

[Chairman: Mr. Schumacher] [8:32 a.m.]

MR. CHAIRMAN: Ladies and gentlemen, I'm sorry to be out of breath. I express my appreciation to everybody for being well on time.

Mr. Makuch, I understand that you have an additional witness and that you may be giving evidence yourself.

MR. MAKUCH: I do. The additional witness is Dr. Harry Hohol, who is seated on my right. He is currently director and secretary of St. John's Institute and was the chairman of the board at the time of the annexation of the summer camp lands from the county of Leduc. He would have some evidence to present with respect to the circumstances that were raised last week.

MR. CHAIRMAN: Mr. Walker, Mr. Andriashek, and Mr. Krysa, you will still consider yourselves under the oath that was given last week.

[Messrs. Hohol and Makuch were sworn in]

MR. CHAIRMAN: I also want to say that the chairman appreciates your co-operation last week in allowing us to deal with the proponents of Pr. 13, who came from Calgary, and we're happy that you're able to be back today.

I think when we left last week, we had heard the basic outline of the position of the proponents of the Bill, and then we heard some disagreement from the city of Edmonton and the summer village of Golden Days. We had some questioning. Mr. Makuch, would you like to lead your further evidence now, before further questioning?

MR. MAKUCH: Yes, we would like to present some additional information and some response to the concerns that were raised last week by both intervenors and members of the committee. Just initially, I have had the benefit of reviewing the transcript that was produced of last week's proceedings, and I'd like to correct two minor errors that appear on page 63 of the transcript, in the remarks I made introducing the matter. At the top of the right-hand column on page 63, it's reproduced that the larger parcel of land in the Camp Bar-V-Nok site was acquired in December of 1983. I believe that is an error in transcription, because

the actual date is 1963.

On the same page, at the beginning of the second paragraph on the right-hand side column, I mentioned that until 1982 the site of the summer camp was apparently in the county of Leduc and that it was not being taxed. That is not quite correct. Apparently, taxes were being paid to the county of Leduc on the 144-acre site, but it was a minimal amount, on the order of about \$300 per year. But some taxes were being paid. I just wanted to make that clarification before we begin.

Last week, as you recall, some concerns were raised by members of the committee and the intervenors with respect to both the expansion site and the use that is being made of that site and of the Bar-V-Nok site. By way of introduction, then, I would like to bring the attention of the committee to two similar pieces of legislation which have been recently passed. One, in 1983, the Calgary Jewish Centre Act: it was Pr. 6 in that year, and it appears as chapter 55 in the statutes of 1983. That Act granted an exemption "from all municipal and school taxes of every nature whatsoever" to property in Calgary which housed the Calgary Jewish Centre. The Act itself both incorporated the Calgary Jewish Centre and granted an exemption, as I've indicated,

for so long as the lands are registered in the name of the corporation and used for the fulfillment of the objects of the corporation.

There was a similar Act passed in 1984 in Edmonton dealing with the Jewish Community Centre of Edmonton Act, and that's chapter 78 of the statutes of 1984. That was Pr. 9 in that year. This Act dealt expressly with an exemption of the site of the Jewish Community Centre in Edmonton, which has three separate parcels of land totalling 16.31 acres. That land was exempted

from all municipal and school taxes of every nature whatsoever, with effect from January 1, 1984, for so long as the lands are registered in the name of the Jewish Community Centre of Edmonton and used for the provision of recreational, social and cultural facilities to the Jewish community and other residents of Edmonton on a nonprofit basis.

I bring these to the attention of the

committee because they are similar to the exemptions that are being asked for in the Bill before the committee. I had an opportunity to speak with the executive director of the Jewish Community Centre, Margie Margolis, and she advised me that the facilities at the centre consist of one quite large building which houses most of the facilities and that, in addition, there are three tennis courts located outside, just off to the side of the building. In between the tennis courts and the building there's a field area which is basically a buffer zone; it's not really used for anything. Off to the side of the tennis courts is another field. She mentioned that they had plans at one point to construct a school on the premises, but those plans have since fallen through and they're not proceeding with that. A large portion of the property is apparently wilderness area and is not really used for anything as such. It borders on a ravine, and a large portion of it is either going into the ravine or bordering on top or on the bottom of the ravine area.

I also confirmed with the city of Edmonton taxation department that all of the 16.31 acres involved are exempt from taxation. There is a certain amount owing for back taxes, but since the Bill was passed the entire parcel of land has been exempt from taxation.

By way of comparison, the expansion site at St. John's — there is a site plan that is attached to the materials that were distributed to you this morning; it's the last sheet. Mr. Melnyk will comment further on it. I just wanted to introduce it at this time and to provide you with a graphic depiction of what lands exactly are involved in Edmonton. The expansion site is indicated as bordering on 83rd Avenue, and that total parcel of land would be approximately two-thirds of an acre. If you combined it with the existing site of St. John's which is on the bottom of the page, I would estimate that the total parcel would be somewhat less than one acre in total.

Toward the end of last week's session there was a question by Mr. Day with respect to the status of summer camps similar to St. John's Institute and how other jurisdictions treat the taxation. I had an opportunity to call a number of county offices and inquire with respect to that question. I located five summer camps in and around — they're not exactly bordering on the Pigeon Lake site. Some are south and some are west, mostly around Wabamun Lake and

Sylvan Lake, and those camps are listed on the materials that were distributed. The Ukrainian Catholic Episcopal Corporation has a camp on Wabamun Lake, and the legal description is given on the material. That parcel of land is 98.8 acres, of which 95.8 are bush. All of those lands are exempt.

