Legislative Assembly of Manitoba

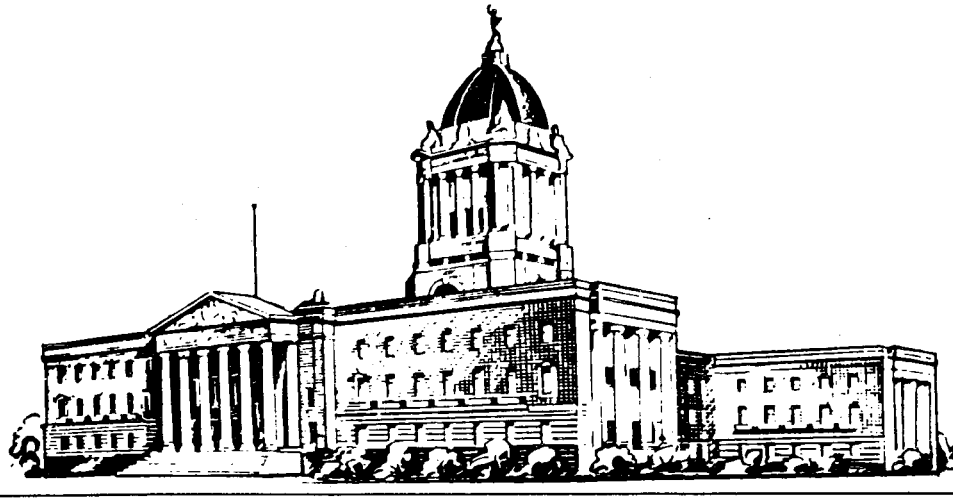
STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman

Mr. J. Wally McKenzie
Constituency of Roblin



Thursday, July 20, 1978 8:00 p.m.

Printed by P.N. Crosbie — Queen's Printer for the Province of Manitoba

Hearing Of The Standing Committee On Law Amendments

Thursday, July 20, 1978

Time: 8:00 p.m.

CHAIRMAN: J. Wally McKenzie.

MR. CHAIRMAN: We have a quorum, gentlemen. The Honourable House Leader of the official opposition has requested that we deal with Bill 65 first. Agreed? (Agreed)

Bill 65, An Act to amend The Human Rights Act (2), and Bill 62, An Act to amend The Rent Stabilization Act, are those bills that are before the committee. —(Interjection)— 62 and 65.

A MEMBER: What about Bill 60?

MR. CHAIRMAN: I don't have Bill 60. It was done this morning, sir.

BILL NO. 65 - AN ACT TO AMEND THE HUMAN RIGHTS ACT (2)

MR. CHAIRMAN: Clause (e)(i)—pass; (ii)—pass; (e)—pass; (i)—pass; Section 2—pass?

MR. PAWLEY: Is the Attorney-General not moving an amendment?

MR. CHAIRMAN: I'm sorry, I apologize.

HON. GERALD W. J. MERCIER: Mr. Chairman, I move that Sections 2 and 3 of Bill 65 be struck out and sections 4, 5, 6, and 7 be renumbered as sections 2, 3, 4, and 5 respectively.

MR. CHAIRMAN: Is there any discussion on the motion as proposed by the Attorney-General.

MR. PAWLEY: None whatsoever.

MR. CHAIRMAN: Pass as amended, number 2; 3—pass —(Interjection)— 3 is struck out,right. I'll deal with 6(6) which, I guess, now will be renumbered as 2, is that right? —(Interjection)— Oh, it's struck, yes.

4, subsection 7(3)(4)—pass? The Honourable Member for Selkirk.

MR. PAWLEY: Mr. Chairman, I would like to deal with 3. This is the reference to Autopac.

MR. MERCIER: Perhaps, for purposes of dealing with them, Mr. Chairman, might we just deal with the numbers as they are in here and then everybody is clear. —(Interjection)—

MR. PAWLEY: I'll defer to Mr. Axworthy.

MR. CHAIRMAN: Mr. Axworthy.

MR. LLOYD AXWORTHY: Mr. Chairman, I have an amendment that Bill 65 be amended by adding thereto, immediately after Section 3 thereof, the following section:

Subsection 7(1.1) added.

3.1. The Act is further amended by adding thereto, immediately after subsection 7(1) thereof, the following subsection:

Discriminatory terms in contracts.

7(1.1). No person shall, in making any contract, require or accept any term of condition that requires a party to the contract to discriminate against a person who is not a party to the contract on the basis of race, nationality, religion, colour, sex, age, marital status, ethnic or national origin, or the place of habitual residence or domicile of that person or the place where he carries on

MR. MERCIER: On a point of order, Mr. Chairman.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: I'm prepared to comment on the merits of this particular amendment at another time, but I believe in view of the fact that there is a bill before the House, that it is out of order.

MR. CHAIRMAN: I still don't have the amendment as proposed. . . Proceed, Mr. Axworthy.

MR. MERCIER: I raised a point of order.

MR. CHAIRMAN: Mr. Axworthy, on the point of order.

MR. AXWORTHY: Mr. Chairman, on the point of order, I would raise the issue with the Attorney-General that because it is a Private Member's Bill and therefore do not have the ability to control the agenda of the House, because the bill was never dealt with by Members of the House, it was never debated, other than introduced, that this is a legitimate amendment and that there is nothing in the Rules of the House that prevents one from introducing wording of a similar kind. I think if we check the rules of Beauchesne, there is nothing that prevents this amendment from being added at this point in time in Committee.

MR. CHAIRMAN: Honourable members, I have checked with the Clerk and he said there is nothing financial that he can see in the proposed amendment, so —(Interjection)— I am advised by the Clerk that tuis amendment as proposed by Mr. Axworthy is identical, or very similar to the bill that is in the House, then it is out of order. Proceed. On a point of order, Mr. Axworthy.

MR. AXWORTHY: I would ask, then, if the House Leader, who is now in attendance, can indicate whether he intends to call this bill for debate before the House before the session is concluded.

MR. CHAIAN: I suspect, Mr. Axworthy, you can't have both things going at the same time.
MR. AXWORTHY: Well, that's my point, Mr. Chairman. I would like to have at least one of them going at least at one point in time, and that if the amendment is not to be considered, I would like to know if in fact the bill will be considered.

MR. CHAIRMAN: Mr. Axworthy, we have ruled it out of order, and you are certainly at will to charge my ruling, which I checked with the Clerk, and that's your privilege. But I am advised by the Clerk that it is out of order. Proceed? (Agreed)

I am calling the numbers as they are showing in the bill, unchanged.

Subsection 7(3)4—pass — the Honourable Member for Selkirk.

MR. PAWLEY: Mr. Chairman, I question again — and if I'm out of order here or should wait until 7(3), because I'm dealing with the insertion of the words "sex, age, marital status". What I cannot understand, Mr. Chairman, is the insertion of the words "marital status". As I indicated in the House, I disagree with the use of sex, age or marital status. I feel that this is a move backwards, that we should be not treating them as individuals, not as members of a group because of age or sex. But for the life of me, I don't know why marital status has been added and maybe the Minister can advise us because even at the present time, I'm not aware of any surcharge insofar as Autopac is concerned dealing with marital status. Marital status, to me, means single, married, divorced, separated, etc., and I wonder if the Minister can advise us as to why it was felt necessary to add "marital status" given the present situation.

MR. MERCIER: Mr. Chairman, subject to the comments of the Minister of Highways responsible for Autopac, the advice that I have is that all insurance companies writing automobile insurance have adopted the practice of establishing premium rates based on age, sex and marital status — all companies, including Autopac.

MR. PAWLEY: No, no. Mr. Chairman, I just have to say categorically to the Minister that Autopac has never — never — rated on the basis of marital status.

MR. MERCIER: Mr. Chairman, the Minister of Highways is much closer to this matter than I and

I can only go on the information that I've received through the Minister responsible for Autopac and marital status is, in some way, involved. Now perhaps there is a reference — perhaps it may be the private coanies.

MR. PAWLEY: You see, Mr. Chairman, certainly in other provinces where the private sector operates in the field of automobile insurance, marital status is a factor. The single, unmarried male, for instance, pays more insurance than the younger, married male. But that is not the case in Manitoba. I have to concur that there are surcharges for both age and sex, which I disagree with, and I wish we could move to eventual elimination of them, but I realize that no government can eliminate those overnight. But I certainly would hope that we would not be stepping into a situation of rating motorists on the basis of whether they are single or married. Now , I really wonder if it is the intention of the government — if it's not, then there's really no reason to insert the words "marital status" in the bill.

MR. CHAIRMAN: Any other discussion on this matter? The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, perhaps the Minister of Highways would like to comment on the question of the marital status aspect.

MR. ENNS: Well, Mr. Chairman, just generally on the question of MPIC corporation changing their rate structure to accommodate some of the concerns expressed by the Human Rights Commission, you know, that's something that I've asked the corporation to take some time to study and to look at. There have been different suggestions made. We simply felt, however, that we ought to leave those kinds of studies in the hands of the corporations that are engaged in this activity and it's not the kind of, you know, rate restructuring that you can do overnight. We face it that we've had a situation to deal with as a result of the Commission's rulings and simply look upon the action that is contained within this bill as being necessary and prudent. It's a matter of good business for the corporation.

MR. CHAIRMAN: Just for clarification, before you proceed, Mr. Pawley, this includes The Manitoba Public Insurance Corporation Act and/or — pardon me, not "and" — but "or" the Insurance Act. Mr. Pawley, the Honourable Member for Selkirk.

MR. PAWLEY: There's never been, to my knowledge, any challenge that I'm aware of insofar as The Insurance Act is concerned by the Human Rights Commission. There has been plenty of comment in connection with age and sex. I understand the Minister of Highways inserting this amendment may not agree with it but I understand his reasoning for inserting age or marital status because he has a problem which he feels can be resolved with the Human Rights Commission only by exempting the Manitoba Public Insurance Corporation from the provisions of the The Human Rights Act. The Minister has indicated there are studies under way. I imply from that that there has been no decision to classify motorists on the basis of whether they are single or married; I am assuming that from what the Minister has indicated.

The Minister has also indicated that he doesn't expect the studies to be completed rapidly. He has indicated that the rate structuring cannot take place overnight. Therefore, I wonder why it's necessary, from the point of view of the Minister of Highways, to insert marital status. No decision by government, acknowledgement that there is no decision, and it will take a great deal of time to come to any conclusions. I would hope that they wouldn't go back to single and married status. I think it would be a very backward step. But why create unnecessary fears by providing for an exemption on marital status in this legislation?

