it will have a growth tax feature if you will have it, with the same rate you will collect more management fees if the rent goes up.

With the caretaker it's often the same way. I'm not saying it's universally the same way but if a caretaker is getting a suite, let us say one of 20 suites, which is a five percent fee for a caretaker, then the suite, because of its increased value, the caretaker's rate goes up not by a cost push through but by the fact that the suite that he is occupying is worth more money. So I gather that what is being suggested here is that we are not going to try to determine whether the rent that is being charged is a fair return, but whether the increase in rent permissible will cover the increased costs which the landlord has had to endure.

Now, Mr. Chairman, having said that, I want to say that that's the way I see it and I do not think that somebody should at a later date say before the rental review officer, this is what Mr. Green said you should be doing it when you are doing it and since he passed the legislation you are to follow him. That could be sort of a useful debating point but I think that the legislative counsel will agree that despite the fact that the legislators are presumed to intend the consequences of their words as stated in the Act, the words that they use in stating their intention are not acceptable in determining what the Act says. Therefore it is always a rule that legislative debates, etc., are not part of the argument that can be used and I would urge that we look at the words, be satisfied as to what we think they mean and hope that our meaning will be given effect to by whichever board is charged with this. I look upon this as an Act regulating increases in rent, not an Act establishing a fair rent. When one talks about the appeal, I look at it as an appeal which permits a landlord to establish that his actual increased costs are not covered by the amount of rental increase allowed, not as establishing a fair rate of return for his investment.

MR. CHAIRMAN: Before I recognize the next speaker, I'd like to draw the attention of the people that are here that Licence No. CAC 168 out on the visitors' lot has their lights on. Mr. Patrick. No, Mr. Craik, pardon me. Then Mr. Patrick.

MR. CRAIK: Well on the first point, Mr. Chairman, the question about what sort of things go onto the record at committee. The problem we're facing here is that if we don't

(MR. CRAIK cont'd) . . . . . spell these things out at committee stage and have some sort of understanding about what the basic policies are, then we're passing on too much by way of regulatory powers. If there's one thing that legislators get criticized for it's exactly that, it's passing on too much vague legislation that is wide open to discretionary powers by the people who are administering it. Then you get the position where the person who is administering it pulls an exact reverse on you and says well, here's the Act and he reads it to you. Now anybody that's faced that in their history of dealing with government knows how frustrating it is. You know, they stonewall you with an Act that we passed that is then used as a cop-out often for the application of just rational judgment, just simply because it's written in the Act and they claim they can't do anything about it. Certainly we can change the Act a year later but there's a lot of damage can be done in one year.

The basic question here is that - and it came up repeatedly in the representations - is whether or not a profit level is accepted because this bill itself recognizes, in this same section 13(1), where you're going to write into the Act that an overdue account owing from the landlord to the tenant bears interest at 12 percent. And you're acknowledging in the Act itself that money is worth a certain amount of interest rate and you're tacitly acknowledging that money is worth 12 percent which I think puts you in the position that if you don't acknowledge something, you're not passing laws for all the people, you're just passing laws for some of them and I don't think that's the role of government. You have to be consistent. This is short-term money in particular and we can deal with it in a moment. But why you wouldn't tie it to a short-term bank interest rate, particularly if it's intended to be an anti-inflation measure that's not a long permanent determination by the government to carry this on indefinitely, I can't see you writing in even 12 percent into legislation.

Now the same thing applies, if you're not going to recognize some sort of return on investment on properties, you might get away with not allowing that to be recognized for a short period of time but if it is an indefinite policy with no time limit, simply a Cabinet discretionary move to cut off the application of this bill, if it were to apply for a long period of time, you're going to get exactly what's happening in every other jurisdiction that has applied rent control, that is to create more problems than you solve by the application of rent control. I don't see your reticence in recognizing this unless you're saying that this is only going to be an application for a year or two years or whatever the period of the anti-inflation program is. Then you might get away with applying some judgment to it. But if that is not the case, if this is to go on without any definite time limit then you're not passing fair legislation because there's no reason why you can charge a man 12 percent on one hand and say to him you get zero percent on the other hand. You might get away with it for a short period of time but certainly you're passing bad laws to say that that is a permanent requirement and there's nothing in this bill that says it's not a permanent thing.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, I am concerned. I don't believe the appeal procedures are adequate in this area. I have a feeling that you have your arbitrary decisions from the Rentalsman himself. There's no appeal from a decision of the Rentalsman back to say a board or tribunal, just from this one, you know, person. So I think that we need some other regulation . . .

MR. TURNBULL: Would you repeat that remark. What did you say? There's no appeal from the review officer?

MR. PATRICK: From the Review Board.

MR. TURNBULL: From the Board?

MR. PATRICK: Yes. So I feel that we need some more definition just exactly what the legislation will be and I'd like to move a sub-amendment which would follow your Section 13(1), (2) you have (a) and (b), and I would like to move 13(1) to section (c) and I feel that that would take care of that following the (a) and (b) sections. So I would like to move a sub-amendment, Mr. Chairman.

MR. CHAIRMAN: Well can we move that after we've dealt with (b)? We're still on (b).

MR. GREEN: Why doesn't the member tell us that he intends to vote on (b) on the understanding that he will be moving a sub-amendment. Because otherwise how can we get to the sub-amendment? You'll still have an opportunity to put it.

MR. PATRICK: Okay.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, in (b) the word "operation". Now operation of a block is just - well, it's exactly that. What if you have a change in your interest rate? What if you are refinancing at the present time where you had nine and now you've got eleven? Now does that word "operation" take that kind of increased costs involved? You know the word "operation" to me basically says, well the operating function of a block from maintenance, gas, heat, electricity and what-have-you. But that doesn't seem to me to take in that the rent review officer can have a look at increased costs as far as increased interest is concerned.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Well, Mr. Chairman, the Leader of the Opposition has in my view stated correctly some of the problems that you are dealing with when you permit legislation to be then refined by an administrative agency. This is certainly a problem as he has stated it and always, in my opinion, will be a problem. I do not believe he has demonstrated any way of avoiding the problem. I think that it would compound the problem to do what he suggests. Because if we were to start talking about a rate of return being guaranteed, then the board is not merely dealing with cost pass throughs and how these would reflect increases in rent, they then have to try to devise what rate of return is being earned on this property. Mr. Chairman, with the greatest of respect there is no way they are going to be able to do that satisfactorily. They are going to get into much more serious complications and you will not be able to provide a formula as to determining what is the rate of return as against determining what cost pass throughs can be made. It will be a much greater administrative problem. Are we then going to include depreciation? Are we then going to include capital gain on resale value and things of that nature? I think that the board will be in an impossible position.

However to try to satisfy my honourable friend in sort of crude terms - and I've tried to follow this through in my mind - if a man is earning what he now considers to be a satisfactory income from the block and that is an important assumption which I know is not going to be accepted but something which really forms the basis of the Act, that everybody who is now charging rent is charging a rental which he has considered satisfactory at least up until this point. That may be coloured by the fact that it's the first year that he has been renting and he's tried to attract tenants, etc. But that if it's an ongoing proposition that he is charging what he considers to be a reasonable rent. Now let's forget the rate of return for the moment. If he then gets his additional costs reflected by increased rents, he will be making the same amount of money. And that is what --(Interjection)-- That is right. Now my friend Mr. Henderson, the Member for Pembina, says can he pass through interest? I think that there are different points of view about this and I think that the Rental Review Board is going to have to look at it. Interest is a cost of borrowing money. It is not a cost of operating a block and the way you can prove that is to show that some blocks are paid off and that they do not have that cost as against the man - two blocks side by side: one is paid off, one is 99 percent or 90 percent borrowed capital. They both have the same costs of operation. Both have the same management costs, the same utility costs, the same taxes. One has decided to borrow money - probably not decided, one has not been able to build it without borrowing money - and therefore he has an interest cost. I think that that's something that the board will have to consider. I don't jump to a conclusion on that. I say that one is not the cost of operating a block, it's the cost of financing. You know they used to make money on the financing. When the financing was at 7 percent and the projected return was at 10, they were making 3 percent on everything that they borrowed. Now they happen to be losing money on financing, or if they've not losing they're at least not making what they used to make.

But that is something which I say a board will have to determine as to whether this is an increase cost pass through and I don't know how they will determine it, I don't know what decision is going to be made on that. But on the other things it's fairly routine and it seems to me that if the costs are reflected in the increased rent - and I take that even costs of capital construction - because if there is an increase in capital there will have to be a way of having that thing amortized over the rent which is required to pay it off eventually, and that that would therefore leave a person with relatively the same amount of profits that he was earning from the block before and after the cost pass through.

I don't think, despite the good intention of the Leader of the Opposition to try to make this more clear, that I think you will make it less clear every step that you take along the way. The way of making it most clear is to not have any appeal. That would be the roughest and clearest form of justice, and I'm not recommending it. But the more you try to deal with every

(MR. GREEN cont'd) . . . . . contingency the more you will create discretionary problems for the board rather than the less.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I don't think the argument put forward by Mr. Green really is an accurate one because I think that there is already examples whereby the kind of problem that he poses in fairly exaggerated terms have been dealt with in a much more simple fashion. For example, there is the operation of the limited dividend housing legislation which is a controlled procedure which allows costs to be passed through plus a return on equity. These are adjusted annually to take into account increases in costs or increases in maintenance of return. I think the return is done by 7 percent and if you look at the number of officers applying that Act - different CMHC officers - it's quite small. So we're not talking about 500 employees. In the case of limited dividend officers in this we're probably talking about one or two. So that to pose this as a great sort of major threat is not quite the case, because it already has been applied, there are formulas. And I would suggest, further, that it would seem to me that in British Columbia where I don't think up until the last election any of the members of the government would not accuse that group of being unduly biased in favour of landlords, they set up a rental study commission based upon a two-year experience with rent control that they had had, they came up with some very important recommendations that unfortunately went to the Cabinet just prior to their election. And the study commission, which I believe was chaired by Carl Jaffray, who was an alderman in Toronto but worked on their study commission, said that first there had to be a cost pass through system in order to make the legislation fair, but that in order to avoid high administrative costs, which I think has got to be a major concern in this legislation, that there were certain measures that one could take to avoid them; and one was establishing a basic operating expense cost, which in British Columbia they estimated at an average of about 11 percent which was then computed a percentage of the rent, and that would just be passed through automatically without any requirement for administrative application. They then said that because property taxes vary from one region to another that the landlord would simply add the percentage of property taxes on to that and it would vary. And that, thirdly, that there would be a rate of return which they applied, a set of formulas, so that you wouldn't necessarily take into account the full inflationary bite, but you could take the difference between the operating costs and the inflationary bite and it came out to be a percentage of about 3 to 6 percent depending on . . . I won't extend, unless the committee would like me to, I could go through the formulas that were applied. But the fact of the matter, again, that this was a recommendation, a workable one, it seemed to make some sense, it was based upon practical experience with the operation of rent control in British Columbia and therefore they were simply suggesting improvements, and unfortunately the improvements have not been incorporated in this bill, which I find hard to imagine, you know the reason you have history is you learn from it. I suppose that we've had some history with this thing, we should be learning from it to some extent. That's why we would like to propose, Mr. Chairman, ultimately when we get the opportunity, that there should be certain criteria built into the Act.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, the honourable member has referred to limited dividend housing. I would say that if we started from scratch with every block, we're involved in the building of it and in the cost of it and in the non-sale or not resale value of it, that this could be done. And we are doing it with the limited dividend blocks. So nobody is arguing about that. To suggest that it could be done with limited dividend and they're sure it should be done with everything is, in my opinion, just not a realization of the differences between what obtains between limited dividend housing which is already controlled, in which the government has been involved from the first day, and being involved with blocks which have not had that history, which we have not been involved with building, which have been resold for much more money perhaps than they have been built, and which the rents have not been controlled in that way, that there is a difference.

