

[Chairman: Mrs. Black]

[10:04 a.m.]

MADAM CHAIRMAN: Good morning, ladies and gentlemen. Welcome to private Bills. It's nice to see so many of you out this morning. I'd like to welcome our presenters. We are the private Bills House committee, and as such we hear representations from various groups. We'd like to welcome you here this morning.

I'd like to ask concurrence of the committee to accept the agenda as circulated. Thank you very much.

We have three Bills this morning. We'll start off with Bill Pr. 11 and then Bill Pr. 3 and Bill Pr. 5. At this time I'd like to ask the vice-chairman to take the Chair during the hearing of Bill Pr. 11, The Campbell McLaurin Foundation for Hearing Deficiencies Amendment Act, 1990. Mr. Cherry, would you please take the Chair?

[Mr. Cherry in the Chair]

MR. DEPUTY CHAIRMAN: Thank you, Madam Chairman, and good morning everyone.

Mr. Clegg, I'll ask you to give the introductions, if you would please.

MR. M. CLEGG: Mr. Chairman, this is my report on Bill Pr. 11, The Campbell McLaurin Foundation for Hearing Deficiencies Amendment Act, 1990, pursuant to Standing Order 99. The Bill amends and clarifies the objects of the foundation and the priority of application of funds. The Bill does not ask for any powers which I consider to be exceptional, and there is no model Bill on this subject.

Mr. Chairman, appearing for the petitioners are Mr. Doug Mitchell as solicitor and Mr. Gerry McGinley on behalf of the foundation. I propose to swear Mr. McGinley as a witness.

[Mr. McGinley was sworn in]

MR. DEPUTY CHAIRMAN: Thank you, Mr. Clegg.

Gentlemen, good morning to you again. Would you like to explain the purpose of the Bill, if you would?

MR. MITCHELL: Mr. Chairman, by way of outline, let me first of all just point out that my name is Doug Mitchell. I'm a partner in the law firm of Howard MacKie in Calgary. Gerry McGinley is also with me today. Both Mr. McGinley and myself are co-executors of the estate of Campbell McLaurin, and we are also trustees of the Campbell McLaurin Foundation. The McLaurin Foundation was established by a private Bill on May 4, 1982, pursuant to the will of the late Chief Justice McLaurin, who passed away in April of 1981. The foundation has been active since it was incorporated on May 4, 1982. It currently has assets of approximately \$2.8 million. Its 1989 revenue was approximately \$214,000, and excess of revenue over costs and donations was approximately \$120,000.

The Act has been passed in accordance with the will as left by the late Mr. McLaurin. During the period of time the foundation has been carrying on business, we have donated approximately \$750,000, \$500,000 of which was donated to the University of Calgary for the establishment of the Campbell McLaurin chair for hearing deficiencies, and approximately \$250,000 has been given pursuant to the will to help persons with hearing deficiencies who do not have the financial ability to

assist themselves.

The application here today is to amend the Act to enlarge the objects of the foundation, to permit the trustees, where there are special circumstances existing, to assist people in the province of Alberta beyond the boundaries of the city of Calgary. It is the wish of the trustees and also the wish of the co-executors that this amendment be made in order to allow the trustees the opportunity to deal with the excess revenue which we have on an annual basis.

MR. DEPUTY CHAIRMAN: Thank you, Mr. Mitchell.

Mr. McGinley, do you wish to add anything?

MR. MCGINLEY: No, Mr. Chairman. I think that's quite an extensive outline of the reasons why we're here. If there are any specific questions, I'd be pleased to try to answer them.

MR. DEPUTY CHAIRMAN: Thank you.

I'll go to the members and ask them. Mrs. Hewes, maybe you would start.

MRS. HEWES: Thank you, Mr. Chairman. Gentlemen, there is nothing in the will that conflicts or is in any way incompatible with this move?

MR. MITCHELL: No, there isn't, Mrs. Hewes.

MRS. HEWES: Thank you.

MRS. GAGNON: Have there been any requests or contacts from persons outside of Calgary who might wish to benefit from this fund? Are you responding to an expressed need?

MR. MITCHELL: We are not at this particular time, because it's been known publicly that the objects of the foundation allow us only to deal with people within the boundaries of the city of Calgary. We don't anticipate making a large PR campaign, but we feel there are special circumstances where there would be needs we could now meet that we haven't been able to in the past.

MR. TANNAS: What are your approximate yearly or annual operating costs?

MR. MCGINLEY: Mr. Chairman, last year the operating costs were about \$60,000. None of the trustees receives any remuneration. The expenses relate principally to office expenses and administration fees for the investment of the portfolio.

MR. DOYLE: Mr. Chairman, my question. I now understand that these funds have only been given out to residents of the city of Calgary. It says that they must be "resident in the City of Calgary for not less than 5 years immediately prior to the providing of the assistance." Will those same stipulations be there for people outside the city of Calgary, the five-year period?

MR. MITCHELL: That they'll be a resident of the province of Alberta for five years: is that the question?

MR. DOYLE: The province of Alberta, or does it have to be the municipality from which they apply?

MR. MITCHELL: No. The only amendment we're proposing is that special circumstances exist to assist people in the province of Alberta.

MR. DOYLE: No time limit as to how long they have lived in an area or municipality outside the city of Calgary?

MR. DEPUTY CHAIRMAN: *There are no further questions?*

I want to thank you, gentlemen, for coming in this morning. The committee will be discussing it, and you will be getting a written report back either in the form of the Bill going ahead or the other way.

[Mrs. Black in the Chair]

MADAM CHAIRMAN: Members of the committee, our next Bill will be Bill Pr. 3. It's the Nechi Community College Act. We have with us today Ms Maggie Hodgson, who is the executive director of the Nechi college, and Mr. James Sillito, who's been working on the Bill. We'd like to welcome you here today. Again, I would stress that our committee receives representations from petitioners. We will review them at a later date and then make a report to the Assembly with our recommendations.

Mr. Clegg.

MR. M. CLEGG: Madam Chairman, this is my report on Bill Pr. 3, Nechi Community College Act, pursuant to Standing Order 99. The Bill incorporates the college and provides for its objects, powers, and other constitutional provisions. The Bill does not ask for any powers which are considered to be exceptional, and there is no model Bill on this subject.

MADAM CHAIRMAN: Would you proceed with the swearing in?

[Ms Hodgson and Mr. Sillito were sworn in]

MADAM CHAIRMAN: Thank you very much, Mr. Clegg. Ms Hodgson, do you have some opening comments to make?

MS HODGSON: Yes, just a bit of background in relation to the Nechi Institute as it stands today. Within the institute, alcoholism and drug education has been operating for 15 years, and there's been a requirement of us by the federal government to obtain accreditation for our program. We've been negotiating with a number of colleges to obtain accreditation for the substance abuse portions that we presently offer.

One of the issues that's coming fairly close is that a number of the students we presently train need upgrading. In order to obtain the funding from CEIC to do the upgrading of our students, to be able to obtain the accreditation through Grant MacEwan or being the broker for the Grant MacEwan program, we would need to be recognized officially by the province of Alberta in order to access that CEIC money. That's one of the issues.

The second issue is that we presently have an expanding request of us in other areas relating to substance abuse such as family violence. It would again avail us the opportunity of obtaining alternate funding from AADAC and from Health and Welfare Canada.

Thank you.

MADAM CHAIRMAN: Thank you very much. Mr. Sillito, do you have any comments to make?

MR. SILLITO: Not at this time, no.

MADAM CHAIRMAN: Thank you very much. I'll now turn to the committee. Mr. Cherry.