If I can deal with the private sector and the package policy, I think I can safely say, Mr. Chairman, that the private sector and their package policies on automobile insurance in Manitoba do not differentiate on the basis of marital status either. So I see no reason for any problems there insofar as the private sector is concerned with their package automobile insurance policies, unless I'm being advised that the private companies have placed a request, which I would oppose if they did, that they would start to differentiate on the basis of marital status in their package policies.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, I've already spoken on this on second reading but I can't let the opportunity go by without stressing that it is apparently an insurance actuary's belief that one takes statistics on drivers related to sex, age, marital status and one decides that they are lesser or greater risks based on how they fall into those categories. I don't accept the fact that one goes by classifications or categories. It is nice and easy; it is simple to do. The point I made when I

spoke on it on second reading was that I believe that driving records should be the determining factor. There's something manifestly unfair to say to a 22-year-old unmarried man that he is a greater risk and therefore he will have to pay more than a 22-year-old unmarried woman, or that a 22-year-old married man, on the basis of his being a statistic, and that's all he is. These insurance people have decided that they are going to categorize people, turn them into statistics and charge them, and I think that's absolutely wrong. I think that if you accept the fact that their driving record is what has to count, and that's the only real way to decide on what premiums they ought to pay, then it means that they start even and their driving record determines where they fit it, and we do have that as a principle and it has not been rejected. We even dealt with that, to some extent, this afternoon. There is a principle that bad driving records carries with it a point system and that eventually, after — what is it? — six points, becomes — I think I wa told — $100 more per year for driving. That's a premium.

The objection I have, mainly, is that somebody has decided that sex, age, marital status are the correct kinds of classifications from which one can draw conclusions, and then put a dollar value on it and, indeed, a penalty for it.

There was a time, and I referred to that, when race, religion and colour were used by insurance companies in categorizing people and deciding how they were going to charge premiums or, indeed, whether or not they would insure them at all. Conclusions of that kind are dangerous, Mr. Chairman, and if you don't do it, there is no great harm done.

I think that doing it the way it is proposed now, especially in human rights legislation which is so abhorrent to the principle of the human rights legislation, is to invite the possibility that some other time, and another government, and another political party, might do something like happened, we know. We might then say, well, in 7(3) we can make a slight amendment and add the word "race" or the word "religion", or the word "colour" or the words "political belief", because it may well be, it may well be, Mr. Chairman, that is they categorized those and ran studies on them, they might well discover that there is a difference. They are bound to discover a difference. Whether it's great or small, they are bound to discover a difference. They are bound to discover that persons of different colour will have different statistics. —(Interjection)— Heights? Yes. Mr. Doern says it could be height; it could be weight. Of course, no question about it, it could be. I said it could be political belief. I am sure that you will find economic status a having some relationship, statistically — no sense to it, but statistically — occupation. I'm sure they would find that lawyers are a much different kind of a risk than teachers. Without a doubt, as the Minister of Education agreed. I didn't say higher or lower, but I think it is wrong, Mr. Chairman, to put them in classifications. —(Interjection)— Yes, but only one driver, you know; you can have five cars but you only drive one at at time. I'm answering the Minister of Health, who of course has to be concerned.

Mr. Chairman, I really think that it's wrong. I think that we should ask the Minister, who is promoting this Section 3 in the bill, to please, before he does any more, let us have the statistics which impelled him to do this — categorized as he has under sex, age or marital status — and then do another number of runs, based on race; based on religion; based on colour; based on political belief; based on occupation, and I don't know what else it could be based on but an actuary can think of all kinds of classes, and then let us compare them and see why some are considered more valid than others. And that is really what prompts me to object to this bill and urge that it be withdrawn.

Now, the Minister has already said he won't withdraw it. Well, he didn't say that. He said he has not yet withdrawn. I hope it's not too late for an expression of an opinion here that isn't tied to. well, the Minister has already said it, so we're tied to it. This is not, to my mind, a matter that has any political philosophy behind it, nor that has any particular political platform to support one proposal to another and I think that around a table such as this, in committee, is the healthiest way to deal with something of this nature, especially as it relates to human rights and the recognition, which is fairly recent and within our own time, of saying that we must legislate against the kinds of discrimination that all of us have been subject to, and probably still are, in order to make sure that there is a sort of equality before the law.

I think it's too simplistic to just say auto insurance is where we are making this distinction. I think that it is unfair; it is wrong and it's not harmful. It's not damaging to anyone.

MR. CHAIRMAN: The Honourable Member for Selkirk.

MR. PAWLEY: Mr. Chairman, I concur with the comments by the Member for St. Johns but I, again, want to return to my earlier point and ask — and I don't want to place an amendment before the Chair if that amendment is to be defeated — but I really would ask, in restricting again my remarks to marital status because I can see no rhyme or rhythm for including marital status when it is not a factor in rating in Manitoba. All that is going to happen, by introducing marital status to this bill, is to disclose an interest in reinstituting marital status as a factor in rating for automobile insurance

purposes. Otherwise why introduce it? And yet the Minister of Highways has indicated that there is a study; there is no such decision. That anyways it would take a long long time to arrive at a decision.

So I would implore, Mr. Chairman, that the Attorney-General and the Minister of Highways really give some very serious consideration to withdrawing marital status. I agree with the Member for St. Johns, I would like to see sex and age removed but I realize that that's not likely to happen this evening. But I just can't understand the inclusion of marital status.

MR. CHAIRMAN: Any further questions on the matter? The Honourable Member for St. Johns.

MR. CHERNIACK: I came in late this evening. I heard the Minister speak on this section and it sounded like he was introducing his comments on it. If I am wrong and if people have already spoken on this section or on the principles involved, then I am sorry I missed it and I will retire from the discussion. Buz are we, as a committee of some subszantial size, representing all kinds of constituencies and all kinds of backgrounds, going to just let this go through without any affirmation of justification for what we are doing? When you change a law, there has to be a pretty good reason for it and although, as I say, I came late and didn't hear it, I know that there are people here whose opinions I respect, and I'm certainly not going to try and put them on the spot by asking their comments. But there are some people here to whom this principle in this section must be doubtful — in the kindest way is to make it doubtful — and they are going to vote, apparently, at this stage — when Mr. Orchard called for the question — it seems to me that they're going to vote in contradiction of a basic principle, and I kind of ask them to justify what they're planning to do, and at least for the public, and at least for the rest of us, to feel that there is some basis for doing it which justifies their over-riding what I think is an accepted principle of very great importance.

MR. CHAIRMAN: The Honourable Minister of Highways.

MR. ENNS: Well, Mr. Chairman, I find I have to take some exception to the manner and the way in which the Member for St. Johns talks about "these insurance people." I remind him, he's talking about "these insurance people," that he and other members of his group had some pride in putting together, in forming Autopac some seven years ago, that Mr. Dutton, chairing these insurance people, have operated this program in this way for the last seven or eight years. There is a problem on the one hand of having citizens, the motorists of Manitoba, enjoy the universality of plans, but within that universality there is actuarial discrimination taking place, if you like. We do that regional-wise; we have the Province of Manitoba divided into three regions: north, rural, and urban, and if you happen to live in one of those regions, you are actuarially discriminated against, if the honourable member wants to really take this argument to the — what I now say is the ridiculous and the extreme.

What I have indicated to the Committee, and what Mr. Dutton and Autopac people have indicated to me, that to make changes, unsubstantiated changes without necessarily actuarial backup — it means and I was asked, what is the compelling reason for this amendment? It's because I don't want to impose on certain segments of the motoring public, 150 to 200 or 80 percent premium rises. That's a pretty compelling reason. I am advised and I don't have the expert opinion here of the Autopac corporation at my elbo,, I suppose we could have raised that during the rather lengthy discussion of the Autopac report that we had when they appeared before Committee. But these are the compelling reasons for the amendment. It's a practice that caused no problem for the previous NDP administration for seven years, no outcry from the civil libertarians in our community. It's been a case, though, that's been brought to the attention of the Human Rights Commission, and we are led to believe that in law, the Autopac Corporation could find itself in difficulty with people other than people experienced in these matters setting down guidelines for them.

And I have indicated, I think, reasonably fairly to the Committee, that while this basic concept of writing insurance is being questioned and is being looked at, but that it's not something that I can expect or would want to have the corporation do in haste and without the necessary information. That information, in my judgment, may not be ready for three or four years, and then it's a question of deciding whether or not it would provide the kind of answers that we would want to apply.$

I suggest to the Honourable Member for St. Johns that what he is in effect asking for is to discard, totally and completely, actuarial experience in insurance underwriting. I suggest to him that to do so loses some of the benefits of universal coverage that we can, with some cross-pollenization of rates. There is no question that, whether it's human rights, speaking fair, that the younger driver in our society is causing some more accidents, and the middle-aged driver is paying for that, to

some extent. You, in your wisdom — I am speaking now of the previous administration when they were in charge and guiding the policies of Autopac — set up the Ccorporation, and now all of a sudden it's become, in a short seven or eight months, a horrendous violator of civil rights and human rights, and I just find that rather ludicrous, Mr. Chairman.

I indicated to the Attorney-General, I am thankful that he has included it in the Act, Autopac believes it's important to be in the Act, and I'm not prepared to change it or amend it or withdraw it.

MR. CHAIRMAN: The Honourable Member for Lac du Bonnet.

MR. SAMUEL USKIW: Well, Mr. Chairman, it's a very interesting revelation we are hearing from the Minister in charge of the Public Insurance Corporation. It's abundantly clear to me then, that the government seems to be on the verge of — or at least, the Corporation seems to be on the verge of adjusting its rating system, otherwise there would be no validity in leaving this particular item, that is, the item dealing with marital status, in this particular section of the bill.

The Minister in charge of public insurance indicates that we are running against the actuarial experience, with the way we have been handling our auto insurance over the last several years, and you know, it's worthy to note that you can devise umpteen different models on the basis of actuarial experience. There is nothing sacred about categorizing people in age groups as they have been traditionally categorized, because you can achieve very different results, actuarily speaking, by breaking those down again. Instead of having an age 16 to 25 category, as the private sector had, you could have had 16 to 18, 18 to 20, and so on, and you would have different actuarial results. We believe that it's the right direction when we move towards total elimination of groups and bundle everything into one rate. We think that it's much more simple to handle, much more efficient to handle, and we believe that it's, in the long run, the fairest system.

Now, if there are problems with individuals — and you will have problems with individuals within any particular category — then there has to be some other measure applied to deal with those individuals, whether it's more emphasis on the merit system, and premiums attached to the merit system, or whether it's greater reliance on traffic laws, driving privilege laws and so on, that have to be looked at, to deal with those problems. But certainly, we shouldn't be going back to what we left behind some several years ago, into a system that is not fair, because let's face it; there are many people of any category that never have an accident in all of their driving experience, therefore, why should they be penalized on the basis of the group that they happen to belong to actuarily.

If you take the most extreme group, traditionally speaking, the age group 16 to 25, while all of the young people paid the very high rates, quite a good percentage of those people were never involved in accidents. And so, we believe that you should attach costs, penalties, more in the area of the individual situation as opposed to the group situation. We would not want to see this particular section left as it is including another dimension, and that is marital status as part of our new rating system.

MR. CHAIRMAN: The Honourable Member for Selkirk.

