

[Chairman: Mr. Schumacher]

[8:31 a.m.]

MR. CHAIRMAN: Good morning, ladies and gentlemen. I see a quorum. I thank you very much for getting up so bright and early on this fine morning. And welcome back the proponents and opponents of Bill Pr. 19.

I think I'd like to start the proceedings this morning by asking the members, any members, if they have any questions arising out of last week's meeting before we call on anybody else to make any presentations to the committee.

Seeing no desire to do anything along that line at the moment . . . Mr. Anderson.

MR. G. ANDERSON: Mr. Chairman, just a few brief comments, just so we understand the procedure. It is my understanding that after all the parties make their submissions, the city will be given an opportunity to reply to those submissions. We'll be very brief in our reply. Just so as I understand that that's what the procedure is going to be.

MR. CHAIRMAN: As far as this morning's business is concerned, this is how I sort of proposed to approach it. I would ask Mr. Hope, give him an opportunity at this time to make a presentation. I think he so far has had the opportunity of cross-examining the city, but. . .

MR. HOPE: [Inaudible]

MR. CHAIRMAN: Oh, sorry. Sorry, Mr. Hope. All right.

MR. G. ANDERSON: Mr. Hope will be open for questions I believe, sir.

MR. CHAIRMAN: Yes, but I was going to suggest that the people who are intervening should have the opportunity to make their presentations. I see Mr. Klippert. I don't see Mr. Chisan, but I see Mr. McGeough here, who I presume is in opposition to the Bill?

MR. McGEOUGH: Yes.

MR. CHAIRMAN: I would then give Calgary a chance to question the presenters on their evidence and give an opportunity for, I guess, everyone to make a closing statement, but with Calgary having the last closing statement.

I would also like to make sure people understand that those who took the oath last week are still under oath this week, unless they desire to be resworn and don't consider the oath binding a week later. Does anybody consider the oath that was taken last week not binding?

MR. G. ANDERSON: One other point, Mr. Chairman. As a result of recalculations on the weekend, the city's claim of what the tax amount would be if in fact all these things came to pass would not be \$36 million but closer to \$42 million. Mr. Facey, who has been sworn, I would ask to read into the record how those calculations in fact were arrived at by the city of Calgary, so that everyone here fully understands in fact how we arrived at the figures that we did.

MR. CHAIRMAN: Very well. We may as well have that on the record for the benefit of anybody wanting to make a statement.

MR. FACEY: Thank you, Mr. Chairman. We have done this in two parts. The first part of the financial impact analysis relates to the impact of section 1 of Pr. 19 and is therefore for an annual future impact in the event that the Local Authorities Board order was nullified. In terms of the calculation methodology, as part of the presentation for the 1986 Local Authorities Board hearings, taxes were calculated for each parcel affected by the orders 20027 and 25860, using both the rules for the city and for the municipal district. The difference in taxation between the two systems, less the taxable value of properties not removed from the orders by the 1986 amendments, represents the liability to loss that could be experienced.

Now, while these figures are based on 1986 rates, they will be greater for 1987, 1988, or any future years, because for those future years the mill rates appropriate will be added, and they normally increase every year. The following table summarizes these '86 calculations.

The total taxable property under the city taxation would be \$10,549,250. If that same calculation was done for Rocky View or Foothills taxation, it would be \$4,948,118. The difference in these two figures is \$5,601,132. If you add to that the exempt properties subject to grants in lieu of taxes, based on the city taxation this would be \$2,467,281; under the Rocky View or Foothills calculation \$1,540,502, for a difference of \$926,779. If you total those figures under the city taxation you have \$13,016,531; under Rocky View or Foothills: \$6,488,620. The difference between these two figures is \$6,527,911. From that we have to deduct the taxable value of lands which are remaining subject to the orders by virtue of the triggers and the orders. This amounts to \$713,984, leaving an annual difference of \$5,813,927. As I say, that is based on 1986 values and would increase for '87-88 and any other years that we were exposed.

In terms of the financial impact of section 2 of Pr. 19, we've divided this into four different categories of properties. The first category is for properties removed from the order by the city assessor, put back in by the Cirrus decision in 1986 but removed again by the 1986 Local Authorities Board amendments as varied and approved by the Lieutenant Governor in Council, and I would note that this category includes the shopping malls.

Now, the 1986 tax difference on 21 properties amounts to \$2.5 million. If you discount this amount back for five years -- that is, the years 1985 through '81 -- to adjust for the different mill rates that were applicable in those years, and then charged the principal for those five years only -- as our orders were back dated to December 31, 1985, only those five years are applicable in this scenario -- and then add interest compounded at 10 percent for six years, you arrive at a figure of \$16.350 million.

The second category is exactly the same as above except it relates to grants in lieu of taxes as opposed to direct taxation, and the 1986 grants in lieu of these properties amounted to \$1.102 million. If you again discount that back to reflect actuals for the years 1981 through '85 and add interest for the six years compounded annually at 10 percent, you will arrive at \$5.958 million.

The third category involves properties removed from the order by the city assessor, put back in the order by the Cirrus decision, and not affected by the amendments. In other words, they stay back in the order. These include various large industrial complexes which are nonconforming uses in UR-designated properties. The 1986 tax difference on 35 such properties amounts to \$775,000. If you again go through the discounting procedure, in this case you discount back to 1981 for the varying mill rates, apply principal and interest compounded at 10

percent over six years, you arrive at \$5.021 million.

The fourth category, a miscellaneous assortment of properties whose tax status has been changed by court of revision rulings or the Chisan decision. It is difficult to get a comprehensive inventory of such properties because the municipal districts did a reassessment at the same time, and it's somewhat complex to determine at this point in time the relative impacts of these various factors which impacted the tax changes. The figure used here is a 1985 global assessment of the impact of these circumstances, including the properties of the intervenors, for the years 1981 through 1984, with interest compounded at 10 percent for six years and the principal applied for those same four years. This amounts to \$5.109 million.

The total of these figures is \$32.438 million. This equates to the figure which we previously gave you of \$25 million. That figure previously did not include the interest component or some of the discounting for prior years. It proved to be an underestimate. So if you add the \$32 million to the \$5.8 million annually and assume that lasted for two years, then you're in the order of \$42 million to \$43 million in total.

MR. CHAIRMAN: Thank you, Mr. Facey. Any questions arising out of that before I ask Mr. Klippert to be sworn? Oh. Mr. Hope.

MR. HOPE: Thank you, Mr. Chairman. Just a question back to Mr. Facey with regards to some of those figures that he has indicated to us.

In respect to the matters arising out of the second section, which would be retroactive elimination of civil remedies to sue the city for overpayment of taxes, and in respect to his first category in connection with those properties that apparently were removed, placed back in by Cirrus, of which he indicates that basically these are the shopping centres, which seem to be the point in concern, the question is: when he was doing those calculations to come up with the \$16 million, did they take into account regulation 522/81 in their assessments, or did they continue to rely upon farmland rates in the assessment of the land, as they have been suggesting they've been doing previously?

MR. JUDD: Mr. Chairman, regulation 522/81, and there was a companion regulation dated 1979 -- I forget the number -- both regulations were taken into account, and these are the regulations that would basically say that three acres or such larger site that is in actual use would be at 65 percent of market value for the base year; the balance of the land would then go to a farmland rate.

MR. HOPE: Well, as a supplementary to that then, those figures that they've produced to show what forgone taxes the city had with respect to the shopping centres -- we showed a drastic increase between city rates and, apparently, Rocky View rates. Were those particular rates assessed with regulation 522/81 in mind?

MR. JUDD: All assessment legislation that would be relevant would be taken into account.

MR. HOPE: Would you answer my question in that particular case?

MR. JUDD: The shopping centres: I would have to examine each one individually, but if my memory serves me correct,

there would be none of it at a farmland rate. It would be at a rate for commercial/industrial-type properties found within the municipal district, primarily the municipal district of Rocky View.

MR. G. ANDERSON: Mr. Chairman, I just have one small point of order. I'm loath to interrupt my learned friend's cross-examination, but I have a difficulty in the statement that he made in his lead-in, which tends to be misleading. My learned friend says that this takes away the right to challenge the city's taxes. My learned friend has no right to challenge the taxes of the city, because the Tax Recovery Act effectively blocks that. What my learned friend has the right to do is to challenge section 30 on the basis of the Canadian Charter of Rights and Freedoms.

I only want to bring that up to the committee and yourself, Mr. Chairman, because it tends to mislead, it tends to distort, and it's wrong.

Thank you. And I'm very sorry that I had to interrupt.

MRS. MIROSH: Lawyers do that all the time.

MR. CHAIRMAN: Mr. Hope, did you have anything further arising from that, or . . .

MR. HOPE: The second point would be with regards to the second category, this question regarding federal grants in lieu of taxes, which we understand that the federal government has been paying over the last years. Has there been some indication that the federal government is demanding return of these particular moneys that they've paid if it is found that one would be able to sue the city for payment of overpaid taxes?

MR. JUDD: Yes, Mr. Chairman, there has been an indicator.

MR. HOPE: Then what is the nature of that indication?

MR. JUDD: The indication is a letter from the federal Crown, their agent, indicating that they may wish to reopen various years' grants, depending on the outcome of primarily the Cirrus decision.

MR. HOPE: That's not a certainty, though. Is that correct, Mr. Judd?

MR. JUDD: They have not to this date demanded moneys back. They have indicated to me that they wish to examine that, and depending on the decision as to the final outcome, it would be reviewed.

MR. HOPE: Is it also the city's position that this legislation passed by this Legislature would effectively prevent the federal government from re-examining this point? Is that what they understand?

MR. JUDD: That's more of a legal question, I think, Mr. Chairman, but from a . . .

MR. CHAIRMAN: Mr. Hope, I don't think personally that's very important to our view of this. We've heard arguments about what people may or may not do and whether we've got a belt-and-suspenders situation here that's being asked for by the city. So with the committee's permission . . . I don't think

that's required. Do you have any other factual matters arising out of the position of the city of Calgary?

Mr. Miller.

MR. MILLER: I have one question for Mr. Judd. Sir, if this Bill is passed, but only with section 1, and section 2 is deleted -- just to be clear, what would the city's tax liability be as calculated?

MR. JUDD: Mr. Chairman, if only section 1 were passed and certain other things happened within the courts, it appears that the city's maximum exposure would be \$32.438 million.

MR. CHAIRMAN: Anything further, Mr. Miller?

MR. MILLER: Not from me.

MR. CHAIRMAN: Okay. Mr. Downey.