MR. CHERRY: Thank you, Madam Chairman. Maybe the audio isn't coming in as strong as my ears can stand, but the question I would have is: would this college be for just the Indian population, or would it be for all people in the province?

MS HODGSON: Madam Chairman, the college presently serves predominantly the native population. However, we presently have black people from Africa and white people from Alberta, people of different races. But the main focus is for the native person within our community, because we have an all-native board and predominantly an all-native staff, and our purpose is to have culturally relevant programs.

MADAM CHAIRMAN: Mr. Severtson.

MR. SEVERTSON: Thanks, Madam Chairman. I have a few questions that I'd like to ask. You said you need some recognition from the province of Alberta. Have you had discussions with the Department of Advanced Education with reference to being a college?

I don't know if you want me to just ask all my questions or wait for one answer and then back, but another one: if you did get this, would you come under the Colleges Act?

MR. SILLITO: The answer to your second question is yes. The Nechi community college would be subject to the provisions of the Colleges Act.

MR. SEVERTSON: How about the first question then?

MS HODGSON: We have had assistance and technical resources, and staff from Advanced Education have supported us in the development of this application. Definitely it's with their full knowledge.

MADAM CHAIRMAN: Mrs. Hewes.

MRS. HEWES: Thank you, Madam Chairman. I am familiar with the work of the institute. I was interested in your comments that when you do get accreditation and so on, you'd be in a better position to provide further training relative to family violence. I note here in your courses, Ms Hodgson, advanced counselor training that does have considerable work in family . . . Are you now training people relative to family violence? Are you placing trained people in this field of practice as well?

MS HODGSON: We offer counseling courses and we have some short programs in the area of family violence, but the courses we presently have are not long enough and skills-based to the extent that that would be helpful. However, there is the issue of curriculum development resources that would be required. There are resources from the federal CEIC through the federal family violence department; we could obtain the necessary funds to expand those programs. There are certain

pots of money. We need to be recognized by the province before we can access those pots of money.

MRS. HEWES: This piece of legislation, Madam Chairman, would give you that opportunity to access it. Then it is your intention to move more strongly in this particular field. Is that correct?

MS HODGSON: Yes, it would be a necessary prerequisite.

MADAM CHAIRMAN: Mr. McEachern.

MR. McEACHERN: Yes, I just wanted to say I think the whole idea is a very excellent one, and I'm really strongly supportive of what you're trying to do here.

I do have one little problem with number 13 on page 5, accounting. I guess it comes from being the Treasury critic in the past for the Official Opposition. It says:

The College shall at all times when called upon to do so, render an account in writing of its property and affairs to the Lieutenant Governor in Council.

It would seem to me that it should read "yearly accounting." I just don't understand why anybody would set up any institution or want to run anything without specifying at least once-a-year accounting, whether somebody asks for it or not. For their own purposes they should want to know. So I would suggest some kind of amendment on that particular point.

MS HODGSON: We presently have a yearly audit on our books, and leaving out that word was not with any kind of consideration of not having the yearly accounting. That's been a standard practice for 15 years.

MR. McEACHERN: Well, could it now be put in to make it specific? It would be fairly easy, would it not?

MR. SILLITO: It would indeed, and upon looking at it again, I see no reason why it shouldn't be so amended.

MADAM CHAIRMAN: On that point, Mr. Clegg.

MR. M. CLEGG: Madam Chairman, if the college created by this Bill is governed by the Colleges Act, then it would have reporting responsibilities under that Act. The clause which is in the Bill right now as section 13 has many precedents. There are many organizations, principally charitable ones, which have this requirement in, and that's perhaps the reason why this is in this Bill in this way. There are, at this point in time, no general provisions which relate to public accounting and public filing of reports by private Act corporations.

There have been discussions carried on between myself and the Department of Consumer and Corporate Affairs about the establishment of some rules to govern all private Act corporations equally, because many in operation in this province have been there for many years, in some cases many scores of years, and have been incorporated with different exemptions and different types of reporting requirements. The Registrar of Companies at the moment has under consideration whether or not this should be standardized. It is true that there was a certain lack of standard approach with respect to this, but probably the closest and strongest reporting requirement would be as a college.

Thank you, Madam Chairman.

MADAM CHAIRMAN: Thank you very much.

MRS. B. LAING: Madam Chairman, my question is with section 2 on page 2, about the board. I notice here that you have several individuals named. Is that customary? Would there not be a problem if one of the members went off the board? Would it then require the Bill to be brought back again? I just wondered about that, because maybe it would make it more awkward for you in the future.

MR. M. CLEGG: Madam Chairman, if I may respond to that question, this is the normal way of creating a board, by naming the first members of it, and you'll note that it consists of "such other persons as are from time to time appointed to be members of the Board." This in fact incorporates them as the college. So in this particular case, which is not uncommon, the members of the college are also the members of the board. This wording is not deemed to require an amendment to the Act if these people cease to be members, but there would, of course, be further people appointed under the powers reflected in this section. They would be both the board and the college. So this is not abnormal, and it would not require an amendment to the Act if any one of these people cease to be a member. It merely sets the first membership of the board. If a member, one of the people listed here, decided they did not wish to become a member of the board prior to this Act commencing, then we would have to amend the Act immediately. But providing they are willing and able to be members immediately on the commencement of the Act, that is what is necessary.

MADAM CHAIRMAN: Thank you very much, Mr. Clegg.
Mr. Woloshyn.

MR. WOLOSHYN: Yes, thank you, Madam Chairman. I believe Nechi Institute started about 15 years ago on the Enoch Reserve with Eric Shirt and Lloyd Auger and people of that nature, and it started as a treatment facility. Since then you've moved into some sort of association and location of Poundmaker. The question I have: it appears to me that one of the primary reasons you would be applying for community college status is to have access to a broader range of funding for your institute, if you will. What is your relationship currently with Poundmaker, how would this change it, and what assets would you currently have that would become a part of the college if you were incorporated?

MS. HODGSON: Just a matter of clarification. When our office was situated out at the Enoch Reserve, we were at that point a training institute; we weren't a treatment facility. We're housed in the same facility as Poundmaker's Lodge presently. They have a separate board and a separate director. It could be compared to the Department of Education and the Department of Health being housed at Seventh Street Plaza at present. Many of the assets that are in the building by and large are owned by the province of Alberta. We presently lease the building from the province of Alberta. A percentage of the assets in our building are owned by Nechi Institute and a percentage are owned by Poundmaker's Lodge, which are identified by inventory. The training resources we presently utilize in the delivery of our program are all owned by ourselves. I think that was all the . . .

MR. WOLOSHTYN: What effect does this have on your ability to get more funds? You obviously have some federal sources, I would hope, at the moment.

MS. HODGSON: We presently have approximately \$300,000 that we obtained from the federal government under Health and Welfare's funding for native alcohol programs and about \$220,000, I believe, from the province of Alberta. We are experiencing . . . An example from the province of Alberta: we've received approximately a 10 percent cut over the last five years in our budget, and we've increased our program by over 100 percent out of need and good management and evaluation. However, I anticipate that the province of Alberta or the federal government from Health and Welfare will not get richer; they will get poorer. The one department that has a job to do training is CEIC, and the resources as AADAC's dollars shrink or as Health and Welfare dollars shrink – I need to be able to find an alternative department which can assist us to continue to deliver our program at the level we have, even when I indicate that we have increased our program by over 100 percent with a 10 percent cut. So we've come to the maximum of being stretched within our existing dollars.

Presently our primary focus is the substance abuse counselor, of which there are 45 programs in Alberta. We train their staff. There are other markets available to us if we access funding under CEIC, and the potential market would be the transfer of control under native child welfare that's going on. While people are trained with Grant MacEwan – you know, they go to the certificate program there or the diploma program – unfortunately those other programs don't focus on the issue of addictions, and those workers who are working in our communities need those skills. They need it for child welfare; they need it for any of the social intervention programs that operate in our communities due to the substance abuse that occurs in some of our communities.

