TENANT ORGANIZING AND THE CAMPAIGN FOR COLLECTIVE BARGAINING RIGHTS IN BRITISH COLUMBIA, 1968–75

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PART 1: INTRODUCTION

In 2018, the British Columbia Court of Appeal (BCCA) rejected an attempt by approximately 450 tenants of the Regent Hotel, a former single-room occupancy residence in Vancouver, to join their claims against the landlords as a class action. Instead, in *Gates v Sahota*,[1] the BCCA ordered the tenants to proceed individually with their claims of systemic mistreatment to dispute resolution at the Residential Tenancy Branch, on the grounds that, under the *Residential Tenancy Act*,[2] it has exclusive jurisdiction over most disputes between landlords and tenants. In denying tenants the capacity to pursue systemic grievances against their landlords as a unified class, the BCCA in *Gates v Sahota* reinforced an understanding of residential tenancies as individual contractual relationships regulated under a provincially centralized bureaucracy. Within this regime, tenants cannot engage in collective bargaining or take collective action against their landlords (such as withholding rent) for fear of breaching individual contractual obligations. Indeed, the idea of a union seems out of place in the context of landlord-tenant relations. However, there was a window in British Columbia's history when tenants' unions seemed a real possibility.

British Columbia's *Residential Tenancy Act*, which currently governs the relationship between landlords and the approximately 1.5 million residential tenants in the province,[3] is the most recent iteration of

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1 2018 BCCA 375, leave to appeal to SCC refused, 38438 (2 May 2019).

2 SBC 2002, c 78 [*RTA* 2002].

3 British Columbia, Rental Housing Task Force, *Rental Housing Review: Recommendations and Findings* (December 2018), 4, *govTogetherBC*, engage.gov.bc.ca/rentalhousingtaskforce.

legislation, amended many times over since its introduction in the 1890s, to address residential tenancies.[4] The basic shape and structure of the legislation can be traced to substantial reforms of landlord-tenant law in the late 1960s and early 1970s. It was also during this time that associations of tenants, backed by municipal governments and disparate factions of provincial legislators, came closest to securing collective bargaining rights for tenants and the recognition of tenants as a class with a significant capacity to shape the municipal regulation of residential tenancies.

This article examines the history of residential tenancy regulation and tenant organizing in British Columbia, with particular focus on the activity of the tenants' movement, 1968–75, which struggled and ultimately failed to obtain collective bargaining rights for tenants. It reconstructs that campaign through newspaper coverage, archival material, legislative reports, and *Hansard* debates.[5] Part 2 traces the emergence of a tenants' association in Vancouver and then of a provincewide tenants' organization, 1968–70. Responding to concerns about uncontrolled rent increases and the inequality of bargaining power between landlords and tenants, the tenants' movement grew from small groups in individual apartment complexes to become a provincial coalition of city-based tenants' associations that achieved significant influence with local municipal governments. Part 3 turns to the legislative realm and to amendments of residential tenancy laws in 1970. These amendments amounted to the first major reform of residential tenancy law in British Columbia since the 1890s, but they came well short of granting collective bargaining rights to tenants and diminished the tenants' movement's local regulatory influence.

In Part 4, the article describes the early work of the New Democratic Party government, which had been elected in 1972 on a platform that included a promise to grant collective bargaining rights to tenants. Instead, the government convened a commission to investigate and make recommendations on the legal regime to govern residential tenancies. Finally, Part 5 reviews the debate within the provincial legislature over the new *Landlord and Tenant Act*,[6] which became law in 1974, and the immediate aftermath of the new legislation, which included provisions for rent controls and just cause for eviction but which also created a

[4] Most notably: *Landlord and Tenant Act*, RSBC 1897, c 110 [*LTA* 1897]; *Landlord and Tenant Act*, SBC 1974, c 45 [*LTA* 1974]; *Residential Tenancy Act*, SBC 1977, c 61; *Residential Tenancy Act*, SBC 1984, c 15; *RTA* 2002.

[5] British Columbia, Legislative Assembly, *Official Report of Debates of the Legislative Assembly (Hansard)*, 30–34.

[6] *LTA* 1974.

provincially regulated administrative body – the office of the Rentalsman – to mediate disputes between landlords and tenants. Since then, the Residential Tenancy Branch, successor to the Rentalsman, has become a well-established entity in the relations between landlords and tenants; however, that established presence obscures the controversy that surrounded its creation. Most importantly, the *Landlord and Tenant Act* of 1974 did not extend class rights to tenants, and it eliminated the influence that tenants' associations had enjoyed with their local municipalities, effectively ending the tenants' movement's quest for collective bargaining.

PART 2: THE RISE OF THE TENANTS' MOVEMENT, 1968–70

In 1968, the City of Vancouver was grappling with a housing shortage characterized by low vacancy rates and rising rental costs.[7] British Columbia's *Landlord and Tenant Act*,[8] largely unaltered since its introduction in 1897, placed no limits on rent increases, and tenants felt increasingly vulnerable in the tight housing market.[9] Newspapers reported that some landlords were increasing rents multiple times and by as much as 25 percent in a single year.[10]

In this environment, the residents of the Driftwood Apartments in Vancouver's Kitsilano neighbourhood formed the Driftwood Tenants' Association (DTA). The immediate catalysts for its first meeting, held in August 1968 at Kitsilano Beach, were a 5 percent rent increase, instituted on short notice, and insulting communications from the landlord.[11] Bruce Yorke, who would become one of the most vocal leaders of the tenants' movement in British Columbia, led the DTA. Born in 1924 to a "comfortable" family in Vancouver's Point Grey neighbourhood, Yorke studied economics at the University of British Columbia, where he began a lifelong career as a social activist. He spoke out against the internment of Japanese Canadians during the Second World War, campaigned for nuclear disarmament, advocated for rights of workers and tenants in Vancouver, and was a lifelong member of the Communist Party of Canada despite the tensions of the Cold War. He ran unsuccessfully in

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[7] John Clarke, "Vancouver Carries Bargaining into the Home," *Globe and Mail*, 9 November 1968, 8; George Peloquin, "Lots of Housing Complaints … But No Solution," *Vancouver Sun*, 3 June 1968, 15.

[8] *LTA* 1897.

[9] John Clarke, "Vancouver Carries Bargaining."

[10] See, for example, "Alsbury Prepared to Probe Rent Row," *Vancouver Sun*, 26 September 1968, 42; Dave Hardy, "Committee Hears Pleas for Rental Appeal Board," *Vancouver Sun*, 22 November 1968, 25; John Clarke, "Vancouver Carries Bargaining."

[11] "Tenants Organize to Fight Rent Hike," *Vancouver Sun*, 3 August 1968, 8.

the 1960 provincial election as a Communist Party candidate in North Vancouver but went on to serve five terms as an alderman on Vancouver City Council, 1980–91.[12]

Yorke and the DTA failed to stop the rent increases at the Driftwood Apartments,[13] but this failure, and the modest publicity that they generated with their protest, spurred them to seek allies, which they found in the Rosemont Tenants' Association at the Rosemont Apartments in Vancouver's Mount Pleasant neighbourhood. The two associations united to form the Vancouver Tenants Organization Committee (VTOC), with Yorke as acting secretary and spokesperson.[14] On 23 September 1968, the VTOC organized a meeting at King George Secondary School, where five hundred tenants gathered and formed a "coalition against rent increases."[15] At the meeting, Yorke encouraged tenants to form tenants' associations within their apartments to negotiate collectively with their landlords. The concept of a unified and permanent collective of tenants had not yet taken hold in British Columbia, but Yorke advocated for a coalition of tenants' associations to encourage discussion of tenant organization on a scale beyond individual apartment complexes.[16]

In British Columbia, housing shortages, rising rents, and oppressive landlords sparked the rise of collective tenant action, but the emergence of municipalities as the principal regulators of residential tenancies after the Second World War was another important factor. The municipal regulation of tenancies encouraged tenants' associations to organize at a local level, and these groups maintained a visible presence by demonstrating or petitioning their city councils about local housing issues. Municipalities acquired their regulatory authority through what commentators in the press described as "a strange sequence of legislative buck-passing in BC."[17] During the Second World War, the federal government implemented rent controls through the *War Measures Act*.[18] After the war, Ottawa repealed its rent control measures, but provincial governments implemented transitional legislation to preserve them.[19] In British Columbia

[12] "Bruce Yorke, Former Vancouver City Councillor, Dies at 91," *CBC News*, 10 December 2015, www.cbc.ca/news/canada/british-columbia/bruce-yorke-vancouver-councillor-cope-1.3360164.