MR. DOWNEY: Just a clarification of that last statement, if I could please. I apologize, Mr. Chairman. I may have missed some of this, but I would like to hear a little elaboration on: if certain other things happen through the courts, for that \$32.48 million tax liability.

MR. CHAIRMAN: Well, Mr. Downey, I believe my understanding of that is: that would mean that if a taxpayer is successful in having the six-month limitation period of the Tax Recovery Act voided and thereby allowed to go after the city for overpayment of taxes.

AN UNIDENTIFIED SPEAKER: That is correct.

MR. CHAIRMAN: Are we ready to proceed with Mr. Younie?

MR. YOUNIE: Just one question. We keep hearing this maximum figure. It seems to me that presumes that the city did in fact incorrectly calculate the taxes for absolutely everybody who is under the board orders for that time period, that obviously only those who were incorrectly assessed could claim. Now, is that in fact the case? Did the city incorrectly assess everybody under the letter of the board orders for that time period, '81 to '85?

MR. JUDD: Mr. Chairman, when these assessments were made -- and we are primarily dealing with the calendar years 1981 through 1984 -- we used normal rules of assessment, placing ourselves in the one instance in the position of the assessor for the municipal district of Rocky View. We assessed the properties and taxed them according to those normal rules. Normally the assessor for Rocky View in this case would have looked at the value of the subject property and relied on that in his calculations. A subsequent court decision on those has said no, we cannot use the value of the property where it lies; we must assume it to be somewhere else. Really, that is the one issue.

The second issue that comes in is we had examined the annexation orders clause by clause at the time of the 1981 reassessment. We had examined what appeared to be a rather similar action in order 20027 and applied it to circumstances of order 25860 -- so it was taking a decision from one order and applying it to the other where the wording was very similar -- and on the basis of that determining that there were no benefit clauses for certain properties over 20 acres with absolutely no

income from agriculture.

On the basis of that decision we removed certain properties from the provisions of the order. We notified each owner that had been removed, with a form letter, as to the fact that they were being removed from the order and the changes that had taken place and the general reasons why.

MR. FACEY: I think we should add that there was also an earlier court decision which supported the city assessor on that method of assessment, and it was only the subsequent one which differentiated the circumstances which altered the later assessments.

MR. YOUNIE: Another question concerning an individual property, and that involves -- I believe his name was Mr. Akins, the farmer who was here last week. In talking to him later he said in fact that his property is abutted north and south by city-owned property and that if utilities are put through from the one piece of city property to the other, the installation cost of the 2,000 feet of frontage on his property would be somewhere in the neighbourhood of \$300 a foot, giving him a bill for installation of \$600,000. On the record, I'm just wondering if it is possible that because of the installation of those services, he could be billed anything at all on the farm property for the installation of those services.

MR. JUDD: Your question, Mr. Chairman, is a very, very complex one to try and give a simple answer to. If this were initiated by a local improvement petition, which would require two-thirds of the owners of the benefiting properties to petition, they must represent 50 percent of the value of the land; then yes, it could go in as a local improvement, and it would typically be distributed over a 15-year period, including interest of course.

If the work were initiated by city council as a local improvement, then 50 percent of the owners -- again representing 50 percent of the value of the land -- have the right to petition against the work.

The third circumstance that I would say would be where the city as a developer of land might go in. In that case, the normal process would be for the city to front-end the work as a developer -- as would any private developer have to do -- and an endeavour-to-assist agreement would be the normal course of events, which merely means that should Mr. Akins' land tie into those utilities and make use of it, at that time he would be required to pay. So there are a variety of answers to your question.

MR. YOUNIE: What I'm wondering is: are there any circumstances under which his farm property would be required to pay such a sum?

MR. FACEY: I think perhaps I could help on this one. First of all, the first circumstance which Mr. Judd outlined has always been the situation, but what the changed LAB orders did was to expand it so the city could also initiate local improvement bylaws, thereby removing the preferential status of the properties under the order and to give them the same rules as everywhere else in the province of Alberta.

There are two sides to this question. A lot of Mr. Akins' neighbours, as you heard last time, want those local improvements to go in. The gentleman from Twister pipeline was here to support this, because he wanted them to go in. The city will initiate some local improvements in that area undoubtedly.

Whether they will affect Mr. Akins' land we can't be sure at this point in time.

MR. WRIGHT: Following up on that, could it be the case, though, that Mr. Akins might be liable for sums in this area involuntarily?

MR. FACEY: That is no different from any other property owner whose property is subject to a local improvement bylaw in the province of Alberta. But there have got to be sufficient people wanting it for it to go ahead. Even if the city initiates it, the property owners can object, provided they have those numbers that Mr. Glen Judd referred to.

MR. WRIGHT: So once again, Mr. Chairman, it's the case simply that the proposal will assimilate Mr. Akins' property to all other similarly circumstanced in cities in Alberta.

MR. FACEY: That's it.

MR. CHAIRMAN: Now maybe we could proceed with Mr. Klippert's presentation. I'll ask Mr. Clegg to administer the oath.

[Mr. Klippert was sworn in]

MR. KLIPPERT: Mr. Chairman and members of the committee, Al Klippert Ltd. is the owner of a 58-acre parcel of land in the northwest quadrant of the city of Calgary. It's entered on the assessment roll of the city of Calgary under roll 03900020-3. Klippert has been the owner of this property for over 25 years and was also the owner prior to it coming into the city under the board order 25860 dated December 29, '61. The use of the Klippert property at that time of the annexation order was for a sand and gravel and concrete mixing operation. That operation has continued unabated during the entire period since the board order was made.

The city of Calgary did not purport to take the Klippert property out from under the order until the city's assessment in 1981. With this assessment the land assessment of the property had been substantially increased. It went from \$410 to \$94,310. An appeal was made to the court of revision in 1981, and the Assessment Appeal Board subsequently did not reach any decision on the matter until February of '83, when it appears to have dealt with both the '81 and '82 assessments of the Klippert property. The Assessment Appeal Board dismissed the appeals of Klippert. The city continued to treat the Klippert property as though it did not come under the order through the '86 assessment year. An appeal was filed in 1985 on the strength of the Chisan and Cirrus decisions in the Court of Queen's Bench.

These decisions were advanced to the court of revision at a hearing in June of 1985, but a decision of the court of revision did not come down until December of '85, at which time the court gave the decision that it would refuse to decide the appeal. The decision was further appealed to the Alberta Assessment Appeal Board and an appeal was slated for a hearing in March of '86, but the appeal was adjourned by the Alberta Assessment Appeal Board and it has yet to hear the appeal from the refusal of the court of revision to make a decision. Apparently, when the Assessment Appeal Board first adjourned the appeal hearing, it was awaiting a decision of the Court of Appeal of Alberta on the Cirrus case, and of course the court subsequently decided in favour of Cirrus and upheld the decision of the trial judge,

Mr. Justice Lomas of the Court of Queen's Bench.

Notwithstanding this, the Alberta Assessment Appeal Board in this instance still has not heard the assessment appeal. We have noted the manner in which the Order in Council purports to amend Local Authorities Board order 18119, and the protection of the board order 25860 still applies to the Klippert land because it is designated under the land use designation of urban reserve, UR. We have reviewed the provisions of Bill Pr. 19 and note that paragraph 2 thereof purports to quiet and make incontestable "all assessments for the 1985 taxation year and all previous assessments" and to make them not subject to the review in any court "unless proceedings were commenced to contest the assessment prior to December 31, 1985." We are concerned about the use "proceedings," because these usually relate to proceedings in civil or criminal court rather than assessment appeals. The use of the verb "contest" also is normally associated with court proceedings rather than proceedings before a statutory tribunal such as the court of revision or the Alberta Assessment Appeal Board.

Proceedings to contest the assessment of the Klippert land were made as far back as 1981, and it is submitted that the excess taxes paid since such time should be reimbursed by the city together with interest thereon for all the years that the Klippert property was invalidly assessed as though not under board order 25860. Specifically with respect to the '85 assessment, it is questionable whether the improper assessment can ever be taken further to the courts unless and until the Alberta Assessment Appeal Board reaches a decision, which decision must of course be in accordance with the decision of the Court of Appeal in the Cirrus case. Surely Klippert, as an appellant that raised in 1981 the argument that was ultimately confirmed by the Court of Appeal in the Cirrus case, should not have been expected to sue each and every year for recovery of overpayment of taxes. It is our submission that section 30 of the Tax Recovery Act does not in any event apply to a case such as this, but we should not be compelled to go further through the courts to establish this.

In any event, however, with regard to the failure to act on the part of the Alberta Assessment Appeal Board, we submit that section to the proposed Bill should have applicability only to those lands annexed to the city of Calgary under Public Utilities Board order 25860 that do not remain under the board pursuant to Local Authorities Board order 18119 as varied by council 781/86. It might be observed that board order 18119, with an effective date of December 31, '86, would not cut out assessment appeals made in '86, but the amendment made by the Order in Council changing '86 to '85 would cut out such appeals.

In addition, after listening last week to the discussions of last Wednesday, I'd like to comment briefly on Mr. Anderson's statement that the companies opposing this Bill are getting a free ride at the expense of the city of Calgary taxpayers by not paying a fair share of expenses for services. Speaking for Al Klippert Ltd., this company is not now and has never been connected to either city water or sewer services, and even if they had been, that would not in itself cause the property to be removed from the board order 25860. The trigger in this order is only the subdivision of the property, and that property has not been subdivided since 1961, nor has its use been changed since being annexed by the city. The issue insofar as Al Klippert Ltd. is concerned is simply the recovery of excess taxes paid since being wrongfully removed from the order in 1981.

Finally, the city assessment department has indicated that they are prepared to assess this property as still being subject to the provisions of the board order if our appeal to the Alberta

Assessment Appeal Board falls within the parameters of the Cirrus decision. But as we are still awaiting that decision from the Assessment Appeal Board regarding our 1985 appeal and the city has not given any written notice of a change in either assessment or tax rates, we would request that this committee reject this Bill as we feel it would remove the rights of some property owners to challenge the municipal interpretation of provincial legislation in the courts, where the final arbitration of these matters should take place.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Klippert. Mr. Musgrove.

MR. MUSGROVE: Mr. Chairman, as I understand it, the court of revision or the Assessment Appeal Board has never made a decision on whether or not these properties were wrongly assessed?

MR. KLIPPERT: No, sir. Neither my company nor my lawyers have been advised of any decision.

MR. MUSGROVE: And are the taxes paid currently?

MR. KLIPPERT: Yes, sir. The taxes are completely paid.