MR. WOLOSHTYN: Further, are you suggesting that you would be supplementing the Grant MacEwan programs, or would you be wanting to take over the joint training of the social work field, as is currently being done by Yellowhead Tribal Council in conjunction with Grant MacEwan and the other surrounding communities where they have their field placements?

MS HODGSON: We're presently negotiating with Grant MacEwan for accreditation for our program, and what we hope happens – with our college, we hope to broker some of their programs. We hope to be able to broker courses from other places. I'll just use this as an example. Out of our present program, I think we may be eligible for almost a full year of the social work certificate program of Grant MacEwan now. If our students wanted to continue, we would then look at brokering with Grant MacEwan, so we would have one white instructor – excuse the word "white" – and one native instructor working together to be able to assist that the program be more culturally appropriate. We already have students throughout the province accessing our program, and some of them already have a BSW, but unfortunately having your bachelor in social work does not give you skills to do an intervention with a severely substance-abused person. It would be nice if it did, but it doesn't.

MR. WOLOSHTYN: One further question, if I may, Madam Chairman. The University of Lethbridge has done a lot of good

work in this field – some of the people there. Have you had very much or any contact or co-ordination with the people out of Lethbridge?

MS HODGSON: The University of Lethbridge?

MR. WOLOSHTYN: Yes.

MS HODGSON: You're talking about the four worlds program, are you?

MR. WOLOSHTYN: Yes.

MS HODGSON: Yes. We have had contact with them, and we've actually worked in co-operation with them on different projects. With regard to our application for a private college, no, we haven't discussed the issue with them, I suppose predominantly because their primary job is community development in the area of prevention and our primary job is in tertiary intervention and secondary intervention. It's like Department of Health promotions and the Department of Education.

MR. WOLOSHTYN: One last question, Madam Chairman. This is where I'm leading to. I hope I'm making sense. If you should then broaden your scope to becoming a community college, the range of programming you may enter into offering could be very, very wide and you may, in fact, lose the excellent thrust you have been doing as an institute for all these years.

MS HODGSON: With all due respect, I think the board members we presently have and the existing staff that we have: their vision is for community health in the Indian community in that we've been the leaders both provincially and nationally, and now we're doing international work in the area of substance abuse. And the passion that we presently hold I don't see changing. But I do see our communities becoming healthier, and as they become healthier, our programs in turn must be able to respond in an area that I think . . . Right now we're doing curriculum development, which we're making available to the schools, in the area of substance abuse prevention. It would be like asking the Pope if he was Catholic, you know. Whether we might potentially lose it, I don't anticipate that. However, I don't have a crystal ball on what will happen 10 years from now, but I don't anticipate it happening.

MADAM CHAIRMAN: Mrs. Gagnon.

MRS. GAGNON: Thank you. If you obtain accreditation, would your staff have to upgrade their qualifications? You know, in order to remain there as teachers and trainers, would they have to have higher qualifications? Secondly, what are the entrance criteria now for students or trainees, and what would they be if you had accreditation?

MS HODGSON: We presently have staff who are everything from nonacademics to people with their master's, and then we contract with Grant MacEwan instructors. So we presently have the issue of the qualifications of our staff, and if it was possible to have all native people who had a master's degree instructing, I would. It's not possible, so I have the best alternative.

The second part of your question was . . . ?

MRS. GAGNON: What are the entrance criteria now for students or trainees, and what would they be if you received accreditation?

MS HODGSON: The entrance requirement now is that they be employed within the substance abuse field, because we're funded by Health and Welfare Canada and AADAC to train those people who deliver programs. Fifteen years ago our students had an average of grade 7 or 8. Now we've just taken a survey, and the average entrance would be grades 11 to 12. Thirty-six percent of the people that we train: after two and a half years in the field, they go on to further education. The University of Calgary presently has 50 of our graduates enrolled in their postsecondary program. What it does is provide a thirst and a belief that they can compete in the academic arena, and if they choose to stay in our community, they can stay in our community. If they choose to move into the department of social services, it gives them that mobility; it helps to give them that kick-start.

MADAM CHAIRMAN: Rev. Roberts.

REV. ROBERTS: Thank you. I just had a couple of questions, one back on the board, and maybe counsel might be able to help me here. What is the mechanism for replacing board members? I see section 7 says:

The Board shall by law prescribe the terms of office and method of election, appointment, replacement and retirement of members of the Board.

But if this follows under the Colleges Act, does that enable the Minister of Advanced Education to appoint members? What is that mechanism or process? Does anybody know?

MS HODGSON: Presently the process is that the existing board appoints new board members, and they're chosen by their geographic region. So we try to get a representative from each region and a balance between Metis and treaty, because we are funded by the province, and that's to serve the treaty substance abuse counselors. We're funded by Health and Welfare Canada to serve the treaty substance abuse counselors.

REV. ROBERTS: So that process would not be changed by the establishment of Pr. 3.

MR. SILLITO: As far as I'm aware, it would not.

MR. M. CLEGG: The provisions of section 7 permit the board to establish bylaw – and the fifth word in section 7 should read "bylaw." I noticed there was a print error in the Bill. It should read: "The Board shall by bylaw prescribe the terms of office." I believe that is a correction that I can make as an editorial correction, but I'll consider that and if it seems beyond the scope of my powers, I'll advise the committee, and we'll have an amendment. I've just noticed it.

What it means is that the board at its first meeting can establish bylaws which would essentially set its own method of appointment and terms of office, and then it will be bound by those bylaws, and it will at the same time establish a procedure by which those bylaws can be amended, the method of calling meetings, and that kind of thing. So that would be a very critical process which the board has to go through at its first meeting to establish its own procedure. It will essentially be writing some of the details of its own constitution for its internal proceedings.

REV. ROBERTS: Thank you for that clarification.

Could I just ask a second question with respect to the program and the graduates from the college? Do you have any information about where they return to or what they go to or what the statistics are with respect to their future after they've been through your programs?

MS HODGSON: I'd say 95 percent of them, at the time they come into our program, are already employed in the substance abuse field. They're employed by a chief and council or a board of directors at the community level, or a treatment centre. Some of them have an academic background and some don't. They come in for a week a month over a three-year period so that they can continue to be employed during the time of their training. For the average of two and a half years that they're employed in the field – that's two and a half years in their workplace.

As I indicated, in the last survey we did, 36 percent of them returned to school, which is very important for their mobility; 49 percent moved into native leadership positions, whether that's chief and council positions or director of social services positions. I believe the reasons they do that are: one, they have training; two, they're abstainers; three, they're role models; and four, they have job stability. So they're seen as likely administrators at the community level and band level. When I say they move into leadership positions, the majority of our native leaders presently are abstainers, and a lot of them are graduates.

MADAM CHAIRMAN: Thank you very much.

Mrs. Mirosh.

MRS. MIROSH: I just have a quick question, Madam Chairman. You mentioned that the province funds you, primarily. Can you tell me which department funds this program?

MS HODGSON: They're not our primary funder. Our primary funder from the province of Alberta is AADAC, the Alberta Alcohol and Drug Abuse Commission. They provide, I believe, around \$220,000. Our total budget is around \$500,000 from our two levels of government, and I generally carry about \$500,000 worth of alternative projects. As an example, we presently have a project of \$250,000 a year through Innovations Canada to do training of trainers. That's how the funding is set out.

MRS. MIROSH: So you apparently do not receive any funding through the Department of Advanced Education?