[13] "Firm Hikes Rents Despite Complaints," *Vancouver Sun*, 6 August 1968, 7.

[14] Bruce Yorke, "The Tenant Movement in BC from 1968 to 1978," *Mainlander*, 1981, themainlander.com/2012/11/09/the-tenant-movement-in-b-c-from-1968-to-1978; "Apartment Rents Hike Slammed," *Vancouver Sun*, 18 September 1968, 36.

[15] *Vancouver Sun*, "Rents Hike Slammed."

[16] "Negotiate Rents, Tenants Advised," *Vancouver Sun*, 24 September 1968, 15.

[17] John Clarke, "Vancouver Carries Bargaining."

[18] RSC 1927, c 206. See *Wartime Leasehold Regulations*, PC 2029, 21 November 1941.

[19] Ontario Law Reform Commission, *Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies* (1968), 65.

this was done through the *Leasehold Regulations Act* (1951).[20] However, the BC legislature barely acted on its powers to control rents,[21] instead passing the *Rent-Control Act* (1954),[22] which effectively repealed the *Leasehold Regulations Act* and all wartime leasehold regulations in place in the province since the Second World War, except to the extent that the regulations were adopted by individual municipalities:

> 3. (1) The Council or Board of Commissioners of any municipality in which the regulations are in force on the day this Act comes into force *may pass by-laws*
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> (a) adopting such regulations as are in force in the municipality on the thirty-first day of March, 1955, and declaring them in force in the municipality;
>
> (b) *creating a rental authority* and providing for the administration and enforcement of the regulations;
>
> (c) *revoking, amending, remaking, or substituting for any of the regulations.*[23]

The *Rent-Control Act* remained forgotten, much as did its predecessor, until April 1968, when Vancouver alderman Harry Rankin noticed that it appeared to grant municipalities broad powers to regulate tenancies.[24] Rankin proposed that Vancouver City Council establish a committee to oversee tenancy regulations and a municipal rent review board.[25] Despite some opposition,[26] City Council created a rent regulation committee, later named the Landlord and Tenants Regulations Committee (LTRC),[27] and appointed Aldermen Tom Alsbury and Ed Sweeney as its first members.[28] The LTRC held its first public meeting on 23 September 1968.[29] One week later, Mayor Tom Campbell expanded the

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[20] SBC 1951, c 44.

[21] The province appears to have passed only two regulations under the *Leasehold Regulations Act*. See Law Reform Commission of British Columbia, *Report on Landlord and Tenant Relationships: Residential Tenancies*, Report 12 (1973), 189.

[22] SBC 1954, c 34; RSBC 1960, c 338.

[23] Ibid., s 3 (emphasis added). See also LRCBC Report 1973, 188–89.

[24] "Lawyer to Draw up City Rental Standards," *Vancouver Sun*, 25 April 1968, 2.

[25] George Peloquin, "Rent Control 'Would Mean City Influx': City Counsel Raises 'Serious Disadvantages,'" *Vancouver Sun*, 27 July 1968, 25.

[26] See, for example, ibid.; "Council Stands by Rent Control Study," *Vancouver Sun*, 30 July 1968, 2; "Council Bars Budget for Rents Study," *Vancouver Sun*, 14 August 1968, 8; "City Rents: Control Review Goes On," *Vancouver Sun*, 28 August 1968, 8.

[27] "New Name, Old Game," *Vancouver Sun*, 16 October 1968, 58.

[28] "Rent Control Probe Set," *Vancouver Sun*, 2 August 1968, 2.

[29] "Rent Hearing on Sept. 23," *Vancouver Sun*, 30 August 1968, 18.

LTRC to include all members of City Council.[30] "Rents have become a major issue in Vancouver," said Campbell, "and I feel all members of council should get information first hand."[31]

Rankin, who served as an independent alderman from 1966 to 1993, was a vocal advocate of tenants' associations in Vancouver. He was a criminal law and labour law lawyer, a self-described socialist (which landed him in trouble with the Law Society of British Columbia),[32] and an activist for the rights of groups such as tenants, workers, and Indigenous peoples. He went on to represent the Fred Quilt Committee in two famous coroner's inquests into the 1971 death of Tsilhqot'in Elder Fred Quilt while in RCMP custody,[33] and he became the treasurer of the Law Society in 1979. He lost a hotly contested campaign for mayor in 1986 to Gordon Campbell, who would go on to become the province's premier in 2000.

Rankin's discovery of the *Rent-Control Act* ignited municipal efforts to regulate tenancies. Meanwhile, the VTOC's campaign to establish tenants' associations in apartment complexes across the city spurred the formation of at least seven new apartment associations by October 1968.[34] That month, the tenants' movement and the VTOC were faced with a "test case" for collective bargaining and municipal involvement at the Rosemont Apartments.[35] The landlord, Eva Virtue, had issued eviction notices to half of the apartment's tenants after they had refused to pay a rent increase and a new twenty-five-dollar damage deposit.[36] Peter Halford, president of the Rosemont Tenants' Association and a leading member of the VTOC, called upon Alderman Tom Alsbury, chairman of Vancouver City Council's recently formed LTRC, to mediate the dispute.[37] With Alsbury's assistance, Virtue and the tenants arrived at a settlement in which the tenants agreed to pay the rent increases and

[30] "All Aldermen Rent Probers," *Vancouver Sun*, 3 October 1968, 12.
[31] Ibid.
[32] See W. Wesley Pue, "Banned from Lawyering: William John Gordon Martin, Communist," in John Hamar Foster, John McLaren, and W. Wesley Pue, eds., *The British Columbia Court of Appeal, 1910–2010*, *BC Studies*, special issue (2009): 111.
[33] See Harry Rankin, *Rankin's Law: Recollections of a Radical* (Vancouver: November House, 1975).
[34] "Tenants' Protest Movement Grows," *Province*, 15 October 1968, 28.
[35] Ibid.
[36] Ibid.; "Tenants Fight Rent Hike," *Vancouver Sun*, 10 October 1968, 15.
[37] *Vancouver Sun*, "Alsbury Prepared"; "Tenants Counting on Alsbury," *Vancouver Sun*, 10 October 1968, 2.

damage deposits, and Virtue guaranteed not to increase rents for a year and to provide three months' notice for evictions or future rent increases.[38]

The tenants also wanted Virtue to enter a separate written contract with the Rosemont Tenants' Association that would affect not only current tenants but future tenants as well. "We regard this contract as historic," said Yorke on behalf of the VTOC. "It is the first of its kind ever negotiated in Vancouver and probably in Canada … It establishes the principal [*sic*] of collective negotiation by tenants' groups with landlords."[39] However, Virtue refused to sign the collective contract and agreed only to append the new terms to existing and future leases signed by individual tenants.[40] Faced with eviction if they refused the settlement, most of the tenants assented to the individual amendments, and the dispute was largely resolved, although six tenants opted to move out.[41] "It's not the best perhaps," said Yorke about the settlement, "but it's still a pretty big step forward … It would be better if it was a signed contract, but maybe that was hoping for too much."[42]

The partial success at the Rosemont Apartments encouraged the VTOC's growing constituency of apartment associations to begin negotiating collective rental agreements with their landlords. By November 1968, the VTOC had grown to a federation of ten apartment associations across the city,[43] and it began to campaign for citywide and even province-wide reform of landlord-tenant laws. In a November meeting at the Canadian Legion Hall, the VTOC expanded to become the Vancouver Tenants Council (VTC) and adopted a constitution demanding the right for tenants to collectively negotiate rents with landlords, the establishment of municipal regulatory boards, the enhancement of building code enforcement, the requirement for landlords to provide reasons for evictions, the rescission of legislation permitting landlords to seize the possessions of tenants for non-payment of rent, and other changes to the *Landlord and Tenant Act* to establish a more equal balance to the landlord-tenant relationship.[44]

On 21 November, the VTC appeared before Vancouver City Council's LTRC to advocate for various regulations in favour of tenants' rights and

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[38] "Tenants' Demands Met in Rent Agreement," *Vancouver Sun*, 24 October 1968, 1–2; "Landlord-Tenants' Meeting Slated," *Province*, 25 October 1968, 35.

[39] *Vancouver Sun*, "Tenants' Demands Met."