Secondly, Mr. Chairman, the recommendations to the B.C. Cabinet, we do not know that they have been accepted. I do not know that Carl Jaffray had to administer the Act or was making recommendations into an Act that was written in this way, whether our Act is the same as the British Columbia Act, and I suggest that if we're going to work from history, let's not work from history predetermined. We do not know the history of this legislation. We know

(MR. GREEN cont'd) . . . . . the history of many other rent control legislation, but we do not know the history of this legislation. And if the problems arise as you suggest, let us let history show them and history can then be looked at when it occurs.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, from what has been said so far and I would say that Mr. Green while he was speaking a minute ago seemed, and I use the word 'seemed', to be stating that the rent control board should be in the position to take a look at everything. I would come back again to ask if the word, in respect of the 'operation' of a residential premise would allow him to look at everything including interest depreciation, etc. I'm just questioning that word operation. To me operation is not depreciation and interest. --(Interjection)-- If the word 'operation' does allow him to take a look at everything is what seems to be the intent of the legislation, fine, but I just question it.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Well, I got the impression from the comments made by Mr. Green as well, that interest on mortgages - that mortgages wouldn't necessarily be considered a part of the building but are a loan to the person that operates the building. But I think you have to look at it as being part of the building because it's a mortgage and the building is used as the collateral for the purchase of the mortgage.

But just to show you the difficulty of not defining this, in this information that was given to us by the, I think Mr. Kushner, he said, "Analysis of costs for the rental projects developed owned and managed by members of Housing and Urban Development Association, HUDAM, showed an average of where the costs were and so on, real property taxes, gas, electricity. Repayment of mortgage on average shows 45 percent." Now if a five-year term expired sometime during the period of the application of this bill, if that's the case it's likely that the interest rate on mortgages five years ago, four years ago, whenever it was, were running in the order of 10 percent or 9 percent - maybe 9 1/2 - and the new mortgage at the expiration of that term is 3 points higher, let's say 12, 3 percent higher, then the interest charges would be in the ratio of the change of the interest rates which is 3 out of 10 or roughly 30 percent higher interest charges. HUDAM shows that 45 percent of the costs of the buildings that are represented by this group are mortgage debt-service costs, and most of those would be interest rather than principal. Now, 30 percent of that gives you an increase of 45, if it's 12 1/2, but even if you take it at 10, that's a 10 percent increase in the cost of operation of the building which wipes out your whole thing. I mean the person obviously would be bankrupt. There's no way that you'd be starting from zero. As a matter of fact if somebody's term expires and his interest charges multiply by this order of, the annual interest charges go up by say 25 or 30 percent, you apply it to this, you're looking at a jump in the cost of operation of your building, bang, in one year without ever looking at your utility costs or anything else, of 10 percent right there. If you're saying that this is not allowed as a consideration of operating costs, then that's something that certainly has to be argued right here. You can't pass that through with the comment that it will not be allowed. It's just not possible to think of you not allowing it; but obviously you've got to allow it because otherwise you're going to have someone bankrupt in the period of one year.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I don't think that Mr. Craik's figures will stand up even to himself, but I'm going to try and see whether I'm right or wrong.

Repayment of mortgage debt service is 45 percent. Part of that is principal. --(Interjection)-- All right, but part of it is principal. It could be 50 percent principal.

MR. CRAIK: No, it's a five-year old mortgage. See those mortgages only . . . I'm talking . . .

MR. GREEN: But the fact is that in some cases, you know, if it's a five year old mortgage, it could have been a 15-year old mortgage before it became a five-year old mortgage. You're talking about a mortgage that was put on five years ago, but this deals with all of the mortgages, and not all of the blocks were built five year ago. Many of them were built long before. And this 45 percent they have listed as a debt service charge which means the total amount of principal and interest.

Let's say that 20 percent of it is principal. If 20 percent of it is principal, this brings down that charge to four-fifths of the 45 which would be 35 or some. Now over the five years some of that has gone down again, you have paid some principal over the five years, and you may

(MR. GREEN cont'd) . . . . . wind up where even with the increase in interest what has happened is not that you have an increased interest charge, the dollar charge may be very much the same. What has happened is that the amount that you have been paying is going less for principal than you wanted it to go, but it is not an increased charge in terms of the expense that is being paid against the building if there has been some principal paid off. Your figures on the assumptions that you have made, regard this total 45 percent as interest and regard it as being not in any way reduced after five years, that no principal has been paid; in other words, that there is an outstanding mortgage bond against the building which pays only interest, that is not so.

Now, Mr. Chairman, I am not sure how this is going to be done. I rather expect, from what I have heard, that people are going to take into account increased financing costs if they amount to increased charges as a reflection of costs. I'm not sure that that is so terrible, but I can see another side of the argument, I can certainly see another side of the argument. Because if you have two blocks side by side, I repeat, the operating costs are the same. One is paid off. One is not paid off. Why are the operating costs of the blocks different? One has decided to borrow money from the bank to run it, the other has decided - you may have the same person who has borrowed the money, not really borrowed it to operate the block, he may borrow money because rather than have it in the block he may prefer to have it in a Lincoln Continental, he may prefer to have it in many other things, and that the interest is really being paid to preserve those things rather than the block. Well, why? What is interest doing? Interest is to finance money, it is not to finance the operation of an apartment block. And if a person had $100,000 mortgage on an apartment block and took $100,000 and went to Las Vegas, what did the interest finance - the apartment block or the $100,000 that he took to Las Vegas?

Now I am not suggesting that it should be entirely not considered, all I'm suggesting is that there is an argument. That's all.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Well, Mr. Chairman, Mr. Green often makes good cases. This is not one of them. The problem here is that if you listen to the evidence presented to this committee that there was a building boom in around 1970 in apartment buildings, in 1970-71-72, right through there there was a tremendous boom in rental accommodations. Those buildings are big buildings and they primarily could not be built by somebody walking down to the bank or going to Las Vegas or anywhere else. They're built by people who take out 90 percent mortgages. And that's the only way they could possibly build them. And they're mortgaged to the hilt.

Now all of those are going to be coming open in the next year or two, if not this year, the next year or the year after, and those ones are going to have repayment charges that exceed the 45 percent of the average. They're the ones that are going to be in trouble, if you disallow consideration of change in mortgage rates. The bank or the trust company or whoever loans him that money on a mortgage is not bound by the laws that you apply to the person that took out the mortgage. Their mortgage is going to go up as indicated here, two and a half, three percent. At the present rate, may go up higher by next year.

Now if that's the case, the 45 percent here, and I wasn't, incidentally, using 45, I took up by a third which would make it 12½, 13½ percent, I brought that down to ten to be on the safe side, all of the 10 percent allowed under the Act is going to be eaten up in operating, that is in order to pay for the new interest charges on the new mortgage, it will take more than a 10 percent increase on that alone. Now also I worked out these other ones here just in very rough terms. Real property tax, using their averages, if they're up 20, natural gas is up 30, 40 - I used 40 - electricity up 20, water and sewer up 50 and insurance is up somewhere closer to 100 percent. If all of those are added up, if you just take straight multipliers, those are pass through costs. Now insurance isn't necessarily because that is - but the whole industry is up. All of these others are pass through costs based on either Public Utilities Board approval or straight pass through by municipal government. They add up to 9.7 percent just on . . .

MR. TURNBULL: In that example?

MR. CRAIK: Yes, in that example. Now I assume that that is a statistically sound example because it's done by HUDAM and it is representative of the group that forms that organization at least. It may not apply and I assume it would not apply to somebody who owns

(MR. CRAIK cont'd) . . . . . a duplex and operates on his own and may have even built it himself. But just to get back to the real problem. The real problem is that if you don't allow an increase, or take into consideration as operations increased debt servicing costs, you've got an extremely serious problem that's not only going to happen, it's happening, you know, this year, next year and the year after, because this is the period when these five year terms are all coming due.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: Well, Mr. Chairman, both the Minister and the Leader of the Opposition are right in some of the points that they make. But I don't know if we can solve the problem here. The Act as I've said is intended to enable expenses, legitimate genuine expenses, to be passed through and the point that Mr. Green makes about there being an argument I think is certainly a legitimate one. The point that you make, Mr. Craik, is certainly a legitimate one, but I mean, what is the solution in legislation, to put in principles which will just compound the problems faced by the board or to leave it this way, with the intention of course that the board will consider each case. That's what we have here, legislation that will enable the board and its officers to consider each case on its merits. That's the whole point. And don't forget there is the application process in both phases, both the initial phase and the subsequent phase, which is really designed to solve these problems.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: If the government says that they're going to not commit themself with regard to increased debt servicing costs because they want to guard against the person issuing himself a second mortgage, that allows him to do it. Well now Mr. Green has given me the real basis probably of his concern. But what I'm after here is that that's going to be the exception rather than the rule. Where that happens if the government says well you're issuing yourself a large second mortgage and you're going to pass it through as a cost, that's not going to be allowed, that's fine, but the trouble is that the majority, the vast majority of your cases are going to be places where, or circumstances where this is imposed by a bank or trust company or some other source that's issuing the mortgage. All I want is some indication. I can see the problem that you're going to be in if you're going to try and stick to the opinion that no increased debt servicing cost is going to be considered as an operating cost.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Well, Mr. Chairman, I don't think that that is what has been said. I think that what has been said is that there could be an argument. But Mr. Johnston, I believe, the Member for Sturgeon Creek has the right idea. He wants to know whether they will be able to consider it within the wording of the Act. And the wording of the Act says that they will be able to consider the increased costs - I can't remember the exact - of the operations. And if the board considers that a legitimate operating cost, regardless of the argument, then that will be an operation cost. If it is an operation cost, it is an operation cost; if it is not, they won't consider it. But the honourable member says that it is an operating cost, he's prepared to justify it, so I presume that the person who is doing that will try to justify that before the board. And I'm rather inclined to think that if it is legitimate that it will be allowed. That's the intention of what the board is supposed to do.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: The first statement . . .