MR. PAWLEY: Mr. Chairman, the Minister of Highways didn't specifically deal with the question of marital status. I'm just wondering how the Minister intends to deal with this factor of marital status. It hasn't been a factor in the past eight years. The Minister was attempting to suggest that they were carrying on a practice of the past. Marital Status has not been a practice in Manitoba since the inception of Autopac. How does he intend to administer it? One is single, one becomes married during the course of the year. Does that mean that he will have to then apply for a rebate on his insurance and then upon being married, and then if he becomes divorced, does he get a further rebate or does he pay an additional surcharge? These are all questions, I think, that are worthy of asking in view of the, what I think, is an indication from the Minister that this is being seriously weighed as a likelihood in what I would suggest would be a pretty radical departure from the rating structure of Autopac which is presently in force.

MR. CHAIRMAN: The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Chairman, the whole system has some discrimination in it by virtue of practical necessity. The argument of Mr. Uskiw's about bringing the categorization virtually down to an individual-by-individual basis, is fine for theoretical discussion and argument but it's totally impractical, Mr. Chairman, and it's also totally illogical. On the basis of his argument, you could argue that all good drivers are discriminated against . . .

MR. USKIW: That's right.

MR. SHERMAN: . . . because they are all paying for a service that has had a price tag attached to it as a consequence of the total performance in the market. The suggestions being advanced by Mr. Uskiw and Mr. Pawley and Mr. Cherniack are no less discriminatory than the wording of the section in the bill that's in front of us under the pilotage of the Minister of Highways. There is some discrimination in the area of life insurance. Who is to say that a 50-year-old man or woman does not, as an individual, have a lnnger life expectancy than a 20-year-old. Statistically in the mass you know that he or she doesn't, but who is to say that the individual doesn't and yet you pay for your life insurance on that basis. If the members of the Opposition want to attack the whole principle of the insurance industry, that's fine, we should then be dealing with the Insurance Act. But we're dealing here with the practical facts of the ability to deliver coverage at the lowest possible cost, the lowest practical cost. If they want to persist in the course that they're advocating, then they will be discriminating against those who earn the right to today's existing premiums and who don't deserve to be punished by higher premiums to compensate for what they're talking about. So I think, Mr. Chairman, that the argument is entirely academic and entirely theoretical and has no practical application and no analogy in the insurance industry generally today.

MR. ORCHARD: Mr. Chairman, I move the question be put.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: Thank you, Mr. Chairman. I would just like to ask the previous speaker a question, seeing as how he's the Minister responsible for Health Insurance . . .

MR. CHAIRMAN: I don't know if you are allowed to ask the previous speaker a question in committee. I don't see how you're . . .

MR. PARASIUK: I think for clarification it's probably possible.

MR. CHAIRMAN: I don't see how.

MR. PARASIUK: If he'd like to answer . . . He doesn't have to answer if he doesn't want to. I just wanted to ask him if he felt that according to his logic elderly people . . .

MR. CHAIRMAN: Well, Mr. Parasiuk, before you start, it's not the general rules of committee that you question another MLA across the table. I don't think that's . . .

MR. PARASIUK: Well, okay, I won't ask it then. I'll just comment on his logic. —(Interjection)— Yes, I'll ask the Chair and probably it's possible through you, Mr. Chairman.

MR. CHAIRMAN: Yes, that's better.

MR. PARASIUK: Yes, I'd like to ask, through the Chair, I'd like to ask the question of whether in fact if one followed that logic in Health Insurance, one would then ask elderly people who undoubtedly use health care more so than the general population, whether in fact elderly people should be paying greater premiums than the rest of the population. That's not generally the case because people think of insurance as a general program where all people try and insure themselves against calamities like illness. I think the same principle holds true in automobile insurance and I haven't seen any moves yet anyway to establish a system whereby elderly people would have to pay greater premiums because they indeed have greater use of the medical and health services.

MR. CHAIRMAN: The Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move the question be put.

MEMBERS: Question.

MR. CHAIRMAN: Question? Subsection 7(3)—pass; — the Honourable Member for Selkirk. The Honourable House Leader of the Official Opposition.

MR. GREEN: Mr. Chairman, I wanted to raise a point of order with respect to the amendment

that was made by the Member for Fort Rouge, or was attempted to be made. I raise it, not because I disagree that the matter was out of order, but I would not like the reasons to stand without at least a registered protest. You ruled, Mr. Chairman, that the amendment was out of order because the member had something on the Order Paper which dealt with that and I would think that that should not preclude me or any other member from amending a bill that is before the House. Now I happen to think that the member's amendment was not to the bill but to the Act and we have dealt with that type of question in the past. Therefore I am not protesting the ruling as such but I would like to register an objection to the reasons for the ruling so that at a future date it should not be said that the ruling was made without any comment whatsoever. Now I'm not asking that it be in order; I'm suggesting tat the reasons given are not such that should go by unnoted.

MR. CHAIRMAN: The Honourable Government House Leader.

MR. JORGENSON: I believe that the Member for Inkster is correct when he suggests that the amendment that was proposed by the Member for Fort Rouge was an amendment to the original Act rather than an amendment to the bill that is before us so, therefore, on those grounds, I would agree that I think that the motion was out of order.

MR. CHAIRMAN: The Honourable Member for Selkirk.

MR. PAWLEY: Mr.Chairman, we're still on 7(3) . . .

MR. CHAIRMAN: Right.

A MEMBER: Mr. Chairman, I thought the Member for Pembina moved that the question be put.

MR. CHAIRMAN: Yes, that's right, it was. There was a motion made by the honourable member that the question be put.

MR. PAWLEY: That was in the other section.

MR. USKIW: We passed that.

MR. CHAIRMAN: On 7(3).

MR. PAWLEY: No, we're on 7(3) now.

MR. CHAIRMAN: That's the one that I was dealing with. That's the one I have before me. Are all those in favour that the question be put?

MR. CHERNIACK: Mr. Chairman, on a point of order. What I heard you pass was 7(3). You've not yet passed Section 3.

MR. CHAIRMAN: Right.

MR. USKIW: That's the problem.

MR. CHAIRMAN: That's the problem. Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I would like to, and I don't intend to rehash this because I gather the government has made up its mind, but I think it's only fair in view of the lack of explanation that has been received from the Minister of Highways; he has not seen fit to deal with the specific questions of marital status. He has dealt in generality with the total question of age and sex, and very very subtly ignoring the question of marital status, I can only draw one of two conclusions: (a) that the present government is intending to reintroduce the private insurance industry in the field of automobile insurance back into the Province of Manitoba, with the pre-1970 rating structure; or, (b) they intend next year to add surcharges. Surcharges on drivers' licences so that those who are unmarried and single will pay more than those that are married. I have no other alternative but to conclude one of those two alternatives, Mr. Chairman, otherwise there would be no reason for passing this section as it presently reads.

MR. CHAIRMAN: Any further discussion?

7(3)—pass; 4—pass; Section 9 repealed and subsection 5—pass; 9—pass; subsection 19(4.6)—pass; 19(4)—pass; 7—pass; Preamble—pass; Title—pass; Bill be reported—pass. All those in favour that the bill be passed signify with raising your hands.

QUESTION put, MOTION carried. (Yeas 13; Nays, 11).

BILL NO. 62 — AN ACT TO AMEND THE RENTS STABILIZATION ACT

MR. CHAIRMAN: Clause 1(a.1)—pass; 1—pass; Page by page? We have amendments. 2—pass; 3—pass; — the Honourable Member for Transcona.

MR. PARASIUK: Yes, I'd like to ask the Minister to give us an explanation as to why he's limiting urban residential premises to those within the City of . . .

MR. CHAIRMAN: Order please. There is too much discussion going on around the table, and I can hardly hear the Honourable Meer for Transcona with the noise. Proceed — the Honourable Meer for Transcona.

MR. PARASIUK: Thank you, Mr. Chairman. I would like to ask the Minister for an explanation why urban residential premises are limited to those within the City of Brandon, or those within the City of Winnipeg? Does he consider Portage to be a city, Selkirk to be a city, Thompson to be a city?

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Affairs.

MR. McGILL: Yes, Mr. Chairman. I have no quarrel at all with the designations which the member attaches for Portage, and Flin Flon, and other cities in Manitoba. These were the two urban areas where it was felt that the vacancy rate was of such a low rate, that we would wish to continue the guideline controls in those areas, and as a first step in the gradual decontrol procedure, that we would undertake as a result of surveys made in other areas to release the other areas of the province from the guidelines laid down for Phase IV of the Rent Control Program.

MR. PARASIUK: Yes, in response to the Minister's answer, could he indicate, since there is some confusion as to what the vacancy rates in the City of Brandon and those in the City of Winnipeg are, could he indicate what the vacancy rates are in the City of Brandon, and what they are in the City of Winnipeg, and how they compared to those other cities in Manitoba which he has exempted from the Rent Control Program?

MR. McGILL: Mr. Chairman, as the meer I think would agree, it is very difficult to get the precise figures on vacancy raees in the City of Winnipeg, where perhaps more canvassing has been done than in other areas. We know that the CMHC rate is considerably below that which another agency takes as the vacancy rate as a result of their statistical research, and there is a great part of the market in the Winnipeg urban area that is not really polled by any organization, so to establish a very firm and a rate that can be justified statistically and used as a very close identification with the total vacancy in the City of Winnipeg is very difficult indeed. This applies in the City of Brandon and in other places, but as a result of our polls and the experience of the agency in dealing with problems in these areas, we have come to the conclusion that the vacancy rate is lowest in the two areas which we have chosen to keep within the guidelines in Phase IV.

MR. PARASIUK: Mr. Chairman, the reason why I questioned the Minister in this regard is that he, in his first answer, gave as a justification for exempting those apartment units within Brandon and Winnipeg the lower vacancy rates, and yet now we find that apparently the department's analysis of vacancy rates lies somewhere between that of CMHC's and that of HUDAM's, and I'm finding that somewhat surprising in that I can recall distinctly in the Estimates process, helping to pass a fairly substantial amount for the Research Branch of his department, and also passing a substantial amount of moneys for the Rent Review Program, and I would have thought that they would have surely established some system for determining what the vacancy rates in Brandon and Winnipeg are, and what the vacancy rates are in other cities, especially in light of the fact that this present bill proposes that the decontrolled apartments will be monitored. Now, if indeed we don't even have any idea of what the actual vacancy rates are, in any of the cities of Manitoba, then I'm wondering whether in fact we can give effect at all to the proposal for monitoring. And I'm wondering if the Minister would have any substantive figures at all to offer with respect to the relative vacancy rates of cities in Manitoba?

MR. CHAIRMAN: 3(1)—pass; 3—pass; Section 4—pass; 15.1 subsection 1—pass; 15.1 subsection 2 — the Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairman, since the Minister has not been able to provide any substantive reasons, I'd like to move deletion of 15.1(1).

QUESTION put on the amendment, MOTION lost. (Yeas, 9; Nays, 15).

MR. CHAIRMAN: 15.1 subsection 2—pass; 15.1 — the Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairman, in view of the fact that the board is being given a great deal of discretion, in view of the fact that certain absses have come to light, I would like to move that "may" in line 2 be deleted and substituted by the word "shall."

