

203 Va 630

Record No. 5406

In the
Supreme Court of Appeals of Virginia
at Richmond

ST. ANDREW'S ASSOCIATION

v.

CITY OF RICHMOND

FROM THE HUSTINGS COURT OF THE CITY OF RICHMOND

RULE 5:12—BRIEFS.

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 5406

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Thursday the 5th day of October, 1961.

ST. ANDREW'S ASSOCIATION,

Appellant,

against

CITY OF RICHMOND,

Appellee.

From the Hustings Court of the City of Richmond

Upon the petition of St. Andrew's Association an appeal and *supersedeas* is awarded it from a decree entered by the Hustings Court of the City of Richmond on the 19th day of July, 1961, in a certain proceeding then therein depending styled, In the Matter of the Application of St. Andrew's Association for Relief from Taxes; upon the petitioner, or some one for it, entering into bond with sufficient security before the clerk of the said hustings court in the penalty of seventy-five hundred dollars, with condition as the law directs.

RECORD

* * * *

Filed, July 20, 1961.

**NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
BY ST. ANDREW'S ASSOCIATION.**

The Applicant, St. Andrew's Association, by counsel, hereby gives notice, pursuant to Rule 5:1 §4 of the Rules of the Supreme Court of Appeals of Virginia, of its intention to appeal from that portion of the final decree entered on the 19th day of July, 1961, in the above captioned proceeding, being an application filed on December 31, 1959 for exoneration from the payment of certain real estate tax assessments levied by the City of Richmond on November 6, 1957, wherein the Court sustained the City of Richmond's plea of the one-year statute of limitations under Chapter 261 of the Acts of Assembly 1936, as amended, and denied the Applicant's motion to quash said plea, thereby denying St. Andrew's Association's application for relief from real estate taxes assessed for the years 1954-1957, inclusive, plus penalties, interest and other lawful charges, aggregating \$5,191.13 as of June 30, 1961, to which actions the Applicant assigns the following errors:

page 2 } The trial court erred in sustaining the City's aforesaid plea of the statute of limitations, and in denying Applicant's motion to quash the same, because the two-year statute of limitations prescribed in Section 58-1145 of the Code of Virginia, 1950, as amended, and not the one-year statute of limitations in Chapter 261 of the Acts of Assembly 1936, as amended, is applicable to this proceeding for relief from the assessment of taxes on real estate which are unlawful under Sections 183(d) and (e) of the Constitution of Virginia and Sections 58-12(4) and (5) of the Code of Virginia, as amended.

Respectfully,

ST. ANDREW'S ASSOCIATION
By **RALPH H. FERRELL, JR.**
Counsel.

* * * *

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* * * *

ASSIGNMENT OF CROSS-ERROR.

The City of Richmond assigns the following error:

The Trial Court in its decree of July 19, 1961, erred in holding that the property known as 224 South Cherry Street, Richmond, Virginia, was owned by a public library and was used primarily for literary and educational purposes or purposes incidental thereto and therefore is exempt from real estate taxation.

Filed 8/1/61.

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Filed with clerk Dec. 31, 1959.

APPLICATION.

The Applicant, St. Andrew's Association, represents to the Court that:

1. The Applicant is a nonstock, nonprofit corporation holding a charter granted by the General Assembly of Virginia by an Act approved February 27, 1900 (Acts 1899-1900, p. 702), as amended by the State Corporation Commission on January 6, 1913. The purposes of the Applicant, as declared in its charter, a copy of which is attached marked Exhibit A, are to maintain the charitable work formerly maintained by individual effort in connection with St. Andrew's Protestant Episcopal Church, by means of a library, kindergartens, schools and guilds, and to develop, enlarge and extend said work by such means and by establishing homes for the friendless, the sick, and the orphaned, and by such other means as the Applicant may deem necessary.

2. The Applicant is the owner of the property known as 216-24 South Cherry Street in the City of Richmond, Virginia, upon which is located the Grace Arents Free Library Building (hereinafter sometimes referred to as "the property"). In 1907 the Applicant acquired fee simple title to the land under two deeds from Charles E. Wingo and wife, dated April 25, 1907 and November 2, 1907, copies of which are attached marked Exhibits B and C. The Applicant erected the Grace Arents Free Library Building on a portion of said land with

money received from Miss Grace E. Arents to house one of the first free, public libraries in the City of Richmond, known as "Grace Arents Free Library." Miss Arents paid
page 4 } all expenses incident to the maintenance and operation of this library until the time of her death.