MS HODGSON: Well, we received, I believe, \$4,000 this year to do a transfer study about how transferable our present curriculum would be to Grant MacEwan so that our students could have advanced standing for their social work program.

MRS. MIROSH: Thank you.

MADAM CHAIRMAN: Mr. Severtson.

MR. SEVERTSON: Yes, Madam Chairman. I'd like to go back to the earlier question on whether you're under the Alberta Colleges Act. I don't see anything in Bill Pr. 3 that says you would fall under the Alberta Colleges Act if you got this Bill.

MADAM CHAIRMAN: Mr. Clegg, would you like to clarify that?

MR. M. CLEGG: Madam Chairman, I'd like to offer some comment which I hope will clarify this, and I hope that the witnesses will comment if this is not their agreement. The Colleges Act relates both to public colleges and to private colleges. This Bill would create this organization as a private college. It would only become a public college and under the full control of the Colleges Act if, as a separate stage, the Lieutenant Governor in Council designated the college as a public college. If that happened, the college would then come under closer control by the minister and would report to the minister on an annual basis, which is a response to a question raised earlier, I think by Mr. Woloshyn, about reporting.

If this Bill is passed as it stands, the organization would be a private college and mentioned in part 3 of the Colleges Act, which deals with assistance to private colleges and the manner in which a private college can submit proposals to the minister and the manner in which the Lieutenant Governor in Council and the report of the minister determine whether their proposal is eligible for assistance. But it would not make them into a public college.

MADAM CHAIRMAN: Does that answer your question?

Would you like to further supplement?

MR. SILLITO: No, I have nothing further to add.

MADAM CHAIRMAN: Are there any other questions from the committee?

Yes, Counsel.

MR. M. CLEGG: Madam Chairman, I have a couple more matters to mention. The first is with respect to qualifications of staff and students for accreditation. My understanding is that if an accreditation agreement is concluded, that accreditation agreement would normally specify what the qualifications of the instructors are to be and what the entry level of the students would be. I believe that's the normal process. That would be negotiation with the public college or university that they gain accreditation with.

The second point I want to mention is a very minor one. It's a matter with legal, technical drafting. The Interpretation Act provides a number of powers for organizations, whether they're created by private Act or under some other Act of the Legislature, and provides that they have, under the authority of the Interpretation Act, certain powers. For that reason, I suggested to Mr. Sillito, and he agreed, that during the examination stage we would drop certain provisions under section 9 of the Bill, things like dealing with and owning real estate and personal property. It's not necessary to deal with those things. The committee may wonder whether that would be necessary, but those things are dealt with in the Interpretation Act, and that's why they're not mentioned in section 9.

The Interpretation Act in section 20 also makes a provision that any person who has the power under a statute to appoint somebody also has the power to fix their terms of appointment and to terminate their appointment. Therefore, I have suggested that in section 9(f) the words "and remove an auditor" are not necessary, and it should merely read "to appoint an auditor of the college." Now, it's always possible to leave words in for explanatory purposes, to make it clear that they have this, but that has certain problems because it raises an impression that maybe the words were necessary. There is a principle of legislation that the Legislature only enacts what is strictly

necessary, so I will be recommending to the committee that section 9(f) is amended so it will only read "to appoint an auditor of the college," in light of the fact that the Interpretation Act imputes into that power the power to remove as well. It's just a very minor technical point.

Thank you, Madam Chairman.

MADAM CHAIRMAN: Thank you.

Ms Hodgson, do you have any closing comments to make?

MS HODGSON: No, I don't. Thank you.

MADAM CHAIRMAN: Mr. Sillito?

MR. SILLITO: No, I don't. Thanks very much.

MADAM CHAIRMAN: I'd like to thank you for coming today and appearing before us. As I said earlier, we will be reviewing the Bill at a subsequent meeting, and we will be making a representation to the Assembly. Thank you very much.

Committee members, we'll be moving along now to Bill Pr. 5, The Calgary Jewish Academy Amendment Act, 1990. I'd like to welcome this morning Mr. David Busheikin, who is the solicitor and vice-president of the Calgary Jewish Academy, and Mr. Donald Atnikov, who is the president. We have a witness from the city of Calgary, Mr. Brand Inlow. I'd like to welcome you to our committee, and I'd ask Mr. Clegg to proceed with the introduction.

MR. M. CLEGG: Madam Chairman, this is my report on Bill Pr. 5, The Calgary Jewish Academy Amendment Act, 1990, pursuant to Standing Order 99. The Bill amends the original Act to exempt all property used for the school from taxes. Presently the Act exempts certain specified property. The statutory remedies by which tax exemptions can be achieved do not appear to be available to the academy. The Bill does not ask for any powers, other than the exemption from taxation, which are considered to be exceptional, and there is no model Bill on this subject.

Madam Chairman, I would mention that Mr. Inlow, who is here on behalf of the city, has given me a copy of the commissioner's report, which evidences the position which the city will be taking and which Mr. Inlow will be explaining to the committee. I will have copies made of this and distributed to the committee for their record afterwards.

[Messrs. Busheikin, Atnikov, and Inlow were sworn in]

MADAM CHAIRMAN: Thank you very much.

Mr. Busheikin, would you like to make some opening comments?

MR. BUSHEIKIN: Thank you. Madam Chairman, members of the committee, under the current Calgary Jewish Academy Act, the building and the grounds where the school is presently located and has been located since 1963 were specifically exempted from municipal tax. This Bill seeks to make this exemption more generic in exempting any property owned or used by the school. The immediate impetus for this Bill came from the removal about two years ago of a subsection of the Municipal Taxation Act which dealt with exemptions for certain lands that are under lease. The lifting of that exemption made vulnerable to taxation a 30-stall parking lot adjacent to the

school which had been leased from the city of Calgary for a number of years, the result of a land swap that had to do with a road-widening some years before. The lease was a perpetually renewable, dollar a year lease. The passage of the Bill, of course, would make that parcel once again tax exempt.

The second impetus for the Bill looks to what we feel is the longer term future of the school, specifically to deal with the event of its eventual relocation. Now, the present Act only exempts the specific parcel where the school's been located for some 27 years, and while the school has no immediate plans for relocation, it is certainly a consideration for the middle- and long-term future. We'd like to look ahead to deal with that situation at the same time as we're dealing with the parking lot. The school has aged in the 27 years that it's been in the current location. There is a certain encroachment of development, and the demographics of the Jewish community have shifted as well in Calgary. So we're looking to a certain longer term purpose in bringing this Bill forward.

I understand that the Calgary city council considered the matter the day before yesterday and followed the commissioner's report, which Mr. Clegg referred to. The city indicated that it had no objection to the exemption of the parking lot; however, it did have a problem with the wider purpose of the Bill, the generic exemption of all lands owned or used by the school.

At this point I propose to give some background of the school and the association. The Calgary Jewish Academy is a nonprofit association that operates a Jewish day school in the city of Calgary and has been operating such a school since 1927. It's actually the amalgamation of two Jewish day schools that had both been operating since the late 1920s in Calgary. The school provides the full Alberta curriculum for grades 1 to 9, and running parallel with that is a Jewish curriculum that encompasses religious studies, Jewish cultural studies, and the Hebrew and Yiddish languages. It also operates a preschool program for ages 3 and 4 and a full ECS program. The current enrollment is about 400 children, and although it fluctuates from year to year and even from decade to decade, the enrollment has remained within the 300 to 500 range for as far back as I can remember, which goes back to the late 1950s. It is now educating its third generation of children, and I would say it is a bit of a Calgary institution.

The school operates on a break-even point, receiving the identical amount of per pupil funding from the province as the public and separate boards' children. This is supplemented by tuition that is paid by the parents and also by outside fundraising, both within and outside the Jewish community.