A MEMBER: You're getting closer and closer, you are both right.

MR. CHAIRMAN: 13(b)--pass. Mr. Patrick.

MR. PATRICK: Mr. Chairman, I would like to move a new Section 13(2)(c) subject to Section 13.1 (2)(c) Lieutenant-Governor-in-Council may make regulations specifying the formula for calculating the amount, if any, by which the rent payable for residential premises for rental payment periods may be increased on or after July 1st, 1975, and in any succeeding year over the rent payable for the residential premises for any previous rental payment period.

13.1 (2)(d), regulations under this section shall provide in principle: (a) that any increases in uncontrollable costs of the landlord such as taxes, utilities and insurance and similar matters should be passed on to the tenant; (b) that the landlord shall be entitled to include as a cost a reasonable management fee, not to exceed five percent of the total rents where the management is done by the landlord personally or by a management company rental agent; (c) that the amount actually expended for maintenance, upkeep and improvements in a year may be covered in the following year or years but that no other allowance shall be allowed

(MR. PATRICK cont'd) . . . . . as an estimated cost of maintenance and improvements in the year for which rentals are being considered. (d) that interest charges may be allowed as an expense, only such charges as are reasonable considering market conditions at the time the loan was taken. (e) that in determining the amount of increases to be permitted, if any, the rate of return being earned by the landlord on his investment shall be given due consideration and recognition shall be given to the principle that the landlord is entitled after taking into account anticipated increases in capital value, to a return at least equal to that which could be obtained in the bond market.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I think that we have to again determine what is the principle of the bill. The principle of the bill is not to try to determine a fair rent. The principle of the bill is to try to determine what is a fair increase in rent, and the honourable member's statement or amendment will just undo that entire principle and what we would have is the board trying to determine, regardless of what the past has been, what is a fair return on this money, what is the present capital cost of the building, not what it was paid for, and to then bring forward a rent. If we do that we may as well take the bill back and restructure it, Mr. Chairman.

MR. PATRICK: You're going to be doing it anyhow.

MR. GREEN: No, Mr. Chairman, no.

MR. CHAIRMAN: Order please.

MR. GREEN: What the honourable member said was that you would take into account today's capital cost, today's capital value - that's right in his amendment, and figure out what should be a fair rate of return and permit rental increases in accordance with that rate of return. That won't take into account, Mr. Chairman, that the block may have been purchased for half of today's capital value, that the landlord may have established a pattern of rent which is based on half of that figure, and that what really the government legislation would do would be to sanction, as a matter of fact, encourage, increases in rent that have nothing to do with increased costs but have to do with trying to establish a just rent which I don't think that the Act is attempting to do and cannot do.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, I think whether there is more detail put into this section or not depends on whether it's anticipated that this is going to be a long-term legislation. I think a pretty high degree of flexibility is required by the board if this is intended to be a short-term legislation which is some indication in the House that it is to coincide with the Anti-Inflation program. If it were long-term, there's just no doubt that this sort of thing that Mr. Patrick is proposing here has to be taken into consideration. All of those things have to be taken into consideration. Now I'm inclined to, you know, my comment on it or support of it one way or another really depends on that. Not that it will make any difference but I feel easier about going with what's in the Act if there's an indication of the part of the government that there's a true intention to have this coincide only for the inflationary period.

MR. TURNBULL: For the inflationary period, yes, that's the intent certainly.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: You know the point that was made earlier in regard to B.C. I think is pertinent here and it's this: that what comes later, what comes in 12 months or whatever length of time from now after the board has had some experience in administering rents, presumably will have some impact on the possibility of changing the law. But right now we don't have that kind of detailed case by case experience to go on.

QUESTION put MOTION defeated.

MR. CHAIRMAN: 13.1(3), Mr. Craik.

MR. F. JOHNSTON: Mr. Chairman, you just passed (b) of 13.1(2), (1) and then (a) and (b), I'd like to question the Minister on one thing where, and right at the top of 13.1(2), where an application is made under subsection (1), if the rent review officer is satisfied, then we go (a) and (b), the Rent Review Officer may, by order, fix a rent payable by the tenant to the landlord. Now if he's satisfied, why is that word "may", why not "shall"?

MR. TURNBULL: It is to enable him to fix the rent if the rent now being charged is not in accordance with (a) and (b). That's the way I understand it.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: I'm afraid it's a drafting failure that whenever discretion is given to people who make orders of this kind it's almost always "may". Now if the Legislature wishes to make it "shall", I don't think it would vary the meaning materially.

MR. TURNBULL: Make it "shall"? Okay.

MR. CHAIRMAN: Then we will strike out the word in the third last line "may" and substitute "shall". Committee agreed? (Agreed) 13.1(2)--pass; 13.1(3). Mr. Craik.

MR. CRAIK: I move that the proposed subsection 13.1(3) be amended by striking out the words and figures "the rate of 12 percent per year" in the fifth line thereof and substituting therefore the words "a rate equivalent to the rate payable by banks on short-term certificates as determined from time to time by the board". This is something that if you're going to allow discretion on the one hand, you should be allowing discretion on the other hand and tying it to something reasonable. Presumably the pay-back period would be sixty. . .

MR. TURNBULL: I'd feel happier if I knew what the rate of . . . was right now.

MR. CRAIK: Okay. So presumably the bank short-term certificates are 60-day rates or such that coincides with the pay-back period too.

MR. TURNBULL: If the committee is agreeable to this, I certainly have no objection to the change. (Agreed) Accept the amendment then.

MR. CHAIRMAN: The sub-amendment to 13.1(3) - that would be in substituting the rate of 12 percent for the stated amendment in the heading of 13.1(3)--pass; 13.1(3)(a)--pass; (b)--pass; 13.1(3) as amended--pass; 13.1(4)--pass; 13.1(5)--pass; 13.1(6)--pass. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, on 13.1(6). Now I'd like to sort of make it a little bit clear at first that if a person has raised his rent by more than 10 percent and he makes application and it's reviewed, he should be prepared to accept the fact that he went too high and he could go under. But it does seem because of section 13, you know, he's allowed 10 percent and the only way that he won't get 10 percent is by applying or making application that he should have more, and it seems to be a little bit of a penalty for applying to the board for increased costs. I know. Well, I'll listen to the Minister.

MR. TURNBULL: The intent here is to enable the officer, the board to look at the rents for a particular premise in relationship to the costs; and if the rents are in fact way in excess of what the costs should be, to adjust the rents accordingly. That's right, that's what this section allows.

MR. F. JOHNSTON: So he could go under it then.

MR. TURNBULL: Yes, according to this section the rent could be reduced to below a 10 percent increase that had occurred in the 15-month period. Right? I mean, there's no point in him looking at it and then saying, well you know that's all well and good but, you know, your rents could have gone up by only five percent and that would have been plenty to cover your costs. You've gone up 13 percent and you were trying to justify the extra three, but not only is the extra three not justified, the other five, between five and ten is not justified. So your rent accordingly is set at five percent above what it had been.

MR. F. JOHNSTON: But in section 13 we say he can go to ten and the only way he can get less than ten is by applying for increased costs, for more.

MR. TURNBULL: Yes, I think I get Mr. Johnston's point. Yes, in effect.

MR. F. JOHNSTON: Well, you know, that seems to me to be a bit of a . . .

MR. TURNBULL: Don't forget that not everyone is charged that. You know there is another way, not in the Act but in the market where the landlord has just set the rent at six percent or something and is quite happy with it and is going to go with it.

MR. F. JOHNSTON: Yes, well, let me ask one more question. This puts the Rent Review Board or the officer in the position of basically looking at all rents whether they're only 10 percent or not, or if they're under 10 percent, if a person applies. Now if he doesn't apply he gets 10 percent.

MR. TURNBULL: That's correct. Or what he's charged below 10, yes.

MR. F. JOHNSTON: Well I just question that, that is a bit of a - you know, I don't like to use the word "threat" but to the man, if he applies.

MR. TURNBULL: Yes, but it would be a charade would it not if the landlord went to the review officer to try to justify, say 13 percent. The review officer found that only 5 percent was justified, then what? Then he lets ten go. I mean it makes the whole process into a bit of a charade where the review officer has in fact found that far less than even 10 percent

(MR. TURNBULL cont'd) . . . . . could be justified for that particular accommodation.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Mr. Chairman, I'm just a little confused on this now. If a landlord used a 10 percent increase and there was no complaints, he's allowed a 10 percent.

MR. TURNBULL: He's allowed the 10 percent unless he wants himself to go to the board.

MR. HENDERSON: Now if he asked for further on the basis of a pass through cost and it was to be 13 and then when the Rent Review Board were through, they said well you're only justified as six, they'd set him back to six. But on the other hand, if landlords took the position that they'd go for 10, you know, then unless there's complaints by tenants, it wouldn't be reviewed - or would it be reviewed if it was 10 percent?

MR. TURNBULL: It's only the intention here in 13 is to only review it when the landlord himself goes to the Board.

MR. HENDERSON: I see.

MR. CHAIRMAN: 13.1(6)-pass; Section 14, Mr. Walding.

MR. WALDING: If we've passed 13.1. . .

MR. CHAIRMAN: 13.1, in its entirety--passed.

MR. WALDING: Mr. Chairman, I move, that Section 14 of Bill 19 be amended by adding thereto, immediately before the words "the Board may" in the first line thereof, the words "with the approval of the Lieutenant-Governor-in-Council".

MR. CHAIRMAN: Section 14 as amended--pass; Section 15. (a)--pass; (b)--pass. 15--pass; Section 16 (1) (a)--pass; (b)--pass; 16(1)--pass; 16(2)(a).

MR. WALDING: Mr. Chairman, I move that Clause 16(2)(a) of Bill 19 be struck out and the following clause substituted therefor. (a) every increase in rent for the residential premises that was made or became effective after June 30, 1974, the amount of rent charged for rental payment periods after June 30, 1974 and the amount of costs incurred by the landlord in respect of the residential premises since June 30, 1974.

MR. CHAIRMAN: 16(2)(a) as amended, Mr. Craik.