MR. G. CLEGG: Did you say that there has been no land use change on this land since 1961? The land is being used exactly the same now as it was in '61?

MR. KLIPPERT: Yes, sir. It's a nonconforming use. It was a sand and gravel operation and concrete plant in 1961, and it is still that.

MR. G. CLEGG: And what do you mean by the word "nonconforming"?

MR. KLIPPERT: "Nonconforming" is the city of Calgary terminology regarding land uses. It's a legal, allowed use, but it is nonconforming to the UR designation.

MR. G. CLEGG: It's a discretionary use then. Is that what you're saying?

MR. KLIPPERT: I'm not sure, sir. I'm not a lawyer. I'm not sure of the complete implications of the term "discretionary."

MR. CHAIRMAN: Perhaps Mr. Facey could explain this.

MR. FACEY: A nonconforming use is defined in the Planning Act, Mr. Chairman. A nonconforming use occurs where a use was in existence on a piece of property prior to the current zoning being on that property and where that use doesn't conform with the uses allowed under the current zoning. It's, if you like, a sort of legal loophole to allow property to continue. However, there are certain rules that if it has been discontinued for six months, burns down beyond a certain percentage -- I believe 75 percent -- or that sort of thing, then it cannot start up again. That is clearly set out in the Planning Act.

MR. CHAIRMAN: I was just wondering if the city of Calgary would like to comment on Mr. Klippert's interpretation of the effect of Bill Pr. 19 on Al Klippert Ltd.

MR. JUDD: Mr. Chairman, if I may, I think there are two points I'd like to make comment on.

First of all, as I understand it, in the period 1981 through 1983 there were complaints to the court of revision that went on to the Alberta Assessment Appeal Board and, as I understand it, the assessment made by the city of Calgary was in fact confirmed by the appeal board at that time. There is a further complaint that has gone on to the appeal board, starting in about 1985, I believe, based on the 1985 assessment year. The appeal board, because of litigation, have not heard any similar appeals until the outstanding cases and issues have been resolved, and they have yet to set some of these up and hear them, so those are outstanding.

As far as the 1987 assessment year is concerned, from the information I have with me, it would appear that Mr. Klippert's property will be assessed and taxed as though it were physically located in the municipal district of Rocky View. So for purposes of valuing and the mill rates, we will be assuming it's not sitting within Calgary; it sits within the municipal district.

MR. CHAIRMAN: If I could be permitted to ask a question. Is the city's position that the taxation question as to '81 and '82 and maybe '83 is barred by the Tax Recovery Act provisions, but that the '85 complaint is not barred and will not be barred by Pr. 19?

MR. TOLLEY: Perhaps I can answer that, Mr. Chairman, if I might. The '85 complaint will not be barred by Bill Pr. 19, because it is a proceeding commenced to contest the assessment. So that action, that complaint, that appeal before the Alberta Assessment Appeal Board would not be barred by this action.

MR. CHAIRMAN: What about the earlier years, '81, '82?

MR. TOLLEY: Mr. Chairman, the city's position is that those complaints, those appeals on the assessment, were not kept alive by Mr. Klippert at that time. So those years would be quieted by our Bill. Those are quieted by the Tax Recovery Act in any event.

MR. CHAIRMAN: And confirmed by Pr. 19 as far as this is concerned.

MR. M. CLEGG: Could I ask a question, Mr. Chairman?

MR. CHAIRMAN: Yes. Mr. Clegg.

MR. M. CLEGG: Mr. Chairman, I'd just like to ask the city of Calgary whether it's their view that if proceedings are commenced and an assessment is confirmed and later, as appears in Mr. Klippert's case, grounds arise again -- such as the Cirrus case -- which would support his position, the fact that a six-month period has intervened means that he is prevented from taking advantage of the court decision and reopening his appeal because of the passage of time. Is that why? Is that the reason why you're saying that the '81 and the '82 years are closed up by the municipal taxation time limit?

MR. JUDD: Yes, Mr. Clegg. That's correct.

MR. M. CLEGG: That seems to be a question which is perhaps beyond the scope of this Bill, to determine whether or not that is a fair position. So maybe it's not relevant, but here it would

apply to anybody in any circumstances. There does seem to be an issue of fairness there, but to be fair, it is not something within the scope of this Bill.

The second thing which Mr. Klippert brought up: he was concerned that the word "proceedings" here in the Bill was not sufficiently broadly defined so as to include administrative proceedings such as an appeal to the Assessment Appeal Board. Where those words are used in the second-last line of section 2, my feeling of the drafting of this Bill is that the word "proceedings," when it is being interpreted as to whether or not they will commence before December '85 and whether or not a six-month limitation has arisen in the intervening time, should be broad enough to cover any appeal, either a judicial appeal to a court or to an administrative board pursuant to law. I would think the drafting is broad enough to allow that and that it should not be limited in its interpretation in this section to civil and criminal proceedings in a court. Would the city agree with that?

MR. G. ANDERSON: Yes, Mr. Chairman. I was the one that drafted the Bill. The intent was that the word "proceedings" was of course to be given -- and I used that word specifically for the purpose to cover everything, whether it be a court of revision, Assessment Appeal Board, or in fact a court action. It's to be given the widest meaning on the word "proceedings."

MR. M. CLEGG: Mr. Chairman, I'd just like to follow up by saying one thing. As a drafter myself, I would agree with the way that it's drafted, and I would think that it should be interpreted that way, if that's any comfort to Mr. Klippert. I will study this clause again and see if there's any way that it's necessary to make it even more so. But I would say that the word "proceedings" is being used consistently throughout that section to cover any type of proceeding right from the court of revision up to the Supreme Court of Canada.

MR. G. ANDERSON: The city of Calgary has no qualms whatsoever. We're prepared to even commit to Mr. Klippert that that's what that means. We're prepared to give him a letter to that effect. So we're bound by it whether it says it or not, because that's clearly the intent.

MR. CHAIRMAN: Mr. Klippert.

MR. KLIPPERT: Yes. Could I have the city clarify that? Even though we appealed in 1981, '82, and '83 to the court of revisions and the Assessment Appeal Board and were denied the appeal, the subsequent Cirrus land decision in the Supreme Court of Alberta has proven -- or would appear to us to support our case -- that that is not relevant to the '81, '82, '83 decision.

MR. G. ANDERSON: Mr. Chairman, since that is not a direct question and I'm not sworn, I think it's a question of law, and I can answer that, I believe.

What Mr. Klippert is saying is that I went and I appealed and I lost. I had the right to further appeal. If I went to the court of revision and lost, I could appeal to the Assessment Appeal Board. If I lost there, I could appeal to the courts of the province of Alberta on a question of law or jurisdiction. Because in any one of those incidences, if I chose not to do so, then it's only right that your claim would end. Because one other individual two or three years later decides not to stop where Mr. Klippert did but go all the way through and get a court decision, what Mr. Klippert is now saying is, "Well, why can't I pig-

gyback on the success of somebody else?" And the whole point of section 30 of the Tax Recovery Act that says you can't do it: after six months your taxes are deemed to have been paid. That's the law of the government of the province of Alberta.

MR. KLIPPERT: That would seem to me to say that if you were to go ahead and find any decision should be . . . Why have a court of appeal? If the lower court simply fines, then is ruled on subsequent to that, why should there be any court of appeal at all?

MR. TOLLEY: We can't answer that, Mr. Chairman.

MR. CHAIRMAN: Mr. Klippert, I guess that's your argument. I think the committee notes your argument, and maybe that'll be further drawn out in questions from committee members. But before I go to the committee members, Mr. Lyons, did you . . .

MR. LYONS: Would it be possible for me to make just a brief statement? Could I make a brief statement relating to Mr. Klippert's situation?

MR. CHAIRMAN: If that's going to be brief . . . I'll ask the members who had their hands up before you to make their interventions first, then I'll come back to you.

MR. MUSGROVE: I'm a bit confused now. As I understood it, there was an appeal made to the court of revision on the 1981 assessment, and subsequent appeals made in 1985. In both of those, both the court of revision and the Alberta Assessment Appeal Board refused to make a decision?

MR. JUDD: Mr. Chairman, I believe you will find from the record that the 1981-1982 complaints to the court and appeals to the Alberta Assessment Appeal Board were decided. But in 1985 at the time of the hearings, the Cirrus action was active before the courts. The court of revision exercised their right to refuse to decide, which allows the complainant the right to appeal to the Alberta Assessment Appeal Board. I believe that that refusal was strictly because it was before a higher court and they did not wish to deal with it at that time until after the courts had disposed of the related matter and still leave Mr. Klippert and other people in similar circumstance in the position where they could maintain their appeals alive and proceed with them.

MR. MUSGROVE: Now, in the case where the court of revision and the Assessment Appeal Board have refused to make a decision and the taxes are not paid pending that decision, would the city of Calgary be then taking action under the Tax Recovery Act to collect those taxes through the Tax Recovery Act?

MR. CHAIRMAN: Well, Mr. Musgrove, I don't think there's a question about nonpayment; I think all taxes have been paid.

MR. MUSGROVE: There's a point here where I have never heard of a court of revision or an Assessment Appeal Board refusing to make a decision. I can see this with a court order pending, but on the other hand, then there should be some arrangement made over the taxes on that property until those decisions are made. I can't believe that any municipality will go out and impose taxes on some property when there is no decision made over the appeal of the assessment.

MR. JUDD: Mr. Chairman, for 1981 and 1982 there were deci-

sions made, so those are not outstanding. For 1985, to the best of my knowledge, those decisions have yet to be made. If the Assessment Appeal Board or any other tribunal that's involved in the process in effect reduces that assessment and reduces the taxes, there will be a rebate made to Mr. Klippert or to anyone else who has similarly kept their appeals alive to reflect proper taxation.

MR. YOUNIE: Initially we were given the impression that section 2 of this Act merely asks us to uphold section 30 of the Tax Recovery Act, and I'm wondering, from what was just recently presented, if section 2 is more inclusive in the kinds of proceedings and appeals that it blocks off than section 30 of the Tax Recovery Act. It seemed to me that there was some indication that in fact we were blocking off more avenues of appeal than section 30 of the Tax Recovery Act would block off for a person, in which case we are going beyond just upholding section 30 of the Tax Recovery Act.