Educationally the school has throughout its existence met and exceeded all the provincial standards, and it is a source of considerable pride that this has been done notwithstanding the fact that a large portion of the school day is devoted to Jewish studies, which are supplementary to the Alberta curriculum. The school's graduates have gone on to become productive and in some cases distinguished members of Alberta society and elsewhere in Canada. Nevertheless, I wish to emphasize that this school is not an elite or an elitist institution. It offers an education to all children, regardless of race or religion, and fully 20 percent of its families receive some degree of tuition subsidy. The governing principle is that no child shall be denied a Jewish education for financial reasons, and in 67 years none has been so denied.

I mention this background because the question arises: where does the school fit in that would entitle it to the exemption we seek by this private Bill? The answer is that we are just that:

we are a school. In effect, we view ourselves as the Jewish equivalent to a separate or Catholic school division but rolled into one school. The major difference, of course, is that we lack the population base that enables the Catholic board and system to achieve a special status, and that's as it should be. The demographics of a society should determine the laws and institutions. What we aim to do is achieve, if not constitutional parity, at least a sort of financial parity that will enable us to be on a level playing field with the other schools, the mainstream public and separate schools, in Calgary. The Municipal Taxation Act, section 24(1), specifically exempts from municipal taxation "school buildings and school lands owned by a school district or . . . division" as long as they're used for educational purposes. Of course, we're not a school district or division, so we don't fall under that section, but we are seeking a parallel exemption.

Now, we understand that the city of Calgary opposes the wider aspect of this exemption and that there is some concern about the erosion of the tax base. I hope not to pre-empt Mr. Inlow, but perhaps I could speak to that at this time. First of all, our view is that the Bill does not set out a new exemption but seeks to ensure the continuation of the existing exemption. We don't pay taxes on the main building right now. As long as we stay in it, we are protected under the existing Act. While we're not moving the school just yet, the relocation scenario is looking ahead more to the future. If we were to move under the present Act, of course, the new site would be immediately subject to municipal taxation. On the other hand, under the proposed Bill the exemption would be transferred, in effect, to the new site.

Even disregarding our position that we're not seeking a new exemption but the continuation of an existing one, it's our respectful submission that if there is a concern about possible erosion of the city tax base, this is not the proper forum where this matter should be taken up. We feel it would not be meritorious to shut off this school from the same sort of exemption that is currently enjoyed by many other nonprofit groups, associations, and churches in the city of Calgary and elsewhere in the province. We feel these groups are no less important to the people they service than the Calgary Jewish Academy is to the children and parents that are members of this school. Aside from the often considerable financial sacrifice the parents make to send their children to the school, there is a large number of volunteer hours that the parents themselves give in joint activities with the children and teachers and in fund-raising efforts, and I daresay the school is a very important part of their lives. Accordingly, we ask the committee respectfully to recommend passage of Bill Pr. 5 as drafted.

Thank you.

MADAM CHAIRMAN: Thank you very much.

Mr. Atnikov, do you have anything further to add?

MR. ATNIKOV: Madam Chairman, nothing at this time, thank you.

MADAM CHAIRMAN: I'd ask Mr. Inlow: do you have a presentation to make on behalf of the city?

MR. INLOW: Very briefly, Madam Chairman. As indicated, council did consider this matter last Monday, and I have filed a full copy of that report with Mr. Clegg. Because it happened so recently, I don't have a certified copy because the minutes haven't been ratified yet. But if that's required, I can certainly forward that in due course.

The position the city of Calgary takes, as expressed through that council resolution, is that they have no problems with the continuation of the existing exemption on the site that is there. The loss of that exemption on the parking lot was an unforeseen matter that really resulted technically from a series of transactions, and the city of Calgary has no desire to take any advantage of that.

The concern that has been expressed – and we have appeared before this committee on a number of occasions with matters with respect to granting tax exemptions for various institutions – is in fact the structure of this particular Bill, which exempts any property now or in the future owned by the Jewish Academy. The concern of council I think is fairly expressed as: we simply cannot predict the nature and magnitude of what that site might be in the future. There is something of a damage control mentality, I think, in terms of the tax base. The numbers that we have for this year indicate that among nongovernment buildings and properties we now have an exemption of some \$2.8 million in revenue – that's not in assessment – of which almost \$2 million arises from various private member's Bills.

I think that the concern simply is that if in fact the time comes that the Jewish Academy relocates to a new and larger site, this may or may not represent a significant increase in the erosion of the tax base, and I think council is simply expressing its desire to reserve its right and prerogative, so to speak, to take a look at the matter at that time and decide whether it would or would not oppose a tax exemption on a new and perhaps larger site. I think that's the position expressed by council in its resolution.

Thank you, Madam Chairman.

MADAM CHAIRMAN: Thank you very much. I'd like to turn to the committee now. Mr. Musgrove.

MR. MUSGROVE: Well, part of my question has been answered, Madam Chairman, but I do have some conscience sitting here passing some of these private member's Bills directing municipalities on who they should and shouldn't exempt from municipal taxation. I feel that if the organization presently is exempt on their school and were to move and relocate, then they would deal with the city of Calgary at that point about the tax exemption. My concern about giving a tax exemption on all property owned by the organization would be that this could expand and we would have therefore endorsed that exemption to the point where there would be no limit to it. That could happen. I'm not saying that it would, but that possibility is there, as I see it.

MADAM CHAIRMAN: Mr. Busheikin, would you like to respond?

MR. BUSHEIKIN: Yes. The reason we're here is that the school is a creature of statute, for reasons that go back in history longer than I can trace, and the existing exemption is also a creature of statute. Although the city has been most co-operative with us in the past in terms of tax matters, I guess we don't want to come running to them every time something comes up. We'd rather deal with the matter once and for all. As we are a creature of statute, we'd rather have it in the Act, and that would remove the tax situation from further debate.

MADAM CHAIRMAN: Yes, Mr. Atnikov.

MR. ATNIKOV: If I may address that question as well. First of all, the private member's Bill refers to property that is owned and used in an educational institution. So it wouldn't be broad enough to cover any property that we might want to acquire for whatever reason. It would be limited to property that is restricted to educational purposes. I hope that softens your concern a little bit.

The other thing that I think you should keep in mind, the concern expressed by the city as well as yourself, is that we might move from a parcel of land right now. I don't know what the exact size is, but for illustration: if it's one acre, we might move to a 100-acre parcel of land. That's the impression I get from the question. I think what you have to appreciate is that we're financially prudent individuals that are trying to run the school, and we are not going to buy a 100-acre parcel of land in that scenario. If we should move, we're only going to move to a parcel of land that is available and particular to the size of operation we're running, and that is going to be limited, as Mr. Busheikin referred to earlier, somewhere in the 300 to 500, perhaps 600 school population. So it's not going to be a tenfold or a fivefold type of increase in the parcel of land that we're talking about.

The other aspect is that probably – if we were to move, the whole reason for even contemplating it is that right now we are in an area that probably is quite possible to be highly assessed. That's not the technical word, but it might carry a very high tax burden. We would move further away from where we are in relation to the downtown core, opening up a higher tax base for the city and moving to a parcel of land maybe a little bit larger, but I would envision a lower tax base on it if it were to be assessed municipal taxes.

Thank you.

MADAM CHAIRMAN: Thank you very much.

Mr. Inlow, do you have anything to add on that topic?

MR. INLOW: Well, Madam Chairman, not other than to say that, I mean, those matters are speculative, and I think the city's position is simply that they would like to look at the impact of any change of that nature on its assessment base and make a determination at that time whether it's appropriate to support a continuation of a tax exemption under a private member's Bill.