3. The will of Miss Arents, probated in the Clerk's Office of the Circuit Court of Henrico County on June 25, 1926, a copy of which is attached marked Exhibit D, contained a bequest to the Applicant of \$100,000 to endow the continued operation of the library and, in furtherance of an expressed desire that the library become a part of the new library system of the City of Richmond, the will directed the Applicant to offer the library and endowment fund to the City within two years. By resolution of its members and directors adopted November 16, 1926, a copy of which is attached marked Exhibit E, the Applicant offered the property and the \$100,000 endowment fund to the City of Richmond, upon the express condition that the library remain in its then location and be continuously operated and, upon the further condition that upon a change in the location of the library or upon the discontinuance of the operation of the library for any period of six consecutive months, the property and said endowment fund should revert to the Applicant. By an ordinance approved February 19, 1927, the City of Richmond accepted the Applicant's gift upon the aforesaid conditions. By a deed dated May 14, 1927, the Applicant conveyed the property to the City, to be held subject to such conditions. At the same time, the Applicant paid over to the City the \$100,000 endowment fund to be held under the same conditions.

4. The City of Richmond held the endowment fund and operated the Grace Arents Free Library as a part of the City's library system until 1946. Pursuant to an ordinance of the City Council approved June 17, 1946, a copy of which is attached marked Exhibit F, the City's operation of the library was ordered discontinued for a period of six months for the express reason that the library could no longer be economically or satisfactorily operated in its present location. The City discontinued the operation
page 5 } of the Grace Arents Free Library for the period July 1--December 31, 1946, and the property was reconveyed to the Applicant by the City by quitclaim deed dated January 9, 1947. Subsequently the City returned the \$100,000 endowment fund to the Applicant. Upon the return of the property to the Applicant, the supply of books in the library had deteriorated and repairs to the building were needed.

5. In 1946, the annual income from the endowment fund

amounted to approximately \$4,000. The Applicant had no other income which it could devote to the operation of the library, nor was the invasion of the principal of the endowment fund for maintenance charges authorized by Miss Arents' will. It had been clearly demonstrated to both the City and the Applicant that the Grace Arents Free Library could not be successfully operated with only the income from the endowment fund and its closing seemed inevitable.

6. In the Fall of 1946, Mrs. Ralph H. Ferrell, Jr., President of the William Byrd Community House (hereinafter sometimes referred to as "Community House") approached the directors of the Applicant seeking an arrangement whereby the Community House, then located in very small quarters at 517 South Belvidere Street and serving the Oregon Hill area of the City, might make use of the library building. The Community House is a nonstock, non-profit corporation organized under the laws of the State of Virginia on April 5, 1923, to provide, without profit to the corporation, a community center, or centers, for the development of civic and social life, and to institute and maintain educational and philanthropic enterprises to that end; to investigate and improve the living, social and hygienic conditions of the people, especially in the neighborhood in which the community house or houses, may be located; and to cooperate with religious, educational, health, charitable, civic and other organizations interested in the improvement of health and social conditions (a copy of the certificate of incorporation of which is attached marked Exhibit G). The Applicant's directors advised Mrs. Ferrell of their dominant and primary desire to keep the Grace Arents Free Library operating and after further negotiations (including the written proposal attached hereto marked Exhibit H), the Community House was allowed to move into the library building, upon the condition that the Community House would continue the operation of the Grace Arents Free Library with the aid of income from the endowment fund. At a cost of approximately \$10,000 to the Applicant, the library building was repaired and refurbished. On June 1, 1947, the Applicant and the Community House entered into a written agreement, which was renewed on February 12, 1953 for a period of five (5) years, wherein the Community House was given the free use of the Grace Arents Free Library Building upon the condition that it would keep the building insured and in good repair, pay for all utilities, and further:

"That it will establish and maintain in a portion of the building to be selected by the party of the first part [the Ap-

plicant] *a library for the free use of the people of the neighborhood*, which library is to be designated and known as the 'Grace Arents Free Library' and to be operated and maintained as a continuation of the library established by St. Andrews Association with funds provided by Miss Grace Arents and after her death continued by the City of Richmond as a part of the city library system, taking care that this library shall not be merged with the other charitable works and facilities of the party of the second part [the Community House] but that its identify (sic) as a separate charity, organized and endowed through the benevolence of Miss Grace Arents, may be maintained and preserved.'" [Italics supplied]