MR. CRAIK: What is the purpose of taking it back another six months?

MR. TURNBULL: The purpose, Mr. Chairman, was to provide the board and the review officer with a full twelve months of operational experience in reviewing the rent, rather than the six months period.

MR. CHAIRMAN: 16(a) as amended--pass; 16(b)--pass; 16(c)--pass; 16(2) in its entirety--pass; 16(3) Review of rents in entire building--pass; 16(4)--pass; 16 in its entirety--pass.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I move that Bill 19 be amended by adding thereto, immediately after Section 16 thereof, the following section:

Application for reduction of increase in rent. 16.1(1) A tenant of residential premises may within 30 days of receiving a notice of increase in rent for the residential premises, apply to a rent review officer for an order reducing the increase in rent for the residential premises that would otherwise be permitted under a regulation made under section 14.

Order of rent review officer. 16.1(2) Where an application is made under subsection (1), unless the rent review officer is satisfied by the landlord that the increase in rent permitted under a regulation made under section 14 does not exceed the increase in the expenses incurred by the landlord in respect to the residential premises as determined by the rent review officer in accordance with the regulations, the rent review officer may, by order, reduce the amount of the increase of rent for the residential premises otherwise permitted under the regulation, and fix a rent payable by the tenant to the landlord for the residential premises at a rent that is lower than would otherwise be permitted under the regulation made under section 14

Application of subsections 16(2) and (3). 16.1(3) For the purposes of an application under this section, subsections 16(2) and (3) apply mutatis mutandis.

MR. CHAIRMAN: Take these in order. 16.1(1)--pass; 16.1(2)--pass; Mr. Craik.

MR. CRAIK: Just to outline the procedure here. Under 14 the Rent Review Board will decide what the general rate of increase would be after October 1, Section 16 spells out the rights of the tenant to appeal that and so on.

With the 90-day advance required, required July, August, September to review

(MR. CRAIK cont'd) . . . . . that, under the Landlord and Tenant Act this means that the rate structure would have to be set in advance of July 1 which means the end of June. Now that would mean that the way I read it, that the Review Board would have to have set that rate some time in the next roughly 30 days, the rate for October 1st in order to then look at the rates of the landlords so that they can give notice to their tenants by that time. Now in the next 60-day period or whatever it is, 45 days or whatever is practical, you not only are going to have to review all last year's rates, but you're also going to have to strike the rate for October '76 and review those cases where the landlord has said that his rate, as of October '76 will have to be higher than 10 or whatever you'd strike as a rate. If the landlord then says, well my conditions and my pass through costs are such that I have to exceed that, will he have to get a reading from you before he advises his tenants July 1.

MR. TURNBULL: A reading. What do you mean a reading?

MR. CRAIK: Well will he have to receive approval from you if you say the rate for October 1, '76 is 10 percent. The landlord calculates that his costs are in excess of 10. Then before he advises his tenant, would he have to come to you to get approval of that?

MR. TURNBULL: He needs approval of his rent increase before he can notify the tenant.

MR. CRAIK: That's for October 1, '76. Now what happens if the Board in the next 60 days can't process all those?

MR. TURNBULL: The biggest problem we have here is not getting this bill through by April 1 because you know, this does mean that the longer the bill is here the more work that the Board's going to have to do in a shorter and shorter period of time. But if the Board approves the increase above the present set by Section 14, then the landlord can give notice to the tenant, that's correct. And he must give three months notice.

MR. CRAIK: But that is the procedure. You will set your rates some time soon for October 1, 1976.

MR. TURNBULL: Yes.

MR. CRAIK: If the landlord lives within it, fine. If he can't and if he wants to increase it above that, he has to come to you, get approval, then give notice. This Board is going to have to do two years of work in about 60 days.

MR. TURNBULL: Let us not forget, in British Columbia at the 10 percent rate or thereabouts, in their first period of operation, I don't think they had - well they had very very few appeals. And it's not inconceivable that the number of appeals will not be as high as we anticipate but you know one can take, and I always do, take the most pessimistic view that there'll be a lot of appeals that there will be appeals for the initial period, appeals for the period after October 1, and the necessity of determining the amount of rent increase that will be applicable from September '76. That's a lot of work for the Board to do.

MR. CRAIK: Well presumably you would handle probably the two years at once though at one time. If you set your '76 rates soon enough you would handle, if he had an appeal from last year and had something above your X amount for '76 you'd handle probably both at once. Would that be the . . .

MR. TURNBULL: That would be my intention, yes.

MR. CHAIRMAN: 15.1(2)--pass; 16.1(3)--pass; 16.1 in its entirety--pass; 17(a)--pass; (b)--pass; (c)--pass; the latter part of (c) on Page 8--pass; 17.

MR. WALDING: Mr. Chairman, I move that Section 17 of Bill 19 be amended by striking out the words "in respect of which the application is made" in the second last line thereof.

MR. CHAIRMAN: The amendment on Page 8. In the second last line thereof in respect of which the application is made. Struck out?--Pass. 17.

MR. WALDING: Mr. Chairman, I move that Section 17 of Bill 19 be amended by numbering the present section as subsection (1) and adding thereto at the end thereof, the following subsection:

Withdrawal of services as increase in rent. 17(2) Where, contrary to this Act, a landlord ceases to provide, discontinues or withdraws any service, privilege, accommodation

(MR. WALDING cont'd) . . . . . or thing that he previously provided or granted to a tenant as part of the tenant's enjoyment or use of residential premises, unless in the opinion of the rent review officer the ceasing to provide, discontinuance or withdrawal is beyond the control of the landlord, the ceasing to provide, discontinuance or withdrawal shall, for the purposes of this Act, be conclusively deemed to be an increase in rent that is contrary to this Act and subsection (1) applies mutatis mutandis as though it were an unauthorized increase in the rent payable for the residential premises and, for the purpose of subsection (1), a rent review officer may fix the value of the service, privilege, accommodation or thing that has ceased to be provided, discontinued or withdrawn and may order the landlord to refund to the tenant the amount of the value in respect of the period during which the service, privilege, accommodation or thing was not provided, discontinued or withdrawn.

MR. CHAIRMAN: 17(2). Mr. Craik.

MR. CRAIK: You're getting into the sort of detail that you were castegating the members of the opposition for introducing back in previous motions.

MR. TURNBULL: I don't think this is a detail particularly. This is necessary because there is always a possibility that services that are now provided and are included in the rent will be discontinued. And all this does is say that if there is discontinuance that that discontinuance is a deemed increase in the rent. I don't think it's a detail in other words, I think it's an integral part of the rent charged.

MR. CRAIK: Well in some of the blocks, the bigger blocks where they have, say a doorman at the front door, they can't really take their doorman off without the approval of the Rent Review Board under this. I mean I can see you need something probably to cover the withdrawal of parking privileges or where parking privileges may not have been written into the lease before but this is - you're getting in pretty deep in this sort of a - well any service,

MR. TURNBULL: I don't know if that's deemed to be part of the rent charged though. I mean this is, you know, a service and in the provision of a rental stall for example, you know, if that's included in the rent, I don't think that any tenant pays specifically a portion of his rent for doorman services. It's obviously there but I mean he's not charged on that basis. At least I have never seen a tenancy agreement that says that someone shall open the door for someone going into the apartment block.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Mr. Chairman, I hesitate to ask this question but there might be some others around the table something like myself. I'm referring to 17 subsection 2(1) where it's got (1) in brackets down there and you used the words "mutatis mutandis" all the time. Now to a person like myself, they could leave those two words out of there and it would make a lot more sense, wouldn't it. Would you mind just explaining what those two words add to that section.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Making whatever changes are necessary to be made in order to make sense out of those sections.

MR. HENDERSON: I think I understand what you mean but it looks to me as if it would make more sense if that was out of there.

MR. CHAIRMAN: Does that answer your question, Mr. Henderson?

MR. HENDERSON: I guess so.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Well Mr. Chairman, as Mr. Craik said, there's no reference to rental agreement here. It says: "landlord ceases to provide, discontinue or withdraw any, any services, privileges, accommodation that he has previously provided or granted to the tenant." Now I think that has to be up to the Board generally again instead of spelling it out as far as we have here. I would also think that, I could visualize that the government or the rent review board or somebody being in court cases, making men pay out money they haven't got. If you're losing money on a block and you decide to cut your expenses to operate the block accordingly to even break even, and somebody comes along and says you have to do this, I personally would be in court tomorrow. I think you're putting yourself into a real problem.

MR. TURNBULL: The first point here for the Member for Sturgeon Creek, of

(MR. TURNBULL cont'd) . . . . . course, is that if the operator of the block is losing money and will experience a loss because of the operation of particular services given to tenants, then the costs of those services can be passed on, so that the application procedure will prevent happening what the Member for Sturgeon Creek describes as a possible happening.

Secondly, do not forget the words "that the review officer may fix the value" and in the kind of example that Mr. Craik has given us it is conceivable that the rent review officer simply won't fix a value for that kind of service, because how much is it worth, really? I think the substantive point though that the Member for Sturgeon Creek raises will really be dealt with through the application process. In other words, if the services are costing money over and above the revenue earned from the building then presumably they will be passed through and the man will not be losing on them as a result of this section.

MR. CHAIRMAN: 17(2)--pass; 17 in its entirety--pass. 18--pass. . .

MR. CRAIK: Mr. Chairman, I have an amendment. I think there's also one in here isn't there?

MR. CHAIRMAN: This is 18, I think your amendment is to 18.1

MR. CRAIK: Mine's 18.1 so . . .

MR. CHAIRMAN: 18--pass.

MR. JOHNSTON: Mr. Chairman, on 18 we're saying he "files the information". Why can't he file "additional" information? That's really what 18 says, that he's finished once he brings in the first information.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: The reports are here and Mr. Tallin might want to comment further on it, that the intention here is to be able to hold the hearing with some dispatch and if you're having a hearing and the parties to the hearing can always file additional information, the review officer of the board will never be able to make a determination because someone could always comes in and say well I have this additional information that I want to file, in which case the hearing will have to be stopped or something will have to happen while that additional information is considered. So that I think really is the intent of 18.

MR. CHAIRMAN: 18--pass.

MR. F. JOHNSTON: Just a minute. Can the rent review officer ask for additional information if he feels he hasn't got it all?

MR. TALLIN: Except on the hearing.

MR. CRAIK: The additional information is provided if he applies for a hearing to the Board, this applies to the rent review officer, who, he may not provide information to him, but to get the other information then he applies for a hearing and provides it to the board.

MR. TALLIN: But it applies to the rent review officer at the end, the rent review officer will hold the initial hearing.