MR. G. ANDERSON: What you're doing, sir, is not even upholding section 30 of the Tax Recovery Act. What the city of Calgary is asking your committee to do is very clear. We're not asking you to take away the rights of any individual. We are asking simply for a shield; that is all. Because all these people have the right and every taxpayer has the right under the law to challenge their taxes. We're not taking that away. This only arises because there are individuals whose taxes have long been paid, individuals who have long taken the course through the courts of revision, the Assessment Appeal Board, or the courts. In many cases these people have let their appeals die, or they've been found against them. So what happens now in this particular case is that -- and the Tax Recovery Act applies. That's the law in this province. After six months you cannot claim a refund on your taxes.

What everybody here is trying to do -- and I want to make that crystal clear to everyone -- what they are trying to do is piggyback on the basis of a number of court decisions. They want to open a door that's been shut. The government of this province shut it when they passed section 30 of the Tax Recovery Act. What these people want to do is open a door through a series of events. They are trying to say that -- there is a case, in September of 1986 in the province of Ontario, that deals with slipping on a city street. Negligence action. *Streng versus Winchester*. The court in Ontario held that three months, in its view, was an extremely short limitation period. You know what all these people here today are complaining about? They are saying that if this Bill is not passed, we then go to the court; we challenge the time limitation period in section 30 of the Tax Recovery Act. Then if we are successful in challenging that period, the six-month period no longer applies. When the six-month period no longer applies, then they say, "Well, this is like any debt; we have six years." And these people then want to go back for a period of six years.

That's what they want to do, and all we are asking, and nothing more, is to give us a shield, give us a protection. We're not asking for a sword. We are not out to lance these people. We are asking for protection, and that protection, sir, lies in equity and in fairness. We are just asking for a shield, and that's what this Bill does, protect us, not for allowing the challenge . . .

MR. CHAIRMAN: Mr. Anderson.

MR. G. ANDERSON: Well, he asked a legal question. I'm

trying to give a legal answer.

MR. CHAIRMAN: Okay.

MR. G. ANDERSON: You ask a lawyer and sometimes he will give it to you out of both barrels, and I'm afraid that's what I did.

MR. YOUNIE: Well, that was a very nice emotional appeal, but it didn't answer my question, which was: are there avenues of appeal that are not covered in section 30 of the Tax Recovery Act that will be blocked off by section 2 of this Bill?

MR. G. ANDERSON: That answer is clear. No.

MR. YOUNIE: Okay. That's all I wanted to know.

MR. G. ANDERSON: I'm sorry; I didn't realize. I thought you wanted the explanation as to why . . .

MR. YOUNIE: Just yes or no. I wanted to know if I was being asked to go beyond section 30 of the Tax Recovery Act in section 2 or to merely uphold it, because it seemed to me there were proceedings section 2 affected that the Tax Recovery Act didn't cover.

MR. G. ANDERSON: I just have a harder time making a living giving yes or no answers.

DR. WEST: The question to the city I would ask: are you asking for Pr. 19 so that you have a shield to presumed people's rights in the future? If society judged the Tax Recovery Act and some court decided that the Charter of Rights applied, then you would like a shield against people's rights?

MR. G. ANDERSON: No. That's what we're not asking. All we're asking for is a right for ourselves, because if you look at an upsetting of section 30 of the Tax Recovery Act, a court will only deal with the simple question: is a six-month limitation period too short? They won't go into the equity; they won't go into the fairness. But what this Bill then allows us to do, sir, is that if the Bill is passed, what we have is this shield, because then that opens that whole body of Supreme Court cases to us that deal with fairness, that deal with equity, and the fact that you can be discriminatory in passing legislation. There are a series of Charter cases that say yes, you can be discriminatory, that certain people are submerged to the majority. And that's right. There is a whole series of cases that shows that, and all we're asking is to give us the right to call upon that.

MR. FACEY: Mr. Chairman, I think the question also said: does this go into the future? The answer is no.

MR. G. ANDERSON: No, it doesn't go into the future, only what has happened in the past. Whatever happens in the future we'll take as it comes.

MR. MUSGROVE: A couple of points, Mr. Chairman. I just now heard Mr. Anderson say something to the effect of people's right to appeal their taxes. It is my understanding that you can't appeal your taxes; you can only appeal your assessment. Is there something in the statute that says you can appeal taxes?

MR. G. ANDERSON: You're correct, sir. It is your assessment, but your assessment then revolves around your amount of tax.

MR. MUSGROVE: The other point I want to make is that we now have two years' pending appeal in which the court of revision and the Assessment Appeal Board have refused to make a decision on an appeal. Now, I would have thought -- and correct me if I'm wrong -- that had the court of revision made a decision on that appeal, whichever way the decision was made, it would then allow the appellant the process of going to the Assessment Appeal Board and further to the courts and this whole thing would not have happened. Is that correct?

MR. G. ANDERSON: Would you respond to the gentlemen?

MR. FACEY: I think it's clear, Mr. Chairman, that we are not affecting that pending court decision where the claim was commenced prior to December 31, 1985. If they want to pursue that on the basis of the Cirrus decision, then that is open to them, and we'll abide by the decision. That's not been closed.

MR. MUSGROVE: It is an irregularity for the court of revision to refuse to make a decision, is it not?

MR. CHAIRMAN: Well, Mr. Musgrove, I don't think the court of revision did refuse to make a decision. It decided. That decision was appealed to the Alberta Assessment Appeal Board who, in view of pending litigation, said, "We are not prepared to make a decision." It's the Alberta Assessment Appeal Board that has decided not to make the decision, and it is still before that board. That's why Calgary says that particular case is not affected by Pr. 19. It's because that process started before the cutoff time.

MR. G. ANDERSON: Mr. Tolley can respond as well, sir, to that question. I think you've got it pretty . . . Mr. Tolley.

MR. TOLLEY: I think I can only reiterate what you have said, Mr. Chairman. If there is still an appeal outstanding on that assessment year, then that appeal would survive Bill Pr. 19. If the property owner has not kept his appeal alive, not pursued it in the courts, not gone on to the Alberta Assessment Appeal Board and has left it, then Bill Pr. 19 would prohibit him from going further.

MR. CHAIRMAN: Are you still having problems, Mr. Musgrove?

MR. MUSGROVE: Mr. Chairman, I sat on a court of revision in a municipality for -- I don't know -- 12 or 15 years, and I've never heard of a court of revision refusing to . . .

MR. CHAIRMAN: But Mr. Musgrove, in this case the court of revision did not refuse; the court of revision decided. And as a result of that decision, Al Klippert Ltd. appealed to the Assessment Appeal Board of Alberta, and that is the body that has refused to decide, pending the litigation. The court of revision of the city of Calgary made a decision which Al Klippert Ltd. didn't like, so it appealed to the Assessment Appeal Board. So there is no question of the court of revision refusing to decide. I think I'm correct. Am I, Mr. Judd?

MR. JUDD: Mr. Chairman, it depends on which year we're talking about; the answer does vary. For 1985, if you look at the Tax Recovery Act, the court of revision has the right to refuse to hear or the right to refuse to decide. In certain instances -- and if I've got the legal term right, it's subjudice, where the matter is before a higher court . . .

MR. CHAIRMAN: That's all right, but I want to know the facts. Did the Calgary court of revision refuse in this case?

MR. JUDD: Yes, they refused to decide on the grounds it was sub judice, Mr. Chairman, but that does not terminate the right of appeal of Mr. Klippert.

MR. CHAIRMAN: Mr. Musgrove, I apologize to you. So it has not gone to the Assessment Appeal Board yet?

MR. JUDD: It has been appealed to the appeal board. They have not heard it; they have not set a date to hear it again because it was before higher courts.

MR. CHAIRMAN: In other words, you're telling us that the Alberta Assessment Appeal Board said exactly the same thing as the Calgary court of revision?

MR. JUDD: That they would not hear it until the matters in the higher court had been dealt with. Then they will set it up and hear it.

MR. CHAIRMAN: What is the procedure here? Does it go back to the court of revision at some stage then?

MR. JUDD: No, it would go back to the appeal board directly, and they would hear the complete argument, Mr. Chairman.

MR. CHAIRMAN: But nevertheless, irrespective of anything else, that question -- Al Klippert Ltd. is not barred in any way by this Bill?

MR. JUDD: You're absolutely correct, Mr. Chairman.

MR. CHAIRMAN: Mr. Downey.

MR. DOWNEY: Thank you, Mr. Chairman. If I could, I would like to just go a little more into this issue of fairness, if I might. I appreciated the arguments that Mr. Anderson was making, and I would like to pursue them a little further.

The economics of the business of Al Klippert Ltd., which in 1961 located in a rural area, possibly or probably because of some very good business reasons -- so just in the narrow question of fairness, when Al Klippert Ltd. is annexed, its assessment goes from \$410 to \$94,000. I would comment, in passing, that \$410 may very well have been somewhat low, even on a rural base, as it was not strictly an agricultural enterprise, but I ask you the question: is it fair to change the assessment by this multiplier just because the city of Calgary decided to annex that property?

MR. G. ANDERSON: Mr. Judd can respond to that, sir.

MR. JUDD: Mr. Chairman, it did not occur at the time of annexation. I believe you will find that at the time of annexation -- this would be 1961, annexation order 25860 -- the values

would be quite similar between Rocky View and Calgary. It was not until 1981, when the municipal district of Rocky View did a general assessment of all properties within that municipal district. We similarly had to do a general assessment of those properties that were to be assessed on the same basis. The annexation order was examined in detail, and the advice that we received was that the order was silent with respect to parcels of land in excess of 20 acres upon which there was no income whatsoever from agriculture.

On the basis of that decision that said it was not within the benefits of the order, we assessed those properties as though located in the city of Calgary, and we used the same rules that any similar property within Calgary would use. We sent out notices to each person who had been assessed on the Rocky View base the year before and advised them of the changes we were making and the general reasons why. These were form letters that went in addition to the assessment notice. So the change that you see occurred in the tax year 1981, some 20 years after annexation.

MR. DOWNEY: Mr. Chairman, if I may follow just a little bit, and for clarification, the annexation order was issued in 1961.

MR. JUDD: That is correct, Mr. Chairman.

MR. DOWNEY: Mr. Chairman, I did not, in all of this, hear anything more than a legal argument for the justification to do what they did. I haven't heard a comment on the subject again of fairness.

MR. CHAIRMAN: At this time I think Mr. Klippert indicated he wanted to make a comment.

MR. KLIPPERT: Yes, sir. As far as the '81, '82, '83 assessments go, we appealed in 1981. It took until 1983 to get a hearing. At that time the board dealt with '82 as well because we were still waiting for a judgment. In '82 there was quite a bit of confusion at the hearing regarding what year we were dealing with. But our arguments before the court of revisions and the Assessment Appeal Board has always been the same. I don't see how -- if the Cirrus decision of the Supreme Court comes down saying that this is correct in '85, I don't understand why it's not correct in 1981, '82 and '83.