[40] "Apartment Tenants Get Ultimatum," *Vancouver Sun*, 26 October 1968, 28.

[41] "Rent Row Resolved," *Vancouver Sun*, 31 October 1968, 62; "Tenants Make Yards in Apartment Dispute," *Province*, 1 November 1968, 14.

[42] *Province*, "Tenants Make Yards."

[43] "Tenants Seek Members," *Vancouver Sun*, 14 November 1968, 15.

[44] Ibid.

Figure 1. Tenant rally at Vancouver City Hall, ca. 1969. Left to right – Alderman Halford Wilson, Alderman Arthur Phillips, Alderman Harry Rankin, Bruce Yorke (speaking), tenant leader Wally Matheson, tenant leader Peter Halford, Alderman Walter Hardwick. *Source:* Harry Rankin and Bruce Yorke, *Tenant Rights: Vancouver Alderman Harry Rankin and Tenant Leader Bruce Yorke Tell What Tenant Rights Have Been Won and What Rights Still Need Winning*, pamphlet (Vancouver: British Columbia Tenants Organization, 1970), 5 (available at UBC Rare Books and Special Collections).

for the creation of a municipal rental appeal board. Yorke told the committee that the regulation of residential tenancies had become a "one-way proposition for landlords" and that "tenants [were] completely dependent on the whim of the landlord."[45] He was supported by an energized and angry group of tenants, and when Alderman Earle Adams, who had previously voted to disband the committee,[46] attempted to challenge Yorke, the audience shouted him down and he conceded the point.[47]

Despite this pressure, the LTRC appeared to remain dormant for almost a year,[48] but in September 1969, "after many delegations before committees of City Council, public meetings, a march on City Hall [Figure 1], and finally individual lobbying with Council members in

[45] Hardy, "Committee Hears Pleas."
[46] *Vancouver Sun*, "Council Bars Budget"; *Vancouver Sun*, "Control Review Goes On."
[47] Hardy, "Committee Hears Pleas."
[48] Dick Schuler, "The Tenant Is Bottom Man on the Totem Pole When It Comes to the Landlord and Tenant Act," *Vancouver Sun*, 27 March 1969, 6.

their homes,"[49] Vancouver City Council passed a by-law under the *Rent-Control Act* establishing the province's first municipal regulatory board for tenancies: the Vancouver Rental Accommodation Grievance Board (VRAGB).[50] The VRAGB would act as a mediator between landlords and tenants during disputes and had the authority to issue binding orders. In addition, the by-law mandated a maximum of one rent increase per year, required three months' notice for rent increases, limited security deposits to twenty-five dollars for unfurnished and fifty dollars for furnished units, prohibited landlords from entering rental units except under certain conditions, and placed responsibility for repairs and mitigation of damages on landlords.[51] These developments were significant victories for the tenants' movement and suggested the influence that tenants' associations could have at the municipal level. Yorke was disappointed that the by-law did not provide for the representation of tenants by tenants' groups, but he declared that it "set the stage for the continued activity of the tenant movement and was a big factor in the changes" that the province was soon to make to the legislation governing residential tenancies.[52]

Similar municipal tenants' associations and rent review boards began to appear in other urban centres around the province.[53] Encouraged by their growing influence, in June 1970, Yorke and the VTC joined forces with recently formed tenants' associations in Burnaby, New Westminster, Surrey, North Vancouver, Victoria, and Campbell River to establish a provincial federation of tenants' groups known as the BC Tenants' Organization (BCTO), with Yorke as its first president. The tenants' movement in British Columbia had grown from isolated collectives of renters in individual apartment complexes to a coalition of municipal tenants' associations from the Lower Mainland and on Vancouver Island advocating for change.

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[49] Harry Rankin and Bruce Yorke, *Tenant Rights: Vancouver Alderman Harry Rankin and Tenant Leader Bruce Yorke Tell What Tenant Rights Have Been Won and What Rights Still Need Winning*, pamphlet (Vancouver: British Columbia Tenants Organization, 1970), 4 (available at UBC Rare Books and Special Collections).

[50] City of Vancouver, by-law No 4448, *Rental Accommodation Grievance Board By-Law*, September 1969.

[51] Ibid. See also Al Sheehan, "Council Establishes Board to Police Rentals in City," *Vancouver Sun*, 6 August 1969, 1.

[52] Yorke, "Tenant Movement."

[53] See, for example, "Rent Grievance Board Gets Surrey's Approval," *Vancouver Sun*, 18 June 1969, 3; "'Give Committee Tenants' Gripes,'" *Vancouver Sun*, 11 February 1970, 22; "Trio Will Advise Landlords, Tenants," *Vancouver Sun*, 28 August 1970, 3.

These developments paralleled a rise in tenants' rights movements and collective action across North America in the 1960s and 1970s.[54] Rent strikes in the Harlem neighbourhood of New York City, 1963–64, were replicated in Cleveland, Detroit, Chicago, Boston, and Washington, DC, [55] and led to the emergence of "citywide federations of tenants' organizations" in major urban centres.[56] By 1969, tenant organizing had become the principal form of tenant activity in the United States, culminating in the formation of the National Tenants Association.[57] The Urban Research Corporation in Chicago predicted that, "when the history of the tenants' rights movement is written, it is likely that 1969 will be regarded as the year when isolated tenant activity suddenly expanded into a multi-class, nationwide movement."[58]

The rise in tenant activism was primarily a response to severe urban housing shortages and outdated landlord-tenant laws across North America,[59] but it also shared ideological similarities with broader political and social movements of the time. The rise of the labour movement, which was defined by the collective organization of the working class, was one obvious analogue. "Just as the idea of working men uniting to form labor unions seemed a novel concept in the early days of the labor movement," observed the Urban Research Corporation in 1969, "so the idea of fellow renters forming tenants unions still seems novel today."[60] Yorke, an experienced labour advocate and a former official in the fishermen's union, drew the inspiration for collective bargaining from the labour context.[61] Jack Clarke, a labour reporter in Vancouver, described the purpose of the tenants' movement as "to develop collective bargaining relationships between landlords and tenants along traditional

[54] See, for example, Ronald Lawson and Reuben B. Johnson III, "Tenant Responses to the Urban Housing Crisis, 1970–1984," in *The Tenant Movement in New York City, 1904–1984*, ed. Ronald Lawson and Mark Naison (New Brunswick, NJ: Rutgers University Press, 1986), 209–276 (on New York City); Nick Juravich, "'We the Tenants': Resident Organizing in New York City's Public Housing, 1964–1978," *Journal of Urban History* 43, no. 3 (2017): 400–20 (also on New York City); Jim Vrabel, *A People's History of the New Boston* (Amherst and Boston: University of Massachusetts Press, 2014), 131–38; Amanda Huron, *Carving Out the Commons: Tenant Organizing and Housing Cooperatives in Washington, DC* (Minneapolis: University of Minnesota Press, 2018), 72–75.

[55] Thea K. Flaum and Elizabeth C. Salzman, *Urban Research Corporation Report: The Tenants' Rights Movement* (Chicago: Urban Research, 1969), 1–2.

[56] Ibid.

[57] Ibid., 16–17.

[58] Ibid., 2.

[59] Flaum and Salzman, *Tenants' Rights*.

[60] Ibid., 1.

[61] John Clarke, "Vancouver Carries Bargaining"; *Vancouver Sun*, "Negotiate Rents."

trade union lines."[62] Referring to the negotiations at the Rosemont Apartments in October 1968, Clarke suggested that "a landlord-tenant contract is perhaps less surprising here [in Vancouver] than anywhere else in Canada, in view of the high proportion of workers in B.C. who are in trade unions."[63] Indeed, the labour movement provided a model of collective bargaining to mitigate power imbalances, and tenants and commentators alike were highly conscious of the connection in the 1960s and 1970s.

Recent scholarship has retreated from viewing the tenants' movements of the 1960s and 1970s as ideologically aligned with the labour movement, which sought to improve the position of labourers within the market economy, or other historical narratives that present the tenants' movement "either as integral to the class struggle for rights to housing, or the consequence of an intraclass division between forms of housing consumption, or as an expression of the market interests of consumers against producers."[64] Instead, academics have begun to identify tenants' movements as part of a broader rise in identity politics and social movements inspired by the US civil rights movement.[65] However, there is no indication that the tenants' movement in British Columbia was directly influenced by concurrent social movements in the United States, and the evidence instead suggests that the labour movement provided the principal inspiration. Certainly, some of the prominent figures in the tenants' movement, particularly Yorke and Rankin, had backgrounds in the labour movement. Nonetheless, whatever the ideological origins and motivations, tenants in many cities across North America were beginning to organize in the 1960s and 1970s, and the emergence of the BCTO was part of this broader movement.