MR. CRAIK: That's initially.

MR. CHAIRMAN: 18--pass. Mr. Walding.

MR. WALDING: I move that Bill 19 be amended by adding thereto, immediately after section 18 thereof the following section:
Unsubstantial or frivolous applications. 18.1 Notwithstanding section 18, where a rent review officer is of the opinion that the material accompanying an application indicates that the application is of no substance or is frivolous, he may determine that the application shall be refused without complying with section 19.

MR. CHAIRMAN: Section 18.1. Mr. Johnston.

MR. F. JOHNSTON: Does this mean, you know we just spoke about 18 earlier, there's information passed to the rent review officer, and then the application goes to the board and that we're saying he could supply more information then. This gives this man an awful lot of power, frivolous, you know he can just say, out, you're not going to have a chance to go to the board. Why shouldn't you comply with section 19, why should the rent review officer have the right to say it's frivolous?

Now I think the argument I'm going to get is we don't want people wasting a lot of time, but why can't he go to the board, why should the rent review officer have that privilege?

MR. TALLIN: Well one of the reasons for this is because of bringing in tenants' applications. Every time a tenant applies if he had to go through this routine of giving notice to all the parties and everything else, even if the tenant applied and said I want the rent reduced because it's too high, period, there's no supporting material, nothing substantial about it, he just says it's too high, it would mean that in every one of these cases they would have to follow this whole process. In the case of a landlord, the landlord has material usually on which he wants to base his application and therefore it's unlikely that there would be any or very many applications made by a landlord without some substantial materials to file, something which gives substance to his application. It doesn't prohibit the person from applying again, or even appealing the decision; the only determination is that this particular application and the material filed doesn't show any substance or is frivolous. So a person can apply again with substance to support his application.

MR. F. JOHNSTON: Can apply again?

MR. TALLIN: Yes, because the determination is not on granting or refusing the application, it's just a determination that this particular application doesn't show substance.

MR. CHAIRMAN: 18(1)--pass. Mr. Craik.

MR. CRAIK: Mr. Chairman, I move that Bill 19 be amended by adding thereto immediately after section 18.2(1) thereof the following section, Consent to Application 18(2)(1) Notwithstanding any other provision of this Act, where all the parties to an application consent in writing to the approval of the application if the rent review officer is satisfied that the consents have been given freely and without duress, he may approve the application without further inquiry with the application.

18.2(2) Lease not Consent. For the purposes of this section, a person shall not be considered to have consented to the approval of an application in respect of residential premises in terms that are similar to the terms for which the application is made.

Well, Mr. Chairman, that's the motion. The intent of it is that where there is mutual agreement and the rent review officer is satisfied that this is equitable from both points of view and that there is no duress put on the renter, the tenant, then the tenant and the landlord can carry on with their own agreement. This amendment will get primarily at those cases where you have smaller accommodations, smaller buildings, duplexes and even three-storey type operations that you have in the type of condition where the lady that made a representation here indicated the difficulty that is going to arise with the sorts of people she interviewed in complying with the Act, or even being aware of it.

Generally though it should reduce a significant amount of the load on the rent review process, or in the appeal board, and where they do have this sort of an agreement and the rent review officers can set up again the sort of control that will prove to him that there has been no duress then they can proceed without further cause for review by the review board.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: Mr. Chairman, the intention here is admiral to save the review board and the review officers some work, but I wonder about the practical application of it. It would seem to me that in a multi-unit apartment you would have a situation presumably where some agree and some don't, and then the review officer has to limit the rent increase for those suites where the tenants don't agree but allow it for those suites where the tenant and the landlord do agree. That, if I understand the amendment, is how it would apply, and I don't know if that's practical.

MR. CRAIK: I'm not thinking of that case, Mr. Chairman. I would expect that in the larger blocks of course the rent schedule would be set across-the-board for a certain type of accommodation. Now you may have particular cases in blocks of where a rent has been held down for some particular reason in the past and for some reason this year or next year it might go up, that might be a particular case where this sort of consideration is allowed some flexibility. But I'm thinking primarily, I would think that in the larger blocks you'd have a rent schedule that would go to the board in any case, because the landlord would not have the agreement of the block.

MR. TURNBULL: Yes, but the landlord there and the tenants presumably could utilize this section if it was in the Act, so how can you say that section won't apply to some, will apply to others.

MR. CRAIK: This is where your discretion comes in on the part of the board.

MR. TURNBULL: Oh, but the board can't say that a section of the Act will not apply, I don't understand that as being normal discretion on the part of a board; they can't say that section 18.2(1) as you suggest will apply to one category of residential accommodation and not to other categories. That's why I question the practicality of the applicability of your amendment.

MR. CRAIK: Well, it's aimed primarily at those situations where you have more or less a one and one type of accommodation or the smaller holdings where something is worked out locally and it doesn't affect a whole group. It may apply in larger blocks, I would think in particular cases where rents for one reason or another have to change on one suite or more because they've been, say, perhaps held down for a period of years because of one particular tenant, the tenancy changes, you go into a new tenant and the rent on a particular unit in that building is brought up to the average of the building. I don't see it being used, the intent of it is not to change average rates in buildings, it's not to provide uniformity in the rents in larger buildings, it's aimed mainly at providing more flexibility in smaller holdings where the problems are as indicated by the people that have made representation here, and in particular, I'm thinking about the party that did the survey of the area which is in the Westminster area, where they found that 60 percent of the people that are in the position where it is three or four rooms in a house rented out to individuals. Now are you going to bring all of those in and force them all into review? What this says is that as long as the rent review officer is satisfied that there's equal agreement without duress then they don't have to go through the lengthy review process.

MR. TURNBULL: Well, my only concern with it is I don't see how this could practically be enforced because it does, as you indicate, leave the . . . it doesn't leave, but you say it leaves the review officer the right to apply it to certain categories and not to others, and that I just don't think is the kind of discretion that I would support to give the review officer, to allow him to determine which sections of the Act will apply and which will not. The other problem of course with it is how would a review officer determine whether there was duress or not. Maybe Mr. Tallin can shed light on that. There is a practical problem there too.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Mr. Chairman, I can see some cases where this could really apply and would save the rent review board a lot of work because if it was on a, we'll say a family dwelling where you'd had elderly people in and the rents weren't raised, well then somebody else was coming in and you wanted now because you were changing tenants and rents had gone up and values are up, you'd say well I want $150 a month rent for this house now, and he says I'm willing to pay for it, that's a good deal I'm happy to take it, why should you have to go to the rent review board. This is what I mean, could not cases like that be eliminated completely?

MR. TURNBULL: Mr. Chairman, in response to that remark, I have to say that what we're dealing with here is anti-inflation legislation, that's the intent here and not to deal with the structure of rents or rates of return or what have you.

MR. HENDERSON: Can I interpret this as such then . . . the way the Act read he is actually supposed to go to the rent review board if he's going to increase the rent more than 10 percent, but if somebody came along that was willing to pay him because they couldn't get a house and this was just what they wanted and were willing to pay more and even offered him more, and they were both real happy about it, why should they have to go to the rent review board? Now if they didn't do this, who would sue who anyway?

MR. TURNBULL: That's exactly what I'm trying to avoid, where there can be various kinds of deals made to allow increases in rent that are beyond the guidelines and beyond what's justified by costs.

MR. HENDERSON: Well what would you do in such a case that they were both happy about it and had gone ahead with the thing and it was reported to you, what would you do?

MR. TURNBULL: Come again.

MR. HENDERSON: In such a case as I mentioned, if it was drawn to your attention to somebody who wasn't, not the tenant nor the landlord, what would the Rent Review Board do in this case?

MR. TURNBULL: Well they would be in violation of the Act.

MR. HENDERSON: What would the rent review board do?

MR. TURNBULL: The penalty section would come into play.

MR. HENDERSON: Even if this here tenant and this landlord were both real happy with their arrangement?

MR. TURNBULL: That's the way the Act is drawn, right?

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, the honourable member is aware that the controls legislation are just of that fashion, that it is as much a violation for a person to consent to pay more as it is for landlords to charge more, although that sounds bizarre that is the way it works. During the war - I'm not too young to have remembered some of it - there were all kinds of subterfuges practised between tenants and landlords to provide accommodations. That's one of the weaknesses of controls, they make a lot of people do that kind of thing and yet it is illegal. The honourable member should be aware that right now the International Nickel Company and the employees have agreed as to what one will pay and what the other will receive. But that is an excellent example. They have now agreed, the company wants to pay this amount, the men are prepared to work for this amount, the Anti-Inflation Board has rolled it back, which means that if the wage parcel was worth, let us say $200,000 - I mean the part that they don't agree with - or $300,000, that rather than permit the employees and the employer to agree, the government has said that they will enrich the International Nickel Company by that much money. And that is what has happened. That is the nature of controls, which is why many people are upset about controls and I don't really criticize them for being upset. The other feature is that the minimum wage legislation cannot be violated neither by the employee nor the employer. Even if you have an employer who wants to pay and an employee who wants to work for less, they are both in violation of the Act. And this is not an argument, it's a description. It is a description of controls legislation and I don't see how it can be otherwise.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, how is the rent control board applied - I can see other applications to this. I had a young lady that phoned me, like many MLAs get phoned, about six months ago. She's going to university and she's crippled with polio and she was on a subsistance allowance by which she could get by, and she had occupied her suite for something like three years and her rent in the suite was roughly $110, $120 a month. The suite next to her was rented at roughly $170, and she was advised that her rent was going to go up. And this $50.00 increase in rent she couldn't, you know, she couldn't live with it, she couldn't afford it, and she was still in school and had to finish her term, had one more year to go. She asked whether there was any assistance she could get and I asked her to get in touch with her landlord, and she asked me if I could do it for her and I did. And the landlord I found out had already kept the rent down for a period of a couple of years because he realized her plight, so he agreed that he would keep it down for another year at the $120 level. Now she has left. She's found another location where they had a wheelchair ramp and so on and she just decided she'd leave. But in the meantime the rent had been set at $120. The suite is vacant. The landlord also let her out of her lease. The suite is vacant and the rent next door is $170.00. Now what do you do in a case like that, because is the rent review board going to say that the person that occupies that suite is going to get it at $120 plus 10 percent or is it going to go to the $170 and he's going to average it out over the block? So this allows you some flexibility in that case, too, where a person occupies that particular suite would not, I suppose, complain that the price of that suite was the same as a neighbouring suite. It allows flexibility in that case as well. But the intent of this isn't particularly for that condition, it's those conditions where you have a three or four bedroom . . .