MR. CHAIRMAN: Well, Mr. Klippert, I think that is one of the injustices of this world. Law changes. It's a growing thing, and many decisions that were made 20 years ago would not be found the same way. I guess it's just taken that there has to be some time for certainty in life, and there has to be a cutoff date. That is a general principle, as I understand the legal system.

MR. KLIPPERT: But is the Cirrus case not an appeal of the 1981 assessment?

MR. CHAIRMAN: But I think you're suggesting then that all these things should be treated as a class action, that Cirrus was suing on behalf of itself and everybody else in a similar position. I guess class actions are allowable, but they do have to be treated as class actions.

MR. KLIPPERT: No, sir. I don't take that view at all, but the taxpayer does not usually have the reserves of the city to carry all of our tax appeals to the Supreme Court of Alberta every

year.

MR. CHAIRMAN: I guess the philosophy is that those taxpayers who feel offended by what's happened have the obligation to either act as a group or individually but at least be parties to the process.

I think we understand your position, and of course this will all be considered by all members of the committee at some stage. Dr. West.

DR. WEST: Yes. To the city, again back to the fairness point. If an assessment came down in a change such as this and it literally broke a company, a viable business within the city of Calgary, has there or would there ever be a decision made to integrate it over a period of time rather than an absolute jump from \$410 to \$94,000? Just a point of interest: if he were netting 20 percent of his business, he would have to do a half million dollars' worth of business in the next year in order to pay \$94,000.

MR. JUDD: Mr. Chairman, administratively in my capacity I don't have the authority to, if you will, negotiate a payment schedule. The Tax Recovery Act does specify times for arrears and penalties, et cetera. There is the route that the taxpayer could go there. But section 106 of the Municipal Taxation Act gives to council the authority to cancel taxes in circumstances which to them appear proper, and an application could be made to council under section 106 of the Municipal Taxation Act.

MR. FACEY: Mr. Chairman, if I could clarify, \$94,000 . . .

DR. WEST: Yes, I misinterpreted the \$94,000. That's assessment; excuse me for that.

MR. JUDD: That's right.

MR. FACEY: Secondly, it's already been paid. It's not a case that he hasn't paid it and is now going to get a big bill.

MR. MUSGROVE: Mr. Chairman, I'm wondering why the 1981 appeal was not decided until 1983. This would seem to be a little confusing to the taxpayer also.

MR. G. ANDERSON: Mr. Chairman, we have no control over either the court of revision and its decisions or the Assessment Appeal Board and its decisions. These are independent bodies that are set up.

In the city of Calgary the court of revision is an independent body, unlike a lot of municipal councils where the councillors themselves sit on the court of revision, which is sort of common in various counties and municipalities throughout Alberta. But in the city of Calgary the court of revision is an independent body. It makes its own decisions; it has its own procedures. The Assessment Appeal Board is -- and we have no control over it. We are just a party to the action, no different than Mr. Klippert or anyone else.

MR. MUSGROVE: In those cases the Assessment Appeal Board is responsible to the city of Calgary and also to the taxpayer of the city of Calgary. And so it would appear to be quite confusing, and I would almost say unfair, to an appeal on an assessment to leave it sit for two years without making a decision on it when the person was actually paying taxes on that.

MR. G. ANDERSON: The city has no control over it. The boards, such as the Assessment Appeal Board, are governed under legislation in this province. There are steps in that legislation so that if you want to challenge a board order, if you believe that they have delayed in making a decision, there are things you can do. But the city has no control over it, sir. That's clear.

MR. G. CLEGG: Mr. Anderson, you're certainly right on the last statement, but you have no control over the court of revision?

MR. G. ANDERSON: Not for the city of Calgary.

MR. G. CLEGG: Who has control over that then?

MR. G. ANDERSON: Pardon?

MR. G. CLEGG: Who controls them? I know who controls the Assessment Appeal Board, but . . .

MR. G. ANDERSON: They are an independent body set up by -- how is it set up? I'm not sure how it's set up within the city, but they are independent people that are on it.

MR. JUDD: They are a body that is appointed by city council, Mr. Chairman, for the purpose of hearing complaints, and they do hear them as expeditiously as can be done under the circumstances, having regard to the volume of complaints. Once the complaints have all been heard by the court of revision, the notices of decision are sent out. The time line starts for filing appeals, and we then notify the appeal board that the decisions have been received. My department does a certain amount of administrative work to receive documents, to forward them on. We're then at the pleasure of the appeal board as to the date of hearing. And with the appeal board having to deal with the whole of the province, it is quite often that we find there is a delay before they are heard. The last two or three years it has not been uncommon to have the decisions for one calendar year heard in the next calendar year by the appeal board.

MR. G. CLEGG: I understand your later part again, but I don't think you've answered my question. The court of revision is what we're talking about here, not the Assessment Appeal Board, which I know you haven't got any control over. But surely the city of Calgary has control over the court of revision. You, the city council, have the right to tell them to sit every so often. I mean, they have to make those decisions. I know you have to do the work to get all ready for that. And certainly, I know that in most rural jurisdictions they in fact are the same people. In the city they're not; I know that too. But you must have some control when that court of revision -- not the Assessment Appeal Board; I know you have no control over those -- but surely you have some control over the court of revision.

MR. JUDD: Mr. Chairman, Mr. Clegg, the hearings of the court of revision are established at a very early date. We do schedule for them in co-operation with them. They were dealt with expeditiously. There are limitations within the Act as to time. Where necessary we have secured extensions to those times. But basically, the court of revision decisions have been held, I think, as expeditiously -- and to the extent that I believe you're

using the word control, that kind of control was exercised. It was not one of allowing it to drag out indiscriminately. It was matter of they can only hear so many cases a day. The volume of cases to be heard took time in order to process all of these through.

MR. CHAIRMAN: Well, just for point of information, in the Klippert case was the 1981 court of revision decision made in 1981?

MR. JUDD: Mr. Chairman, I cannot answer you by fact at this point. My memory would say yes, the court of revision dealt with it in 1981. I don't believe that in my tenure as city assessor we've had any court of revision decisions, in the sense that Mr. Klippert's was dealt with, carry over into the next year.

MR. CHAIRMAN: You're suggesting then, as far as the city is concerned, that the delay in this case was the Alberta Assessment Appeal Board that got it into the second year?

MR. JUDD: Yes, Mr. Chairman, I believe that would be the facts.

MR. CHAIRMAN: Mr. Klippert, do you have any different understanding of the facts?

MR. KLIPPERT: Yes. I'm not exactly sure of the dates on the court of revision, but I know the Assessment Appeal Board was not heard until February of '83 regarding the '81 hearing.

MR. CHAIRMAN: But you're not in a position to dispute what was . . .

MR. KLIPPERT: No, I'm not sure of that. I would have to look it up in the records.

MR. GIBEAULT: Mr. Chairman, I would like to pursue the Klippert case for a moment to try to come to some understanding about the fairness of the situation. It was mentioned that the assessment now is increased to some \$90,000-plus, and I'm wondering if either Mr. Klippert or the city can tell us: what does that translate to in a tax bill?

MR. G. ANDERSON: Perhaps Mr. Klippert can tell you what he pays in taxes. That may be the fastest way to do it on a \$94,000 assessment.

MR. KLIPPERT: A \$94,000 assessment is equal to approximately \$20,000 in taxes.

MR. GIBEAULT: And on, I assume, a sizeable sand, gravel, and concrete operation, what case would you make that that's not a fair tax load to pay in relation to other taxpayers in the city of Calgary?

MR. KLIPPERT: Well, what services would I get for my \$20,000?

MR. CHAIRMAN: If I could just interrupt for a moment. Did that \$94,000 -- how long did that \$94,000 assessment stand, in which you were assessed taxes?

MR. KLIPPERT: It started in 1981, and to my knowledge it is

going to continue this year.

MR. CHAIRMAN: I see.

MR. JUDD: Mr. Chairman, it would have started in 1981, but I would challenge that it would continue for this year. The records I have here indicate to me that we would be placing it back into the rolls of the municipal district of Rocky View for the taxation year 1987. It will be assessed and taxed on the identical base, so it would not change.

A \$90,000 assessment, Mr. Chairman, with the mill rate for nonresidential properties for Calgary last year of 167.4411 mills, would be \$15,053.22 in taxes, and this is for a parcel of 58.70 acres.

MR. CHAIRMAN: And also, from my understanding, 1985 and 1986 are subject to reduction on the basis of the Cirrus case?

MR. JUDD: It could be subject to reduction on that basis, because the appeal to the appeal board is still outstanding.

MR. LYONS: I'd just like to make some comments in conjunction with Mr. Klippert's presentation. We feel that we're even more innocent in our particular claim than Mr. Klippert. We have absolutely vacant land just east of the Bow River, north of the Deerfoot Trail. I mean, it's absolutely vacant; there's not a thing on it besides an old dried-up slough, some poplar trees, some gravel, rubble, and some grass. We appealed and lost as well in '81 when our taxes went up under similar circumstances. The law was then reinterpreted by the Cirrus case, and because we are not totally dumb -- we were dumb to trust the city, but we're not totally dumb -- we followed on the coattails, or piggybacked, the Cirrus case, and that's not unusual to do.

The point that's being missed here to some case -- the city talked about shield and lances. We feel we have already been lanced. And we're concerned that this legislation -- we may be right or the city may be right, but the fact is, if this legislation goes through, the courts will never get a chance to decide that. We firmly believe we're right, and I think the city has a very poor case with our property, but we're willing to let the courts decide.

The trouble is that the city wants to pass legislation reaffirming a six-month time limitation on assessments, and that again may be fine with us. It may be against the statute of rights and freedoms, but that's a little bit beyond me. The fact that's really a concern here is that it's retroactive to December 31, 1985. They're making a law going into the past. It's not prospective legislation; it's retroactive. That's of deep concern when we think we're right, although we may not be; we just want to have a chance to have our case heard. This is extremely unusual, and the committee's got to be apprised of this.

Our taxes on this vacant piece of property -- 430 acres approximately, which I say there's nothing on -- our actual taxes paid went from about \$1,000-\$1,500 to \$100,000. That's what we paid. Over four years that's over \$400,000. We haven't made a profit since 1982 in the construction business in Calgary. We pay all our other property taxes. We don't have sewer and water to our main plant where we pay property taxes. We paid \$81,000 last year in taxes on that property. We haul our own garbage away; we have a septic truck come in, et cetera, et cetera. When you talk about fairness and wrong, we believe we're on the right side here. But the fact is that if this legisla-

tion goes through, especially retroactively, we don't have a chance for anybody to hear about that.