QUESTION put on Mr. Parasiuk's amendment, MOTION lost. (On division)

MR. CHAIRMAN: 15.1(3)—pass; 15.2(1)—pass; 15.2(2) — now we have an amendment, I believe. The Honourable Member for Rhineland.

MR. BROWN: I move that the proposed subsection 15.2(2) of The Rent Stabiliazation Act as set up in Section 4 of Bill 62 be amended by adding thereto, immeiately after the word "that" in the second line thereof, the words "equals or".

QUESTION put on the amendment, MOTION lost. (On Division)

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: I would just going to move the deletion of the entire amendment as amended.

MR. CHAIRMAN: I didn't hear your question, sir.

MR. AXWORTHY: Mr. Chairman, I was going to move, before the other amendment was made, the deletion of that amendment, but I distinctly vote against it.

MR. CHAIRMAN: You are not able to deal with it now . . .

MR. AXWORTHY: : Mr. Chairman, I'll take my precedent on the next one.

MR. CHAIRMAN: . . . because the committee has agreed to add words.
15.2(2)—pass; 15.2(3) — the Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, I would move that this section be deleted in its entirety.

QUESTION put on Mr. Axworthy's amendment, MOTION . . .

MR. JORGENSON: The motion is out of order simply because you achieve the same purpose by simply voting against the section.

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: : Mr. Chairman, I have a motion on the floor, and I would like to vote on it.

MR. JORGENSON: You will have an opportunity to vote on the section when Mr. Chairman calls "pass," you can then ask for the vote, and by registering a vote in opposition to the section, you achieve the purpose as deleting the section. So, therefore, for that reason, the motion is out of order.

MR. AXWORTHY: All right.

MR. CHAIRMAN: The Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that the proposed subsection 15.2(3) of The Rent Stabilization Act as set out in Section 4 of Bill 62, be struck out and the following subsection substituted therefor:

Application for exemption on vacating of premises.

15.2(3). Where

(a) the tenant of urban residential premises has voluntarily given notice to the landlord of his intention to vacate on or after September 30, 1978, the urban residential premises; or

(b) under Section 110 of The Landlord and Tenant Act, the landlord of urban residential premises has been granted an order for possession thereof effective on or after September 30, 1978; or

(c) under subsection 103(13) of The Landlord and Tenant Act the tenant of urban residential premises or his heirs assigns or legal personal representative terminates the tenancy agreement effective on or after September 30, 1978,

the landlord of the urban residential premises may apply to the board for an exemption order in respect of the urban residential premises and except where the application is made on the grounds described in Clause (b), he shall at the same time deliver to the tenant a copy of the application.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: I am wondering if the Minister would provide an explanation for the amendment and the original subsection.

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Affairs.

MR. McGILL: Mr. Chairman, this is an amendment that I referred to in the closing of debate on Bill 62, and the question was raised during the debates on the bill and by persons involved as to whether a premise could be deemed to be voluntarily vacated when the landlord is granted an order for possesion because of the tenant's breach of any conditions of his tenancy agreement, or for breach of The Landlord and Tenant Act. It was considered that since the order for possession results from the tenant's action that the vacancy order for possession would be considered to be a voluntary vacancy.

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, in the Minister's explanation, I would ask him if in fact this amendment takes into account the representations that we heard concerning the situation where tenants are asked to vacate their premises for purposes of renovation or rehabilitation? Is that deemed a voluntary vacancy under those terms, or will the application of The Rent Review Act still apply to those premises if the Rentalsman reviews the case and orders that it has not been a voluntary vacancy.

MR. McGILL: Mr. Chairman, where a landlord gives notice to vacate and gives his reasons as his need to have the premises in order to do repairs or major renovations, that cannot be automatically be conceived to be a voluntary vacancy. The landlord would still have to apply to the Rent Review Agency in order to get an order which would release the premises from guidelines. So that it doesn't automatically follow that because the landlord has given an order and the tenant has vacated because of the landlord's statement that renovations or repairs are to be made, that this would then be considered as a voluntarily vacated suite.

MR. AXWORTHY: Mr. Chairman, under this section of the Act, the landlord has to apply in any event when there is a so-called voluntary vacancy. Would it not be preferable to indicate that where there is an involuntary vacancy caused by an order for eviction due to renovation or rehabilitation purposes, that that does not constitute a voluntary vacancy and there should be an amendment drawn to that effect so that landlords will not use that particular method as a way of getting around the Act. That was the point being raised, I think, both in debate in the House and representations in front of us, that it is a potential way of dodging the impact of this particular bill and that unless there is some very specific designation that orders for renovation and rehabilitation are not to be considered voluntary vacancies, and therefore not eligible for application, and I think that an amendment should be so-drawn and I wonder if the Minister would agree to having legal counsel making wording to that effect.

MR. McGILL: Well, Mr. Chairman, I am advised that if the notice does not initiate with the tenant,

the voluntary vacancy cannot be considered to be a fact. The tenant has to initiate a notice that he is voluntarily vacating. If that is not done, then the other circumstances involved would not apply.

MR. AXWORTHY: Well, Mr. Chairman, though, if the Minister recalls, and I think that there was a brief that he has — I know he has because I delivered it to him — where it indicates that in certain apartment blocks the landlord has the option of, for reasons of renovation, requiring a vacancy of some and, therefore, by using that as a lever to have other tenants vacate voluntarily. Therefore, I think if we simply spelled out that in situations where landlords require renovation and rehabilitation, that does not constitute a voluntary vacancy and is not applicable under this Act.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairman, through you to the Minister, he indicates that a tenant is considered to have voluntarily vacated if, in fact, he initiates the leaving of the apartment.

Mr. Chairman, I have before me a document which I got through the Associated Tenants Action Committee, where a tenant whose rent was determined by the board on March 7th of 1978 and the board decided that the rent for that apartment should be $141.00. This was March 7th of 1978. On July 1st, 1978, this tenant got a notice from his landlord saying: "I would like to inform you that as of October 1st, 1978, your monthly rental will be raised to $245 a month." That's an increase of $104 a month. He then goes on to say that he is sorry that he has to do that; that he needs the cash. "And if any tenant wishes to meet with me personally to discuss the matter of my increased costs, I will be happy to meet with you. If you do not wish to pay the increased rental on October 1st, 1978, you can give me notice by September 1st, 1978. Please fill out the notice below and give it to . . . " so and so.

Now, that is something that a tenant might fill out, upon receiving an illegal notice like that. Now, is that considered to be voluntarily vacating a suite? That's why this particular clause is incredibly weak.

MR. CHAIRMAN: 15.2 . . .

MR. PARASIUK: Well, I would like an answer from the Minister, Mr. Chairman, if I could. Is he prepared to answer that particular documented fact?

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Affairs.

MR. McGILL: Well, Mr. Chairman, that would be considered, I am sure, by the board as duress if the tenant were required to sign a notice of that type, but there has to be a clear notice of intention to vacate, given by the tenant and signed by the tenant, without any pressure or duress, or harassment.

Mr. Chairman, it is in these areas that the experience and ability of the Rent Review Agency and the board would prevent any such action from occuring.

MR. CHAIRMAN: 15.2(3)(a) as amended—pass; (b)—pass; (c)—pass; 15.2(3) as amended—pass; 15.2(4)—pass — the Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, we received submission on this particular item which indicates that if this clause of the bill is applied the way it is that it will have particular hardship upon students who are, for reasons of the cycles of the educational year, are required to sublet premises over the summer months when they go out of town to work or otherwsse.

Now, Mr. Chairman, while I don't have the felicitous phrasing that Legal Counsel would provide, I would like to move the following amendment. Perhaps the wording might be changed or altered, but I would suggest the following amendment:

That section 15.2(4) be amended by adding after the words "as of that time" the following words "unless the tenant submits an application to the Rent Review Agency asking for exemption to this clause for reasons of being a student or requiring absence from the city for a period of . . . "

MR. CHAIRMAN: I wonder if the honourable member has copies of his amendment.

MR. AXWORTHY: I have one copy, Mr. Chairman. I'm sorry; I have limited resources.

MR. CHAIRMAN: Could we have it for the Clerk? . . . for a period of what?

MR. AXWORTHY: '' . . . of no more than four months.''

MR. CHAIRMAN: I have an amendment before me that Section 15.2(4) be amended by adding after the words ''as of that time'' the following words ''unless the tenant submits an application to the Rent Review Agency asking for exception to this clause for reasons of being a student or reqiiring absence from the city for a period of no more than four months.''

Any debate or discussion? The Honourable Member for Transcona.

MR. PARASIUK: Mr. Speaker, I would like to speak in favour of the amendment. I think that students are caught in a bind and I think that if, indeed, they sign a one-year lease agreement, say as of October 1st of any given year, if they leave on May 31st or May 1st they are expected to pay the rent to October 1st. So that obligation rests with them to pay the rent, and if they get someone to sublet for that four or five-month period, because they have that obligation, their apartment then becomes decontrolled. They go off, usually to their rural home, and they come back and they are now in a decontrolled apartment and the rents may in fact go up anywhere from $30.00, $40.00. We have had Dr. Pauls come in here indicating the rents can go up between $92.00 and $200.00.

Now, students who are on really fixed incomes or quite limited incomes just aren't in the position to cope with that type of situation. I think the amendment is very sound. I think it's very reasonable and I would expect that the government would consider it.

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Services.

MR. McGILL: Mr. Chairman, we are looking at the intent of the amendment. It may be that this amendment is not necessary because of the fact that a student who sublets for an interim period in the lease returns to be in possession before the end of the lease, in which case, there is no termination of his lease. If he is away for a period of two or three months in the summer and returns in time to be in possession of the premises before the end of the lease, then it would not be considered to have been vacated. But we're certainly prepared to look at that wording in order to give some assurance that there is that kind of protection in the student's case.

It might mean, Mr. Chairman, additional definitions for the bill, defining a student, which might be necessary but, Mr. Chairman, in general terms I would feel that probably the case of the student who arranges a sub-lease for a period of months within the total lease period for which he is involved and returns and takes possession prior to the end, that he would be adequately protected.

MR. PARASIUK: Mr. Chairman, if you look at 15.2(4), that's not what that particular clause says and I'd like to get the opinion of the Legislative Counsel in this respect, because what it says is ''where a tenant sublets urban residential premises to a sub-tenant and vacates the urban residential premises to give possession thereof to the sub-tenant, that tenant in chief shall be deemed to have voluntarily given notice.''

Now, that's very clear in the legislation, and I don't think that the interpretation of the Minister is sufficient; I think the Act has to be changed. Could I get the opinion of the Legislative Counsel to that effect?