A copy of the 1953 agreement is attached hereto marked Exhibit I. This agreement is still the basis for the occupancy and use of the property by the Community House.
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From 1947 to this date the Grace Arents Free Library has been operated under the supervision of the Applicant's directors by a committee of the Board of Governors of the Community House with the aid of the income from the endowment fund. The Grace Arents Free Library Building consists of two stories and a basement approximately 60 feet wide and 72 feet long, with a one story wing on the northwest corner of the main building approximately 24 feet wide and 44 feet long. As designated by the Applicant, the rooms devoted exclusively to the Grace Arents Free Library are the room in the one story wing and the adjacent room in the main building, having a combined floor space of approximately 1344 square feet. The room in the wing is used for book storage, reading and lending facilities. The adjacent room is occupied by magazine and newspaper racks and is also used by music appreciation groups conducted under the supervision of the library. Books are furnished the library by the Central Library of the City of Richmond, and replacements and additions are made on the same basis as for branches of the City library system. (See the attached Exhibit J, which states the basis of cooperation between The Grace Arents Free Library and the City public library system.) The Community House has a membership of persons residing in the neighborhood and works in close cooperation with the Oregon Hill Improvement Association, the Neighborhood Council and the Grace Arents Garden Club. Working through its regular staff and with the assistance of many volunteer workers, the Community House operates a craft shop, a dental clinic, a nursery school, a dramatic club, a Boy Scout troop, a Girl Scout troop and many other activi-

ties for adult, teenage and younger groups. All these activities bring into the building a large number of persons each day. In 1958, the Community House's total membership was 608. Books, magazines and records suitable for page 8 } organized groups are kept available or are procured as they are needed. The librarian is a regular member of the staff of the Community House. There is one assistant librarian, and volunteer workers from the Story League and Junior League, who work under the supervision of the Community House, render much needed additional help in the library's program. The library furnishes books and special literature for use by instructors, adult and youth study groups, clubs and other organizations sponsored by the Community House. The Community House distributes books and magazines from the library to shut-ins residing in the neighborhood. The library also renders services which otherwise would not be available to children attending St. Andrews, Binford, Madison, Stonewall Jackson and Grace Arents schools. The increase in use of the Grace Arents Library by residents in the neighborhood is demonstrated by the following statistics for the years 1948, 1954, 1958 and the first 11 months of the current year:

	Books in Library	Circulation	Attendance	Activity (Ratio of Circulation to Attendance)
1948 (first full year of operation)	not available	2993	5589	53.5%
1954	4628	2563	5910	43.4%
1958	4794	4894	8280	59.1%
1959 (1st 11 months)	not available	5317	8788	60.5%

Thus, only through the joint use of the property by the Community House and its maintenance and support of the program of the Grace Arents Free Library has the library been able to survive and effectively and efficiently discharge its purposes with the limited funds available.

8. The balance of the activities in the Community page 9 } House program are conducted in other rooms in the Grace Arents Library Building and on the adjacent outdoor recreation area. The first floor, of approximately 3840 square feet, contains twelve rooms consisting of

five offices, two halls, two nursery school rooms, one recreation room, one dental clinic room and one toilet. The second floor, having twelve rooms and approximately 4200 square feet, contains five club and class rooms, two toilets, two halls, one kitchen, one storage room, and one large assembly room. The basement floor of ten rooms and approximately 4200 square feet has six activity rooms, two storage rooms, one boiler room and one toilet. The toilets and heating plant also serve the library. The Internal Revenue Service has ruled that the Community House is exempt from federal income tax as a corporation organized and operated exclusively for charitable purposes, and that contributions made to the Community House are deductible in the manner provided in the Internal Revenue Code of 1954. See the attached Exhibit K. While the Kiwanis Club of Richmond has assumed the responsibility of improving facilities and providing major new equipment for the Community House and the Cosmopolitan Club sponsors a free dental clinic, the entire operating budget of the Community House is furnished by the Richmond Area Community Chest. In 1954, this operating budget was \$21,736.00, and in 1959 it was \$27,391.00.

9. On November 6, 1957, Richard A. Chandler, Assessor of Real Estate for the City of Richmond, notified the Applicant that the property at 224 South Cherry Street, Richmond, Virginia, was being assessed for City real estate taxes for the first time. Mr. Chandler assessed all of the said property on that date for omitted real estate taxes for the years 1954, 1955, 1956 and 1957. Subsequently, the property was assessed with City real estate taxes for the years 1958 and 1959. Said assessments are as follows:

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	Assessed value of the property	Real Estate tax	Penalty	Interest	Total
1954	\$47,490	\$1,044.78	\$52.24	\$191.98	\$1,289.00
1955	47,490	902.31	45.12	108.95	1,056.38
1956	47,490	892.82	44.64	51.56	989.02
1957	47,490	892.82	—	—	892.82
1958	47,490	892.82	—	—	892.82
1959	47,490	892.82	—	—	892.82
Total					\$6,012.86

Copies of the bills imposing such taxes are attached hereto marked Exhibit L. The Applicant avers that the imposition

of the above taxes and the annual assessment of real estate taxes on The Grace Arents Free Library property will result in closing the library and causing its operation to cease.