MRS. HEWES: Mr. Lyons, would you just refresh me? Did you take yours to the court of revision?

MR. LYONS: Yes, we did, in 1981, and we were denied by the court of revision.

MRS. HEWES: You were denied. And then did you go on to appeal?

MR. LYONS: No, we didn't, because other cases of going on to appeal had been denied as well, so . . .

MRS. HEWES: So yours is effectively closed?

MR. LYONS: That's right; it is effectively closed.

MRS. HEWES: Thank you.

MR. CHAIRMAN: Does this adequately deal with the Klippert situation for the time being? If that is the case, I will ask Mr. Clegg to administer the oath to Mr. McGeough.

[Mr. McGeough was sworn in]

MR. McGEOUGH: I'm here speaking on behalf of my father, Gerald McGeough, and our neighbour Gordon Donaldson. My father and Gordon were both out of town just prior to the last hearing on April 29. I was made aware of this Bill being put in motion about April 27, and since then I've been trying to find out what is going on and what our position is involved in this.

The land involved is under the following: Gerald McGeough's land is roll 041000704; Gordon Donaldson's is 062006002. The land in both cases is residential. Neither have services such as sewer and water; they're all self-contained. There are two houses on the property. As far as I can tell, my father's land made overpayments from the years '81 to '84, from what I have been able to find out. It was originally held as farmland under Rocky View. To our knowledge, we don't have services coming in, and in that way we're opposed to the Bill being on our lands. From what I can tell, this might not affect us, but at this time I'm not able to confirm that. We would still like to have the opportunity to pursue recovery of the overpayment from the years '81 to '84. One of my requests is that my father get an opportunity to do that. He would be home on May 10.

Other than that, I haven't got a lot of comments. From what I've heard today, I have a question of the city, though. The city said that they want to put this Bill together in order to shield themselves in the name of fairness and that this shield would cover no more than section 30 of the Tax Recovery Act. They want to protect themselves in the event that it's overturned. It seems to me that in the idea of fairness, the city's position would be more that if the Act is overturned and we are allowed more than six months to appeal, then their action at that time would be to appeal the decision themselves rather than putting up a block. I can't see why section 30 is not enough to protect them. If it does get overturned, then at that time they should be appealing, not trying to block it in advance.

MR. CHAIRMAN: Thank you. Mrs. Hewes.

MRS. HEWES: Thank you, Mr. Chairman. Mr. McGeough, how did you hear about this meeting? You weren't here last week.

MR. McGEOUGH: I got a call from my brother, who is living at my parents' residence, who got a call from Gordon Donaldson, who got a call from Brian Chisan.

MRS. HEWES: So it was word of mouth?

MR. McGEOUGH: Yes.

MRS. HEWES: [interjection] Yes, the telegraph. Sir, were you or were members of your family represented at the LAB hearings?

MR. McGEOUGH: I'm not sure.

MRS. HEWES: Have you gone to court of revision?

MR. McGEOUGH: Again, I don't know. I have just picked it up and decided that the best thing to do was make some form of representation here in the absence of my father and hope for the best.

MRS. HEWES: Very sensible. A couple of other questions, Mr. Chairman. Is it still being farmed?

MR. McGEOUGH: It's just a residence. There is no farming on it.

MRS. HEWES: There is no farming. And how long since there's been any percentage of agricultural activity on it?

MR. McGEOUGH: It was rented out as grazing land I would say sometime in '81, '82, but I can't confirm the years.

MRS. HEWES: But subsequently it has been strictly a residential use. And how many acres again?

MR. McGEOUGH: My father's is 35 acres, and Gordon Donaldson's is approximately 25.

MRS. HEWES: Mr. McGeough, what kind of taxes are you paying? What's the assessment on it?

MR. McGEOUGH: From what I've been able to dig up, in 1986 the property was assessed at -- this is my father's -- \$67,600. That was up from '85 when \$41,000 was the assessment. From what I can tell, our land fell under the decision of an annexation order that allowed it to go under the municipality of Rocky View.

MRS. HEWES: Right. So, Mr. Chairman, just to be clear, in '86 the 35 acre parcel was assessed at \$67,600.

MR. McGEOUGH: That's correct.

MRS. HEWES: Thank you very much, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mrs. Hewes.

MR. G. ANDERSON: Mr. Chairman, Mr. Judd may be able to

help Mrs. Hewes as to what the tax would be on that particular assessment. Mr. Judd?

MR. JUDD: Mr. Chairman, if my memory serves me correct, the mill rate for Rocky View at that time would be about 15 mills, which would put that tax bill in the order of a \$1,000-\$1,050.

MR. G. ANDERSON: For a 35-acre parcel with a house.

MR. JUDD: That is correct.

MR. CHAIRMAN: Can anyone help us from the city as to whether or not at any time this property was removed and put back in? Or does anyone know how the amendment to the order

...

MR. JUDD: Mr. Chairman, when one is relying on their memory going back to 1981, it's maybe a bit dangerous, but I recall Mr. Gordon Donaldson coming in about 1981, when we did the reassessment. My recollection is that we had left these two properties in the order, but he had challenged the market that we had used for the portion of the parcel that would be subject to the market rate. My memory would be that it was left in the order throughout the whole time, and that if in fact there is any challenge, it would be the rate that we used on the probably three acres that we had assessed at market rate on that land. But I do clearly remember an appeal, a complaint to the court of revision, and Gordon Donaldson coming in and seeing me personally on that particular one. I think it would be 1981, but that's memory.

MR. G. CLEGG: Could that assessment from 1985 to '86 have gone up from \$41,000 to \$67,000 because the land was changed from agriculture and they did not get the exemption because it went in another . . .

MR. JUDD: Mr. Chairman, again I'm relying on memory, and I have not looked at the facts of this for several years, but I believe we kept the bulk of the McGeough and the Ladco properties -- Mr. Donaldson's land was under Ladco Developments, I believe -- at three acres at market, balance at farm throughout the whole time. In 1981 there was a general assessment; the assessments changed because of it. In 1985 there was a further general assessment, and they changed because of that. I don't recall any other change that would come in on that property.

MR. G. CLEGG: That's why I asked the question: was the exemption not allowed in '86? That seems to me the only reason there could be a \$26,000 change in assessment, because of the exemption from farm to nonfarm or residential. That's what I was questioning.

MR. JUDD: Any change in assessment would likely have shown up for the tax year 1985, the year the reassessment was implemented, and it would probably be attributable singularly to the value of the three-acre parcel that is assumed at market, and that would be based on the market data found in Rocky View.

MR. G. CLEGG: So what you're really saying -- and that's what I can't understand. Knowing the economic times, I don't believe that from '85 to '86 the land value or that property went up that specific year. That's why I'm looking for something

else to raise that assessment from 41 to 67. And maybe in Rocky View it did go up, but throughout the province it didn't -- you know, land value. So, I'm just wondering where that ever could come from.

MR. JUDD: Mr. Chairman, I think it's got to be coming out of a misunderstanding somehow, because '79 was the base year for the '81 reassessment; '83 was the base year for '85; and generally speaking, the assessments went down on land. If I had the records here, I would be expecting to see a reduced assessment in 1985 as compared to 1984.

MR. McGEOUGH: I've got a letter here written by my father to Mr. Judd in April of '86, and his comment on this increase, which I gather he is questioning, is:

Our objection is based on the original annexation order, which called for continuation of assessment of the land as farmland until city services become available.

So it seems to me that there was a change in the assessment from being farmland.

MR. CHAIRMAN: But, Mr. McGeough, you don't know whether there's ever been any appeals taken against the assessments?

MR. McGEOUGH: No.

MR. CHAIRMAN: Mrs. Mirosch.

MRS. MIROSH: Thank you, Mr. Chairman. To Mr. Judd. I am concerned about the remarks Mr. Lyons made in regards to their assessment increasing from \$1,500 to \$100,000. Can you make any comment about that? Why would the city . . . Did I hear incorrectly?

MR. LYONS: That was the tax payable, not the assessment. The assessment was \$320,000 or thereabouts.

MRS. MIROSH: It still seems like a great deal of money in that short a time without any change in land-use classification. Why would they be assessed so high?

MR. JUDD: Well, Mr. Chairman, the rules, if you will, are established for all of the municipal district or they're established for all of the city, depending on whether we're looking inside Calgary or outside Calgary, and the assessment itself is not a good indicator to look at. The common denominator really is taxation, when you get down to it. In this case the gentleman, Mr. Lyons, is talking about taxation.

But the lower amount was assuming apparently that it was farmland. When we examined the land as part of that reassessment in 1981, we could not find evidence of farming. It did not qualify for the benefits of farmland as they are defined in the Municipal Taxation Act. That was one determination that I believe was made. The other determination was that it was in excess of 20 acres in size and that there were no unusual instructions within the annexation order as to how to deal with it. The order was held to be silent on that particular subject. So the land was assumed now to be in Calgary, subject to Calgary rules, and was assessed and taxed identically to any other similar property that was in Calgary and not affected by the annexation order. So had there been no annexation order that existed, that is exactly what the taxes would have been if it was any-

where else in Calgary under identical circumstances.

MR. LYONS: I have to agree with the city on this particular point, that it was not being farmed at the time. That's a fair comment. I think that's one of the things that may be decided in court. Well, it appears now that the board order was misinterpreted by the city, and it did not have to be farmed. It should not have been removed from the board order because it wasn't being farmed. But if the courts interpret that differently, that's our hard luck. We got it back into the board order by farming it, by renting it to a farmer. These things are not in dispute.

In fairness to the city, they've got a tax base to maintain, et cetera, et cetera. What we're concerned about here in terms of fairness is that we don't want the Legislature deciding legal issues involved in this. I try to be rational about it. I mean, the city has to run a city. We're paying our taxes responsibly, and we may be wrong. But this legislation takes away our right to find out if we are or not. More unusually, it takes it away retroactively, and in that sense it's bad legislation, in my opinion. I'm not a lawyer; I'm a citizen. I think it's bad legislation in that sense.

MR. G. ANDERSON: Again, Mr. Chairman, I'd don't like to interrupt, but that is in the way of argument. I will attempt to show you that that is totally wrong. It is not the type of thing I thought my learned friend would allow his client to bring up, but whatever. We will be making very strong objections and pointing out very clearly to your committee just exactly what we are asking for. Don't listen to them as to what we are asking for, please. We'll tell you.