MADAM CHAIRMAN: Thank you very much.

Mr. Tannas.

MR. TANNAS: Yes. I just wanted to ask a question with regard to ECS and nursery school and to determine whether or not those are run as those institutions or those institutions in the form of a day care. In any educational system for children there is a day care or babysitting function even though that's not the intention. But in these two, would a child come there at 8 o'clock and be picked up at 5 o'clock? Is it that kind of a nursery school, which to me is really a day care centre?

MR. ATNIKOV: No, it's not. We have had heated debates at the executive level as to whether we are or should be running a day care type of facility, and our administration and executive have been adamantly opposed to that. We really do try to run an educational environment. They start the school day at the same time, and it's about 8:25 or 8:30 at this point in time, and

the preschool and the ECS are out by about 11:30 in the morning. So it's a three-hour morning session.

MR. TANNAS: I would have a comment as well that, presumably, if you were to go to larger facilities, you might pick up one of the city schools that is no longer used and wouldn't change the tax base at all.

MR. ATNIKOV: We have talked to the various school boards about replacing our school or exchanging our school for another school. That's not viable today. It may be viable five years from now. I can't comment whether our tax base would shift. As I read our private Act, at this point in time it only covers the specific lot we're on right now. I'm not sure that it would cover a situation if we moved into an existing school that is operated by the public board or the separate board. My perception is not.

MR. BUSHEIKIN: My understanding is that wherever we were to move, even if it were to an existing school, we would immediately be subject to taxation under the existing Bill. Perhaps Mr. Inlow would care to comment on that.

MR. INLOW: Madam Chairman, I think that would be correct. There would probably have to be some changes to the status of the property of the school in order to accommodate a nonschool use. I suspect there are probably several triggers there that would cause it to be assessed, depending on whether the school board chose to sell it. It's a somewhat complicated question because there are quite a few agreements between the city and various school boards with respect to joint uses of sites and how they're managed, and I'd have to look at those to give a full answer.

MRS. B. LAING: You mentioned the sale of some of the property to a developer. Is the parking lot that's adjacent to the school used solely by the school, or is it used by other people in the area?

MR. BUSHEIKIN: No. The parking lot is used solely by the school. The sale of the land to the developer was done by another society or organization. It was independent of the school. It just happened that the parking lot was part of that larger property that was transferred, so in effect we are the lessee no longer from the city but from this developer at this point.

MRS. B. LAING: How much of the parking lot was sold? Was the entire package part of it?

MR. BUSHEIKIN: Yes. Just to briefly run down the history of it, in 1978 the city required a part of the school lands for the widening of Glenmore Trail, which is now a major thoroughfare, and there was a sort of swap arranged whereby they would get that land and in exchange the school would have the parking facility that they had lost tacked onto another side of it. So the parking lot was specifically built for that purpose. That's all that's there, and that's all it's used for.

MRS. B. LAING: Is it normal, for instance, in the city of Calgary for parking lots to be exempted, or would this be viewed as part of the facility although it has a different owner? I'm not sure; maybe Mr. Inlow could answer that.

MR. INLOW: Well, Madam Chairman, it's dealt with under some provisions of Municipal Taxation Act, but generally it would be considered part of the site. The problem with this is that the ownership has been severed from the owner of the other site, so that's why I say this problem came about as sort of a technical application of the law on a series of transactions that resulted in its no longer being tax exempt, one of those matters being an amendment to the Bill in this Assembly. It just happened by a series of events.

MADAM CHAIRMAN: I think, members, before we proceed, I'd like to acknowledge the people up in the gallery and let you know that we are the House Standing Committee on Private Bills, and we meet during the session to hear representations from petitioners creating private Bills. We welcome you here. Our meetings are open to public, and I guess we'll proceed.
Mrs. Gagnon.

MRS. GAGNON: Thank you. I think it's important to clarify for the record that the only way that the Calgary Jewish Academy is receiving per pupil funding is because of an umbrella agreement with the Calgary Catholic school board, because you are a private school, correct?

MRS. MIROSH: No.

MR. BUSHEIKIN: That is correct.

MRS. GAGNON: And you're saying no. I'm sorry.

MRS. MIROSH: They're not private in the same respect. Maybe you should explain that.

MR. BUSHEIKIN: We are private in the sense that we direct our own curriculum subject to the standards set by the province. The province conducts their periodic inspections of the school in terms of the calibre of education and what is taught. I guess, subject to meeting the requirements of the Alberta curriculum, I suppose you could say it's a private school. I don't know what the technical term for that would entail.

MRS. GAGNON: My understanding would be that in the sense of funding, your funding arrangement is not similar to the funding which other private schools receive, because of an agreement negotiated with the Calgary Catholic school board.

MR. BUSHEIKIN: That's correct. We are affiliated through this agreement with the Calgary separate school board, and funding is received via this association.

MRS. GAGNON: I was actually the chairman of the school board when the agreement was first negotiated, so I'm quite familiar with that, and I just thought it was important to clarify that. Which leads me to my question, which is that most private schools lease space from one of the boards in Calgary, either the Catholic board or the public board, and therefore they are not subject to any type of taxes from the city. Is that not so, that they are already exempt? The host school board or the board which owns the property would be paying the tax if there is one, of any kind, depending on the joint use agreement, so that other private schools are already exempt except through the lease agreement and the costs of their lease. Is that not correct?

MR. BUSHEIKIN: I'm afraid I couldn't comment on the situation faced by other schools. It may well be the case under section 24.1 of the Municipal Taxation Act that there is that exemption that applies, but I really couldn't say from knowledge of that.

MRS. GAGNON: My second question: do you already have land for a new school, and is this in anticipation of a move that's two or three years down the road or 10 or 15 years down the road?

MR. BUSHEIKIN: We have no land. It is conceivable that it could be as soon as two or three years, but we would have to basically start from scratch. Frankly, it has only been in the last year or two that we have seriously even considered the idea of relocation, but it is something that we will have to consider, and it may not be till 15 years down the road. I mentioned in my original submissions that we're looking to the middle- to long-range future. That's about as close as we can label it. It's not going to be next year. We don't have a site in mind. We're just thinking about it at this stage.

MRS. GAGNON: A last question, please, Madam Chairman: is one of the reasons for considering relocation that your present building is not able to accommodate program needs – for instance, computer rooms, music rooms, and all of that kind of thing – or is it simply a space problem? Why are you considering a possible move?

MR. BUSHEIKIN: The three reasons are the ones I set out in my letter, that I believe you each got a copy of, and also in my submissions. Number one is the age of the building; number two is the encroachment of development. And what was the third? In any event, the enrollment per se, while it fluctuates – so to that extent it is a consideration. I would say that 500 children 20 years ago would have more easily fit into the school than today because of facilities such as computer rooms and so on.

Size is a consideration but not the main or only one. There are other options available. We could build onto the school, for example. But it is a consideration.

MADAM CHAIRMAN: Mr. Woloshyn.

MR. WOLOSHYN: Thank you. How much has this change of status of the parking lot cost the school to date in dollars?

MR. BUSHEIKIN: We have not paid any taxes on the lot. That is because the situation arose two years ago. Last year, 1989, would have been the first year we would have been taxed. We applied to the city for a specific exemption of taxation on the parking lot, and the city was kind enough to grant it. They really have not had any problem with the parking lot itself.

MR. WOLOSHYN: If I am hearing you correctly, you do not have a real problem with taxation at this moment.

MR. BUSHEIKIN: No. At present we have no taxation on either the main building, which is covered by the existing Act, or the parking lot, although on the parking lot we have to apply every year for the same exemption, and there's no guarantee we would get it.