10. Under its aforesaid agreement with the Applicant, the Community House has agreed to pay all City taxes, if any. The Applicant avers, on information and belief, that the imposition of real estate taxes for past years, as aforesaid, and the burden of such taxation in the future, would effectively destroy the Community House program and eliminate its numerous and much needed community services in its present location. Notwithstanding its concern for the continued operation of the Community House, the Applicant avers that the sole purpose for its aforesaid agreement with the Community House for the use of the property was, and is, to provide for the continued operation of the Grace Arents Free Library.

11. Section 183 of the Constitution of Virginia, as amended, provides in part:

“Unless otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes:

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• • • • •

“(d) Property owned by public libraries, incorporated colleges or other incorporated institutions of learning, not conducted for profit, together with the endowment funds thereof not invested in real estate. But this provision shall apply only to property primarily used for literary, scientific or educational purpose or purposes incidental thereto. It shall not apply to industrial schools which sell their product to others than their own employees or students.

“(e) Real estate belonging to, actually and exclusively occupied and used by, and personal property, including endowment funds, belonging to Young Men's Christian Associations, and other similar religious associations, * * * conducted not for profit, but exclusively as charities, also parks or playgrounds held by trustees for the perpetual use of the general public.

* * * * *

“Whenever any building or land, or part thereof, mentioned in this section, and not belonging to the State, shall be

leased or shall otherwise be a source of revenue or profit, all of such buildings and land shall be liable to taxation as other land and buildings in the same county, city or town. But the General Assembly may provide for the partial taxation of property not exclusively used for the purposes herein named."

12. Section 58-12 of the Code of Virginia (1950), as amended, provides in part:

"The following property shall be exempt from taxation, State and local, including inheritance taxes:

* * * * *

"(4) Property owned by public libraries * * * not conducted for profit, together with the endowment funds thereof not invested in real estate * * *

"(5) Real estate belonging to and actually and exclusively occupied and used by, and personal property, including endowment funds, belonging to, Young Men's Christian Associations and other similar religious associations, including religious mission boards and associations, Boy Scouts of America, Girl Scouts of the United States of America and their subsidiaries * * * conducted not for profit but exclusively as charities * * * and parks or playgrounds held by trustees for the perpetual use of the general public, and also property whether real or personal, owned by any church, religious association or denomination or its trustees or duly
page 12 } designated bishop, minister or ecclesiastical officer,
and used or operated exclusively for religious, denominational, educational or charitable purposes and not for profit, *and also property whether real or personal, owned by any community club or associations or its trustees, when said property is used or operated exclusively for general and community purposes and not for profit.*" [Italics supplied.]

Sections 59-14 and 58-16 of the Code of Virginia (1950) provide that, when a part of a building or land mentioned in Section 58-12 is leased, or is otherwise a source of revenue or profit, the other portion of the building used by an exempt organization for its purposes shall not be liable to taxation.

13. The Applicant avers that at all times relevant to this proceeding it has owned, used and financially supported the property and building at 216-24 South Cherry Street, Rich-

mond, Virginia, for public library purposes, conducted not for profit and dedicated to the literary, scientific and educational purposes which give exemption from taxation under the Constitution and laws of Virginia. The Applicant's dominant purpose in the use which it is making of the whole property is the carrying out of one of the purposes for which the Applicant was organized, namely, to maintain and operate a free public library, and that such use tends, immediately and directly, to promote that purpose.

14. The Applicant further avers that the Community House is a community association using and operating the property exclusively for general and community purposes and not for profit. Therefore, though the Applicant, as owner of the property, avers that the dominant and primary purpose in permitting the use and occupancy of a portion of the property by the Community House is to insure the continued operation of a free public library, the Applicant also avers that, in any event, all of said property is actually owned, occupied and used exclusively for purposes set out in Code Section 58-12, *supra*, and therefore all of the property is exempt from taxation under the Constitution and laws of Virginia.

page 13 } 15. The Applicant further avers that, while it insists that all of the property is exempt from real estate taxes and that the City of Richmond has no authority in law to levy real estate taxes upon any of the property, if the Court should find that the portion of the property used and occupied by the William Byrd Community House is not exempt from taxation, despite the community nature of such occupancy and the absolute necessity for the use of the property by the William Byrd Community House for the continued operation of the Grace Arents Free Library, all of the property which is used by the Grace Arents Free Library should be declared exempt from real estate taxes.