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, the Honourable Minister has indicated that he is prepared to give some consideration. I wonder if we might hold this clause in abeyance while some wording is worked out, and then come back to it to see if there can be a proper way of dealing with it. I expect from the Minister's remarks that there is some willingness to consider it. I think the meaning of the clause the Member for Transcona has indicated is quite clear. Once possession is given up, meaning the actual physical habitation, then this clause would apply, and I think there needs to be some further protection in that area. So, I wonder if we could hold discussion of this, go on to others, and maybe come back, if there is more suitable . . . I would not pretend that my wording would be the most suitable, by any means.

MR. CHAIRMAN: Well, I would like to bear with the Honourable Member for Fort Rouge, and if the House prorogues tonight, I don't know when we can come back.

MR. AXWORTHY: Well, I don't mean tomorrow, Mr. Chairman, I mean in perhaps five or ten minutes.

MR. CHAIRMAN: Oh. The Honourable Minister of Consumer and Corporate Services.

MR. McGILL: Mr. Chairman, our Legislative Counsel has been having another look at the wording, and I think he has prepared some amendment here, now.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Could I suggest that perhaps this would cover a great many of the difficulties, and I'm not saying it's any better than was suggested by Mr. Axworthy, but it fits in, I think, a little better with the rest of the wording of the section.

After the word "shall" in the fourth line, add the words "unless the tenant-in-chief returns and retakes possession of the residential premises before the end of the term of his tenancy agreement."

Now, the difficulty with that is, that if the tenancy agreement terminates while he's still out of possession, then he's out of luck.

MR. AXWORTHY: Yes. Mr. Chairman, I think that that would take care of most of the cases, and if the tenants, you know, if there was a really serious problem, they could come back and look after it. I would withdraw my amendment and accept the wording that the Legislative Counsel has introduced, as a suitable consideration.

MR. CHAIRMAN: Agreed? (Agreed)

That the motion as proposed by the Honourable Member for Fort Rouge . . .

Now, we have to have somebody propose the . . .

MR. AXWORTHY: Mr. Chairman, I'll propose that amendment, if I may.

MR. CHAIRMAN: . . . the words that were suggested by Mr. Tallin.

MR. AXWORTHY: Oh.

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: Yes, Mr. Chairman. I so propose.

MR. CHAIRMAN: You'd move that those words be changed.

MR. AXWORTHY: Yes.

MR. CHAIRMAN: All those in favour of the motion by the Honourable Member for Fort Rouge? (Agreed)

Then 15.2(4)—pass; 15.2(5) as amended—pass; 15(a)—pass; (b)—pass; 15.3—pass. 15.4(1)—pass; 15.4(2)(a) — the Honourable Member for Rhineland.

MR. BROWN: I move that proposed subsection 15.4(2) of The Rent Stabilization Act as set out in Section 4 of Bill 62 be amended by adding thereto immediately after the word "that" where it appears for the first time in the third line of Clause (b) thereof, the words "equals or".

MR. CHAIRMAN: Any discussion on the proposed amendments? The Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, I would simply like to raise a question with the Minister at this time, bearing on this particular item of the $400 a month. We had a representation last night from Dr. Pauls, and he passed on to me the copies of the leases he received, which have gone from $613 one month to $750 the following lease, which, I think we would all agree, is a substantial jump.

I would ask the Minister if, under the sections where there is a right of review — I believe it's under Section 28, if I'm not mistaken — has the Minister received advice that that particular kind of case of this enormous jump of almost 90 percent, or $150 a month, would be available under the Section 28 for review, and that people under those circumstances could make application under that?

MR. McGILL: Mr. Chairman, in that specific case that the member mentions, Dr. Pauls, the Board has accepted a complaint from that particular apartment block, signed by a number of the tenants,

and and is prepared to act on that specific complaint. So, this matter will be dealt with by the Board, and under the terms of this Act, the Board will be able to ask the apartment owners to give evidence of the reason for this size of an increase in rents, and if the owners are not able to justify it, then the Board will not permit such increases to occur.

There are, of course, other blocks in this category, where increases are being proposed that are not by any means as high as those. Many of them will be close, or within reasonable relation to the announced guidelines for controlled premises. I think Dr. Pauls indicated that, that he knew of other suites in the same category, where rent increases proposed were quite reasonable, in his view.

MR. AXWORTHY: Mr. Chairman, I am pleased to hear that the Board is taking this particular case under review. What I'm asking now, does this case represent a more general principle, and if so, what are the guidelines under which application — now, I assume that the reason they are taking a review is that it still applies under the present Rent Control Act, and the: are working under the authority of that Act. Now that we are decontrolling apartments on the $400 and more level, or equals $400 or more, it would appear that unless there is some basis under Section 28 for review, then in the future, tenants caught in this particular category will have no protection against this kind of exorbitant increase, unless there was a very specific guideline or regulation set forward.

MR. McGILL: There definitely is protection from this kind o,, thing in the Act under Section 28, and there will be, where a complaint is lodged by a tenant. The Board, when it considers that there is reasonable grounds for the complaint, will proceed under the terms of this section.

MR. AXWORTHY: Well, Mr. Chairman, I just want to clarify that, and I'm not trying to hold up . . . it's just that there are a number of tenants in the situation. So, is the Minister indicating as a firm statement that we can assume is the policy of the Board, that tenants, after October 1, have the right under Section 28 to make a complaint to the Board of exorbitant increases, even though their apartment is one of those which are decontrolled, and the Board would consider those complaints and if justified act upon it and redress the rent?

MR. McGILL: Mr. Chairman, that's essentially correct. If they are now receiving notices of increases which they consider excessive, and unreasonable, they can lodge complaints now, and the Board when they consider there is reason for the complaint will proceed to investigate the matter. And if the rent increases are termed, or considered to be unreasonable, then they will take action to reduce them.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairman, I'd like to ask a question to the Legislative Counsel in light of the answer from the Minister. Could he inform us as to whether the word "may" in Section 28.1(1) . . .

MR. McGILL: We're not there yet.

MR. PARASIUK: . . . and the word 28.1(3)mmeans the same as what he had indicated it means before, with respect to other legislation in British law, that is, that is means "shall".

MR. CHAIRMAN: I don't think we're at that section, are we?

MR. PARASIUK: Mr. Chairman, I think I'm commenting on the answer given that sufficient provision is made in 28.1(1) and 28.1(3), and since we're at this section right now, I think we have to ascertain whether in fact sufficient protection does exist in 28.1(1) and 28.1(3) before we pass this particular clause.

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Affairs.

MR. PARASIUK: No, I've asked the question of the Legislative Counsel, I believe. Whether "may" means "shall," in this instance.

MR. McGILL: I'm sure the Legislative Counsel will comment, but if I just may make a comment on that. There needs to be, in my view, and in the view of the officials, some discretionary power for the Rent Review Agency and for the Stabilization Board. Tuere should be an opportunity for

them to exercise their experience and knowledge in this, and to avoid having to act under the terms of the Act for cases which may obviously be, to them, of a frivolous nature. So, I think it's important, Mr. Chairman, and I hope the Member for Transcona will agree that there should be some discretion for these people, in terms of the cases that are brought to their attention.

MR. PARASIUK: Yes, Mr. Chairman. Through you to the Minister. I'm wondering if you would agree that in cases where the Board uses this discretion, I hope that would be very limited — and I can see some instances where complaints may indeed be frivolous — that the Board would give written reasons for its decision not to investigate a complaint. And I don't believe that's the case right now, and you could have an instance where someone registered a bona fide complaint, and the Board says, "No, we aren't going to look at it." Or, "No, we're not going to instruct the Rent Review officer to look at it," and no reasons are given, and people are left in the dark. And this is especially pertinent, given the Section 35, which contains the clause of secrecy.

MR. CHAIRMAN: 15.4(a)—pass.

MR. PARASIUK: Mr. Chairman, could I get an answer from the Minister on that? I've asked him a question, and I would just like to get an answer.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: In28.1(1), I think that the "may" there is linked with what appears to me to be a duty; that is, where where to the Board, there appears to have been an unconscionable relationship, to my mind that provision would likely be considered to be mandatory on the Board. The difficulty is that the Board itself may not consider it mandatory on it, and you may have to go to the court.

And I didn't catch the reference in the second section you wanted?

MR. PARASIUK: It was 28.1(3) the Board itself, not the Rent Review officer there.

And the fourth last line, "the Board, on its initiative, may undertake an enquiry into the matter." Do you see that? 28.1(3).

MR. TALLIN: No, I don't think that would be considered as mandatory, because that's where someone else thinks that the rent required by the landlord is not fair and equitable; that is, that the Rent Review officer reports to the Board that he thinks. So, I don't think that it's the same kind of a duty there, because the Board itself might not think that.

MR. CHAIRMAN: 15.4(2)(a) . . .

MR. PARASIUK: Mr. Chairman.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: Yes. I just wanted to get an answer as well from the Minister, as to whether, when the Board determines that this is not mandatory, will they give a written reason to the applicant?

MR. CHAIRMAN: Well, to the honourable member, we're dealing with 15.4(2). You're talking about 28; we haven't got there yet.

MR. PARASIUK: But Mr. Chairman, I think before, I indicated that the Minister explained that there was sufficient protection in Section 28, and I think we have to determine whether there is sufficient protection in Section 28 before we can pass this particular section. Because if we get to Section 28 and find that there isn't sufficient protection, we'll have already passed this particular clause. So, I'd like an answer right now: would the Minister undertake that, in those instances where the Board declines with Legislative Counsel, indicates as a mandatory presumption — if I might use those words — that the Board in those instances would give a written reason to the applicant as to why it's turned down the request?

MR. CHAIRMAN: 15.4 . . . the Honourable Minister of Consumer and Corporate Services.

MR. McGILL: Mr. Chairman, I am advised that under the Act now, the Board is not required to

give reasons for its rejection of a claim. It's something that certainly can be considered; it might be something that could be done by letter, but it's not required under the Act now, and I am not prepared to say that we will amend the Act, but that is a consideration.

MR. PARASIUK: If the Minister is saying that he will seriously consider this and pass on that information to the Board and take it up with the Board, then I'll let it rest with that, with his undertaking to look at it very seriously.

MR. CHAIRMAN: 15.4(2)(a)—pass; (b) as amended—pass; 15.4(2)—pass. 15.4(3) — the Honourable Member or Rhineland.

MR. BROWN: Mr. Chairman, I move

That the proposed subsection 15.4(3) of The Rent Stabilization Act, as set out in Section 4 of Bill 62, be amended

(a) by adding thereto, immediately after the figures "15.4(3)" in the lst line thereof, the words and figures "except where the application is made on the grounds described in clause 15.2(3) (b)"; and

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

(a) that the tenant has voluntarily given notice of his intention to vacate the urban residential premises or the tenant his heirs, assigns or legal personal representative, has voluntarily terminated the tenancy agreement, as the case may be; and.

MR. CHAIRMAN: Agreed? (Agreed) 15.4(3)(a) as amended—pass; (b)—pass; 15.4—pass. 15.4(4)—pass; 15.5—pass; — The Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairman, since this is the clause which will, through legislation, terminate rent controls as of June 30th, 1980, I would like a recorded vote on this particular Section.