Similarly, there's an Edmonton Regional Boy Scouts' camp also on Wabamun Lake in the county of Parkland, which is a parcel of land 31.31 acres in size, all of which are exempt. Also on Wabamun Lake there's a YMCA camp. This is also in the county of Parkland. It consists of 48.67 acres, and all of these lands are exempt. The Girl Guides of Canada have a camp in the county of Lac Ste. Anne on Sandy Lake, and this parcel is 50 acres, all of which are exempt. Red Deer Presbyterian Ltd. has a camp in the county of Red Deer on Sylvan Lake. This parcel is 42.23 acres, and all of that land is exempt from taxation.

There was also a statement made by the intervenor from the summer village of Golden Days last week, to the extent that he believes that the Municipal Taxation Act will only grant four acres of exemption to a group such as St. John's. I would submit that the appropriate exemption will be granted by section 25(1)(e) of the Municipal Taxation Act, which would grant an exemption for

land not exceeding 20 acres in extent, or a greater area authorized by a by-law of the council, together with improvements thereon owned or held under lease from a municipality or the Crown by a nonprofit organization and used chiefly as a summer camp.

I would suggest that St. John's Institute would qualify more readily under that provision and should be entitled to a 20-acre exemption. The summer camps that I've listed would also qualify under that exemption granted by the Municipal Taxation Act and have been granted larger exemptions over and above that 20 acres by the various counties in which they are located.

I'd like to call on the witnesses to briefly address some concerns that were raised last week. First of all, Mr. Boris Melnyk would elaborate on the use that is being made of the St. John's expansion site in Edmonton. Mr. Leo Krysa will elaborate on the projected use of that property, and then Dr. Harry Hohol, who is a new witness and was the chairman of the

board of St. John's at the time of the annexation of lands at the summer campsite into the summer village of Golden Days, will elaborate on the circumstances of that annexation and why no objections were raised at that time to the reclassification of the assessment.

MR. MELNYK: Mr. Chairman and hon. members of the committee, I refer you to the schematic before you depicting the location of St. John's Institute and the additional expansion property behind, bordering on 83rd Avenue. St. John's Institute is a student residence and cultural centre. As such, it subscribes to the dormitory type of living, which throughout the semester at times becomes rather impeding to the occupants: small rooms. In the acquisition of the property for expansion purposes, which is the only intent that the institute ever had and ever will have, the property has been put to use in the way of a recreational area. It is quite necessary for the students that occupy St. John's Institute to have this break and give themselves this recreational relief. In that way we use that property at all times.

We have just completed a very successful student seminar that took the form of language courses and cultural immersion throughout the summer and used that land behind the institute to great advantage as a recreational arm of our activity. As you can also see by the schematic, we are impeded seriously on Whyte Avenue as far as parking is concerned. When we have functions, we need that property desperately for parking. As you can see, we have utilized it to that extent already.

On that I complete my remarks, Mr. Chairman. Thank you.

MR. CHAIRMAN: Mr. Makuch, would you like to have all the evidence given and then the questions, or would you . . .

MR. MAKUCH: I think that would be the best way to proceed.

MR. KRYSA: Thank you, Mr. Chairman, and ladies and gentlemen of the committee. What I would like to reaffirm is that the land in question is dedicated to and for the purposes that we have identified; namely for charitable, educational, religious, and spiritual purposes. The land is now being used on a temporary basis

for the purposes that Mr. Melnyk has identified. However, we are now in negotiations with Gene Dub and associates, a prominent architectural firm in the city, that has been instructed to prepare preliminary drawings for a residence expansion, a parking expansion, and also to accommodate all the other activities that require expanding at this time. It is, as I've mentioned, dedicated toward the integration of our existing unit. The membership, of course, is very anxious that we continue the work that we have been engaged in in this community in the last 68 years.

Thank you.

DR. HOHOL: Thank you very much, Mr. Chairman.

Ladies and gentlemen of the committee, I too have had an opportunity to review the written record of the last session that you had, and I would like to correct some of the impressions and review some of the situations with respect to annexation, taxation, and the use of the property at Pigeon Lake. To the best of my recollection with respect to the annexation issue, we had made an appeal to the county of Leduc on the 144-acre parcel to be exempted from paying taxes, much in the same way as we had been treated up to that point by the summer village of Golden Days. The county refused.

Upon talking to my friend and colleague the sometimes councillor and current mayor of the summer village, he suggested, "Why don't you ask the summer village to become a part of it?" I and the rest of the camp committee and the board of St. John's Institute felt that this was not a bad idea. By that time we had already reached a mutual agreement whereby we were paying the summer village of Golden Days \$300 per year to assist in the maintenance of a road that had been there long before Camp Bar-V-Nok. We know there were expenses. We agreed orally that we would benefit from certain services such as fire protection and regular police patrols. I don't know that the fire protection is very important. We saw four or five cabins burn in very short order, and there would have been more -- this was across the road from us -- had we not had a group of young men camping at our facilities at that particular time. Nonetheless, it was reasonable. We felt that if we were to be annexed by the summer village of Golden Days,

instead of paying roughly \$300 per year in taxes to the county of Leduc, it would now go to the summer village and would help with some of the costs that we are very much aware it takes to run a summer village.

We never had a formal meeting on this issue at any time. It wasn't an issue as far as we were concerned. One meeting was held to discuss our plans for the future along with the current uses of all property at Pigeon Lake. The result was annexation by the summer village. That occurred toward the end of 1982. We paid our last tax bill to the county of Leduc in the summer of 1982. The following year, 1983, we received our first tax bill from the summer village of Golden Days, including the 144-acre parcel. This was \$914.10, I think. It was a little more than we had been used to paying, but we discussed it among ourselves and felt this wasn't really all that bad, so we paid the taxes and proceeded.