PART 3: LANDLORD-TENANT LAW AND LEGISLATIVE REFORM, 1970

The emergence of residential tenancies as distinct objects of regulation, separate from commercial tenancies, is a relatively recent development in British Columbia. The colony of British Columbia received the English

[62] Jack Clarke, "A Local Strike that Shouldn't Be," *Province*, 13 November 1968, 29.
[63] Ibid.
[64] Quintin Bradley, *The Tenants' Movement: Resident Involvement, Community Action and the Contentious Politics of Housing* (New York: Routledge, 2014), 39.
[65] See, for example, ibid.; Juravich, "We the Tenants"; Huron, *Carving Out the Commons*. See also Ronald Lawson, Stephen Barton, and Jenna Weissman Joselit, "From Kitchen to Storefront: Women in the Tenant Movement," in *New Space for Women*, ed. Gerda R. Wekerle (New York: Routledge, 1982), 255–71.

common law in 1858,[66] and it drew no distinction between residential and commercial tenancies. Many English statutes touched on relationships between landlords and tenants and formed part of the regulatory environment for tenancies,[67] but it was not until 1897 that British Columbia consolidated this array in the province's first *Landlord and Tenant Act*.[68] Its chief purpose was to delineate the ability of landlords to seize the possessions of tenants for non-payment of rent:

> [W]hereas landlords are often sufferers by tenants running away in arrear, and not only suffering the demised premises to lie uncultivated without any distress thereon, whereby their landlords might be satisfied for the rent-arrear, but also refusing to deliver up the possession of the demised premises, whereby the landlords are put to the expense and delay of recovering in ejectment …[69]

The *Act* was silent on various issues, such as rent increases or responsibility for repairs, which remained subject to the common law rules governing leasehold estates. The province made minor amendments over the following decades, but the basic structure of the legislation and of landlord-tenant law remained largely unchanged until 1970.[70]

By 1970, the rise of the tenants' movement in British Columbia and the absence of provincial regulation prompted several municipalities to begin regulating tenancies pursuant to the previously forgotten *Rent-Control Act*. However, municipal authority to pass regulations under the *Act* was unclear and somewhat dubiously founded on Rankin's interpretation of the statute's extension of wartime regulatory powers to municipalities.[71] Burnaby City Council refused to create a rent review board until Vancouver's by-law had been tested in the courts, believing the *Rent-Control Act* empowered municipalities only to continue wartime rent regulations, not to impose new regulations.[72] Yorke was "shocked" by Burnaby's position, believing that there was "absolutely no question" that the *Rent-Control Act* granted municipalities such powers.[73] In response to the uncertainty, in September 1969, Municipal Affairs Minister

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[66] Now embodied in the *Law and Equity Act*, RSBC 1996, c 253, s 2.
[67] LRCBC Report 1973, 9.
[68] *LTA* 1897.
[69] Ibid., s 30.
[70] See *Landlord and Tenant Act*, RSBC 1911, c 126; RSBC 1924, c 130; RSBC 1936, c 143; RSBC 1948, c 174; RSBC 1960, c 207.
[71] See LRCBC Report 1973, 188–90.
[72] "Council 'Dared' on Rent Board," *Vancouver Sun*, 22 July 1969, 13; "Refusal by Burnaby 'Shocks' Tenant Head," *Vancouver Sun*, 27 August 1969, 23.
[73] *Vancouver Sun*, "Refusal by Burnaby."

Dan Campbell produced a draft bill to enable municipalities to establish rental accommodation grievance boards,[74] but the legislature never adopted the bill.[75] Similar uncertainty had arisen in Ontario under the province's equivalent of the *Rent-Control Act*, prompting municipalities such as Ottawa and Windsor to urge the Ontario legislature to pass enabling legislation.[76]

The ambiguity of the *Rent-Control Act* and a lack of resources or broad-based political commitment prevented municipalities from expanding their regulation of tenancies.[77] The tenants' movement set its sights on Victoria and initiated a campaign for the province to fund municipal rent review boards, to delineate or expand municipal authority, and to endorse a "Tenants Bill of Rights."[78] On 17 February 1970, seventy-five delegates from various municipal tenants' associations marched on the Legislative Assembly (Figure 2) and met with the attorney general and representatives from each of the province's major political parties.[79] One week later,[80] the provincial legislature under Premier W.A.C. Bennett's Social Credit Party introduced a Part II of the *Landlord and Tenant Act*.[81] However, rather than provide provincial support for municipal regulation, the bill signalled the province's return to the regulatory sphere and its intention to create a provincewide code governing residential tenancies.

The proposed additions to the *Landlord and Tenant Act* were inspired by recent reforms in Ontario, the first province to re-examine the centuries-old common law and legislation on tenancies imported from England.[82] In a 1968 interim report, the Ontario Law Reform Commission (OLRC) concluded that the traditional laws governing the landlord-tenant relationship – particularly the feudal concept of the leasehold estate and the doctrine of freedom of contract – failed to account for the unique

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[74] Memorandum from Vancouver Deputy City Clerk, 19 September 1969, regarding "Proposed Rental Accommodation Grievance Board Act," City of Vancouver Archives, COV-S518, 032-A-01, fld 21.

[75] Campbell later stated that he could not remember ever drafting the bill. See "Ruling Against Rent Grievance Board Probed," *Province*, 25 February 1972, 48.

[76] OLRC Report 1968, 66.

[77] See, for example, "Tenants Sought as Voters," *Vancouver Sun*, 28 August 1969, 14; *Vancouver Sun*, "Board Gets Surrey's Approval."

[78] Vancouver Tenants' Council, "A Tenants Bill of Rights," City of Vancouver Archives, COV-S518, 032-A-06, fld 11.

[79] Rankin and Yorke, *Tenant Rights*, 5.

[80] Ibid., 6.

[81] *Landlord and Tenant Amendment Act*, SBC 1970, c 18, s 2, enacting Part II of the *Landlord and Tenant Act*, RSBC 1960, c 207 [*LTAA* 1970].

[82] See LRCBC Report 1973, 10.

Figure 2. Tenants march on the Legislative Assembly in Victoria, ca. 1970. *Source:* Harry Rankin and Bruce Yorke, *Tenant Rights: Vancouver Alderman Harry Rankin and Tenant Leader Bruce Yorke Tell What Tenant Rights Have Been Won and What Rights Still Need Winning*, pamphlet (Vancouver: British Columbia Tenants Organization, 1970), cover (available at UBC Rare Books and Special Collections).

interests and issues that arose in the residential context and put landlords in a disproportionately favourable position.[83]

The OLRC identified the concept of the leasehold estate as the principal culprit behind the power imbalance between landlords and tenants and the area in most need of reform. It noted:

> The common law of landlord and tenant, over the centuries, has not developed any legal philosophy based on a theory of vital interests. The single most important feature of landlord and tenant law is the existence of the leasehold "estate" of the tenant. The vesting of the estate in the tenant underlies the rather fixed nature of the law and has caused courts to determine the rights of tenants according to rigid land law principles rather than in accordance with the more realistic development of contract and tort law which would likely apply in

[83] OLRC Report 1968, 10.