WHEREFORE, St. Andrew's Association makes this application under the authority of Section 58-1145 of the Code of Virginia (1950) and prays that it be relieved from the obligation to pay such taxes; that all such property or portions thereof be declared exempt from taxation as long as such property is owned, occupied, used and operated as at present; that the City Attorney of the City of Richmond be directed to defend this application; that the officer making the assessment be examined as a witness touching this

application; and that all orders be entered as shall seem proper to the Court.

ST. ANDREW'S ASSOCIATION
By JOHN B. DuVAL
RALPH H. FERRELL, JR.
Its Counsel.

DuVAL, DuVAL & MILLER
American Building
Richmond, Virginia

HUNTON, WILLIAMS GAY,
MOORE & POWELL
1003 Electric Building
Richmond, Virginia.

page 14 } To the Honorable J. Elliott Drinard, City At-
torney for the City of Richmond, and the Honor-
able Richard A. Chandler, Assessor of Real Estate of the City
of Richmond:

Please take notice that the original of the foregoing Ap-
plication will be filed in the Hustings Court of the City of
Richmond on December 31, 1959.

JOHN B. DuVAL
Counsel for St. Andrew's
Association.

We hereby acknowledge service of the foregoing notice,
together with a copy of the Application, on December 31,
1959.

RICHARD A. CHANDLER
J. A. EICHNER

page 15 } EXHIBIT A.

An Act to incorporate the Saint Andrew's Association
(Acts of Assembly 1899-1900, chap. 662, p. 702), as amended
on December 12, 1912, by resolutions on file with the State
Corporation Commission.

* * * * *

2. The said corporation shall have power to take by gift,

grant, devise, or bequest, property of every description, real, personal or mixed, and to hold and use the same, and the income derived therefrom, for the purpose of maintaining or aiding such benevolent and charitable work as it may consider proper, by means of libraries, kindergartens, schools, guilds, playgrounds, homes for the friendless, the sick, and the orphaned, and by such other means as the said corporation may deem necessary, whether of a like kind with those mentioned or not.

* * * * *

page 22 } EXHIBIT D.

MY WILL.

I, Grace E. Arents, of Bloemendaal Farm, in the County of Henrico and State of Virginia, being of sound and disposing mind and memory, yet mindful of the uncertainty of life, do make and declare this to be my last will and testament, revoking hereby all other wills at any time by me heretofore made.

* * * * *

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I give and bequeath to the St. Andrews Association the sum of One Hundred Thousand dollars for the continuance and maintenances of the Arents Free Library, situated at 224 S. Cherry St., the said Association already holding title to the lot, building & equipment of the said Library—It is my earnest desire that this Library should at some time become a part of the City Library (Grace E. Arents) system. If this has not been accomplished at the time of my decease, I would like the St. Andrews Association to offer it as a free gift to the City of Richmond. If it is accepted within two years of the time when the offer is made I direct my Executors to transfer to the City the aforesaid one hundred thousand dollars to be used exclusively for the Continuance and maintenance of the Arents Free Library.

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EXHIBIT G.

CERTIFICATE OF INCORPORATION OF WILLIAM
BYRD COMMUNITY HOUSE.

* * * * *

3.

The purposes for which said corporation is formed are to provide, without profit to the corporation, a community center, or centers, for the development of civic and social life, and to institute and maintain educational and philanthropic enterprises to that end; to investigate and improve the living, social, and hygienic (sic) conditions of the people, especially in the neighborhood in which the community house, or houses, may be located; and to co-operate with religious, educational, health, charitable, civic, and other organizations interested in the improvement of health and social conditions.

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EXHIBIT H.

PROPOSED OPERATION OF GRACE ARENTS FREE
LIBRARY BY WILLIAM BYRD COMMUNITY HOUSE.