MR. TURNBULL: I am particularly concerned about this amendment for this reason. That it's my understanding that individuals who are on welfare or social allowances, payments of any kind, have their rent paid, or a portion of their rent paid by the welfare agency. Now it is no skin off the nose of the person who's on welfare and it certainly is no skin off the nose of the landlord, to mutually agree that the rent for this accommodation be whatever this section would come into effect, and to me this section, this amendment that you're proposing would allow people to take money out of the public treasury that might not otherwise have to come out of it, to pay for rent, you know, for the reasons that I've given. So I think the section just is not, as I've said already in a more general way, a practical amendment to the Act. It just allows too many escapes for the two parties.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I think in addition to the statement made by the Minister that there is a problem where there is controls if there is a mutual agreement to merely ignore them, and I think that the Leader of the Opposition's amendment would cover much more than the case that he is referring to. I think he indicates that his intention is to be able to deal with that type of situation. But wouldn't he be satisfied that the same type of enquiry that the review officer is going to have to make as to whether the consents have been freely given and without any duress, that that kind of enquiry is just as difficult as finding out the information that he's just given us, that the suite was rented out at a deflated price for special considerations and therefore that the new price is really in line with what is being charged for other suites. Wouldn't that kind of evidence be even easier than to try to determine whether there has been duress. So his case would be taken care of. It's not as if it would go without some consideration. It wouldn't be singled out as a case in which the landlord doesn't hold a hearing that's all.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, let me go back a minute to where it was stated that it would be illegal to charge less rents as well as more rents, --(Interjection)-- . . .both the tenant and the landlord then. I think you're buying yourself an awful lot of trouble. I lived in Regina when the Mediation Board was there, that set rents on apartment blocks, and basement apartments and rooms in houses, and there was more rent paid that the Mediation Board didn't know about than you'll ever shake a stick at. You're just asking yourself to get into a position where if the two people agree then all of a sudden now you're going to say it's illegal or it may be illegal. And I assure you that isn't going to happen that way because the experience that was had, and I was there, I remember wanting to pay a guy $50.00 a month when they said $40.00, and it will happen, that they'll get $50.00. You know you're just starting a situation that's going to be completely uncontrollable and that I think you'll be in a problem with.

MOTION presented on Section 18.2(1) and 18.2(2) and declared lost.

MR. CHAIRMAN: 18.1 in its entirety--pass. 19(1)(a)--pass; (b)--pass; (c)--pass; 19.1--pass. 19.2 . . . Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, on 19.2. Now the counsel mentioned to me if somebody made application on the basis that I think the rent is too high, the rent review officer could throw it out. Well doesn't this come along and say, "For purposes of making a determination in respect of an application made or an enquiry undertaken under this Act, a rent review officer may, in his absolute discretion, find that material of evidence submitted in respect of an application . . ." You know, now he has the right to throw out the material, in his absolute discretion . . .

MR. TURNBULL: Are you looking at the section . . .

MR. F. JOHNSTON: 19.2, on the amendment.

MR. TURNBULL: No, no.

MR. CHAIRMAN: We're on 19(2).

MR. TURNBULL: Section 19(2) in the bill.

MR. CHAIRMAN: Notice of hearing.

MR. F. JOHNSTON: I'm sorry, I'm on the . . .19(2) is further along, and we already know the argument on that.

MR. CHAIRMAN: 19(2)--pass; 19(3)--pass. 19(4) - Mr. Walding.

MR. WALDING: I move that subsection 19(4) of Bill 19 be amended by adding thereto, immediately after the word "made" in the second line thereof, the words "or an inquiry undertaken."

MR. CHAIRMAN: 19(4) as amended--pass. Mr. Walding.

MR. WALDING: I move that section 19 of Bill 19 be amended by adding thereto, at the end thereof, the following subsection:

Rights to inspect material.

19(5) Any party to an application may at any time during the normal office hours inspect the material filed in support of the application and in the possession of the rent review officer.

MR. CHAIRMAN: 19(5)--pass. 19 in its entirety--pass. Mr. Walding.

MR. WALDING: I move that Bill 19 be amended by adding thereto, immediately after section 19 thereof, the following section:

Notice of hearing on inquiry.

19.1 Where a rent review officer undertakes an inquiry on his own initiative, he shall proceed to hold a hearing in respect of the matter under inquiry and shall give to each of the parties to the inquiry, at least 10 days before the time of the hearing, notice of the time and place of the hearing.

MR. CHAIRMAN: 19.1--pass. Mr. Walding.

MR. WALDING: I move that Bill 19 be further amended by adding thereto, immediately after section 19.1 thereof, the following section:

Artificialities and subterfuges.

19.2 For the purposes of making a determination in respect of an application made or an inquiry undertaken under this Act, a rent review officer may, in his absolute discretion, find that material or evidence submitted in respect of the application or the inquiry indicates that a transaction or state of affairs is artificial or a subterfuge and may base his determination on the real and substantial nature or effect of the transaction or state of affairs that would exist except for the artificiality or the subterfuge.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: I don't really want to make the same argument all over again but I just would bring up, that in one respect he can decide if it's not got enough substance he can throw it out. Here we have one where he decides whether the substance is there or not, even if it's presented. "Find that material or evidence submitted." Now why should the rent review officer have that privilege? Why shouldn't it go to the Board?

MR. TURNBULL: Well your point is not the words "in absolute discretion" so much as going to the Board or is it the same thing?

MR. F. JOHNSTON: I beg your pardon?

MR. TURNBULL: It can go from the review officer to the Board in any case.

MR. F. JOHNSTON: Now I'm more than a little confused. If the information is tossed out, how can he go to the Appeal Board?

MR. TALLIN: He puts all the information in again.

MR. F. JOHNSTON: He just puts it in again and the review officer can't touch it the second time?

MR. TALLIN: No, but the Appeal Board has the same rights.

MR. F. JOHNSTON: I see.

MR. CHAIRMAN: 19(2)--pass. 19 in its entirety--pass. Or 19.1, 19.2 pass. 20 - Mr. Walding.

MR. WALDING: I move that section 20 of Bill 19 be struck out and the following section be substituted therefor:

Notification of determination.

20 Where a rent review officer makes a determination in respect of any application made or any inquiry undertaken under this Act, he shall give written notice of his determination to the parties to the application or inquiry, as the case may be.

MR. CHAIRMAN: 20 as amended--pass. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that section 20 of Bill 19 be amended by numbering the present section as subsection (1) and adding thereto, at the end thereof, the following subsection:

Order for interest.

20(2) Where a rent review officer orders, under subsection 13(5) or section 17, a landlord to refund any amount to a tenant, he may order the landlord to pay to the tenant interest in respect of the amount to be refunded at the rate of 12 percent per annum compounded annually and

(a) in the case of an order under subsection 13(5), calculated from the date that is 2 months after the date that section 13 comes into force; and

(b) in the case of an order under section 17, calculated from the day that the tenant paid the amount to be refunded to the landlord.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: The same amendment.

MR. CHAIRMAN: The same amendment that was passed before I believe is the one that would be applicable, the rate of interest. With that amendment to the amendment here . . .

MR. CRAIK: . . .Mr. Tallin . . .

MR. CHAIRMAN: That the proposed subsection 20(2) be amended by striking out the word and figures "the rate of 12 percent per annum" in the fifth line thereof and substituting therefor "a rate equivalent to the rate payable by banks on short-term certificates as determined from time to time by the board." But that amendment . . .

MR. TURNBULL: Per annum compounded annually. We're just taking out the words "the rate of 12 percent per year."

MR. TALLIN: That's right.

MR. TURNBULL: "the rate of 12 percent per annum" - We're taking those words out and substituting this phrase. Okay, fine.

MR. CHAIRMAN: Is that amendment agreed? (Agreed)

22(a)--pass; (b)--pass; 22(2)--pass; 21 - Mr. Walding.

MR. WALDING: I move that Section 21 of Bill 19 be amended

(a) by adding thereto, immediately after the words "made to" in the 1st line thereof, the words "or any inquiry undertaken by"; and

(b) by adding thereto, immediately after the word "application" in the 2nd line thereof, the words "or in the inquiry."

MR. CHAIRMAN: 21 as amended--pass. 22(1)--pass; 22(2)--pass; 22(3)--pass; 22--pass; 23 - Mr. Walding.

MR. WALDING: Mr. Chairman, I move that Section 23 of Bill 19 be amended

(a) by adding thereto, immediately after the word "board" where it appears for the 2nd time in the 1st line thereof, the words "shall proceed by way of hearing de novo"; and

(b) by adding thereto, immediately after the word "application" in the 2nd line of clause (b) thereof, the words "or in the inquiry";

(c) by adding thereto, immediately after the word "application" in the 9th line thereof, the words "or in the inquiry"; and

(d) by striking out the word "revision" in the 2nd last line thereof and substituting therefor the word "review."

MR. CHAIRMAN: 23 as amended--pass; 24--pass; 25--pass; 26--pass; 27--pass; 28--pass; 29--pass - Mr. Johnston.

MR. F. JOHNSTON: This section, just a little bit of explanation on it. You know I'd just like to read this. This section should extend to provide that the new landlord if he is required to rebate or refund excess rents back to the 1st of July, 1975, shall have the right of action against the former owner for recovery of the amounts paid during the period after July 1st, 1975, in which the old owner remained the owner.

(MR. F. JOHNSTON cont'd)

Now if he has to pay this out and there was another owner, does he have the right of action for recovery or is this just separate? Can he just go to court or should he, or what?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: He's entitled to recover from the landlord from whom the rights or interests were acquired, the amount of excess. So that gives him a right to sue. If he can settle it without suit he will do so of course, the same as any claim.

MR. F. JOHNSTON: If he has an action pending--(Interjection)--But if he does have an action pending it doesn't mean to say that he doesn't have to pay out the money though. He's got to pay it out and then sue.--(Interjection)--He's got to put out his money.

MR. CHAIRMAN: 29--pass; 30(1)(a)--pass; (b)--pass; (c)--pass; (d) sub(1)--pass; sub(2)--pass; (d)--pass; (e)--pass; (f)--pass; 30(1)--pass; 30(2)(a)--pass; (b)--pass - Mr. Craik.

MR. CRAIK: Mr. Chairman, on 30(2)(b), these prohibitions respecting tenants. What happens in the event that a tenant has improved the property even though he doesn't own it.

MR. TURNBULL: And then sublet it. Is that what you mean?

MR. CRAIK: It says here that 30(2)(b) says "no tenant of residential premises shall charge any consideration fee or commission for an assignment of a tenancy agreement for the residential premises." You know there's situations where tenants actually undertake to do handyman carpentry work and they re-wallpaper and paint it and all this sort of thing, particularly when it's a house rather than an apartment. What happens in the event that the tenant has improved the property and has something coming to him for his work and so on.