> the absence of the estate theory … Landlord and tenant law is not in a consistently logical sense concerned with the interests of landlord and tenants and it has not even attempted to define them. In a sense the common law of landlord and tenant is mechanical in that its conclusions as to the rights of the parties are based on the fact of the "estate," not on any realistic standard of vital interests which the law will endeavour to protect.[84]

More specifically, the OLRC identified a number of "anachronistic consequences" of the leasehold estate in the context of residential tenancies, including that landlords were not responsible for any damage caused to the tenant because of dangerous conditions in the premises and that, in the event of the destruction of the rental unit, landlords were not required to rebuild the unit but nonetheless could continue to collect rent until the end of the lease.[85]

However, the OLRC cautioned that removing the estate from residential tenancy law and leaving the landlord-tenant relationship solely in the realm of contract would be an incomplete solution because "the extent to which contractual provisions can equalize the position of residential tenants is limited by the disparity of bargaining power between the parties."[86] The commission evoked comparisons to legislative intervention on mortgage contracts and contracts relating to the sale of goods and personal property security, where "statutory protection recognizes inequality of bargaining positions and the absence of freedom of contract in any real sense,"[87] and it recommended that any shift in the legal regime include procedural mechanisms for tenants to address grievances against landlords. The OLRC warned that "[u]nless reasonable procedures are made available to tenants to permit their rights to be dealt with speedily and inexpensively, changes in the law, ostensibly for their benefit, are apt to remain little more than pious wishes."[88]

The OLRC turned to collective bargaining and municipal regulation as potential procedural mechanisms to empower tenants, noting "[i]t

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[84] Ibid., cited also in LRCBC Report 1973, 10. The Urban Research Corporation in Chicago described the state of landlord-tenant law in 1969 in similar terms, in Flaum and Salzman, *Tenants' Rights*, 5: "The legal doctrines governing landlord-tenant relationships were established in rural, agrarian England, and haven't changed much since the Middle Ages. Thus, the laws we have today were designed to govern the rental of land – not housing. The landlord's obligation was fulfilled simply by giving the tenant his land to use; what the tenant did with it was his own business. Tenants were expected, for example, to make their own repairs."

[85] OLRC Report 1968, 10–11.

[86] Ibid., 11.

[87] Ibid., 11–12.

[88] Ibid., 59.

is not without reason that among experiments in landlord and tenant relations one of the more successful has been the collective agreement between landlords and tenants' associations,"[89] and that "municipal authorities could play a very useful role if they were authorized to create rental conciliation services to aid landlords and tenants in settling their disputes."[90] The commission recommended that municipalities be authorized to establish "Leasehold Advisory Bureaux" to serve as local authorities of information, arbitration, and rent review for landlords and tenants, with either the attorney general or the minister of financial and commercial affairs exercising a general supervisory role.[91]

The OLRC concluded that immediate legislative intervention was necessary to remove the "mechanical" aspects of the common law and to balance the relationship of residential landlord and tenant.[92] It provided over twenty recommendations for legislative change,[93] and the Ontario legislature implemented many of these recommendations within the year.[94] British Columbia followed less than a year later when it introduced Part II to the province's *Landlord and Tenant Act*.[95] In what appears to be a response to the OLRC's criticism of the "anachronistic consequences" of the estate in residential tenancies, the amended *Act* proclaimed that "the relationship of landlord and tenant is one of contract only, and a tenancy agreement does not confer on the tenant an interest in land."[96] More specifically, the new provisions abolished the rights of landlords to seize tenants' possessions for non-payment of rent, made landlords responsible for repairs and for mitigating damages, instituted a maximum of one rent increase per year, limited security deposits to fifty dollars, and permitted tenants to challenge evictions if their legal rights were being violated. The amendments incorporated many of the features that municipalities had begun to introduce, but on a provincial scale, and Yorke described them as a "victory for the tenant movement."[97]

However, despite the OLRC's warning that contract law alone was inadequate to protect tenants and its recommendation for collective bargaining and municipal regulation, the British Columbia legislature did not grant tenants the right to bargain collectively with their

[89] Ibid., 60.
[90] Ibid.
[91] Ibid., 62–63.
[92] Ibid. See also LRCBC Report 1973, 10.
[93] OLRC Report 1968, 75–81.
[94] *Landlord and Tenant Amendment Act*, SO 1968–69, c 58.
[95] *LTAA* 1970.
[96] Ibid., s 35.
[97] Yorke, "Tenant Movement."

landlords. Instead, the amendments reinforced the idea of residential tenancies as private relationships negotiated between individuals under the law of contract without dealing with the disparity in contractual bargaining power between landlords and tenants. And although Part II empowered municipalities to establish "Landlord and Tenant Advisory Bureaus" to give advice to landlords and tenants about their rights, it did not grant them specific regulatory powers.[98] Rankin and Yorke, on behalf of the BCTO, remarked that "such boards, if set up under the provisions of the new Landlord and Tenant Act, would largely be of an ombudsman nature, and they would have very little, if any, power."[99] The province's return to regulating residential tenancies also caused jurisdictional conflicts with the *Rent-Control Act*, which had enabled municipal efforts.[100] When the issue of municipal jurisdiction came before the courts in February 1972 in the case of *Holst v Wells*,[101] Judge Levey of the British Columbia Provincial Court invalidated two orders of the VRAGB, holding: "[Part II of the] Landlord and Tenant Act is later in time than the Rent-Control Act and Vancouver By-law #4448, and clearly has repealed the By-law by implication in that it occupies the same field."[102] Vancouver City Council voted to appeal the decision to the British Columbia Supreme Court and instructed the VRAGB to continue to operate,[103] but it seemed clear that the province was moving to centralize the regulation of residential tenancies under its authority.

The amendments to the *Landlord and Tenant Act* signalled the province's willingness to recognize the distinct character of residential tenancies and the need for legislative intervention to create greater security of tenure for tenants. However, the absence of collective bargaining rights and the diminished role for municipalities in the regulation of residential tenancies concerned the tenants' movement. The VTC and BCTO continued to campaign in Victoria through 1970–72 for further changes to the legislation,[104] including a "full-scale petition campaign in favor of the right of tenants to bargain collectively with their landlords,"[105] and for

[98] *LTAA* 1970, s 66.

[99] Rankin and Yorke, *Tenant Rights*, 18.

[100] See LRCBC Report 1973, 149–54.

[101] *Holst v Wells*, 23 February 1972, Vancouver 8783/71 (BC Prov Ct).

[102] Ibid., 4. See also "Judge Invalidates Two Rent-Board Orders," *Vancouver Sun*, 24 February 1972, 27.

[103] *Province*, "Ruling Against"; "City's Counsel Disputes Judge's Rent-Board Findings," *Vancouver Sun*, 4 March 1972, 12; "Rent Board to Operate as Usual," *Vancouver Sun*, 8 March 1972, 37.

[104] Ann Barling, "A Look at Landlords and Tenants," *Vancouver Sun*, 17 January 1972, 30; "Tenants Hit Victoria in Lobbying Session," *Vancouver Sun*, 14 February 1972, 20; "Vancouver's Tenant Franchise," *Province*, 25 April 1972, 1.

[105] Alex Macdonald, "Collective Bargaining Rights Sought by Tenants' Council," *Vancouver Sun*, 4 February 1972, 15.

the endorsement of municipal regulatory boards with the power to issue binding orders, which Yorke believed was "essential" to the VTC's efforts but had been threatened by Judge Levey's decision in *Holst v Wells*.[106] In response, British Columbia's New Democratic Party (NDP), then in opposition to the Social Credit government, made further amendments to landlord-tenant law a central part of its platform for the provincial election in 1972 that would see it form government.

PART 4: THE NDP AND THE BC LAW REFORM COMMISSION, 1972–73

In 1972, Dave Barrett led the NDP to a majority government in British Columbia, defeating the Social Credit Party, which had governed the province since 1952. In addition to a promise for major investments in social housing, the NDP's election platform included two substantial commitments related to residential tenancies: collective bargaining rights for tenants and provincial support for the creation of municipal rent review boards.[107] "Housing is a basic right," declared the NDP platform, "and must be provided on the basis of need rather than profit."[108] Soon after the election, Yorke and the BCTO placed pressure on the new government to honour its election promises.[109] In response, the new minister for municipal affairs, Jim Lorimer, reiterated the NDP's plan to enable tenants' associations to negotiate rents with landlords on behalf of tenants, and he suggested the changes would occur within the next four years.[110] This affirmation of support would be the closest that the tenants' movement would come to achieving collective bargaining rights.