At that time we also got a bit of extra service. We got a couple of loads of gravel for the 50 or 60 yards of roadway that was more or less exclusively ours from the Vasa Lodge gateway to our own gate. At that time we also got regular maintenance of that particular 50 or 60 yards of roadway reserved for our own use. This was all right; it was good.

Then came the shocker in 1984: \$2,432, followed by \$3,290 in 1985 and, as you may know, \$3,300 in '86. We objected, mostly to each other, I would guess, and verbally to our friends, the councillors, mayor, and colleagues. This was to no avail. For 1984 I instructed our treasurer to file a letter of protest in the way of an appeal, objecting not to the reassessment of the property which occurred at that time -- we had no argument with that; it occurred all over Alberta, and it was equitable. What we objected to was the reclassification of the use of our property.

We did not hear anything from the village of Golden Days. August came along, and the deadline was there for the payment of taxes without penalty. I personally delivered a cheque to pay the taxes last year, at which time I asked the secretary-treasurer the result of our letter of appeal. She informed me that neither she nor the village had ever received it. There was not very much I could do at that point. Being a good neighbour and a good part of the summer village, I paid the taxes, and we now appear before you in this manner.

The reclassification we verified with the assessor. Our treasurer phoned the assessor who did the work in the area. He also confirmed that we have no quarrel insofar as the reassessment is concerned -- it's equitable for everybody -- and what we must look at is the fact that part of our property has been reclassified as commercial. I assume that is because of the fact that we are charging a nominal daily camper fee. I say that it is nominal because I think you and Mr. Andriashuk would find that you'd have to go far and wide to find any camp facility of that particular nature that would charge what we are charging. It barely covers costs for maintenance and the caretaking services that we have been able to provide in the last two or three years.

To get back to our objections, I had already instructed Mr. Fyk, our treasurer for the camp committee, to lodge that appeal to the reclassification. We didn't hear anything for five months. I paid the taxes, and this year we decided on the action that you are now considering.

As you have already been given to understand, St. John's Institute and Camp Bar-V-Nok are operated mainly by volunteers. We have a salaried administrator, but his work is mainly in connection with St. John's Institute here in Edmonton. In connection with the camp, it is limited to processing bookings and depositing the minimal payments received for the use of the camp facilities. Perhaps this explains our tardiness -- or what seems like tardiness -- in addressing the problem of reclassification. I must also say that although we at one time considered development of the property by way of long-term leases to interested Orthodox Christians, we have firmly hewed to our present idea of maintaining that property in much the same manner as it is right now: accommodation for children's summer camps; use by the Ukrainian community; hopefully greater use by adults by providing tent pads and trailer stalls; and honouring our commitments to the government of Alberta given in the early '70s, at which time we received a fairly sizeable grant, for that time, for a winter works project, during which time we built an additional cabin, cleared land, and insulated the existing cabins. The commitment was to make the facilities available to the community at large and not to make the camp an exclusive or private club. This we have done

and will continue to do in the future.

I have a list here that I happened to run across in my files for the use of Camp Bar-V-Nok from May of 1982 until June of 1983. There are six usages given for our own particular community and 26 for schools and outside groups. I think that is very impressive, if I may say so myself. There are schools like L. Y. Cairns, of which Mr. Andriashek was vice-principal at one time, Youngstown school, of which he is now the principal, if I'm correct, air cadets, cubs, scouts, Holyrood school, Rundle Heights, Sherwood Park, and so on; I won't list them all.

With respect to the buildings for worship, I think the committee and the village of Golden Days should be aware that we have used the mess hall for our worship. We have also used the deck on the west side of it, and we have used other areas. I think Mr. Andriashek has confirmed that from the road you can see a wooden Orthodox cross there. We have held outdoor services in front of that cross as well. Divine Liturgies have been held there on many occasions, are always held for the summer campers, and on occasion our parishes from Edmonton come out and hold communal Divine Liturgies. We are currently and have for some time been looking for an old church to move to the property which we might use as a chapel. So far the cost of moving any that we have found has been totally prohibitive.

Now I'd like to mention a couple of things with respect to services. As I said before, the road was built long before Camp Bar-V-Nok was purchased, any of the three parcels that we presently own. The \$12,000 was not used to build the road. It's very easy to spend \$12,000 -- we are acutely aware of that -- in maintaining a road. As far as I can recall, the only thing that was really done during the time indicated since 1983 might have been brushing and of course the additional maintenance of our 50 or 60 yards of roadway west of Vasa Lodge. We asked for a culvert last spring on one of the entrances to our property. We are still waiting for that.

At this point it is our intent to be good neighbours and good community members. We would like to give favourable consideration and approval to a proposed nature and fitness trail through our property, and we will again consider it once we have finished with this particular process. We're also having the Fish and Wildlife

branch of the Alberta government explore the possibility and feasibility of establishing a waterfowl preserve on the 144 acre site. We want it to remain in a natural state, for field trips, school groups, and our own groups.

Thank you very much for your attention. I realize it has taken a little bit of time. I'd be pleased to try to answer any questions there may be.

MR. CHAIRMAN: Thank you, Mr. Hohol.

Anything arising out of that, Mr. Walker, that you would like to respond to?

MR. WALKER: I want to comment on a couple of things that arose in this morning's evidence and argument. Mr. MaKuch has referred to the Calgary Jewish Centre Act of 1982 and to the Jewish Community Centre of Edmonton Act of 1984. Of course, we came here and opposed the Jewish Community Centre of Edmonton Act in 1984 for some of the same reasons that we are opposing this Act today. I did want to point out that in the main, both of these Bills that have been passed related to land that was actually being used for the purposes specified in the objects of the organizations and not to predominately vacant land.