QUESTION pit on the amendment, MOTION carried. (Yeas 14, Nays 7)

MR. CHAIRMAN: Subsection 17(3) as amended — the Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, I move:

That Section 4 of Bill 62 be amended by adding thereto, immediately after the proposed Section 15.5 of The Landlord and Tenant Act set out therein, the following Section:

Application of Section 12.

15.6 Where the regulations made under Section 15 do not apply to residential premises by reason of Section 15.1 or 15.5 or by reason of an order made under Section 15.3, Section 12 does not apply to the residential premises.

MR. CHAIRMAN: Any questions? 15.6 as amended—pass; 15—pass; Section 4—pass. Subsection 19(3)6—pass; 19(3)—pass; 21 21.1(1)(a)1(a)—pass; (b)—pass; 21.1(2)(a) . . .

MR. PARASIUK: Mr. Chairman, with respect to 21.1(1), I'd like to ask the Minister a question on this particular Section. We've had people appear before Law Amendments Committee indicating that if a landlord makes a request of say $40.00, or $50.00, or $60.00 rent increase for someone on a fixed income, this can be quite a burden, and the way this legislation reads right now, the tenant would have to put his money in trust with the Rentalsman which would be quite a burden on that person on fixed income and may indeed force the tenant on fixed income out of that apartment because before the case is heard it migtht be 1, 2 or 3 months and people on fixed income aren't in any position to try and deal with that. I'm wondering if the Minister has considered that particular problem and would be prepared to continue the present procedure under the present legislation where the tenant is required to pay the rent that he or she is presently paying and the amount is left in escrow until such time as the case is decided. I'm sorry, it's not paid until the case is decided, not left in escrow.

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Services.

MR. McGILL: Mr. Chairman, I'm going to ask Mr. Mason to respond to that.

MR. CHAIRMAN: Mr. Mason.

MR. MASON: Mr. Chairman, what has been happening, and this has been a deficiency in the

to date, that a landlord in anticipation, or in sending out the new lease and including a notice of increase in rent three months in advance of the expiry of an existing lease, he includes an amount of rent that is higher than the guidelines, stating that the lease is subject to approval or ratification by the Rent Review Board. Normally one expects that within that three-month period the issue would have been heard and resolved by the board and the amount of rent determined. Now what in fact happened here was that in many many cases the landlords obtained a decision from the Rent Review Board setting the rent but at the same time had forwarded leases demanding a much higher rent paid. The landlord appealed the decision to the courts and there were, I believe, something in the order of 14 landlords that did this and it covered quite a number of apartments. The tenants were left in a very uncertain position. They didn't know exactly how much rent they had to pay. Did they have to pay the contract amount? Did they have to pay the amount that was allowed under the Act according to the guidelines? Would they have to pay a different amount that was allowed by the Board? And there was a great deal of uncertainty here. We know of some landlords that have lost from departing tenants as high as $2,000 in rent arrears because of this uncertainty.

On the other hand, going into this phase, we may also have the situation where the decision of the Rent Review Board may be challenged in the courts by tenants. Then we would be back in the same period of uncertainty. The whole issue here is to just resolve this question of what happens to the money in dispute and to ensure that whatever the dispute is, the money will be there to be paid out in accordance with the subsequent decisions of the court or of the board.

MR. CHAIRMAN: Gentlemen, I have a very difficult time. These Sections have already been passed according to my records.

MR. PARASIUK: No, Mr. Chairman, your head was down and I had my hand up . . .

MR. CHAIRMAN: I heard pass and . . .

MR. PARASIUK: Mr. Chairman, with respect, I've had my head up and you have been having yours down.

MR. CHAIRMAN: Order please; order please. I allowed the Honourable Member for Transcona the question. I said that these matters had already been passed by the committee but I allowed the Honourable Member for Transcona to have his question and now he wants to open the section up again. Those matters, according to my records, and my signature is on them, have already passed the committee. Now I don't know how we're going to deal with it. It's up to the committee to make the decision.

A MEMBER: You already have dealt with it, Mr. Chairman.

MR. CHAIRMAN: Well, I'm at the mercy of the committee. I am your Chairman, but my records show that Sections 21.1(1)(a) and (b) are already passed. If the Honourable Member for Transcona will bear with me, he asked me if he could ask a question of the Legislative Counsel and I allowed the question. Now I'm at the mercy of the committee.

MR. GREEN: Even though what you may say is technically true, I think that if an item has even slipped by inadvertently and one of the members wishes to have it proceed, that the committee should allow him to do so. Failure to allow him to do so, Mr. Chairman, will not shorten the proceedings of the committee, and therefore if there is something that has slipped by — it's happened before, it's happened to all of the honourable members and I'm not even suggesting it happened this time, but if the Chairman says it happened, it happened. I would ask, Mr. Chairman, that the committee give the member the right to deal with that particular item.

MR. CHAIRN: So then we have leave of the committee — the Honourable Member for Transcona and the Honourable Member for Fort Rouge. Proceed. (Leave).

MR. PARASIUK: Thank you, Mr. Chairman. The case that I gave the Minister before was one where the Rent Review Board, as of March 7, 1978, passed a rent level of $141.00. Some four months later, this tenant receives notice from his landlord indicating that he should pay $245; that's an increase in rent of $104.00. Now I don't think that tenant can afford to put $104 — if he's living in a $141 a month apartment — I don't think that tenant can afford to put $104 in trust with the

Rentalsman. I think it's a fairly serious matter. I can appreciate the difficulty that can arise with landlords and I'm wondering if there isn't any other mechanism whereby some type of balance will be struck between the landlord and tenant because I do think that pending some investigation, some very high increases could be an inducement, in a sense, to get people out of the apartment.

MR. CHAIRMAN: The Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, on the same point, under the same Section, it says at the bottom sentence of the clause "may order the tenant to make payments of the rent payable under the terms of the tenancy." I wonder again if we may find a slightly different way of ordering it to indicate that the tenant under an order is not required to pay the full amount but that the Rent Review Board may adjudge the amount to be paid in trust or in escrow to the Rent Review Agency.

MR. CHAIRMAN: Order please. I'm sorry. With all the conversation that is going on in the room, I just can't hear the Honourable Member for Fort Rouge and I apologize. Would you please bear with us until we hear the Honourable Member for Fort Rouge. Proceed, sir.

MR. AXWORTHY: Thank you, Mr. Chairman. The point I was making is that in the last sentence of the section where it says, "may order the tenant to make payments of the rent payable," I wonder if, in order to take account of the situation raised by the Member for Transcona, the wording couldn't be found to indicate that the Rent Review officer may vary the amount or may have some discretion on the amount that is required to be placed in trust with the Rentalsman's office so that if it is a case of an exhorbitant rent increase that would absolutely cripple the tenant, then the rent review officer would not have to put in trust the total monthly payment but maybe only a part thereof or a part based upon the normal 6 percent, or 5 percent, increase. So that the tenants themselves would not find it a major deterrent, I wonder if we might find some wording that would indicate that there is a discretion to vary that order rather than having a requirement that the total amount be paid into trust.

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Services.

MR. McGILL: Mr. Chairman, it might be very difficult to effect the kind of amendment that the member suggests. I think really the important point here is that there is a considerable lapse of time between the announcement by the landlord or giving notice to the tenant of an increase which the tenant may immediately take to be . . .

MR. AXWORTHY: Three months.

MR. McGILL: . . . excessive and there should be adequate time, if he does make his application, his complaint, for a judgment to be made so that there is, if any overpayment, a very minimum time in which that occurs.

MR. AXWORTHY: Mr. Chairman, I certainly hope that that will be the case. Under the Landlord and Tenant Act, there is a three-month period of notification, but as we certainly saw in the operation of the Rent Review Act over the past two or three years, in some instances the cases would drag on two or three years. In fact there was one case that took two and one-half years to be resolved. Others took upwards of 18 months and extended periods of time.

Now if you trace back the case cited by the Member for Transcona where there was in fact a $141 increase over and above the base rent, then you're talking about a sum of $2,000 or $3,000 which, if you are on a marginal income, you simply couldn't afford it and that would be in effect another form of forcing of vacancy. Now I understand the rationale given by Mr. Mason, but the fact of the matter is that if the landlords wanted to hold the board to the law that's now written, they could require that the total amount asked under this kind of submission that Mr. Parasiuk indicated — and I've seen similar kinds of, you know, exhorbitant increases being asked — could be a crippling blow and would have the desired effect anyway. The tenant would move, the suite would become vacant and then it would be decontrolled.

So I'm simply saying, I think there is a requirement to word that clause in order that the rent review officer — and I don't disagree with the principle — has the right to ask the money be held in trust, but that under this wording it is the total amount and I would suggest that there should be discretion to allow the rent review officer to vary the amount to say that not the full amount would be required. It may be that he may order the tenant to make payments of the rent payable or part of the rent payable under the terms of the tenancy agreement. I would suggest that wording if that would seem to fit the meaning of the Act.

MR. CHAIRMAN: For the benefit of the members of the committee, I will go much slower than I have been to make sure that we don't get into this problem again, that these sections have already passed and we have backed up to deal with them. So I will deal with it much slower and much more carefully for the honourable members of the committee.

MR. AXWORTHY: Mr. Chairman, I wonder if we just might, going on your basic sentiment that you are going to go much slower, I wonder if we might have some indication from the Minister if he would accept such an amendmnnt or such an alteration to this clause, to take account of this condition?

MR. CHAIRMAN: The Honourable Minister of Consumer and Corporate Services.

MR. McGILL: I'm not sure that I caught the whole statement, the most recent statement.

MR. AXWORTHY: Mr. Chairman, I just suggested that perhaps the wording might be "may order the tenant to make payments of the rent payable, or a part thereof, under the terms of the tenancy agreement."

MR. McGILL: Mr. Chairman, the fact that the landlord is in breach of the Act, immediately he collects more than the allowable rent from the tenant, should be sufficient discouragement to the landlord under these terms. The fact that there is a three-month lead time should give the tenant an to make an appeal to the Rent Board and to minimize the effective time in which there might be real pressure on the tenant by the landlord to collect excessive amounts. But surely the three-month period does give the tenant an opportunity to appeal this and it is a restraining feature of the Act that the landlord, if he does collect rents above the allowable rents, is in breach of the Act.

MR. AXWORTHY: Mr. Chairman, again, I would think that what the Minister describes may operate in the majority of cases, but I think we well know that there are many tenants who wouldn't have the skills or advice that may allow them to make full use of the Act or the full use of the Rent Review Agency. We just passed a bill in the House today on the Statute of Limitations based upon problems that some people don't know their rights under the law, and it may take more than those three months. I do consider this to be a serious problem because I think what our basic intent should be in this Act is to make sure that there aren't loopholes or places in which the Act can be evaded. It would strike me that that would be an obvious way to evade the meaning of the Act, would be to ask for a very high increase in rents in the hope that the tenant, while he has three months, may not avail himself of his rights under the Act right away and that once the payment happens to start going into the Rentalsman's office that would be a sufficient deterrent and they just might decide to move out and the apartment would be decontrolled. I think there isn't a disagreement between any of us about the purpose behind it, it's just whether we might provide a little toughening of this clause to ensure that there isn't undue hardship voiced upon those tenants who are experiencing this kind of situation.