MR. WOLOSHYN: Fine. But you don't have a problem is the point I'm trying to make.

MR. BUSHEIKIN: Up to today, no.

MR. WOLOSHYN: Fine.

The other question that I would pose to you – in your presentation you alluded that you'd like to have the same rights as the public schools and separate schools. I would suggest to you that perhaps your rights at the moment go beyond that. The choosing of school sites, the choosing of whatever – even buildings – is governed largely by Alberta Education. The city of Calgary would have to enter into joint kinds of negotiations, if nothing else, to allocate school sites, new or old. If this Bill were to pass, as I read it, you would have the authority to overrule any kinds of zoning the city would have in place, because upon the purchase of property your wanting to use it as either educational or religious would automatically exempt it from taxation. Is that not correct?

MR. BUSHEIKIN: I'm sure we would have to comply with any city zoning requirements if we were to make a move or even consider the acquisition of property for the purposes of a school. Also to be considered is the fact that we have 400 children who are not, I guess you might say, a financial burden on the existing school system. So there is an equivalence there, I would submit.

MR. WOLOSHYN: Continuing this, a lease is not necessarily governed that closely. I could foresee a school, if a need arose, leasing and building all over town and doing generally what they please beyond the city of Calgary. Quite frankly, I can see where the city of Calgary has treated this school very kindly, as well we should an educational institution, and I don't understand why you're going for this amendment at this time in the manner that you are. Could you perhaps enlighten me on that?

MR. BUSHEIKIN: You mean in terms of it being premature or . . .

MR. WOLOSHYN: It's too broad. I can understand wanting to solidify in some way the parking lot in terms of this particular parcel, but now you're wanting . . . There's no time limit on it and no property limit. I can appreciate that we would be encroaching, I feel, largely into some of the areas of or taking away the ability of the municipality to in fact even negotiate with the school in some particular instances.

MR. BUSHEIKIN: Well, our approach has been in all respects to view the situation that exists. We will not be proliferating either lands or buildings or students. We do not foresee that kind of expansion of the student base, or the parent base. That is a reality. Theoretically, I suppose, anything can happen. We just know that if we move, it will be to a site comparable in tax base to the existing one. It was really with that in mind that we brought this forward.

The other reason would be that if we were to make the decision to move in another five years, I suppose our intention would be to make the same application as we are today. Since we're here already for the parking lot issue, the reasoning was that we may as well do both if we can rather than come and burden the Legislature at some future date with a similar type of amendment.

MR. WOLOSHTYN: With all due respect, at this point I don't see the parking lot as an issue. It's just an inconvenience in that you've had to apply on an annual basis to get an automatic exemption, basically. So really the parking lot, although it would be nice to tidy it up and include it – it would be fine and dandy – is not, as I see it, a problem. The city of Calgary has chosen to treat the lot, with a bit of paperwork, in the same context as they've treated the rest of your property. Is that not correct?

MR. BUSHEIKIN: The city of Calgary in 1989 granted the exemption. There is no guarantee that it would be given even this year. I should also mention that it was actually at the – I can't say that it was a specific city directive that we take this step, but we were certainly pointed in this direction by members of city staff in terms of dealing with the situation. I don't mean to say that this is the city position, because it's not, but this is the impetus that pointed us here rather than to go year after year to council to get the same exemption.

MADAM CHAIRMAN: Mr. Doyle.

MR. DOYLE: Thank you, Madam Chairman. It's my understanding we're here to discuss the exemption of the parking lot, not whether you move or whether you don't move. That's something in the future. I respect the views of any organization who wants to have their own school. Also, as a former mayor and councillor I certainly respect the views of the city of Calgary. I know how many people come to a municipality or a city and ask for tax exemption, and I think the bottom line is that somebody has to pay taxes.

I would present my question, and that would be that the city of Calgary is being very fair by only charging a \$1 fee for this parking lot. If these taxes were exempt, is it possible that the city of Calgary would be able to raise the rent fee to cover the exemption of the taxes?

MR. INLOW: Well, Madam Chairman, let me make my view clear. The instructions I have from council are that we do not oppose the exemption of this parking lot from taxation and in fact support an amendment to the Bill in its historical form; in other words, by describing the lands that are intended to be for exemptions. We're not trying to recoup taxes from the parking lot. We're not interested in entering a transaction whereby we might do that. All we are opposed to is the very broad exemption that deals with anything that could happen in the future with respect to lands used by the academy for purposes. I hope I'm clear on that, Madam Chairman. We are not trying to remove that exemption presently obtained and enjoyed on a yearly basis for the parking lot.

MR. DOYLE: Thank you, Mr. Inlow.

The other point would be that as they must expand in the future, perhaps, it should still be up to the city of Calgary to decide whether they should be exempt or whether they shouldn't be exempt. I feel that the Bill as it exists is in good order.

MADAM CHAIRMAN: Mrs. Mirosh.

MRS. MIROSH: Thank you, Madam Chairman. To Mr. Inlow. I recall many times, sitting in this committee for four years now, that any time there have been any tax exemptions brought forward to this committee, we've always consulted with the city of Calgary. If you have a loss of \$2 million . . . We've always

had this open agreement, I believe, that we would certainly not exempt taxes from anyone if the city or the municipality did not agree.

In this case, however, I have a letter before me from the law department of the city of Calgary that indicates that if this lot or any land were used exclusively for a religious or educational purpose, then there would be no problem for tax exemption. It is therefore my assumption that the Calgary Jewish Academy is asking for just that purpose, that they would only have tax exemption for – and they've written this in the Bill, under an amendment of section 4(a), to read "exempt from assessment and taxation so long as the same is used for educational or religious purposes." I would ask you: if that were written in there, if they were using it exclusively for those purposes, would the city therefore have any problem with any future development in that capacity, for tax exemption?

MR. INLOW: Madam Chairman, my understanding of my instructions from council is basically that there is no problem with respect to putting in statutory form a continuing exemption for the site of the present academy, including the parking lot, and relieving the academy of any burden of having to come back from year to year. I think council has committed to that as an ongoing decision. They are prepared to accept that exemption.

That's a very different issue than the use of any future site for educational purposes. In other words, the city has expressed in their resolution a concern that some site that may be purchased in the future and used for educational purposes may have an impact on the assessment base. The city would like the prerogative to look at it at that time and, if necessary, make some representations to this committee with respect to any concerns they have about continuing an exemption for a replacement property.

MRS. MIROSH: Thank you.

MADAM CHAIRMAN: Rev. Roberts.

REV. ROBERTS: Thank you, Madam Chairman. I'm a bit puzzled. I'm trying to follow this discussion, but I'm still not clear. It seems to me that, as Mrs. Mirosh has just outlined, the principle of tax exemption is for sites which are controlled by schools which perform an educational or religious function. I don't know why we're getting so hung up on the site having to be written in if in fact they are complying with the principle and if in fact we're here to support fairness in the system.

I commend the school for the work they're doing. I think all the reasons that have been outlined are very laudable, and the values on which they base their operation are superb and need to be supported. I do not see where the mistrust is arising here, even on the financial penalty to the city in some eventuality. I think that's already been dealt with. I think the school is going to move to a site that has less of a tax base, and the city could use the existing land for other purposes and perhaps gain some money in the process. So I think the benefit of the doubt is entirely with the school and the academy. I don't know what my question is, except these are my comments. I want to support the school. On the principle as outlined in terms of what the tax exemption is about and fairness throughout the system, it needs our support.

MADAM CHAIRMAN: Okay.
Mrs. Gagnon.