It's true that some of the land in the Jewish Community Centre was undoubtedly wilderness or ravine. That would have been reflected in the assessment conferred by the city at the time, so that the taxes would be a reflection of the fact that the land was unusable and correspondingly lower, but that's not the situation here. The expansion site consists of seven fully marketable, fully serviced, subdivided city lands. It's easy to argue that it's a recreation site when one goes over and kicks a ball around a few times or one goes and parks on it, but basically it's vacant property. Our assessors went out and inspected it and returned with the evidence that the property was basically vacant. I think that the evidence you have heard this morning from these gentlemen is also consistent with the fact that the predominate purpose of the land is for the future residential buildings to be erected.

In assessment cases the Supreme Court of Canada has always in recent years taken the position that one must look to the preponderant purpose of the organization and of the use of the property. If that preponderant purpose is one thing, it doesn't matter that there are some

subsidiary or ancillary uses of the property. You look at the preponderant purpose to determine the use and make your decision accordingly, and I think that is good advice to follow.

We meet with a lot of groups requesting tax relief and exemption from assessment either at the local council level or at the court of revision, at the Local Authorities Board, at the Alberta Assessment Appeal Board, and here. Invariably these groups feel somewhat unfairly treated by us because here we are taxing them when they are conducting such laudable activities. I wish to make it abundantly clear that we are not attacking this group. We are fully supportive of the activities they are doing, and we think that they are worthy activities. But remember that the Edmonton charter and the Municipal Government Act and the taxation Acts were Bills of this Legislature. They created us, a municipality. They delegated to us certain functions, and they put intact a scheme of raising revenues and of fairly distributing the burden of those revenues for us to provide those services.

Charitable organizations walk on our streets, drive on our roads, call on our police and fire protection services, and sometimes they even picnic in our parks. We have to provide services to all of these people, all of these groups, whether they are charitable or not. The scheme that this Legislature has enacted is such that when these groups have vacant land that is not being actively used for their purposes, they're taxed. Churches, as I mentioned last day, are fully taxed not only when they have their drawings in but right through the construction period and right up until the point that actual worship services commence — the same thing with many other worthy organizations.

We don't want to be involved in litigation if we could avoid it. If you pass the Bill we probably will. We will take the position that the land is not being actively used for these purposes, as your Bill comprehends. We have no control over what happens to this land once the Bill is passed. We simply ask that paragraph (b) of section 13 be deleted until such time as the building is up and the land is being used as a residence.

Thank you, Mr. Chairman.

MR. ANDRIASHEK: Mr. Chairman, I must indicate that we have been a very friendly

group of people over in Golden Days. Along with Bar-V-Nok we've done very well. We certainly have supported all the various different activities that the organization supports and conducts. The question isn't in regard to whether we are in agreement with the organization or not; the question here is that a letter of appeal was submitted to the secretary with regard to the reclassification. We have no record of it. We had provisions for court of revision in regard to the assessment. There was no mention in regard to the concern they had with the taxation. We feel at a loss as to why we are here. There are so many different avenues. Provision has been made within the Act whereby we could maybe have had dialogue to resolve some of the concerns. The municipal Act makes provision for 20 acres. Certainly if some of these concerns had been expressed at council and court of revision, things may have worked out differently. We had a good working relationship in the past, and I'm sure things could have been resolved.

In regard to some of the other items raised, cost of road maintenance and so forth, during the annexation of the 144 acres we acquired an additional half mile on the east boundary of the 144 acres, so we had an additional half mile to maintain. The only reason the culvert mentioned wasn't installed was because we wished to have it moved at least four feet eastward so that it would be within a digging area where we could avoid a gas line. It wasn't that we hadn't wished to install it; we certainly have provided services in regard to graders and police and so forth. In terms of fire, we do hire another fire department, and it's no fault of ours.

Again, I'm saying that the village does not see any need for a change in regard to the procedure. There is provision — if we have dialogue, it could be worked out — section 25(1)(e), as mentioned earlier, in regard to summer camps of 25 acres. In terms of taxation, mention was made that the county of Leduc had \$300 assessed taxes against the 144 acres. Presently that same parcel of land is assessed at \$369. The 10 acres are presently taxed \$2,722, mainly because they were reclassified as commercial. If the use of the property had been brought to the attention of the court of revision, it's conceivable that changes could have been brought about.

There is another parcel of lakefront land,

three-quarters of an acre, and the taxes on that are \$547. In the past these two particular parcels, the 10 acres and the three-quarter acre, were exempt by bylaw until we had a general reassessment in '83 and the assessor indicated that because there was no evidence of a place of worship, it seemed to be a commercial site and used for that purpose. If we had had information as is being submitted today, it's conceivable that during the court of revision things may have been changed. But we have received no concerns in writing with regard to that, with the exception of this summer, approximately July 21 or so.

I do support the organization in regard to keeping the area in its natural state for trails and fitness and so forth. The village does likewise. However, we do have some concerns. Presently we have approximately a dozen ATCO trailers on site, and we're not sure what the proposed plans are. We have no building permit and so forth. What I'm saying is that I don't think we've received sufficient dialogue to give us some indication in terms of what their plans or concerns are.

I'm not sure why the breakdown of communication exists, but certainly it is not the fault of the village. At least, we don't have any indication as such. Again, I must reiterate that there is provision, section 25(1)(e), where it is possible to accommodate some of their concerns. We see no need for Bill Pr. 12 as such.

Thank you.

MR. DOWNEY: Mr. Andriashek, could you describe how the court of revision would take up this matter now? Could you call a court of revision at any time?