MR. TURNBULL: And wants to sublet it I gather you're getting at --(Interjection)--

MR. TALLIN: (b) only applies to assignments, not subletting;

MR. CRAIK: (b) is on assignment. I quoted it. It may apply to sublet but . . .

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I think the section specifically refers to an assignment of the premises. Now I see the honourable member's problem. He is talking about an assignment of the premises where the tenant has made an improvement.

The next problem, as I see it, is let's say that the tenant leaves. Could the landlord increase the rent as a result of that improvement? The whole thing that this is intended to prevent, and I'm not suggesting the honourable member doesn't have a proper consideration, it's intended to prevent "key" money. If a person is renting at a particular rate and he happens to have a good rate of rent by virtue of rent controls then he may be able to make money by selling it and that would just again undo the control. If there could be something devised very quickly to deal with that problem, the problem that the honourable member raises, fine. To try to eliminate the section however would open the door to really evading the controls.

MR. CRAIK: Well I guess the question that has to be considered - supposing this situation arises, could they go to the rent review board and justify some of this as a cost pass-through?

MR. TURNBULL: They've agreed to a point and my concern right now is that the landlord could, you see, if it was cost in excess, cost for the improvement in excess of the allowable rent, get an application approved presumably to cover it. Under these conditions an assignment would not be in that kind of situation. I don't know if we should change it, I don't know how many such cases there will be of course. We could make it subject to the review officer I suppose.

MR. GREEN: What the honourable member is saying that somebody takes a place for two years and at the end of six months, or in the first six months they spend some money and make it more habitable for themselves. Then they find that the husband is transferred. They want to sublet it and they want to recover their costs of improvements. It seems to me that they should be able to do so if there is a way of

(MR. GREEN cont'd) . . . . .doing it without upsetting the entire problem of evading the legislation.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Remember that the assignment is between the old tenant and the new tenant, not between the tenant and the landlord. The prohibition here is against the old tenant charging anything to the new tenant for that assignment. It doesn't prohibit the tenant going to the landlord and saying, "Look, I improved your property to the extent of $200. Will you pay me?" But that's only up to the landlord and the tenant I think. The protection that's attempted to be given here is that there can't be an artificial increase of rent because the tenant says, "You can have it for the balance of my 11 months of my 12-month lease but you're going to have to pay me another $200 for the improvements." Because that in effect just increases by $200 that year's rent.

MR. CRAIK: . . .handle it, the previous tenant would charge the landlord and the landlord would have to justify it to the rent review board to pass it on to the . . .

MR. TURNBULL: Well that could happen, yes.

MR. CHAIRMAN: 30(2)(b)--pass; 30(2)pass; 30(3)(a)--pass; (b)--pass; 30(3)--pass. 31 - Mr. Walding.

MR. WALDING: I move that Section 31 of Bill 19 be amended by numbering the present section as subsection (1) and by adding thereto, at the end thereof, the following subsection:

Continuing offence.

31(2) Where a violation of or a failure or neglect to comply with any provision of this Act continues for more than one day, the person violating or failing or neglecting to comply with the clause is guilty of a separate offence for each day that the violation or failure or neglect to comply continues.

MR. CHAIRMAN: The present section 31 is now 31(1)--pass; 31(2) Continuing Offence--pass. Mr. Craik. Mr. F. Johnston.

MR. F. JOHNSTON: You know this is just a little bit rough when you take a look at fifty or more than a thousand dollars. Now what kind of a position are you putting a person in after you give them notice and they haven't paid maybe $500. On that day or the day after he's got another $500 tagged on him. You're not accomplishing anything by doing that. He may not have the money and he may have to get it. He may even have to put the place up for sale. Every day that goes by he'd owe another $500 the way I read that.

Surely to goodness there should be a notice of a fine and then a week to pay it and then carry on from there. But for goodness sake, to just say "the following day" is not going to accomplish anything but create more problems. Why couldn't that be notice in such a way that if the offence still continues after seven days or five days even, or five working days, that he would have to have a continuing offence. But the next day doesn't seem realistic.

MR. CHAIRMAN: 31. Mr. Turnbull. Mr. Craik.

MR. CRAIK: If a person exceeds - if he's ordered to pay back to his tenant he gets 60 days to do it. Does this say that if he exceeds that 60 days by one day that he's - is that what it's saying? That he's then liable to this.

MR. TURNBULL: Well that's my understanding. Mr. Tallin might want to comment on this. It is my understanding as well that if what is stated here in fact exists that this would be the case.--(Interjection)--But not always.

MR. CRAIK: Mr. Chairman, "where in violation or failure or neglect to comply with any provision of this Act continues for more than one day." Now if he gets notice that he's not complying with a provision of this Act, surely to heavens he should have more than one day.

MR. CRAIK: Mr. Chairman, I wonder in writing this sort of thing, if you've considered what's going to happen in rural Manitoba with this Act. Supposing you've got a farm property where a farmer is leasing a house that he's not using on his land and the myriad of situations that you have in rural Manitoba now, you know, if he was in fact caught up by the word of the law that's in this Act, this guy could be unwittingly, or people, hundreds of people, dozens anyway, could be unwittingly in violation of the law here. If they ever read this thing or were ever aware of it, they certainly

(MR. CRAIK cont'd) . . . . .wouldn't be violating it.

The thing is that they're not going to know what this Act is all about. People in rural Manitoba are not going to know what this Act is all about. Where you've got a sort of a professional business in Winnipeg, fine, but you know writing this sort of - I just don't see. I think you probably brought this punitive paragraph in here for very specific reasons. Have you looked at all the people that are really not going to ever know this Act exists and they're going to violate it left, right and centre?

MR. F. JOHNSTON: Mr. Chairman, any provision this Act continues for more than one day, you know, after he gets notice, it could be conceivable that he wouldn't even have time to get his lawyer to explain it. If he hasn't cured it the next day - it's a continuing clause.

MR. TURNBULL: Mr. Chairman, this Section 31(2) I'd like to propose an amendment really restricting its applicability to Section 30, which is the prohibition section. So that would be, "neglect to comply with Section 30 of this Act."

MR. CHAIRMAN: With the leave of the committee could we make that change then? Rather than--(Interjection)--"Where a violation or a failure or neglect to comply with Section 30 of this Act." Is that correct? With that amendment 31(2)--pass; 32(a)--pass; 32(b)--pass. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that section 32 of Bill 19 be amended by adding thereto, at the end of clause (b) thereof, the word "or" and by adding thereto, at the end thereof, the following clause:

(c) to persons who are parties to an application, proceeding or inquiry and who are of any particular class in the manner prescribed in the regulations for giving notice to parties of that class and, where notice is given to a class of parties in compliance with the regulations, the notice shall be conclusively deemed to have been given to every party in that class on the day on which compliance with the regulations is completed.

MR. CHAIRMAN: The new sub-section, as per the amendment (c)--pass; 32--pass; 33(a) - Mr. Walding.

MR. WALDING: Mr. Chairman, I move that clause 33(a) of Bill 19 be amended by striking out the words "or from the application of any provision of this Act" in the 2nd and 3rd lines thereof.

MR. CHAIRMAN: 33(a) as amended--pass; (b) pass; (c) pass. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that clause 33(c) of Bill 19 be amended by adding thereto, immediately after the word "application" in the 2nd line thereof, the words "or inquiry".

MR. CHAIRMAN: 33(c) as amended--pass; 33--pass. Mr. Walding.

MR. WALDING: Mr. Chairman, I move that section 33 of Bill 19 be amended by adding thereto, at the end thereof, the following clauses:

(d) prescribing the manner of determining expenses incurred by a landlord in respect of the operation of residential premises and for that purpose defining expenses, and prescribing the nature of expenditures which are expenses, or which shall be deemed not to be expenses, incurred by a landlord in respect of the operation of residential premises;

(e) prescribing the matters to be considered by rent review officers or the board to determine increases in expenses incurred by a landlord in respect of the operation of the residential premises;

(f) prescribing the manner for giving any notice required to be given under this Act to any particular class of parties to an application, proceeding or inquiry.

MR. CHAIRMAN: (d)--pass; (e)--pass; (f)--pass; 33--pass. Mr. Walding

MR. WALDING: Mr. Chairman, I move that Bill 19 be amended by adding thereto, immediately after section 33 thereof, the following section:

Rent review officers and board to be party to review.

33.1 Where any proceeding, inquiry or decision of a rent review officer or of the board or of a member of the board is being reviewed in any proceeding in a court, the rent review officer or the board or the member of the board, as the case may be, is a party to the action and is entitled to appear in person or be represented by counsel and to submit evidence and present arguments in the action.

MR. CHAIRMAN: 33.1, the motion as moved--pass. 34 - Mr. Walding.

MR. WALDING: I move THAT section 34 of Bill 19 be amended by striking out the words "or in part" in the second line thereof.

MR. CHAIRMAN: 34? Mr. Craik.

MR. CRAIK: No problem there, Mr. Chairman. I have a further amendment to 34. There's a second amendment.

MR. CHAIRMAN: We have a sub-amendment to this. Mr. Craik's amendment is to strike out the following and substitute.

MR. CRAIK: It's an entire rewording. -- (Interjection) --

MR. CHAIRMAN: In this respect, then I would suggest that since there's a motion before the Committee, that you vote against the motion.

MR. CRAIK: No, because I agree with the amendment. Well we should have then taken mine first.

MR. TURNBULL: Can we pass the amendment that's been proposed and then deal with your amendment to it.

MR. GREEN: Mr. Craik has a point . . . understood. That by passing this amendment he is not precluded from putting his motion to . . .

MR. CRAIK: It should have come before this one.

MR. CHAIRMAN: Well then perhaps we should take Mr. Craik's amendment first.

MR. GREEN: Okay.

MR. CRAIK: THAT section 34 of Bill 69 be struck out and the following section substituted therefor.

The Lieutenant-Governor-in-Council should suspend the operation of the Act within six months after the date on which The Anti-Inflation Act of Canada expires or is repealed.

MR. CHAIRMAN: Would you agree that "should" should be "shall"? With that correction, motion before the committee. Mr. Craik.