MR. CHAIRMAN: Thank you.

MR. MUSGROVE: As I understand it, Mr. Lyons corrected what he felt was an usual assessment by renting this land back to a farmer and getting it back under the board order. Now, what year did that happen?

MR. JUDD: Nineteen eighty-five.

MR. CHAIRMAN: I think we've now heard from everybody present. I do have a slight problem I'd like to bring to the committee. That has to do with Mr. Chisan and Mr. Macpherson and Mr. Akins, who, I am advised, for various reasons, including their occupations, are unable to be here today. They still have requested the opportunity to be heard. I know Mr. Gibeault and Mr. Wright had sort of indicated that perhaps some consideration could be given to moving our venue to Calgary. I would like to hear some advice from the committee as to how we should treat this problem. Mr. Sigurdson.

MR. SIGURDSON: Thank you, Mr. Chairman. When one listens to members of the committee and indeed people that have made presentations to this Bill, in my mind there are still an awful lot of questions that have to be asked and an awful lot that have to be answered. I don't think anybody on the committee wants to see unjust taxes being levied, and if the Bill goes through, perhaps the city would have to pay back an awful lot of money, which would then allow for some people to be over-taxed while others are perhaps undertaxed.

However, there is a problem with notice. I think that the city ought to either target directly, through an advertising

mechanism, those people who are directly affected by this proposed piece of legislation or, perhaps even better, that a registered mail to the last known address be sent out to these people so they have an opportunity to come before this committee. I would suggest that that is only fair, and we've talked about fairness. I think the people that are to be affected by this Bill ought to have the opportunity to come before this committee, and the committee ought to sit in Calgary to hear those people. Obviously, it's an expense for Calgary residents to travel to Edmonton to make their presentation to this committee, and I think the committee ought to travel to Calgary to hear these people. But I think the city of Calgary ought to either target some advertising or registered letters to the last known address of the people that are affected, at your expense, so they have the opportunity to come before us.

MR. CHAIRMAN: Thank you, Mr. Sigurdson. Mr. Downey, followed by Mrs. Mirosh.

MR. DOWNEY: Thank you, Mr. Chairman. I'm not really sure that this is an issue we should be discussing before the witnesses, perhaps the committee only. But I have some concerns, first of all, with precedent. I don't have a problem with the notice, because I'm sure that concerned and interested parties that wanted to make representations with regard to Bill 19 had opportunity to acquaint themselves with the proceedings and appear here. I suppose my major concern would be in the interests of efficient operation of this committee and equal opportunity to be heard in this Chamber.

On that basis, Mr Chairman, I don't favour holding a hearing outside of this Chamber.

MRS. MIROSH: Mr. Chairman, I agree with the colleague behind me. I really sincerely feel we would set a precedent if we were to start to hold hearings outside this Chamber as well. We would be traveling all over the province, because there are many rural areas and farmers who'd have a tough time getting here. It's just an expense that we haven't worked into our budget.

I also agree that everybody should be heard and heard fairly. It's unfortunate that they couldn't come today, but perhaps another time. But I agree that we should discuss this outside the Chamber.

MR. CHAIRMAN: I think just for the factual information of committee members we should all understand that we have absolutely no budget authorized for traveling. We would have to ask the Legislative Assembly for permission to travel. We just can't make that decision on our own. The only decision that we could make would be to ask the Legislature for permission to do that.

Mr. Younie.

MR. YOUNIE: Okay. First of all, with the point you just made in mind, I don't see a problem with our setting a precedent in what has been commented on as the single most unusual Bill the committee has ever heard and one that is unusual enough that it's not likely to be a frequent occurrence. I would say that perpetuating inequalities of the past is no excuse.

I have very serious concerns about notice. I would think that if we are going to establish in law the orders of the Local Authorities Board and Public Utilities Board, we should use the same notification procedures that they use for their meetings,

which was mailed to those property owners concerned.

I would also suggest, if we were going to meet in Calgary, that the cost of mailing a registered letter to the 700 owners, which is the number given by the city, could not be nearly as much as the cost of their four representatives flying up here and flying back and buying meals and so on. So it should not be considered an undue expense. In fact, the only undue expense we might be looking at is the cost of the committee traveling to Calgary, should the Legislative Assembly decide to allow us to do it.

I would strongly urge that if it is possible to arrange, in fact we take that course of action: make sure all landowners have been notified and that we meet there to hear their concerns.

MRS. HEWES: Mr. Chairman, there are three things, and we're muddling them up here. We've got the problem of notice, the problem of the timing, and the problem of the place. With respect, sir, I don't think we should be burdening the witnesses with this discussion. I also think we need to have some advice from counsel on any problems that he might see regarding notice, whether or not we have any jurisdiction or mandate to change how that occurs. So I'd really prefer that we end the discussion as it's presently going on.

MR. CHAIRMAN: That still raises a problem as to how we treat the people who are here today, because we're either going to conclude on the understanding that we will be hearing further evidence, either here or in Calgary, or the closing comments are to be made now.

MR. G. ANDERSON: Mr. Chairman, would you want us to absent ourselves from the committee room so that you people could discuss this?

MR. CHAIRMAN: Well, if that happens, if we want to go in camera, we'll move next door, I believe. We have a space available very close to the Chamber.

MR. GIBEAULT: Mr. Chairman, I'd like to move that the committee adjourn to discuss these particular matters of notice and hearing outside the Chamber.

MR. CHAIRMAN: You mean you've just moved to go in camera? There's a motion before the committee that we go in camera. I don't think that's debatable. I'll ask for advice on that.

MR. M. CLEGG: Well, it is actually debatable.

MR. CHAIRMAN: It is debatable, so I'll then ask Mr. Downey.

MR. DOWNEY: Well, Mr. Chairman, speaking along the lines -- it was my suggestion that maybe these gentlemen didn't need to be here, but my further remarks are something that I don't mind putting in front of them.

I think my concern with the proposal by the Member for Edmonton Belmont is that this committee, rather than considering private Bills and in view of the controversial nature of Bill Pr. 19, might very well become perceived as a rather glorified court of revision, and the process could very well escalate beyond our ability to accommodate it. For that reason, Mr. Chairman, I am solidly opposed to any move outside of this venue.

MR. MUSGREAVE: Mr. Chairman, on a point of order. We have a motion to adjourn, and I thought that's what we were debating.

MR. CHAIRMAN: A motion to go in camera.

MR. MUSGREAVE: I would suggest that we stay with that motion.

MR. CHAIRMAN: All those in favour of going in camera to discuss this matter hold up your hands. Eight. Opposed? The motion carries 8 to 6. Therefore, while I said we could move, I think that on further consideration we'll ask you to move.

MR. LYONS: Mr. Chairman, I have to leave at 11 o'clock at the latest to catch the 12 o'clock airbus.

MR. CHAIRMAN: We'll try to move along, Mr. Lyons, as best we can.

[The committee met in camera from 10:24 a.m. to 10:56 a.m.]

MR. CHAIRMAN: As far as I can see from the agenda that I spoke about at the beginning of the meeting, the only thing that remains now as far as this stage is concerned is for the city of Calgary, if it wishes, to cross-examine any of the presenters either last Wednesday or this morning on what was presented in opposition. Mr. Anderson would you like to have the . . .

MR. G. ANDERSON: Yes, I think we just have two brief questions, and we have those of Mr. Lyons, sir.

Mr. Lyons, you have commenced action against the city of Calgary for damages equivalent for the amounts paid for taxes for the years 1981 to 1984 inclusive. Is that correct?

MR. LYONS: Yes, that's right.

MR. G. ANDERSON: On what day did you commence this legal action, sir?

MR. LYONS: April 24.

MR. G. ANDERSON: In what year?

MR. LYONS: Eighty-seven.

MR. G. ANDERSON: Sir, you also represent CBR Cement Canada Limited?

MR. LYONS: Are you still asking me?

MR. G. ANDERSON: Pardon?

MR. LYONS: Are you still talking to me?

MR. G. ANDERSON: Yes, sir, I am.

MR. LYONS: I don't represent CBR Cement. I work for Canfarge.

MR. G. ANDERSON: Mr. Hope, do you represent CBR Cement Canada Limited?

MR. HOPE: That's correct.

MR. G. ANDERSON: Do you have a witness for you on behalf of CBR Cement Canada Limited?

MR. HOPE: No, not here today.

MR. G. ANDERSON: Well, you were not sworn as a witness before this hearing. Would you be able to advise this committee whether or not in fact legal action has been commenced by your client CBR Cement Canada Limited against the city of Calgary?

MR. HOPE: Of course.

MR. G. ANDERSON: And was that for taxes for the years 1981 to 1984 inclusive?

MR. HOPE: No, it was for the tax years 1981 to 1983.

MR. G. ANDERSON: Inclusive.

MR. HOPE: Yes.

MR. G. ANDERSON: On what date did you commence that action against the city of Calgary?

MR. HOPE: April 24, 1987. The same day as the Canfarge case.

MR. G. ANDERSON: And you are counsel on both cases. Is that correct?

MR. HOPE: That's correct.

MR. G. ANDERSON: That's all the questions I have, Mr. Chairman. I have no questions of CFCN or Mr. Klippert or Mr. McGeough.

MR. CHAIRMAN: Just for your information, we're not concluding matters, because there seem to be some outstanding witnesses who were unable to be here today. So I'm not going to ask you to sum up, Mr. Anderson, because I don't think it's fair to sum up before everything is heard.

MR. G. ANDERSON: We would love to hear everyone, Mr. Chairman. For the record and so I understand: what witnesses haven't shown up, and what types of excuses have they presented to you, sir?

MR. CHAIRMAN: Well, I think the people we're concerned about and who were here last week are Mr. Chisan, Mr. Macpherson, and Mr. Akins. Mr. Akins' reason is his occupation of farming. I think that family matters concern Mr. Macpherson. I'm not sure; I have no reason for Mr. Chisan.

MR. G. ANDERSON: But they have assured you, Mr. Chairman, that they will be here next week. Is that correct?

MR. CHAIRMAN: Well, that's . . .

MR. G. ANDERSON: Are you prepared to hear us next week? Because we'll be here.

MR. CHAIRMAN: We've not decided as a committee as to when we want to resume our hearings, whether it's next week or two weeks or three weeks from now. I'm sorry to be in this position, but I think that is the position of the committee. We would just like to adjourn matters now, and we will advise you as soon as possible to give everybody concerned the utmost notice as to when this will be resumed, whether it's next week or the following week. I think I can assure you that it will either be next Wednesday or a week from Wednesday.