MR. ANDRIASHEK: No. The court of revision has its normal course according to the Act. When the assessment is submitted, it's indicated that if they appeal, they will then have a court of revision. If there are no appeals, there would be none held. But not presently.

MR. DOWNEY: In that case your next court of revision would come sometime in the spring of 1987.

MR. ANDRIASHEK: Right, sir.

MRS. HEWES: Mr. Chairman, I have a question

for Dr. Hohol. Just for my own clarification, Dr. Hohol, since you've paid the taxes for this year -- that was my understanding. No? You've paid them for last year. But you have launched a formal appeal on the classification to the summer village. Is that correct?

DR. HOHOL: I think I need some help on this one. No. No formal appeal still, except by this action of trying to obtain a private Bill to get that exemption.

MRS. HEWES: I see. So there's not been any sort of formal correspondence between the organization and the summer village relative to the classification?

DR. HOHOL: I have the letter in question, which to the best of my information I believe was sent and which the secretary-treasurer tells me was not received.

MRS. HEWES: At this point in time, Dr. Hohol, would it be correct to assume that no dialogue is occurring between the organization and the summer village?

DR. HOHOL: Not formally. That's right. But if I may, there has been dialogue. We did have a big meeting here in town, a long meeting, where we explained our activities. We did explain our future plans, and those ATCO trailers are in line with those plans. They are still accommodation for youngsters, and an extra set or pod of trailers will eventually be prepared for use by seniors.

MRS. HEWES: That meeting, Mr. Chairman and Dr. Hohol, occurred when?

DR. HOHOL: I believe it was in 1983.

MRS. HEWES: So it's some years back that those plans were discussed, and there was no resolution at that point of the problem or the issues of classification of the land or taxation?

DR. HOHOL: We felt that we were on common ground and were in mutual agreement on everything.

MRS. HEWES: Thank you. I have a couple more questions, Mr. Chairman. Dr. Hohol, the classification originally was what? Recreation?

DR. HOHOL: I'm not very familiar with this, other than the fact that we were exempt from the payment of taxes of the kind that we have now been subjected to.

MR. CHAIRMAN: Mrs. Hewes, were you referring to the large parcel?

MRS. HEWES: Yes.

MR. CHAIRMAN: I think last week evidence came up that that was agricultural when it was in the county.

MRS. HEWES: I have trouble differentiating reading the minutes, Mr. Chairman. So it was agricultural. It is now classified as commercial? No?

MR. CHAIRMAN: You'd better ask Mr. Andriashek for the present classification of the large parcel.

MR. ANDRIASHEK: The large parcel is recreational, but the difference in taxes is insignificant. It was \$300 as farm and presently, as indicated, is \$369.

MRS. HEWES: Thank you. That was my next question, Mr. Chairman. I did read that in the minutes, that the difference between the original classification and the new classification was not of major consequence in dollars.

MR. CHAIRMAN: The dispute is on the small parcel, the actual campsite, which is now commercial, which has got the higher . . .

MRS. HEWES: Right. Now could someone explain to me what the difference in dollars from the original to the present commercial classification on the small site is?

MR. ANDRIASHEK: It was exempt. The 10.75 acres were exempt up to '83. During the general reassessment the provincial assessor indicated that because there was no place of worship and there was no evidence of any programs that would warrant an exemption, it be classified as commercial. That is in regard to the 10 acres. In regard to the three-quarters of an acre, the assessment is lakefront. It was assessed as other lakefront property.

MRS. HEWES: Mr. Andriashek, would that be comparable to other camps in the summer village or even in the county of Leduc? Can you give me that information?

MR. ANDRIASHEK: The information provided by our village secretary-treasurer -- the last day she checked there were two other areas, and they were exempt to the extent of four or five acres. I don't have the specific figure at present. They are not within our village, but they are adjacent. I believe they're in the county of Wetaskiwin.

MRS. HEWES: But it's a comparable classification and situation?

MR. ANDRIASHEK: It's exempt from taxation to the extent of four acres.

MRS. HEWES: Mr. Chairman, one last question to Mr. Melnyk. The land in Edmonton that is undeveloped and waiting for development: I understood from your remarks this morning that it is being used for recreation in an informal sense. I see in the sketch that there is a volleyball court on it. Am I right in assuming that it's only because it happens to be adjacent that it isn't really programmed for that purpose and that had your development gone ahead as planned, there would've been other recreational sources within the community that would've been available to the institute?

MR. MELNYK: That is partially correct, Mrs. Hewes, yes. I want to underline the fact that prior to the sitting of this committee and the application for the private Bill, these plans for development of that property had been going on for some time, since the last annual meeting in October '85. Have I completely answered your question?

MRS. HEWES: Mr. Melnyk, as long as you say that yes, my assumption is correct, then you've answered the question.

MR. YOUNIE: Concerning the camp, it seems to me a question of whether it's a commercial venture or not. If it's not a commercial venture, maybe it shouldn't be appraised as commercial property. If it is, it should be. It was mentioned that there was a nominal fee charged. It would seem to me very significant

how that nominal fee compares to other commercial campsites. I was wondering: in terms of a per night charge for tent campers, trailer campers, those staying in your trailers, what are the charges campers are assessed?

DR. HOHOL: Currently, sir, the charges have achieved the high level of \$4.50 per camper, exclusive of staff. Most other places that I am familiar with start at just about double that.

MR. YOUNIE: That's to stay in trailers, groups of children brought from schools and so on?

DR. HOHOL: That's right. By the way, the trailers have just been positioned on site. They are not yet developed. Cabins, mess hall, use of all of our facilities, canoes, other sports equipment, and the tennis courts . . .

MR. YOUNIE: That is included in the \$4.50 a night?