If the William Byrd Community House is permitted to move into the Grace Arents Library Building it will continue the operation of the Grace Arents Free Library as a branch of the Richmond Public Library System (sic). The wing off the first floor will be used for this purpose, and it will be maintained and operated with the income from the endowment fund which Miss Arents bequeathed for a library in the St. Andrew's neighborhood. A librarian will be employed who will not only be in charge of the library, but who will also be able to lead discussion groups, encourage book reviews, conduct story telling hours, and promote the use of good books by all the clubs and groups of the Community House. The Public Library will place in the Arents library 4,000 selected books for circulation and use. In addition, reference books on woodworking, hand crafts, printing, journalism, drama, music and all other subjects related to the interest of the members

of the Community House will be purchased and their use encouraged. Regular monthly reports from the librarian will be required on report forms furnished by the Public Library. The Arents Library will have the same status as any other branch library in the city.

We will not only borrow books (sic) from the City library but we will also take advantage of their offer to lend records. We hope to have in our new location, next to the library wing, a music-listening room where good recordings may be made available to all who wish to increase their appreciation of fine music. From time to time, records will be bought and gradually we hope to build a permanent collection of good music.

This opportunity to have a well equipped library page 37 } as an addition to, and a part of, our program is an end to which we have been working for many years. By making the library an integral part of our program, we hope to enhance its value to the community by stimulating interest in good books and good music through the daily activities of our agency.

Lydia Goodwyn Ferrell, President
William Byrd Community House.

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EXHIBIT I.

THIS DEED OF LEASE, made this 12th day of February, 1953, between St. Andrews Association, party of the first part, and William Byrd Community House, party of the second part, both charitable corporations organized under the laws of the State of Virginia and having their principal offices in the City of Richmond, Virginia.

WITNESSETH.

That in consideration of the covenants and agreements herein contained with respect to the use of the premises for charitable purposes the said party of the first part doth demise unto the said party of the second part the premises Nos. 216-18-20-22-24 South Cherry Street, Richmond, Virginia, known as the Grace Arents Free Library Building, together with the vacant lot adjoining at the corner of Linden and Cumberland Streets and formerly used as a playground,

the said premises to be used as a community house, library and playground from the 1st day of June, 1952, for the term of Five Years from thence next ensuing and to expire on the 31st day of May, 1957, without notice from or to either party hereto.

The Lessor shall not be required to make any repairs, replacements or improvements during the term of the lease, and the Lessee covenants that it will keep the premises in a reasonable state of repair at all times; that it will preserve and protect the premises; that it will not assign or sub-let without the written consent of the Lessor; that the premises shall not be used during the said term for any other purpose or purposes than those above specified; that it will keep the heating apparatus, electric fixtures, water pipes and water fixtures in order; that it will replace at its own expense all glass broken during the tenancy; that it will unstop all waste pipes that may become choked by negligence or inattention on the part of those using them; that it will

page 39 } repair all water pipes that may burst from freezing
because of failure to turn off the water; that it will
replace all keys lost or broken; that it will pay all
bills for electricity, gas and water used on the premises during the tenancy; that the Lessor shall have the right to enter the premises for inspections and to show the premises to prospective purchasers or tenants during reasonable hours at any time during the term; and that the Lessor may re-enter for default of five days in the performance of the covenants herein contained.

The party of the second part further covenants as follows:

1. That it will pay all city taxes, if any, assessed or assessable against the said land and building during the term.

2. That it will keep the improvements on the premises insured in some good and reliable fire insurance company or companies, to be selected by the party of the first part, in a sum not less than \$50,000.00 for the benefit of the party of the first part.

3. That it will establish and maintain in a portion of the building to be selected by the party of the first part a library for the free use of the people of the neighborhood, which library is to be designated and known as the "Grace Arents Free Library" and to be operated and maintained as a continuation of the library established by St. Andrews Association with funds provided by Miss Grace Arents and after her death continued by the City of Richmond as a part of the city library system, taking care that this library shall not be merged with the other charitable works and facilities of the

party of the second part but that its identity as a separate charity, organized and endowed through the benevolence of Miss Grace Arents, may be maintained and preserved.

The party of the first part, as the trustee of the fund bequeathed by Miss Grace Arents for the continuance and maintenance of the Arents Free Library, covenants that
 page 40 } it will pay over and deliver to the party of the second part in quarter-annual installments during the term of this lease the income not in excess of \$4,000 per year received from the said fund, and the party of the second part covenants that it will use the said income for the purposes for which it was bequeathed and will furnish to the party of the first part at the end of each year of the term an account showing the amount received and the manner in which the same has been expended.

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EXHIBIT J.

BASIS OF COOPERATION BETWEEN ARENTS AND PUBLIC LIBRARY.