MR. CRAIK: Well, Mr. Chairman, I think this is probably one of the most critical parts of the Act. The justification of bringing the Act in despite the rollback period has been to coincide with the requirements of the Anti-Inflation Act of Canada which has introduced rent control across all of Canada where provinces have gone into agreement with them. Presumably, from the comments that have been made by the government in the House, that is the reason it is being brought in here. Also the Act that we're passing is one that gives very wide-ranging controls by way of regulation during the period, probably more wide-ranging than would be legislated if it was to be done on a long-term basis. I think that it is consistent that it should have the self-destruct clause in it that winds it up at the end of that period but gives the government a six-month period of grace to do it at such a time that it doesn't perhaps coincide exactly with a new rental season or gives them some flexibility in doing so. So, Mr. Chairman, we recommend what we think is an extremely important amendment to the Act.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, Mr. Craik has pretty well explained it all. I just couldn't resist the opportunity of writing it down when they were talking earlier, the indication was made towards the inflationary period and the Minister's words were, "Yes, the inflationary period, that's the intent." Basically this bill, as far as I can see, the government brings it forward on the basis of inflation and the intent of it is to help overcome inflation and it should be tied in.

I only make two other references, Mr. Chairman. During the Budget Debate which I haven't got before me, the Premier and Minister of Finance of this province, when he put the - I believe referred to the capital tax, and he referred to the tax on people making $25,000 and over. If I check Hansard or check his speech and check Hansard I think he made reference to this was to be done during the inflation period. Now if all of these requirements are there for this government to bring in legislation on rent controls to help curb inflation, and the Federal Government has left it to you to make that decision to help curb inflation, I really don't see any reason for keeping it on any longer.

The bill is going to create a lot of problems that I think this province would be well rid of after the inflationary period is over. As Mr. Craik explained when he first spoke on this bill it is not desirable to have this type of controls, but we do agree with trying to curb inflation. Once we get out of inflation we should not have these type of controls.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: Mr. Chairman, the point that I was trying to make earlier was that this bill is intended to be left in place during the period that the province is experiencing inflationary pressures. Now the inflation in the province is pretty directly related to what happens in the country as a whole. It's the inflationary period that we're really dealing with and, of course, vacancy rates. There are really the two problems. I believe that falling vacancy rates flow from inflationary pressures. If inflationary pressures can be overcome then this bill, this Act, I believe, can be lifted.

But it's the inflationary problem that we're dealing with, not The Anti-Inflation Act so that the amendment here, as it's proposed, you know, ties it to a particular piece of legislation rather than inflationary pressures themselves.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I sympathize with what the Minister has said and agree. I also am a little concerned as to the nature of the process that is supposed to take place. I'm now relying on my memory. I'm not aware of any Act where the Lieutenant-Governor-in-Council is directed by legislation to pass a regulation of a certain form, that it shall pass a regulation of a certain form. Now as a matter of fact it becomes a peculiar process as to what occurs. Is it then a legal responsibility of the Lieutenant-Governor-in-Council because it's a mandamus issue? I want to try to appeal to the Leader of the Opposition to consider the following: That there is almost certain to be a legislative session within the time that he has expressed in his amendment; almost certain by definition to be a legislative session. It is possible that there couldn't be. If the anti-inflation legislation let's say expires on July 1st, of a certain date, then it's possible - July, August, September, October, November - it's possible that we would be seven or eight months before a legislative session.

But if the feeling of the time is that there has been not the kind of understanding or not the kind of feeling for a repeal of this legislation reflected in the Lieutenant-Governor's powers which are actually included in the Act, because the Lieutenant-Governor is given the discretion to suspend, and they don't, don't you think that that is a matter of legislative debate and censure or whatever? I'm rather amused, I don't want to make a big point of it, with the honourable member's pessimism. This anti-inflation legislation is probably going to be in existence for at least eighteen months. If he's as optimistic as he really pretends to be then he'll have no doubt about what the Lieutenant-Governor-in-Council will do. But given my optimism, then the worst that will happen is that there will be a hot legislative debate as to why this Act continues in existence in spite of the fact that legislation is enacted in Ottawa indicating that the period is over. At that time it will be for the legislature to say, whether the government should be condemned or not.

What I'm really opposed to is predicting as to how the Lieutenant-Governor-in-Council should act sixteen months from now, eighteen months from now without knowing what the conditions are, without knowing what the reason for the repeal of the anti-inflation board legislation is. Even given the thought that I would at this point suggest that I would like to, I think that I should at the time not to be put in a position where there is no choice of the Lieutenant-Governor-in-Council. So I ask the Leader of the Opposition to accept the fact that the power is there. As to whether that power is exercised should continue to be a matter which is of the Lieutenant-Governor-in-Council. I don't know of any other legislation prescribing that the Lieutenant-Governor-in-Council must behave in a certain way although I could be wrong. There may be areas where we have to. Certainly a legislative debate would intervene which would make this matter the right of the Legislature to deal with at that time and that is a better way of dealing with the question than suggesting that we are going to now enact what will happen eighteen months from now. It would be better legislation - I'm not proposing it - to say that this Act expires on January 1, 1978, or whatever date. Because then it's not a question of the legislation requiring the Lieutenant-Governor-in-Council to act in a certain way, it specifies the date of the legislation. Now that's not what is specified and the government will have to accept the responsibility for not suspending if the conditions are such that they should have suspended. That should be satisfactory to my honourable friend.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Well two points, Mr. Chairman. First of all, some of the other

(MR. CRAIK cont'd) . . . . . provinces that have just brought this legislation in have spelled out the termination date. -- (Interjection) -- I don't see a great deal of difference between a specified date at this point and a date later on. In fact given a choice, I would probably rather see the date spelled out. But I thought it allowed more flexibility to coincide it with The Anti-Inflation Act.

The second point and what I think is the major point is it's been pointed out by almost every credible person that has taken the time to have written on the experience of anti-inflation control that anti-inflation control and measures with regard to rents are the easiest type of control to get into and the hardest to get out of. The experience everywhere that is reported by any people that have taken the time to do it - and I've referred in the House to the work in Sweden by some of their chief planners, Myrdal. Right here in Winnipeg the same comment made by the study that was done at the university here by Nickel and Davies from the University of Winnipeg. Take whatever study you like, they all say the same thing. Rent control is the easiest to get into and it's the hardest to get out of.

But the hard part of getting out of it is not the economic decisions that have to be made, it's the political decisions that have to be made regardless of who the government of the days is unless there is a target date in mind that the people are aware of at the time that the thing's gone into, unless the people are well aware of it. The termination, if that is not there then it takes a government initiative to terminate it, a new initiative to terminate rent control.

Now the government may well recognize that as a result of the rent control they've brought in tremendous distortions into the normal market. They've virtually cut off private development which incidentally is going to be cut off more effectively if the private sector sees no end to rent control. It's going to be much more of an incentive for the continuation of private sector development to see an end to rent control than it is to give them a five-year rent-up or run-in period after new construction. That's not going to provide nearly the incentive if they see that the government's true intention is in fact to bring it in as an anti-inflation measure with some termination date.

I gathered from some members of the government comments in the House that it was not their intent to make this a long term program, that they did regard it strictly as a program - I think it was Mr. Johannson who's here to speak for himself -- I think in his comments for instance he said it was brought in as an anti-inflation board requirement and anti-inflation measure. He did not believe in rent control per se and it was done to adhere with what was being done across Canada. I would gather from his comments in the House that he has followed the business of housing a little more closely than perhaps some other members of the House have.

I think Mr. Green himself has said that he does not believe in the idea, but that the market forces themselves are much more effective at controlling rental forces if you have an adequate housing supply than providing exterior control.

So I just beg my point over again, that regardless of who the government is, unless you have a date in here that people are somewhat aware of, it's going to be exceedingly difficult politically to get out of rent control even though you know the economic facts of life are such that you should get out of it. If you don't put it in now you're going to make it very much harder to do when the day comes to make that Order-in-Council decision.

MR. CHAIRMAN: Any further discussion on the motion? Mr. Turnbull.

MR. TURNBULL: Mr. Chairman, I'd like to say that I hope that we have that difficulty of dealing with the bill and not Mr. Craik.

MR. CHAIRMAN: The amendment to 34.

MOTION presented on the amendment to section 34 and declared lost.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: I move that section 34 of Bill 19 be amended by striking out the words "in whole or in part" in the second line thereof.

MR. CHAIRMAN: 34 as amended--pass; 35-pass; 36--pass; 37--pass. I now refer members back to Page 2. 2(2)(b)--pass.

MR. TALLIN: You asked me to prepare an amendment dealing with non-profit and limited dividend. . .

MR. CHAIRMAN: Oh, yes.

MR. TALLIN: Limited dividend companies are not mentioned per se in The National Housing Act and it just authorizes them to enter into agreements dealing with the profits of companies and so I would suggest that perhaps this kind of amendment could be made to clause 2(2)(b) by adding after the word "premises" in the first line thereof the words "owned by a non-profit corporation or operated under an agreement made under The National Housing Act of Canada between the owner and Central Mortgage and Housing Corporation under which the profits made by the owner from the operation of the residential premises are limited."

MR. CHAIRMAN: (b) as amended -- Mr. Walding moves? Mr. Craik.

MR. CRAIK: In straight layman's terms now what does this do to LD Housing?

MR. TALLIN: It excludes them.

MR. CHAIRMAN: (b) as amended--pass; (c)(1)--pass.

MR. TALLIN: Mr. Craik had some amendments that he was postponing on this.

MR. CRAIK: Yes, there was one amendment that we held back.

MR. TALLIN: Yes, changing January 1, 1976 to . . .

MR. CRAIK: . . . to July 1, 1975 on construction. The first amendment which let the five years go back beyond the start-up date for three years was defeated, I believe, and there was a question of re-entering an amendment that would take it back to coincide with the effective rollback date, July 1, 1975. So that would change in 2(2)(c)(i) and (ii) from January 1, 1976 to July 1, 1975.

MR. CHAIRMAN: Do you so move?

MR. CRAIK: So move.

MR. CHAIRMAN: Moved by Mr. Craik that in (c) sub (1) the dates January 1st, 1976 be substituted by the dates July 1st, 1975.

MOTION presented and lost.

MR. CHAIRMAN: 2 - again changing the date January 1st and substituting therefor July 1st, 1975.

MOTION presented and lost.

MR. CHAIRMAN: (c)(1)--pass; (c)(2)--pass; (c)--pass; 2(2) as amended--pass Preamble--pass. Title - Mr. Craik, I believe you have . . .

MR. CRAIK: Mr. Chairman, I move that the title of Bill 19 be amended by adding thereto immediately before the word "Rent" the word "Temporary". The Temporary Rent Stabilization Act.

MR. CHAIRMAN: Before the word "Rent" the word "Temporary" is inserted. The amendment then would read, "The Temporary Rent Stabilization Act". Mr. Craik has so moved. Any discussion on the motion?

MOTION presented and lost.

MR. CHAIRMAN: Bill be reported. Committee rise.