DR. HOHOL: Yes.

MR. CHAIRMAN: Excuse me for a moment. Mr. Clegg would like to talk to Mr. Walker for a minute before he leaves. For the benefit of committee members, I have you on the list, Mr. Musgrove, but Mr. Walker has to leave very shortly, unfortunately.

MR. M. CLEGG: Mr. Chairman, I wanted to bring this point up while Mr. Walker was still here; that is, the question of the actual effect of the present draft of the Bill. This is without any bearing on whether the exemption will be granted. What the Bill presently says is that the expansion lands would be exempt from tax while they are being used "for charitable, educational, religious and spiritual purposes in accordance with the objects of the corporation." It doesn't actually mention the word "recreational," so that's not particularly important.

My feeling is that if an exemption were granted in these terms, it would not in any way automatically exempt those lands at present. It would have to be determined whether the lands are actually being used for those purposes. Until and unless they were, the exemption would not commence. I would like to suggest to the committee that it is not this committee's function to determine what the actual land use

is. That is, if necessary, the court's function. We are not a court here. We are being asked to establish a basis in law from which the parties will negotiate or ultimately the courts will determine what the actual situation is. If this committee were to determine that an exemption would be valid if they were being used and if the Bill were passed in this form, that would be one stage. A second stage would be a determination, if necessary, in the courts as to whether what is being done now is use for the purposes which I read out beforehand.

I just wanted to bring that point to the attention of the committee. I don't think this committee is the proper forum for determining what a present usage really is, nor should it concern itself with that when it is deciding whether or not an exemption could be granted if the land is eventually used for such purposes.

MR. WALKER: Mr. Clegg is absolutely correct -- as he always is, I might add -- in the interpretation of such legislation. The only thing I would suggest is that you heard evidence last week that at present the proponent of the Bill is of the mind that they do currently use the land for the purposes specified in the legislation. From a practical point of view, to pass the Bill in its present form I believe will create some litigation, which we are anxious to avoid. However, as I say, technically Mr. Clegg is absolutely correct in his interpretation.

MR. CHAIRMAN: At least you agree. You don't know if he's correct, but you agree with his interpretation.

On this point, Mr. Wright?

MR. WRIGHT: Yes. That, Mr. Chairman, is presuming that the word "used" is construed in the way that Mr. Walker contends it normally is, namely "predominantly used." Literally, they could bring themselves within the clause just by using it for the purpose once in a while. I think you will agree that that is implied in your answer.

MR. WALKER: That's correct.

MR. MUSGROVE: Mr. Chairman, I'm surprised to hear that the assessment on this land as farmland and as other than farmland is quite similar. Farmland is assessed on a productive basis and for other than farmland the

assessment is based on a percentage of what the land would be worth if it were sold. I'm not familiar with how they assess recreational land, but it seems to me that in most cases, because of productive value farmland is assessed at considerably less particularly than other than farmland inside an urban municipality.

In the case where the land was reclassified, the owners would get notice of that in writing immediately. Of course, an assessment book is always open in January of each year for people to peruse their assessment and launch an appeal. In this case, it would appear that this reclassification was disregarded as unimportant, and subsequently the taxes went up considerably. It appears that there was some deal made to have the land annexed into the summer village instead of leaving it in the county of Leduc. The question in my mind would be: would the taxes have in fact remained quite similar to what they were when it was in Leduc had they not been annexed into the summer village?

MR. CHAIRMAN: I think the answer to that, Mr. Musgrove, is that prior to annexation they were \$300 a year and currently they're \$369 a year. So that annexation really didn't have any effect on the large parcel.

The difficulty of the proponents of the Bill lies with the small 10-acre parcel that was always in the summer village of Golden Days. But it got changed in its classification as a result of the general assessment. There was no appeal against that, as I understand it.

MR. ANDRIASHEK: Mr. Chairman, there has been mention of a letter of appeal submitted by Mr. Fyk. Is there a copy of this? Is there a date that this was submitted? Is it possible . . .

MR. CHAIRMAN: Mr. Andriashek, as chairman I'm going to rule that that really is not germane to our consideration here. Those are things that happened before. I don't think that bears on whether -- we're not here to resolve problems of failure to take advantage of any existing legislation. We're here to consider whether we feel the objects of this Bill are proper.

I don't like to be arbitrary, but we've spent about an hour on this now and we have other things to consider. I'd like to remind the committee members that we do have a couple of other things on the agenda. I think we should

try to stick as close as we can to the point before us.

MR. ANDRIASHEK: Mr. Chairman, what I was going to mention is that maybe there could be a provision for a reopening of the court of revision if there was a concern on their part.

MR. CHAIRMAN: I don't think we can do much about that.

On my list I have Mr. Younie and then Mr. Wright.

MR. WRIGHT: Mr. Chairman, may I just make a submission on your ruling. Certainly the details of the appeal are not within our jurisdiction, but if this tangle has arisen because of some failure to work the appeal system correctly, then that much reference would be in order, I believe, in order to straighten out our thinking about what we're doing.

MR. CHAIRMAN: I accept that, Mr. Wright.

MR. YOUNIE: As I understand Mr. Clegg's point, if we pass this, it is still up to other bodies to decide whether or not in fact both the camp and the city property fall under the clauses here, so some other body would decide whether or not that 10-acre parcel is a commercial venture or a camp run as a nonprofit venture, as the Act describes. Is that correct? Because if not, it becomes important for us to decide whether or not it's a commercial venture.

MR. M. CLEGG: Mr. Chairman, my comment in that regard is directed solely to the exemption requesting the city of Edmonton. It is true that what I'm suggesting is that if the exemption were granted, we would be setting the rules of law relating to that piece of land. It would then be for the parties or the courts to decide whether or not the land was being used and whether or not the exemption would be triggered.