Of the Arents Library bookstock, now numbering some 4,000 volumes, about 1000 volumes were acquired by the Arents *Libaray*(sic) prior to 1926 and are not affected by any of the following considerations. 2,905 of these volumes, however, were bought, accessioned, and plated by the Public Library and must continue to be regarded as a Public Library Deposit, although used by the Arents Library until they are worn out or discarded. This deposit will be added to currently, for the present at the rate of 14 volumes monthly, the same number as supplied to each of the Public Library's own lending stations.

The Public Library may also be depended upon to supplement this permanent deposit with both long and short period loans of selected books according to the need of the Arents Library and the ability of the Public Library to respond to that need. Long period loans (3 to 6 months) may include only books that are not new but are still popular and have been duplicated sufficiently to be spared in reasonable range and quantity. Short loans may include any new title not reserved or in continuous active use at the Public Library but may not

be charged to the Arents Library for longer than one or two weeks. Failure to meet the Public Library's time conditions for these loans will require more strict control of future loans for similar purposes, and will make it necessary to impose payment of overdue fines to the Richmond Public Library.

Overdue fines collected on loans of public library book may be retained by the Arents Library, and loss of or damage to these books as a result of normal operation and not due to any custodial neglect will be borne by the Public Library. When the loss or damage is paid for by the borrower, however, that sum with the record of the book should be conveyed to the Public Library.

Whatever portion of the Arents Library circulation is furnished by the Public Library books should be reported to the Public Library each month. If it is much easier to report the total circulation with instructions to deduct what seems to be a prevailing percent attributable to Arents owned books that method may be followed.

All routine interlibrary communication should be conducted as much as possible through Mrs. Maxine Rogers or in accordance with procedures agreed upon with her.

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ORDER.

This day came St. Andrew's Association, by counsel, and presented its application for the correction of erroneous assessments of real estate taxes for the years 1954, 1955, 1956, 1957, 1958 and 1959, which said application is hereby ordered to be filed and docketed.

Enter 1/4/60.

S. B. W., JR.

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page 49 }

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ORDER.

This day came the defendant City of Richmond, by counsel, and asked leave of court to file herein its plea of the statute of limitations, and such leave being granted the said plea is accordingly filed.

Enter 1/20/60.

S. B. W., JR.

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PLEA OF THE STATUTE OF LIMITATIONS.

The defendant City of Richmond, by counsel, comes and says that the applicant St. Andrew's Association is not entitled to maintain its application for the correction of assessments of real estate taxes alleged to be erroneous, filed herein on December 31, 1959 as to the years 1954, 1955, 1956 and 1957 for the following reasons:

1. Paragraph 9 of the application shows that the property in question was assessed with omitted real estate taxes for 1954, 1955, 1956 and 1957 on November 6, 1957, and subsequently assessed currently for the years 1958 and 1959 on the first day of January of each of such years.

2. The general statute, §58-1145 relating to application to a court having jurisdiction for the correction of erroneous assessments of local levies, provides that as to taxes on real estate such application may be filed within two years from the 31st day of December of the year in which any such assessment is made.

3. However, the statute which established the present method of the assessment of real estate taxes in the City of Richmond, and the statute which governs with reference to applications to this court for the correction of real estate assessments is Chapter 261 of the Acts of 1936, continued into effect by paragraph 1 of §58-769 of the Code of page 51 } Virginia, and variously amended. Section 3 of this act, as amended by Chapter 422 of the Acts of 1950 and Chapter 339 of the Acts of 1958, provides that such applications must be filed within one year from the 31st day

of December of the year in which any such assessment is made, the procedure to be in the manner prescribed by §§58-1145 to 58-1151 of the Code of Virginia.

Wherefore the defendant City of Richmond prays judgment whether the applicant St. Andrews Association ought to have or maintain its aforesaid application as to the assessments for the years 1954, 1955, 1956 and 1957, and this plea this defendant is ready to verify.

CITY OF RICHMOND
JOHN P. McGUIRE, JR.
Of Counsel.

(on back)

Filed Jan. 20, 1960.

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MOTION BY APPLICANT TO QUASH DEFENDANT'S PLEA OF THE STATUTE OF LIMITATIONS.

The Applicant, St. Andrew's Association, by counsel, moves the Court to quash the plea of the statute of limitations as to the assessment of real estate taxes for the years 1954, 1955, 1956 and 1957 by the defendant City of Richmond, and, in support of this motion, says:

1. Paragraph 9 of the application shows that the property in question was assessed with real estate taxes for the years 1954, 1955, 1956 and 1957 on November 6, 1957.