MR. McGILL: I appreciate the member's point and the concern here, but there isn't any real way, of course, that any protection can be offered to the tenant until he comes to the Review Agency and announces this fact to them. There is no way of knowing if excessive rent is charged. The tenant pays it to the landlord and no one brings this to the attention of the board. There would be no way of protecting that tenant in that case. So we are relying on the fact that the tenant will make the situation known and make a complaint.

MR. CHAIRMAN: (The remainder of Section 21.1 and Section 27 were read and passed.)

Subsection 28(2)9.—pass; 28(2)(a)—pass; (b)—pass; (c)—pass — the Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, just before we complete this clause, I wonder if we might have an interpretation, or perhaps a need for some amendment, but in the operation of the previous Rent Review hearings I made it a business, I suppose as other members of the Legislature did, to attend many of these hearings of an application simply because I think it was important to be aware of how the Act would operate. It was required under those situations, that in every instance, if there was any person who wasn't a party to the application, either a tenant or a landlord' that special dispensation had to be given by both parties to the Act, simply as an observer to be apparent. It seems to me that that is a little bit like a closed court and I wonder if we might indicate that, at least from an observer point of view, that these meetings are not closed meetings and that

observers may be allowed to be a party to the Act. Certainly, I think, as a Member of the Legislature, it seemed a little unusual that an Act that you have been involved in passing, were then having to be given special dispensation in order to see how it was going to be worked and whether it was working well or not. I wonder if we might have some comment from the Minister, whether we couldn't designate that the meetings are open for observers, or perhaps Members of the Legislature, even, to see how the Act is working so we can see for ourselves?

MR. McGILL: Mr. Chairman, I am advised that the purpose of this section is to allow the board considerable latitude in cases where they are trying to determine whether or not there has been harassment of the tenant or other matters relating where it might be important to the board and it might be important to the witness in order to ensure that the whole story is given to them. I am advised that's the reason for this section.

MR. AXWORTHY: Mr. Chairman, I am pleased to hear the reason. I still think the point I am trying to make is that there should be some provision, or at least some deliberation that certainly, as a Member of the Legislature, when you are dealing with a piece of legislation, whether you have an opportunity to observe the operation of this Act, and particularly the hearings, and that perhaps a certain, specific decision would have to be made by the chairman of that hearing where matters are confidential.

A MEMBER: Pass.

MR. AXWORTHY: Mr. Chairman, I don't like "let's pass it on." You know, some of us take our responsibilities seriously and like to see how this legislation works.

MR. CHAIRN: Mr. Axworthy, I'm still the chairman.

MR. AXWORTHY: Well, Mr. Chairman, I know but I . . .

MR. CHAIAN: The Honourable Minister of Consumer and Corporate Services.

MR. McGILL: Mr. Chairman, to the member, I believe that under this section, the chairman of the Rent Stabilization Board would have that latitude and that authority to permit an MLA to sit in on a meeting. I think that is part of the authority which would be granted to him under this section.

MR. AXWORTHY: Thank you, Mr. Chairman.

MR. CHAIRMAN: 28.1(1)(a) — the Honourable Member for Selkirk.

MR. PAWLEY: Mr. Chairman, possibly this would be a good place for Mr. McGill if he could respond to some of the questions that I posed earlier, or if there is a preferable place than this Mr. McGill could indicate, in connection with mediation and the situation outside Winnipeg and Brandon.

MR. McGILL: Mr. Chairman, I think the Member for Selkirk was mentioning or questioning whether certain forms would be used by a landlord in the areas of decontrol outside of Winnipeg and Brandon. Those forms are not required, I am advised, to be used by persons there. Any review would probably be initiated by a complaint of a tenant. There is no restriction on the use of those forms, but it is unlikely that a landlord would make use of the specific form in that case. The board might, on investigation, if there felt that there was cause for a complaint and was requiring the landlord to justify what the tenant felt was an excessive increase in rent, might require this information to be provided.

MR. PAWLEY: Mr. Chairman, what concerns me, and I may be wrong, but my perusal of the form last night — I wish I had the form in front of me — but if I recall correctly, the form would tend to lead a tenant to believe that the increased rent that he or she is being notified of by the landlord, is within the law, within the provisions of existing law and The Rent Stabilization Act. Therefore, though it is indicated the form is not necessary, what concerns me is that the form might, in fact, be used to mislead a tenant into the view that he or she has no right, that the increased rent specified is within the existing law. So I'm questioning the use of that form in the decontrol area.

MR. McGILL: I am advised that the present Act is still in effect until this Act is passed, which

will then become effective October 1, and the landlords continue to use that form. If it is the one that I am familiar with, as a tenant, I know that it states the guideline increases and the increase that is being suggested in the new lease, so that it is quite clear. By simple calculation one is able to determine whether it is within guidelines for the period in question.

MR. PAWLEY: I see.

MR. McGILL: It is a required form until after October 1, and in decontrolled areas.

MR. PAWLEY: I believe the Minister also took some other supplementary questions this afternoon — I want to pursue them because we may not have another opportunity — from me, as notice.

MR. McGILL: I don't have them here but I would be glad to respond to those by letter if we don't have an opportunity in the House to do so.

MR. PAWLEY: Okay, that is reasonable enough. But what they really did relate to, some of them, and I think it is important that we review them here, and that is the monitoring agency. It seems to me that areas outside decontrol are going to be hit hard with very significant rent increases. The early indication is 15 to 20 percent. The Minister had indicated there would be monitoring, but I'm concerned as to how effective this monitoring is going to be, and when the Minister would be prepared to act if the rent increases outside the City of Winnipeg are becoming quite exorbitant.

MR. McGILL: Well, certainly the agency intends to respond where there are complaints from a particular area, and these complaints are under investigation. The Review Agency will then attempt to monitor to see if other apartment blocks or rental units in that area are being faced with similar types of increases. So this can be done by telephone, or by actual visitations under certain circumstances where staff of the Review Agency are required to proceed to areas of the province where there are investigations under way.

MR. PAWLEY: In an area where problems develop, obvious problems, would there be any method, short of legislation, to bring that area out of a decontrol area into an area of control?

MR. McGILL: Mr. Chairman, I am not prepared to speculate on what might be done in the light of future experience in this area.

MR. PAWLEY: Well, I would ask Legislative Counsel. I gather that further legislation would be required before any other areas could be added to Brandon and Winnipeg under this Act, that there would have to be specific legislation which would take in other geographic areas of the province into the confines of this legislation.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Apart from the fact that there may be applications in respect to specific premises that are outside of Winnipeg and Brandon, I can't see how you could expand the area in a general way. I think it could only be expanded by piecemeal applications under 15.1(2). Then, of course, by statute they could expand it again.

MR. CHAIRMAN: (Sections 28.1(1)(a) to 30.1(1) were read and passed.) 30.1(2) — the Honourable Member for Transcona.

MR. PARASIUK: Thank you, Mr. Chairman. I'd like to ask the Minister what is the situation with respect to interest. Is interest added on to refunds?

MR. McGILL: I am advised, Mr. Chairman, that there are no provisions for the payment of interest on these amounts. I am further advised that there was in the first phase of the rent control period.

MR. PARASIUK: I'd like to ask the Minister why we now don't have interest on refunds, and whether he would consider adding interest on refunds if, indeed, it takes two to three years, in some instances, to settle these cases. The opportunity costs on that money is pretty great. The interest charges are great, and so we are talking about a fairly substantial amount of money in many instances and

I would think that interest is paid for income tax refunds; it's paid on most other refunds and I'm wondering why . It's even paid as a penalty for unpaid municipal taxes, as we found yesterday. I think the rate there is 9 percent. So I'm wondering why, in those instances, where it's allowed in other instances why it's not allowed for tenants.

MR. McGILL: Mr. Chairman, I am getting some corrected information here now. We are looking at the Rent Stabilization Act under 25.2, "Where a rent review officer orders under subsection 13(5) or Section 19 a landlord to refund any amount to a tenant, he may order the landlord to pay to the tenant interest in respect to the amount to be refunded at a rate equivalent to the rate payable by banks on short-term certificates, as determined from time to time by the board, compounded annually."

So there is authority there under the Rent Stabilization Act.

MR. PARASIUK: Mr. Chairman, the Minister has indicated to us that there is authority under the present legislation, but that apparently it's not policy for that authority to be utilized. Would the Minister undertake to make it policy for interest to be added on to refunds, because it is the tenant's money that is being held in escrow or held in trust and there is an opportunity cost on that money, surely?

MR. McGILL: I'm not prepared to say with any certainty that there are not circumstances now where interest is being added to these amounts by the board, but we will certainly look into that and inquire where this authority rests now with the Act, for the board to charge this. We will determine what the policy is and has been on it.

MR. PASIUK: In the court case, which I think took about two-and-one -half years and some $311,000 was involved, will interest be added to those rent rebates when they are paid out to the 1,891 tnnants whose money has been held up for the last two to two-and-one-half years?

MR. McGILL: I'm not able to say. We will have to inquire of the board, Mr. Chairman, on that.

MR. CHAIRMAN: 30.1(2)—pass; 30.1(3)—pass; 30.1—pass; 31.1(1)—pass — the Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, I'd like to move an amendment to that section.

That Section 31.1 of Bill 62 be amended as follows, that Section 2 be added thereto "that an Annual Report of a statistical nature documenting rent increases in various categories of housing be issued to the Legislative Assembly".

MR. CHAIRMAN: Does the honourable member have a copy for the Clerk?

MR. AXWORTHY: Yes.

MR. CHAIRMAN: Thank you. 30.1 (1), we have an amendment by the Honourable Member for Fort Rouge. In discussion, the Honourable Member for Fort Rouge.

MR. AXWORTHY: Mr. Chairman, I'd like to speak to this particular point, that one of the real difficulties in trying to come to some assessment of the effectiveness and utility of the rent program over the past three years, has been the lack of public information as to how it's been working. It wasn't until very late in the session that we received a special report, the Simkin Report, in a somewhat edited version, which gave us any indication at all as to how the various programs might have been applied, and even at that, it was pretty sparse and pretty fragmentary in its information. And it would seem to me that in order to do a proper job of monitoring from a public point of view, that an annual report be required of the Rent Review Agency that would issue the actual rent increases that take place in different categories of housing, different numbers of units of housing and different locations, so that members of the House, and thereby through them, the public, would be able to have a clear indication as to the progress of the decontrol program, whether in fact it is working the way it says it's doing, and that therefore we can make some intelligent judgments. I think that one of the problems in the past program was the lack of that kind of public reporting on the actual product of the Rent Control Program, and that this is designed, really, to aid members of the Legislature to have that kind of information available.