With respect to the land in Golden Days, the issues are somewhat different and my suggestions and concerns on that matter are different, but my comment related specifically to the city land alone. But I would agree with your interpretation of what I've said on that basis.

MR. YOUNIE: I have a question as well that I was going to originally direct to Mr. Walker, but perhaps Mr. Clegg can answer it. Mr. Walker mentioned the Supreme Court's reference to preponderant use, yet it seemed to me what he referred to as preponderant use was really planned future use, not preponderant present use. So I'm wondering if in fact the important point is what it is used for now rather than whether or not they're going to make it a residence later.

I'm wondering also if the fact that the land -- his concern seemed to be that the land was vacant, and that to me doesn't seem to be a preponderant use but a lack of use. What it is used for preponderantly, as we've heard so far, seems to be recreation, whether that's an hour a day, an hour a month. That seems to be its only use or for parking.

MR. M. CLEGG: Mr. Chairman, two points. Vacancy is a use defined in the planning legislation, so vacant land is not just a nonuse; it's regarded as a defined use. My understanding of what Mr. Walker said and my understanding of the Supreme Court's decisions in this regard is that when they're talking about preponderant use, they don't mean present use or the most evident use; they mean the use which is uppermost in the minds of and the most important use for the owners of the land and certainly could include a future plan for development.

I think the point Mr. Walker was making -- and I believe he was correct in interpreting what the Supreme Court has said in this regard -- is that temporary or ancillary use which is being carried out in the short term, awaiting the most important use for which the land was acquired, is not the preponderant use in many cases. The preponderant use, which would have to be determined by a court if necessary, is the most important use, the long-term intention. What is the main intention is to build another residence. That is, the preponderant use, as Mr. Walker said, might be holding for future development rather than preponderant use for present recreation.

MR. YOUNIE: Would that use as a residence be an extension of the already exempted St. John's Institute?

MR. M. CLEGG: That is what the evidence has

been. So it is that the present preponderant use, according to that established rule, would be holding for future development, which essentially means vacant. That is the argument Mr. Walker put forward. Holding for future development is the same as vacant.

MR. CHAIRMAN: Any further questions?

MR. KRYSA: I'm seated in an unfortunate position to catch your eye, Mr. Chairman. Thank you very much for your kindness.

There are a number of things I would like to mention. In front of each and every committee member we initially identified the fact that we are not here asking for an exemption based on a precedent. I think we've got to be very clear in our minds that unless we get away from this -- and we discussed this in a very philosophical manner -- we'll lose the whole point of what we're really basically here for; that is, we have not altered and will not, by mandate, our charitable, educational, religious, and spiritual purpose of the identity that I chair.

The precedent in two cases was set by this legislative body for the Jewish communities in both Edmonton and Calgary. Our work in the Orthodox community is of a very similar nature. The precedent was set as far as summer camps are concerned. I admit that because we are a volunteer organization, we may have dropped the ball when it came to making a submission. Obviously, we are not involved in a commercial venture and cannot be identified as such. I think that's a foregone conclusion by everyone that is positioned in this House today. We do use the summer camp for the purposes that I have already identified. We do hold regular worship on this site.

We are not in the business of renting campsites for profit. The only moneys I have ever authorized that we collect are for maintenance purposes. To us, the Edmonton property -- as Mr. Walker identified, the property that the Jewish community holds, the vacant portion of that property, is exempt on all lands, is virtually unusable. If that is the case, where were they going to build the school? If any committee members choose to visit the site, I think they will see that there is ample room for building and for expansion. We have discussed this matter with these people. They, as I have already mentioned, are in a similar vein to the Ukrainian Orthodox

community. We continually exchange ideas and various other pertinent information with all ethnic and founding communities in this area.

Thank you very much, Mr. Chairman, for permitting me to refocus where we should be paying our particular attention; that is, we are not searching for a precedent.

MR. CHAIRMAN: Maybe I'll just wind up, if there are no other questions. Sorry, Mr. Wright.

MR. WRIGHT: Mr. Chairman, my name is on this Bill as sponsor, and when Mr. Makuch telephoned me to get that, the first thing I said to him was, "Do you have letters from the municipalities concerned consenting to this?" He said he didn't, and I said that I would be glad to go on it but to send those letters along. I had the impression that he didn't think there would be a problem. Later I didn't have the letters, but time was running out, so I said that I would put my name on it anyway.

I was absent last week. When I read last week's minutes, I was startled to see that the very reason they came here at all was that they had the problem with the taxes. I don't appreciate that lack of candour, to be totally frank. It doesn't really make a difference, except that I wanted to make my position clear as to how I got my name on here.

I think it's very right that the institute should have a chance at their private Bill, Mr. Chairman. But if I can address a question or two to Mr. Makuch: why was there no appeal this year at the summer village? I go back one step. If the exemption of the main buildings at the summer camp had continued -- you were content with the fairly small local taxes paid on the remainder of the land, right? So there would have been no need to have the Bill applied to that part of the problem anyway. Is that correct?

MR. MAKUCH: If I may first of all address the matter which you have raised, when we initially spoke, I believe I advised that we did not know what the position of the two municipalities involved would be with respect to this particular Bill and that I would send the letters out. In fact, I did very shortly after I spoke to you and received no response. The first indication we received that there would be an objection was two days before the committee was to sit, when I spoke with the parliamentary

secretary and she advised us that there were intervenors. I feel that at no time was there a lack of candour. I believe I had outlined that there was a problem with respect to the two parcels. I outlined that in the letter which I had sent to you. If there was an impression that there was any sort of misrepresentation of the position, I apologize, but I assure you it was certainly not intended.