As 1973 arrived, the NDP had not acted on its commitment to residential tenancy reform.[111] Anxious for updates, the BCTO sent a delegation to Victoria in March to meet with the NDP caucus. To the delegation's surprise, the NDP government refused to commit to the changes promised the year before.[112] In fact, the new administration, which had seemed so promising to Yorke and tenants' groups, appeared to be reneging on its most significant promise to tenants to facilitate the

[106] *Vancouver Sun*, "Judge Invalidates"; *Holst v Wells*.
[107] See Geoff Meggs and Rod Mickleburgh, *The Art of the Impossible: Dave Barrett and the NDP in Power, 1972–1975* (Madeira Park, BC: Harbour, 2012), 211; "MLA Urges Gov't Takeover of BC Mortgage Industry," *Vancouver Sun*, 22 February 1973, 15.
[108] Meggs and Mickleburgh, *Art of the Impossible*, 211.
[109] "Tenants Turning on More Heat," *Vancouver Sun*, 23 October 1972, 37.
[110] "'Union Rights' Eyed for Tenant Groups," *Vancouver Sun*, 8 November 1972, 26.
[111] *Vancouver Sun*, "MLA Urges Gov't Takeover."
[112] "Tenants Get No Pledge of Bargaining Powers," *Vancouver Sun*, 7 March 1973, 12.

creation of tenants' associations with the power to bargain collectively. Moreover, the tenants' movement appeared to be losing some of its momentum. When the BCTO met to discuss the NDP's reversal, the local press remarked on the absence of the "fire and drive that ignited the powerful tenant-power movement in Vancouver a few years ago."[113]

Worse still for the tenants' movement, in June 1973, Justice Anderson of the British Columbia Supreme Court released his decision in *R v Davidson Developments Ltd*,[114] upholding Judge Levey's decision in *Holst v Wells*, which was that the VRAGB had no authority to make binding orders after the provincial legislature's 1970 amendment to the *Landlord and Tenant Act*. Justice Anderson held that "when Pt. II of the Act is examined as a whole, it becomes clear that the Legislature has completely occupied the field, with the exception that municipalities may provide for security deposits to be required or received by landlords by enacting appropriate bylaws."[115] In response, Vancouver City Council voted to petition the provincial government to amend the *Landlord and Tenant Act* to establish compulsory municipal grievance boards with the legal authority to issue binding orders in landlord-tenant disputes.[116]

As the housing shortage worsened, the pressure for tenancy reform mounted on the NDP.[117] When the NDP eventually took action in July 1973, it came in the form of Attorney General Alex Macdonald requesting that the Law Reform Commission of British Columbia (LRCBC) provide a report on the existing regulatory regime under the *Landlord and Tenant Act*.[118] Tenants' groups were not pleased. BCTO secretary Frank Izzard pronounced his disgust with what he described as "the cynical approach" of the NDP.[119] Yorke declared that rent increases had undermined the accomplishments of the tenants' movement over the preceding years, and he accused the NDP of delaying reform because it was "afraid of the economic power of large real estate and corporate interests."[120]

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[113] Phil Hanson, "The Good Grey Tenants," *Vancouver Sun*, 28 March 1973, 66.
[114] [1973] 5 WWR 736, 1973 CanLII 1586 (BCSC) [cited to WWR].
[115] *R v Davidson Developments Ltd*, 740.
[116] "More Teeth Urged for Grievance Body," *Vancouver Sun*, 4 May 1973, 14; "New Powers Sought for Rental Board," *Vancouver Sun*, 6 July 1973, 15; "Authority to Settle Disputes Recommended for Rent Board," *Province*, 6 July 1973, 27; "Rent Board with Teeth Proposed," Vancouver Sun, 29 August 1973, City of Vancouver Archives, COV-S518, 032-A-03, fld 18.
[117] See Richard Dolman, "Worst Rental Shortage Ever Predicted," *Vancouver Sun*, 11 August 1973, 26.
[118] LRCBC Report 1973, 7.
[119] Robert Sarti, "Split with NDP: Tenants Plan Protest Lobby," *Vancouver Sun*, 8 September 1973, 3.
[120] Ibid.

Over the summer of 1973, the LRCBC called for written submissions from interested parties and received over two hundred, approximately 80 percent of which came from landlords or landlords' groups, 10 percent from tenants and tenants' groups, and 10 percent from other third parties.[121] Similarly, at a public hearing held in October at the Vancouver Public Library, there were nine submissions on behalf of landlords but only one on behalf of tenants – from Yorke for the BCTO.[122] Landlords were fiercely opposed to collective bargaining, largely on the ground that restricting their ability to determine rents would reduce the profitability of rental housing and discourage the building of housing units. Bruce Innes, president of the Greater Vancouver Apartment Owners Association, pronounced that collective bargaining could "only further deteriorate the availability of rental housing for those who need it most,"[123] while another director claimed, "if tenants get collective bargaining, whole neighbourhoods will be blighted overnight because the landlords will simply lock the doors and board up the windows."[124]

The LRCBC submitted its *Report on Landlord and Tenant Relationships: Residential Tenancies* at the end of 1973.[125] It noted that the two parts of the *Landlord and Tenant Act* were almost entirely unrelated and that, because of their differences in age and different linguistic styles, this caused confusion among lay landlords and tenants.[126] As a result, one of its first recommendations was to shift Part II of the *Landlord and Tenant Act* into new legislation pertaining only to residential tenancies.[127] Among its dozens of other recommendations, the LRCBC called for the implementation of a principle of just cause for evictions, in line with a long-standing demand from tenants' associations and something that had already been implemented in several municipalities.[128]

However, these recommendations for greater protections for tenants were relatively minor compared to the influence the report would have on the trajectory for collective bargaining and municipal regulation. The LRCBC's most significant recommendation was for the creation of the office of the "Rentalsman," a provincial office that would mediate disputes between individual landlords and tenants and that, if the legislature chose to implement rent controls, would determine

[121] LRCBC Report 1973, 7–8.
[122] Ibid., 8, 174.
[123] "Landlords, Tenants Agree on Binding Board Rulings," *Vancouver Sun*, 14 June 1973, 18.
[124] Dolman, "Worst Rental Shortgage."
[125] LRCBC Report 1973.
[126] Ibid., 10.
[127] Ibid., 162.
[128] Ibid., 163–65.

the maximum rate of rent increases.[129] This provincial office was to displace municipal efforts to control rent increases, and to this end the LRCBC recommended "repeal of the *Rent-control Act* along with the repeal of any by-laws which may have been passed under its authority and the dissolution of any bodies constituted by its authority."[130] In other words, the LRCBC proposed to centralize the regulation of residential tenancies with the province, thereby forcing the tenants' movement to direct its attention to the provincial government. While the Rentalsman's office addressed the need for a procedural mechanism for landlords and tenants to address grievances without resorting to costly litigation, the centralization of the process with the province threatened to sever the substantial influence that tenants' associations had established at the municipal level and to make difficult the tailoring of regulation based on local market conditions.

Perhaps most devastatingly to the tenants' movement, the LRCBC rejected the call for collective bargaining rights for tenants. The commissioners were unsurprised to find that landlords "unanimously rejected collective bargaining," while tenants' groups were in favour.[131] They concluded that the question of whether to empower tenants' associations was one of "economic policy" for the legislature but suggested that the office of the Rentalsman, which was intended to settle individual disputes between landlords and tenants, would be sufficient to protect tenants during disputes and that collective bargaining was unnecessary. "We have recommended that disputes between landlords and tenants be solved by other means which we believe will be speedy, efficient, and fair," the commissioners declared, "and do not, therefore, recommend that collective action by tenants be given further legislative endorsement."[132]

The LRCBC's recommendations were on the table, and, as 1974 arrived, the NDP government was confronted with an increasingly severe housing shortage. Vacancy rates were reported to be as low as 0.3 percent, and tenants reported mass evictions, escalating rents, and eviction threats from landlords for forming or joining tenants' associations.[133] The situation was compounded by the emergence of strata title and the move by some landlords to convert residential tenancy buildings into condominium complexes, causing further evictions and protests

[129] Ibid., 171.
[130] Ibid., 154.
[131] Ibid., 144.
[132] Ibid., 148.
[133] *Hansard* (13 March 1974, afternoon sitting), 1114 (Gordon Gibson).

by displaced tenants.[134] As with the regulation of residential tenancies, municipalities stepped in where the province had not acted in an effort to preserve rental housing, and Vancouver became the first of many urban centres in North America to impose a moratorium on condominium conversions.[135] But as Vancouver was acting to limit this loss of rental housing, the province was about to remove its capacity, and that of other municipalities, to regulate residential tenancies with a new *Landlord and Tenant Act*.[136]