MR. CHAIRMAN: Again, how many times must I warn the members; please, I can't hear, and I'm sure the Minister can't hear the comments that we're dealing with — there's all kinds of people talking all over the place. Would you bear with us while we go through this bill, please.

The Honourable Member for Fort Rouge, I couldn't hear what you were saying, and I don't know how the Minister, or the other members that want to reply to you, can be heard. So, please bear with us.

The Honourable Member for Fort Rouge.

MR. AXWORTHY: Well, Mr. Chairman, to summarize, the point is that the need for a public documentation of the way in which the actual program is operating and the effect it has upon rent increases and rental rates in those areas, under the program and outside the program, are absolutely necessary, if there is to be any proper judgment or assessment as to the progress of this particular decontrol program that the Minister has outlined. I think that there was a problem under the previous program, for lack of that evidence and lack of that information and I think, through the report tabled in the House to members of the Legislature, which would carry those kinds of statistics in them, would enable us thereby to judge the program and be able to comment in a more effective way than we have in the past.

MR. McGILL: Well, I appreciate, Mr. Chairman, the intent of the amendment, but I do feel that in practical terms, it would be very difficult, with the resources that are available, to produce on an annual basis an annual report that would properly reflect the kind of information that the member would like to have. It's simply beyond the resources of the Review Agency to monitor every rental unit in the province, and we have heard from such organizations as HUDAM, the kind of difficulty they have in reflecting a vacancy rate as one feature of the kind of information the member, I'm sure, would like to have — that would properly reflect the situation across the province. I think that the attempt to collect such statistics, and to ensure that they would not be misleading, would involve a great deal of effort and would be beyond the resources of the Review Agency. So, while I sympathize with the intent of the amendment, I think that I would not wish to support it, because of the difficulty that it would entail in producing that kind of statistical evidence.

MR. AXWORTHY: Mr. Chairman, in response to that, I would point out that under Section 31.1(1), there is already a requirement for the Agency to do exactly that, to collect and monitor this kind of information, unless we are simply dealing with a dead letter, and we're simply putting this clause in for superficial reasons, rather than for real reasons. In other words, the Agency is already required, under the Act, to collect that kind of information. My amendment simply is to require to make it public, on an annual basis, to members of the Legislature. And I think I could suggest to the Minister that having had some experience on how to collect that kind of material, I don't think we're talking about vast numbers of people doing it. It is a matter of just putting into operation, part of the information collecting system that other departments of the government itself is operating.

I would also suggest that the Minister has made clear now, many times, that he would be prepared to take on as staff at the Agency, those numbers of people required to perform the proper functions of the Agency. He said that very clearly. Now he's saying he doesn't have enought staff. Well, this morning, in a question that we put to him, he said, "I'll get the people I need in order to perform the rightful functions of the Act." It seems to me that you can't really have it both ways, and I'm simply saying that I don't think we should trifle with these matters, and the Minister knows himself, I think he said in his introduction to the bill, that one of the problems in coming to grips with this bill was the lack of information, that we didn't have a proper base to make assessments and make judgments on, and that we were really flying blind. I think it was his own words, that I'm paraphrasing.

Now, we're talking about the livelihoods and the conditions of, you know, 100,000 people in this province, and I think that even though we're in periods of restraint, the impact this has upon the way that they live, probably, and the kind of judgments as elected members we're supposed to make, it would seem to me that we could probably afford an extra staff man year in order to make that proper. We're not dealing with a small little item, we're dealing with something that cuts vitally into the interests of a large percentage of people in this province, and I don't think that we should deal with it in kind of a facile way. We have to deal with it seriously, and if that means getting the proper information as to rent levels, and how it's affecting housing, and the construction of housing, and the implementation of housing programs, and the way it affects people's incomes, that is absolutely essential. so by the time 1980 comes around, members of this House will have a very clear idea as to what to do next.

MR. CHAIRMAN: Any further discussion on the matter before us. I have a motion from the

Honourable Member for Fort Rouge, that Section 31.1 subsection 1 of Bill 62 be amended as follows:

That Section 2 be added thereto, 31.1 subsection 2.

That an annual report of a statistical nature, documenting rent increases in various categories of housing, be issued to the Legislative Assembly.

QUESTION put on the amendment, MOTION 7 lost. (Yeas, 4; Nays, 1).

MR. CHAIRMAN: 3l.1 subsection 1—pass; 31.1 subsection 2—pass; 31.1—pass; Clause 35.1(d)(iii) 15(iii)—pass; 15—pass; Clause 35.3(a) as amended 16—pass; Clause 35.1 (1)(a)—pass; (d)—pass — the Honourable Member for Transcona.

MR. PARASIUK: Yes. This is 35.1(1) we're on right now?

MR. CHAIRMAN: 35.1, subsection (1)(b).

MR. PARASIUK: Okay. I would like to ask the Legislative Counsel if he could clarify the remarks that he's made regarding the applicability of this particular clause as opposed to 22.5 in the existing legislation, Rights to Inspect Material, which clause has precedence, and if indeed we have 22.5, why is 35.1(1) necessary, if it's necessary from a technical point of view? If it's necessary from a policy point of view, I'll ask that of the Minister, but could he indicate which one has precedence?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: 22.5 is the section which requires the information to be given to the parties to an application, that is, the information filed in support of an application must be given to the other parties to the application. It seems to me that what is contemplated in 35.1 is that where some provision of the Act, in the administration of the Act, requires information to be disclosed; that is the exception that is referred to at the beginning, "except for the purposes of administration and enforcement of this Act." Therefore, the prohibition in 35.1 doesn't apply to somebody who, in administering the Act, complies with 22.5.

MR. CHAIRMAN: 35.l —

MR. TALLIN: Just a moment. That information is to be given to the parties. 35.1 is to prevent information being distributed to the public generally. I can't go into the office and ask for information about your landlord's application on your apartment. You can go in and ask for the information on his application for a rent increase on your apartment, but I can't. I'm just a member of the public.

MR. CHAIRMAN: The Honourable Member for Fort Rouge. Or, pardon me — the Honourable Member for Transcona — he has another question.

MR. PARASIUK: Yes. Can a lawyer, or the Associated Tenants Action Committee, go in on behalf of a tenant and get the pertinent information relating to the increase that's been asked by a landlord, of their particular client or applicant? And, in order to determine whether that increase is fair or not, I think they would have to try and determine what the cost pass throughs in that particular apartment block, as a block, has been. We heard Mr. Savino yesterday indicate that there has been an attempt to standardize rents, and that if indeed you are going to decontrol certain units within an apartment block, it becomes very arbitrary as to how you assess costs to particular units within a block, if some are controlled and some are decontrolled. And in that sense, I think it's going to be necessary for the client, or the applicant, to get an overall picture of what's happening in that block, to determine whether in fact the rent applied or asked for with respect to his or her particular unit, is justified or not. And I'm just worried that they won't be able to get the information.

MR. AXWORTHY: Mr. Chairman, I would like to move the following amendment;

That the proposed subsection of 35.1(1) of The Rent Stabilization Act as set out in Section 17 of Bill 62 be amended by adding thereto, Section (c).

Nothing in Clause 35.1, Section (a) or (b) would interfere with the application of Section 22.5 of this Act.

MR. CHAIAN: Can we have a copy?

The motion proposed by the Honourable Member for Fort Rouge, the proposed amendment to Bill 62,

That the proposed subsection 35.1, subsection (1) — which we've already passed . . .

MR. AXWORTHY: No, I'm sorry. We're just dealing with it, Mr. Chairman.

MR. CHAIRMAN: Oh. — of The Rent Stabilization Act, as set out in Section 17 of Bill 62, be amended by adding thereto:

(c) Nothing in Clause 35.1, subsection (1), Section (a) or (b), would interfere with the application of Section 22.5 of this Act.

MR. McGILL: Mr. Chairman, I would just like Legislative Counsel to comment on that amendment.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Well, my own feeling is that it would be a dangerous thing to make reference to a single provision of the Act, because there is a rule which has been cited several times in the submissions, before another committee of this House on the family law, which I think was wrongly cited in those instances, but it is a rule which applies in this case. And that is, that where the Legislature puts in a provision which implies that a provision doesn't apply to a certain area, and by way of an exception of this kind, and names one provision, then the judges say, they mustn't have intended it to apply to that class of case, the general provision in 35.1(1) wouldn't, they would think, wouldn't have been intended to apply to classes of that kind. And if there are other provisions in the Act which might require, in the administration, the disclosure of certain information, they would say, "But you didn't mention them here." So, if you were going to do this at all, I would say, the application of any provision into this Act which implicitly or explicitly authorizes the disclosure of information, because I think by numbering, by setting out one subsection, you're finding difficulty with that rule.

MR. AXWORTHY: Well, Mr. Chairman, I thank Legislative Counsel for his advice. I would say that I was soundly convinced of the law of construction under The Family Law Act. I'm not so convinced of the interpretation under this Act; I'd maybe take the reverse position.

The point of the amendment is to respond to the issue raised in submissions and frankly an issue that was raised in my own mind, and that is that this present clause is ambiguous and could result in the foreclosure of certain information being given to those who have a direct interest in the applications under review. And, if there again is a better way of reinforcing the fact that 22.5 is not cancelled or in any way inhibited or limited by this Act, then I would certainly be agreeable to it. But I do think that because there was confusion, and because there were people with legal training saying that they would interpret it the other way, it obviously might result in litigation, and then it could be challenged in the courts, and I think we should make it very clear that 35.1(1) does not interfere with 22.5.

So, I think again, if the Legislative Counsel had suggested wording to me, I'd perhaps try to improve on it. Perhaps I didn't. But if there was another way of underlining in this Act, that in no way does this Act prevent the dissemination of information to parties to an application, maybe that would be the proper wording of Clause (c).

MR. CHAIRMAN: Any further discussion on the amendment that's before us?

QUESTION put on the amendment, MOTION lost. (Yeas, 7; Nays, 12.)

MR. CHAIRMAN: 35.1(1)(b)—pass; 35.1(2), subsection (2)(a)—pass; (b)—pass; (c)—pass; (d)—pass; 35.1, subsection (2)—pass; 35.1(17)—pass.

Section 18—pass; Preamble—pass.

I have a motion by the Honourable Member for Winnipeg Centre.

The Honourable Meer for Winnipeg Centre.

MR. BOYCE: Mr. Chairman, I move that the proposed title of Bill 62, An Act to Amend The Rent Stabilization Act, be amended by striking out the word "amend" thereof, and the word "terminate" be substituted therefor.

MR. CHAIRMAN: Any discussion?

MR. BOYCE: I might as well be honest about it.

MR. CHAIRMAN: Questions? Those that are in favour of the motion as proposed by the Honourable Member for Winnipeg Centre, please signify by raising your hands.

QUESTION put on the amendment, MOTION lost. (Yeas, 7; Nays, 13.)

MR. CHAIRMAN: Title—pass; Bill be Reported.

A MEMBER: No. On division.

MR. CHAIRMAN: On Division? Bill be Reported (On division)
Committee rise.