MRS. GAGNON: Just to pick up on Mr. Roberts' comment, I do think this will come down to a matter of trust when we make the final decision and when we have a discussion as to whether we believe that all you intend to do in the future is, you know, have a school or religious institution or whether this is a way of expanding your operations into some other area and still asking for tax exemption. I think that's what is at the bottom of all of this. It's very simple to me as regards to how people maybe are reacting or what is going on.

What I would like to ask Mr. Inlow is: if a possible replacement property were assessed at the same value as the existing property, which is tax exempt, would the city have the same concerns? Is it the purpose of the institution that is in question, or is it the possible value of taxes to the city that is key here?

MR. INLOW: Madam Chairman, it's of course very difficult for me to answer questions about what council might do, because that specific point was not discussed. My perspective as a practitioner there for a considerable length of time is that their approach is primarily one of financial management. I don't think this is a question of distrust, and I certainly did not mean to convey that in any way, because that's not the issue. It's more an issue of what the size and magnitude of the exempt base is and how the city of Calgary will manage that. I think their policy with respect to the management of that exempt base and its impact on the assessment base is an evolving one, and my feeling is that council simply wishes to be able to look at this from time to time where changes are made that may have a significant impact. Given the extension of the present policies, I would not anticipate that if a replacement property had a similar level of assessment and was used for educational purposes, there would be any problem. I think council is simply trying to preserve its prerogative to say, in effect: "Well, our policies may change, and the impact of this particular site may increase the impact on the assessment base or decrease. We don't know at this time. Let's look at it when it happens."

MRS. GAGNON: To continue to Mr. Inlow, if the Bill included the wording – well, "exclusively" after "used" would certainly help. But if it also put some cap on a future site size and value, would that address the city's concern?

MR. INLOW: Madam Chairman, I suspect it would address part of the concern, yes. I think the reason the position has evolved the way it has is that it's the way the Bill is expressed now: it describes a particular site. I think the city has probably looked at that and said: "Well, continue it in that form. If you need to change the description of the site, fine." But the change from that sort of approach – not in this Bill but in the Bill that it amends – represents a change in policy which I think is one that the city views as having less control over.

MRS. GAGNON: Its hands could be tied for the future.

MADAM CHAIRMAN: Committee members, if I could just make a comment. I think we're drifting somewhat from the Bill, and I certainly don't want us to do that. I think we all received a copy of the commissioners' report, and there are two items that it deals with. One is the school itself, which has had the exemption, and the other is the parking lot. The parking lot, according to this report – please correct me if I'm incorrect – has been sold and is owned by Statesman Homes, who then leases the parking lot back to the school for a nominal fee. The

problem arose with the property being sold. The tax burden was not . . . Well, it would be associated with the property, and the exemption has been granted by the city for the tax burden which would have been passed over to the lessee. Is that correct? Now, each year the exemption has been granted to the school, so that's one side of it. The other side is the school itself, which has had the tax exemption. Is that not correct?

MR. BUSHEIKIN: There were two close to concurrent events that transpired to remove the exemption. One was the revocation of a section of the Municipal Taxation Exemption Act that I believe exempted properties leased from the city. At that time it still was leased from the city, but very shortly thereafter the property was sold to Statesman. Statesman then bought the lease with the larger parcel, which they are developing at the present time. So those two events removed the statutory exemption that was there by public statute. Again, the city has had no problem with exempting that. At least, they had no problem with it last year and have no problem with it today in having it written up in the private Bill. The parking lot itself is not an issue, I don't believe.

MADAM CHAIRMAN: Mr. Clegg, would you like to . . .

MR. M. CLEGG: Madam Chairman, I'd like to add some information to the committee which is essentially procedural, and I don't want it to be taken as favouring one solution or the other with respect to this Bill. Whether the Bill is declined and the matter left and the Act left in its present wording or whether the Bill is granted are the two options, with amendments, that are open to the committee.

If the Bill is declined, then the academy can approach the city every year for an exemption on the leased property for the parking lot and will continue to enjoy the exemption on the school until they move. If they move, the burden will be placed upon the academy to come to this Assembly for an amendment which would cover their new property, and at that time the pros and cons of that amendment would be debated. If the Bill is granted as it stands now, the property occupied and used by the school will be exempted, and if they move, that exemption will be transferred to the new property. If at that time the city of Calgary feels that their new property exemption is too much of an infringement on their tax base, then they have the option to bring a petition before this Assembly for a variation in the Act or an amendment to the exemption which would either cancel or limit the exemption to the lands which the city feels appropriate.

The mere fact that the present petitioner on this Bill is the academy does not prevent the city, who is an interested party, in bringing an petition before the Assembly for the amendment of the private Act in the future. The right to amend a private Act is not open to the public, but it is open to any person with an interest in the matter. So it is a question not of setting the matter in stone but of deciding around whose neck the stone should be hung: whether it should be the academy that has to fight for its exemption in the future or whether it's the city that has to fight for its taxes in the future.

MADAM CHAIRMAN: Thank you, Mr. Clegg.

MR. WOLOSHYN: Mr. Inlow, this is a private religious school, and there are other private religious schools in the city of Calgary. Does any one of them enjoy a carte blanche exemption

from taxation, as this amendment would give this particular academy?

MR. INLOW: Madam Chairman, that would only be the case if there were a Bill. The policy of the city is to review applications for exemptions on an annual basis, and I'm not aware of any situation where council has attempted to exercise any prerogative of saying, "Yes, we will commit to giving it from year to year forevermore." I think there is a process that every year all the institutions and associations apply.

MR. WOLOSHTYN: I'm not talking about the city's behaviour. I'm saying: is there any legislation that has the same effect as this particular amendment would, and that is to give a particular school a carte blanche exemption from taxation unless the city intervenes down the road. Is there any other Bill dealing with any private school of this nature?

MR. INLOW: Madam Chairman, I have to say in all honesty, I don't think I can answer that question accurately one way or the other. I haven't examined all those private Bills to see.

MADAM CHAIRMAN: Mr. Clegg.

MR. M. CLEGG: Madam Chairman, I also do not know the answer to the question. There have been exempting sections proposed to this committee in the past which have read something like this: that all parcels legally described as and also any further land purchased for the purposes of the organization be exempt from municipal taxes. I cannot recall whether such have ever been passed, although they have indeed been proposed, nor could I recall if any of them would relate to schools in Calgary. Before this committee reviews the Bill in camera, I will undertake to do as much research as I'm able to see if there is a precedent in this regard. There is a very large number of private Acts, and it's a long process, but I can get some kind of impression which may be of use to the committee.

MADAM CHAIRMAN: Thank you very much. Are there any

other questions from the committee?

Mr. Busheikin, would you have some closing comments?

MR. BUSHEIKIN: No, I don't have any comments at this time. I think the issue has been very fully hashed out before this committee, and I thank the committee members for their attention.

Thank you.

MADAM CHAIRMAN: Mr. Inlow, do you have any closing comments?

MR. INLOW: Madam Chairman, just briefly with respect to the proposal by Mr. Clegg as to around whose neck the stone is. My submission would simply be that the exemption from tax is a privilege, and our position would be that we don't think the city of Calgary should have to take some action, when it's no longer appropriate that that privilege is enjoyed, to have to revoke it. I think there's a balance there as to whose obligation it should be to continue to enjoy the privilege. We would suggest that should be with the party who is enjoying the exemption.

Thank you.

MADAM CHAIRMAN: Mr. Atnikov, do you have any closing comments?

MR. ATNIKOV: Madam Chairman, no. Thank you.

MADAM CHAIRMAN: I'd like to thank you very much for appearing before us today. As I said earlier, we will be reviewing the hearing today, and then we'll be making a recommendation to the Assembly at a later date. Thank you very much.

I'd like to ask for a motion for adjournment from the committee.

[The committee adjourned at 11:46 a.m.]