PART 5: THE NEW *LANDLORD AND TENANT ACT*, 1974–75

The NDP had won thirty-eight of the fifty-five seats in the BC legislature in the 1972 election,[137] but despite this commanding majority, the caucus was fractured by disparate political philosophies that were rooted in disagreements on how far to take the party's socialist agenda.[138] These differences, which had reached "near-civil war" by 1974,[139] came to a head in disputes over the revisions to the *Landlord and Tenant Act* – something that Premier David Barrett promised was forthcoming in his January throne speech to open the 1974 legislative session.[140] The NDP had created the first provincial ministry devoted entirely to housing in Canada – the Department of Housing[141] – and the government's 1974 budget was "stuffed with tens of millions of dollars in new spending" on social housing and residential tenancy reform.[142] However, when it came to revising residential tenancy law, the NDP caucus was divided on how to implement the recommendations of the LRCBC's report. This debate echoed other battles within the party over the nationalization of telecommunications, women's equality, and union picketing rights, all of which had fuelled an identity crisis within the NDP.[143]

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[134] See Douglas C. Harris, "Condominium and the City: The Rise of Property in Vancouver," *Law and Social Inquiry* 36, no. 3 (2011): 708–11.
[135] Ibid.
[136] *LTA* 1974.
[137] Elections British Columbia, *Electoral History of British Columbia 1871–1986*, Elections BC, elections.bc.ca/docs/rpt/1871-1986_ElectoralHistoryofBC.pdf, 311.
[138] See Meggs and Mickleburgh, *Art of the Impossible*, 12–13.
[139] Ibid.
[140] British Columbia, Legislative Assembly, *Throne Speech*, 30–4, 31 January 1974, Poltext, www.poltext.org/en/canadian-provinces-throne-speeches.
[141] See *Department of Housing Act*, SBC 1973, c 110; Meggs and Mickleburgh, *Art of the Impossible*, 212–13.
[142] Meggs and Mickleburgh, *Art of the Impossible*, 211.
[143] Ibid., 12–13, 226–48.

Several backbenchers, including Harold Steves, the NDP MLA for Richmond, praised the government's commitment to residential tenancy reform and supported certain elements of the LRCBC's report, but they were dismayed over the proposals to disband municipal rent review boards and to abandon collective bargaining rights for tenants. Steves asked the attorney general to reconsider the LRCBC's dismissal of tenant "self-help" in favour of bureaucratic standardization: "I believe that this philosophy is disturbing," Steves told the legislature – "it's disturbing to me, it's contrary to my philosophy and I believe to that of our party."[144] He cautioned that the commission's recommendation to establish the office of the Rentalsman as a centralized bureaucracy concerned solely with individual disputes was inadequate for addressing inequality in the rental market.[145] Colin Gabelmann, the NDP MLA for North Vancouver-Seymour, was similarly skeptical that tenants could combat rent increases without the right to collective bargaining and municipal review boards.[146] These concerns were shared by Emery Barnes, the NDP MLA for Vancouver-Centre, and the members of the NDP's Vancouver Area Council, who were acutely aware of the efforts of Yorke and Rankin to effect changes at Vancouver City Council and believed that collective bargaining and municipal regulation were necessary to protect tenants.[147]

Conversely, Attorney General Alex Macdonald, who had requested the LRCBC's report, favoured the commission's recommendations and frequently referred to them during debates.[148] He particularly favoured the office of the Rentalsman and was understood to have threatened to resign at least three times if the office was not included in the amendments.[149] He described the office as "a place where people can go easily for help" during landlord-tenant disputes,[150] and he sought to grant it broad discretionary powers in hearing evidence and issuing binding orders.[151] Macdonald faced an opposition that agreed with the need for legislative reform but criticized the new legislation's lack of incentives for landlords

[144] *Hansard* (18 February 1974, afternoon sitting), 270 (Harold Steves).
[145] *Hansard* (12 March 1974, night sitting), 1068 (Harold Steves).
[146] *Hansard* (12 March 1974, afternoon sitting), 1065 (Colin Gabelmann).
[147] *Hansard* (22 February 1974, morning sitting), 472 (Emery Barnes); Brief from Vancouver Area Council of the New Democratic Party to Vancouver City Council (22 January 1974) on "Proposed Revision of the Landlord and Tenant Act," City of Vancouver Archives, COV-S518, 032-A-04, fld 12; Harvey Oberfeld, "Council Backs Rent Controls in Heated Debate," *Vancouver Sun*, 23 January 1974, 41.
[148] See, for example, *Hansard* (17 June 1974, afternoon sitting), 4113, 4116, 4133 (Alex Macdonald).
[149] Yorke, "Tenant Movement."
[150] *Hansard* (11 June 1974, night sitting), 3934 (Alex Macdonald).
[151] See, for example, *Hansard* (17 June 1974, afternoon sitting), 4115–16.

to build new units to increase supply and reduce the housing shortage. "This problem – this crisis – is only going to be resolved by increasing the supply," declared West Vancouver-Howe Sound MLA Louis Allan Williams of the Liberal Party, "[and] surely as you sit in your seat, Mr. Attorney-General, this legislation is not going to increase the supply."[152] Facing opposition across party lines, Macdonald and the majority of the NDP cabinet appeared to adopt its typically centrist stance in rejecting collective bargaining rights for tenants, causing conflict with the more radical faction within the NDP represented by Steves, Gabelmann, and Barnes. In his analysis of the first NDP government in British Columbia, Philip Resnick identifies what he describes as an "ideological neutrality" in much of the NDP's legislative efforts, including the revised *Landlord and Tenant Act*, which reflected the centrist character of Barrett's cabinet and its reticence towards more radically socialist policies.[153]

As if to fan another ideological battle in the NDP, opposition MLAs accused Macdonald and the NDP caucus of being unduly influenced by Yorke "and the militant, radical group" on the NDP backbench.[154] Vancouver-Point Grey MLA Patrick McGeer of the Social Credit Party levelled the fiercest indictment of Yorke and the tenants' movement, blaming them for the housing shortage and accusing them of manipulating the NDP:

> [Bruce Yorke] organized the tenants; *he made them into militant groups*. He discouraged apartment developers and he helped create the shortage. What he can do as an individual is small; but if he can persuade you, as he obviously has done, to take the kind of steps embodied in this bill, he has done enormous damage. And *you have been his tools*.[155]

In March 1974, with growing concern about escalating rent increases, Barnes proposed an independent member's bill in the legislature for an emergency rent freeze.[156] The bill passed in May, although only after considerable debate in the legislature.[157] The ensuing outrage from

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[152] *Hansard* (11 June 1974, night sitting), 3929 (Louis Allan Williams).
[153] Philip Resnick, "Social Democracy in Power: The Case of British Columbia," *BC Studies* 34 (Summer 1977): 16.
[154] *Hansard* (10 April 1974, afternoon sitting), 2395 (James Chabot).
[155] Ibid., 2394 (Patrick McGeer) (emphasis added).
[156] "MLA Seeks Emergency Rent Freeze," *Vancouver Sun*, 11 March 1974, 33.
[157] *Hansard* (2 May 1974, afternoon sitting), 2755.

landlords and opposition parties,[158] and dissent from the majority within the NDP cabinet,[159] pushed the debate over collective bargaining and municipal regulation into the background. Meanwhile, Macdonald quietly prepared to implement the office of the Rentalsman. Indeed, before the legislature had even amended the *Landlord and Tenant Act* to create the office, Macdonald appointed Barrie Clark as the first Rentalsman and began staffing the new office.[160] Clark's status as a former Liberal Party MLA further embodied the ideologically neutral or centrist approach of the new legislation.[161] The propriety of hiring into the position before it was created was questioned by a number of opposition MLAs, but the issue was swiftly forgotten.[162]

The centrist faction of the NDP carried the day, and the legislature passed a new *Landlord and Tenant Act* on 20 June 1974 that did not include collective bargaining rights for tenants.[163] It repealed the *Rent-Control Act* that had enabled municipal regulation, as well as "every regulation and order" and "[e]very by-law passed by … a municipality" under it,[164] and established the office of the Rentalsman with broad authority to adjudicate disputes over rent increases, security deposits, and any other issues arising between residential landlords and tenants.[165] Barrett and his cabinet colleagues appeared to have solidified the NDP's rejection of a more far-reaching socialist agenda. Two months later, at the NDP's annual convention in Kamloops, attended by around six hundred party members, the party voted down numerous proposals from members of its "radical" faction, effectively "end[ing] the civil war" within the party.[166]

Although the new *Landlord and Tenant Act* created the office of the Rentalsman, the transfer of regulatory authority from the municipalities to the new provincial officer was not as smooth as Macdonald hoped. The City of Victoria refused to assist the Rentalsman in carrying out unit inspections; Alderman William Tindall accused the province of having "a monster by the tail and … trying to dump it into the laps

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[158] See, for example, "Freeze Blamed: Rental Units Cancelled," *Vancouver Sun*, 22 June 1974, 12; "Without Eyes to See," *Vancouver Sun*, 27 July 1974, 5; "Why It's So Hard to Find a Place to Rent," *Vancouver Sun*, 22 August 1974, 6.