MR. G. ANDERSON: That's all we're concerned about, Mr. Chairman. We didn't want a sort of a long delay till next year for all we would know. No, we have no problem with that. We defer to the wishes of the committee, and we'll be here whenever the committee asks us to appear again before them.

MR. CHAIRMAN: While we do have you, though, can the city of Calgary help me as to what the attendance was like at the Local Authorities Board hearings?

MR. G. ANDERSON: Mr. Facey would have a better grasp of that, sir. Of the numbers served, how many in fact showed up?

MR. FACEY: I haven't got that at my fingertips, though a number of land developers who showed up were all concerned with the triggers we were proposing, a redesignation which would have taken their land out, and all their concerns were satisfied by cabinet when they made the amendments. Have you got a better idea of how many altogether? There must have been eight or nine in that category, I think, and that was over half the people who were there in terms of making presentations, as far as my memory goes. We could check that in our records back in Calgary.

MR. HOPE: I did attend one of those hearings during that time. I recollect quite a number of people. I do not know the exact numbers, and I don't know whether they were representing land developers or individuals or what the case was. There were far more in excess than have appeared before this committee today.

MR. CHAIRMAN: Was it more than the total occupants of the Chamber here?

AN HON. MEMBER: Twenty, 30, 40?

MR. FACEY: We can phone through to Calgary and get the information.

MR. G. ANDERSON: I was at the same hearing, Mr. Chairman. It's very difficult. Those that spoke at the hearing can be obtained from the records of the Local Authorities Board. We'll look at that and get that. For the area involved, we're not talking like 100, 200, or 300 people. We are talking anyone who made presentations, I would assume from memory, under one order, maybe 15 at the most; under another order, about the same.

MR. MUSGREAVE: I just have a general question. I wanted to know if you're restricted by procedures as to the type of notice that you put in the newspapers. For a person that's not a lawyer, the notice is very formal and very structured. I must confess that I worked with a large company for a long time, and whenever I saw anything like that, I just automatically assumed

the law department would worry about it and I wouldn't have to. My question is: are you restricted as to the kind of notice that you have to put in the papers?

MR. G. ANDERSON: No sir, we are not. But if you would recall, if you've seen a copy of the notice that we did put in the newspaper, we minced no words. We clearly said to the citizens of Calgary what in fact we were going to ask the Legislature to do. It's a very clear notice; it has emblazoned above the notice the name of the city of Calgary. In addition, the fact is that you have seen a number of people here today who've made very spirited objections to this particular Bill. You've also had something that has occurred by word of mouth. Mr. Chisan has contacted a great number of people. You've heard that before your committee. He's approached a number of people. He in fact has managed to get two or three to come up.

The question of notice, I think, is very clear to most of the people. I think all the people that had an interest, that were vitally concerned, that were vitally affected, were here before you, because there are very large dollars involved. That's why they're here. Wouldn't you come if you had a chance to grab \$300,000, \$400,000, \$70,000, whatever? You would be here, because that's big dollars, and you would want to make sure that no one was going to take that chance that you now see to take that money. I think that on the question of notification, it is clear that those people who have an interest, who have something really to gain showed up. Those who did not, or had something very minor to gain: why would they be here? Why would they care?

A lot of other people are waiting in the woods. If I were the owner of a major shopping centre in the city of Calgary, dependent upon my trade within the city, I might not want to stand up and take the attack. I might let someone else do it, and then I'd run in behind and say, "Well, you did it for them; you might as well do it for me." I think that's what the problem is here. The people that know, they're here. There are others who wait. We know that a number of people here did wait, even these people here. They waited till Mr. Chisan had a decision; they waited till Cirrus had a decision. They didn't run themselves. They waited till these people made a decision, and then they want to piggyback onto that. Now they want to piggyback onto a decision of the superior court in Ontario.

I think it is a red herring. Those people that are here, they're here. We've given a very wide notification. There are a number of people that contacted us. Canadian Premier Land came to the office of the city of Calgary at the very time I happened to be in the office. They asked for information. Mr. Paul Tolley gave them that information. They aren't here because they don't feel that they have a vested interest, perhaps. I don't know.

So I think the question of notification is a red herring, and I think those people are all here. I think the committee would be remiss if they are trying to grasp on to the fact that there's somebody out there that doesn't know what's going on. I think you'll find that that's not the case.

MR. MUSGREAVE: Mr. Chairman, a follow-up. Mr. Anderson, could you tell me -- it was interesting that there was one person here at the hearing last week who was supporting the city. Could you advise me how he came to be here? Did the city ask him to come or . . .

MR. G. ANDERSON: No, Chisan asked him to come. Mr.

Chisan asked that individual to come, because Mr. Chisan was going around to a number of people seeking support. Unfortunately, he happened to knock on someone's door who felt that "No; I would prefer to support the city's position." But that is how that individual got here. That's why I say that those who wanted to be here, who wanted to be heard either for or against, they were here.

MR. WRIGHT: Yes. Mr. Anderson, you said that the matter was widely advertised. Do you have a copy of the actual advertisement?

MR. G. ANDERSON: Yes, I do, Mr. Chairman. In fact, Mr. Wright, I believe we presented you with a briefing, as we did with all the members of the committee, and that advertisement is attachment C2 to that.

MR. WRIGHT: I mean the actual advertisement. A photocopy.

MR. G. ANDERSON: A photocopy? I'm not sure if I have the actual photocopy with us there.

MR. WRIGHT: Well, I think you probably had to show proof of service to Parliamentary Counsel, didn't you?

MR. G. ANDERSON: Mike Clegg in fact may have it.

MR. WRIGHT: Yes, I'll keep looking for it. But in the meantime, it went in three consecutive weeks in the *Calgary Herald*, and how big -- well, we'll see that, I suppose, when we see it. But do you know where it was published in the *Calgary Herald*?

MR. G. ANDERSON: It would be published in the legal section of the paper, where people always look who have interest, whether it be in foreclosures or whatever. That is where it was published.

MR. WRIGHT: And when you say that everyone who wanted to be here was here, you're talking about the people who knew that they were affected, of course?

MR. G. ANDERSON: That is correct.

MR. WRIGHT: And how many -- I did ask this when some of you saw me as you saw everybody, I suppose, on the committee ...

MR. G. ANDERSON: We talked to as many people as we could.

MR. WRIGHT: ... and you were going to try and have a stab at how many might be affected. In other words, if the \$36 million or \$42 million scenario was to turn out to be the case, how many people there would be participating in that.

MR. G. ANDERSON: Well, you can't really answer that question, sir. I'm just not too sure if you can. Can you answer and respond to that, Michael?

MR. FACEY: Well, in that information I read in earlier, we did indicate certain numbers of properties involved -- if I can just find it. We were able under some categories to identify 21 properties and in another category 35 properties, but in others they

were more global.

MR. WRIGHT: Yes. In the sense that you're talking about possible reductions between '81 and '84 sort of thing, over a wide area.

MR. FACEY: The question of those properties which came out of the order, were put back in, and then came out again under the Cirrus decision -- that's a fairly easy one to find, and there were 21 properties that Mr. Judd identified. These included all these shopping centres, and the shopping centres have been paying the taxes all along. To have a few of them out of the order is going to create an extremely unfair situation, and I wonder whether the other 640,000 taxpayers in the city of Calgary should also be given a right to state their point of view to the prospect of having an 18.5 percent tax increase.

MR. WRIGHT: Yes. I couldn't agree more with you from what you present. I'm just trying to get a handle on the number of individuals, including corporations of course, who would share in the \$36 million or \$42 million dollars if the worst case scenario turned out to be so, and if you have that calculation you'd presumably have an idea of the number that would share in it.

MR. JUDD: Mr. Chairman, not to try and avoid the answer, it's a case: I can't give you a specific answer. But if I may approach it from this direction ...

MR. WRIGHT: No one expects a specific answer, but a ballpark answer is what we're looking at.

MR. JUDD: There were approximately 1,200 properties that were affected by annexation orders in 1986. We've given you specifics on 70 of them, so the rest potentially could be affected. I would guess the number to be in the order of about one-half that would have a possibility of benefit. A number of these were farmland before, they remain farmland, and there would be no difference to them.

MR. WRIGHT: Now, in your computer, in which I presume you have all this data electronically stored -- do you?

MR. JUDD: Yes, we do.

MR. WRIGHT: It wouldn't be too hard to call up the last known addresses and names of these 1,200 properties.

MR. JUDD: We could identify the 1,200 properties. Yes.

MR. WRIGHT: So if we got slightly rough with you, we wouldn't be imposing too much of a burden, I suppose -- that's up to us to judge perhaps -- if we ask you to send a notice to all of these addresses, the last you have on file, which is the assessment address, by single registered mail.

MR. JUDD: That could be done, Mr. Chairman. It might take a few days to go through. It's not one of the buttons we can push and get an instant answer to pull this group out, but it could be done.

MR. WRIGHT: Yes. Thank you.

MR. McGEOUGH: I had a comment on Mr. Anderson's statement that seemed to indicate that everyone involved was aware of this hearing and had the opportunity themselves to decide whether or not it was worth coming. Although I had the opportunity to decide whether to come to this hearing, it was at the discretion of Mr. Chisan that allowed me to come. That's why I tend to want to encourage the mailout.

MR. CHAIRMAN: Thank you, Mr. McGeough.

If there are no further questions at this time, then I'll ask for a motion to adjourn. Mr. Downey. All in favour?

Maybe just a second before -- we should do something about what we're going to do next Wednesday.

MR. M. CLEGG: I think we'll have to advise the petitioners later, won't we?

MR. CHAIRMAN: Yes, but is the committee going to get a chance to decide?

AN HON. MEMBER: Yes.

MR. WRIGHT: Mr. Chairman, if I might make a suggestion, which is that perhaps it could be adjourned at the call of the Chair just in case we need to have a quick meeting between now and Wednesday. Are you talking about the committee itself or these gentlemen?

MR. CHAIRMAN: Well, I think just for business for next week for our own use. I was wondering whether we could tell these gentlemen that we will not be dealing with this matter next week, and if that's the case, what would the committee like to deal with next week?

MR. WRIGHT: It might be difficult to tell them that, might it not, Mr. Chairman? We might want to deal with it next week, I would think.

MR. CHAIRMAN: All right. Well, then we may have to reconvene ourselves as to what our business is going to be.

[The committee adjourned at 11:16 a.m.]