With respect to the appeal, I believe that prior to this year St. John's always received notices of assessment with a form attached. If one wished to appeal, one would send the form in. This year St. John's was waiting for that same kind of assessment, and that did not come. In fact, all we received, apparently, was a notice saying that the rolls were available for inspection. Because the assessment on the property hadn't changed, this year they simply sent out that kind of notice. That notice was apparently overlooked and ignored because they were awaiting a different kind of form. When it came to their attention, it was too late to go ahead.

MR. WRIGHT: An original appeal was not sent in due form, I take it, so you couldn't prosecute it. It has to go by registered mail or personal service.

MR. MAKUCH: I'm not sure exactly how it was. Perhaps Dr. Hohol could suggest that. That was a couple of years ago.

DR. HOHOL: If I may, Mr. Wright. The original appeal, the letter I referred to, was sent by Mr. Boris Fyk, our camp committee treasurer. The way these things normally work, the mail from the village comes to the institute and sits on a desk there for a couple or three weeks. It's then forwarded to me or I pick it up and then I get it over to the treasurer. We had just a couple of days on this one. I brought the letter over to Boris and said, "Type something up quickly and send it." He mailed it; he assured me that he did. That's as much as I know about it.

MR. WRIGHT: Thank you.

MR. CHAIRMAN: Mr. Wright, I must say that was the question I was going to ask on behalf of the committee, a sort of explanation as to why the legal or other remedies available for

exemption under the existing statutes were not taken. I think we here look upon ourselves as the court of last resort, after all other remedies have failed. Some members may have the feeling — I don't know for sure, but I just wanted to raise it in case they did so that all points of view were aired as to whether or not you looked upon this committee in that way or whether you felt this was the first place to come rather than the last.

MR. WRIGHT: Mr. Chairman, I'd still like to ask one question of Mr. Andriashek, if I may.

Mr. Andriashek, do I take it from what you have said that if it appeared, by an appeal of the notice of assessment or otherwise to the taxing authority, namely your assessors, that in fact the 10 acres in your summer village were being used for the proper religious or charitable purpose, the exempt status would in all likelihood return?

MR. ANDRIASHEK: Mr. Chairman, I have reason to believe that if evidence were presented — the assessor saw no evidence of a place of worship, et cetera — it would be received favourably.

MR. CHAIRMAN: Mr. Younie, just before you, Mr. Clegg wants to raise a point with Mr. Makuch.

MR. M. CLEGG: Mr. Chairman, we have covered in some detail the matter of why the assessment was not appealed before. The matter of why a letter didn't reach them is still uncertain, but that's not something we can get into. The subsequent assessments have not been appealed. I would like to ask, Mr. Makuch, whether you have made an application under the Municipal Tax Exemption Act to get the kind of exemption which has been granted to a number of the other summer camps.

MR. MAKUCH: I don't believe there has been, and I think the reason has primarily been that St. John's thought it would be more expedient to simply consolidate all of its properties under the framework of one Act, that being the Act of this Legislature that incorporated it in 1963, which granted an exemption to the existing site in Edmonton. I think the intention was simply to consolidate both the expansion site and the Camp Bar-V-Nok sites together under that same

piece of legislation by way of an amendment.

MR. YOUNIE: A quick point. Twice it's been mentioned that assessors looked for a place of worship, yet I read here, "charitable, educational, religious, and spiritual purposes." So it seems to me there doesn't have to be a church for it to fall under that and that proof of operating at a loss or break-even point and other things -- counsellors for educational purposes -- might do just as well.

MR. CHAIRMAN: Thank you, Mr. Younie. Mr. Andriashek?

MR. ANDRIASHEK: Mr. Chairman, with regard to the notice of this Bill, I believe it's a difference of four days during the time that the first reading took place and we received the first notification. We are a summer village. Our counsel is not available to deal with matters of this urgency at quick notice.

DR. HOHOL: Mr. Chairman, I have some difficulty with the matter of assessors. I'm wondering whether we're not talking about two different people, because Mr. Fyk assured me that he spoke to the assessor, who indicated that the assessment on all the properties, which was a matter — of course, the province goes through assessments periodically. There was no difficulty with that. The problem was with the reclassification. That's where you have to go. Mr. Andriashek indicates another kind of thing. I suspect that maybe he's talking about their village of Golden Days' assessor. Those are two different things.

MR. CHAIRMAN: I think most smaller municipalities use the assessment service of the Department of Municipal Affairs. I don't think they have their own.

There are three things here. There is the Municipal Tax Exemption Act; there's the court of revision; there's the classification. There seem to be three different elements that could be involved. But I think we've heard that evidence.

Is there anything else from any member? The reason I'm asking is that we are reaching the normal time of adjournment, and we have another committee moving in here at 10 o'clock.

If there's nothing further, I'll thank

everybody for their co-operation in spreading this over two weeks. Our practice is to consider the evidence, when we get the transcript in committee, before making a recommendation to the Legislature. We don't make snap decisions.

MR. KRYSA: Thank you very much, Mr. Chairman. Thank you very much, ladies and gentlemen.

MR. CHAIRMAN: Originally we had on our notice that we would be moving into committee to consider two other Bills, but quite frankly, I don't think that's a practical suggestion now. We're within four minutes of entertaining a motion to adjourn.

MR. DOWNEY: So moved.

MR. CHAIRMAN: Thank you, Mr. Downey. All in favour?

HON. MEMBERS: Agreed.

MR. CHAIRMAN: Opposed, if any? Carried.

[The committee adjourned at 9:51 a.m.]