[159] Lorne J. Kavic and Garry Brian Nixon, *The 1200 Days: A Shattered Dream – Dave Barrett and the NDP in BC, 1972–75* (Coquitlam, BC: Kaen, 1978), 178–79.

[160] "Barrie Clark Appointed Rentalsman," *Vancouver Sun*, 26 April 1974, 1.

[161] Resnick, "Social Democracy," 16.

[162] See, for example, *Hansard* (30 April 1974, afternoon sitting), 2629; *Hansard* (21 May 1974, afternoon sitting), 3240; *Hansard* (11 June 1974, night sitting), 3934–35.

[163] *Hansard* (20 June 1974, afternoon sitting), 4290.

[164] *LTA* 1974, s 60.

[165] Ibid., ss 49–57.

[166] Meggs and Mickleburgh, *Art of the Impossible*, 244–48.

of municipalities."[167] North Vancouver ignored the limits on security deposits in the new *Act* and instead attempted to ban security deposits outright.[168] However, in Vancouver, despite the efforts of Rankin and Yorke, Mayor Art Phillips conceded the regulation of residential tenancies to the province, noting, "it is quite clear that [the Rentalsman and attorney general] believe it should be a provincial function."[169] With the province's largest municipality on board, further attempts to resist the Rentalsman dissipated, and municipalities became bit players in the regulation of residential tenancies, doing little except providing subsidized housing and creating minimal safety nets for evicted tenants.[170]

The government's decision to create a Rentalsman office and not to endorse collective bargaining rights dealt fatal blows to the tenants' movement. Yorke mused that, "since the Rentalsman concept was introduced, the tenant movement had become steadily weaker, and no doubt that was one of the reasons why this concept was introduced and bargaining rights for tenants never granted."[171] Rankin called the NDP's new *Act* "the most incompetently drafted" legislation he had ever seen and criticized the centralization of regulation under a single provincial office: "Can you imagine a woman from Prince George calling up long distance and saying 'I'm being evicted. What should I do?' All they can tell her is to jump out of a window."[172]

The tenants' movement urged the provincial legislature to remove authority over rent controls from the Rentalsman. In one final attempt to prevent centralization and preserve their influence in city halls, the BCTO, the VTC, and over fourteen thousand individuals signed a petition to remove rent controls from the Rentalsman's office.[173] Two months later, the tenants' movement appeared to have succeeded when the NDP amended the five-month old *Landlord and Tenant Act* to remove authority over rent controls from the Rentalsman and transfer it to a newly formed Rent Review Commission.[174] But the victory was a hollow one. The commission remained centralized, it had no powers

[167] "Rentalsman Gets Snub," *Vancouver Sun*, 6 September 1974, 30.
[168] "City Bans Rental Deposits," *Vancouver Sun*, 23 July 1974, 29.
[169] "City Bowing Out of Rent Regulation," *Vancouver Sun*, 5 July 1974, 6.
[170] See, for example, City of Vancouver, *Tenant Relocation and Protection Policy* (10 December 2015, amended 11 June 2019), City of Vancouver, vancouver.ca/people-programs/protecting-tenants.aspx.
[171] Yorke, "Tenant Movement."
[172] "Tenant Act Denounced," *Vancouver Sun*, 10 October 1974, 3.
[173] "Landlords Set Rent-Ceiling Deadline," *Vancouver Sun*, 24 October 1974, 10; Yorke, "Tenant Movement."
[174] *Landlord and Tenant Amendment Act, 1974 (No 2)*, SBC 1974, c 109; *Hansard* (21 November 1974, afternoon sitting), 4939.

of enforcement or investigation, and tenants' associations had no role. Collective bargaining was no longer part of the debate. As Yorke noted, "It was a far cry from the NDP election promise that tenants would be given bargaining rights."[175] In 1975, the Rent Review Commission did write a report on rent controls in the province,[176] but it came too late. In a snap election that same year, the Social Credit Party retook control of the legislature and implemented a housing policy that echoed the call from landlords for deregulation and to encourage building, increase supply, and reduce the housing shortage.[177] Whatever influence the tenants' movement had left all but vanished.

CONCLUSION

The tenants' movement, which grew from disparate collectives of tenants in individual apartment complexes to a coalition of tenants' associations demanding change across the province, succeeded in achieving many protections for tenants, including limits on security deposits, just cause for evictions, and rent controls. But it never achieved its primary goal of collective bargaining rights for tenants. The current *Residential Tenancy Act* remains in the mould of the 1974 *Landlord and Tenant Act*, with its focus on individual landlord-tenant relationships. This focus underlies the BCCA's refusal to certify a tenant class action in the courts against the landlords in *Gates v Sahota*. The decision also reinforces the exclusive jurisdiction of the centralized Residential Tenancy Branch, successor to the Rentalsman, to hear all disputes between landlords and tenants, with few exceptions.[178] However, in the absence of a collective bargaining regime allowing tenants to negotiate tenancies as a class, the current regime's reliance on privity of contract, which shields landlords and tenants from extrinsic factors, may have the effect of perpetuating the power imbalance between them. Jason Gratl, the lawyer for the rejected class in *Gates v Sahota*, noted that landlords face little incentive to remedy systemic shortcomings and that it is "cheaper for landlords to fight off

[175] Yorke, "Tenant Movement."

[176] British Columbia, Inter-Departmental Study Team on Housing and Rents, *Housing and Rent Control in British Columbia* (20 October 1975).

[177] See Beverly Grieve, "Continuity and Change: Provincial Housing Policy in British Columbia, 1945–1985" (MA thesis, University of British Columbia, 1985), 94.

[178] Notably, the BCCA has ruled that the provincial Residential Tenancy Branch has no jurisdiction over tenancies on reserve lands where the landlord is an Indian band that are subject to federal regulation. See *Sechelt Indian Band v British Columbia (Manufactured Home Park Tenancy Act, Dispute Resolution Officer)*, 2013 BCCA 262.

individual claims brought before them at the Residential Tenancy Branch than it is for them to actually repair their own buildings."[179]

On 29 April 2017, the Vancouver Tenants Union (VTU) was formed "to be a collective voice for residents facing eviction and unfair rent increases,"[180] signalling a possible resurgence in collective tenant activity. A year later, British Columbia's NDP government under Premier John Horgan organized the Rental Housing Task Force to survey various stakeholders, including the VTU, on proposed amendments to the *Residential Tenancy Act*. Among its recommendations to the task force, the VTU called for the "explicit recognition of tenant organizations" and requirements for landlords to "negotiate in good faith with tenant organizations."[181] The emergence of a municipal tenants' movement in Vancouver and the NDP government's decision to commission a report on the state of landlord-tenant law echo the developments in British Columbia of the 1960s and 1970s. Similarly, the task force's recommendations, published in December 2018, parallel the recommendations of the BC Law Reform Commission in 1974 by neither mentioning collective bargaining nor questioning the centralized administrative body of the Residential Tenancy Branch.[182] As the legislature and courts continue to face renewed questions about the adequacy of tenant protections under the current statutory scheme, this history sheds light on a route contemplated but not taken.

[179] Belle Puri, "Court Denies Class-Action Lawsuit against Sahota Family, Landlords of Decrepit Hotels," *CBC News*, 12 October 2018, www.cbc.ca/news/canada/british-columbia/court-denies-class-action-lawsuit-against-sahota-family-landlords-of-decrepit-hotels-1.4861576.

[180] Chad Pawson, "Power to the Renter: Vancouver Tenants Union Hopes to Put Rep in Every Building," *CBC News*, 29 April 2017, www.cbc.ca/news/canada/british-columbia/launch-vancouver-tenants-union-1.4092386.

[181] Vancouver Tenants Union Policy Team, *Recommendations of the Vancouver Tenants Union to the BC Rental Task Force*, May 2018, 9, VancouverTenantsUnion, www.vancouvertenantsunion.ca/recommendations_to_the_bc_rental_task_force.

[182] See British Columbia, Rental Housing Task Force, *Rental Housing Review*.