2. The general statute, Code Section 58-1145, relating to applications to this Court for the correction of erroneous assessments of local levies, provides that, as to the assessment of taxes on real estate, such applications may be filed within two years from the thirty-first day of December of the year in which such assessment is made.

3. The application in this cause was so filed on December 31, 1959.

4. The application in this cause contests the amount of and the legality of such assessment of taxes and is, therefore,

governed by the two-year statute prescribed in Code Section 58-1145.

page 53 } 5. Section 3 of Chapter 261 of the Acts of 1936 (Acts 1936, p. 440), amended by Chapter 422 of the Acts of 1950 and Chapter 339 of the Acts of 1958 (Acts 1950, p. 773; Acts 1958, p. 396), continued in effect by Code Section 58-769(1), providing a one-year statute of limitations, does not apply to matters involved in the application filed herein.

ST. ANDREW'S ASSOCIATION
By JOHN B. DuVAL
Of Counsel.

(on back)

Filed Jan. 20, 1960.

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page 105 }

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ORDER.

This day came the City of Richmond, by counsel, and asked leave of court to file its answer herein, and such leaving being granted the said answer is accordingly filed.

Enter 3/17/60.

S. B. W., JR.

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ANSWER OF CITY OF RICHMOND.

For answer to the application of St. Andrew's Association for relief from taxes the City of Richmond, hereinafter called the City, by counsel, comes and says:

1. The City admits the allegations of paragraphs 1, 2, 3 and 4 of the application.

2. The City admits the allegations of paragraph 5 of the application except that the City denies that "it had been clearly demonstrated to both the City and the Applicant that the Grace Arents Free Library could not be successfully operated with only the income from the endowment fund and its closing seemed inevitable."

3. The City admits the allegations of paragraph 6 of the application except that the City denies that "the Applicant's directors advised Mrs. Ferrell of their dominant and primary desire to keep the Grace Arents Free Library operating."

4. The City admits the allegations of paragraph 7 of the application except that the City denies that "the library also renders services which otherwise would not be available to children attending St. Andrews, Binford, Madison, Stonewall Jackson and Grace Arents schools," and the City denies that "only through the joint use of the property by the Community House and its maintenance and support of the program of the Grace Arents Free Library has the library been page 107 } able to survive and effectively and efficiently discharge its purposes with the limited funds available."

5. The City admits the allegations of paragraph 8 of the application.

6. The City admits the allegations of paragraph 9 of the application except that the City denies that "the imposition of the above taxes and the annual assessment of real estate taxes on the Grace Arents Free Library property will result in closing the library and causing its operation to cease."

7. The City admits that the Community House has agreed with the applicant to pay all city taxes, if any, but the City denies the other allegations of paragraph 10.

8. The City admits the allegations of paragraph 11 and 12 of the application but the City denies that the constitutional and statutory provisions therein cited have any relevance to this controversy or have any effect as exempting the property of the applicant from taxation, and the City avers that such portions of §58-12 of the Code of Virginia, quoted in paragraph 12, as were added by amendment at the 1954 session of the General Assembly, or any subsequent session, are invalid, as enactments beyond the power of the General Assembly as limited by §183 of the Constitution of Virginia.

9. The City denies the allegations of paragraphs 13, 14 and 15 of the application.

CITY OF RICHMOND
By JOHN P. McGUIRE, JR.
Of Counsel.

(on back)

Filed March 17, 1960.

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ORDER FILING STIPULATION.

This day came the parties, St. Andrews Association and City of Richmond, by counsel, and tendered a stipulation agreed upon by them, but without prejudice to the right of either party to introduce other and further evidence not inconsistent with the facts stipulated, and without prejudice to the right of either party to object to the admissibility of any of the stipulated facts and to object to admissibility of any other and further evidence tendered by the other party, and asked leave to file the same which leave is granted and the stipulation is hereby ordered filed.

Enter 11/25/60.

S. B. W., JR.

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STIPULATION.

The parties by agreement hereby stipulate the following facts:

1. The Applicant is a nonstock, nonprofit corporation holding a charter granted by the General Assembly of Virginia by an Act approved February 27, 1900 (Acts 1899-1900, p. 702), as amended by the State Corporation Commission on January 6, 1913. The purposes of the Applicant, as declared in its charter, a copy of which is attached to the Application marked Exhibit A and is hereby incorporated by reference herein, are to maintain the charitable work formerly maintained by individual effort in connection with St. Andrew's Protestant Episcopal Church, by means of a library, kindergartens, schools and guilds, and to develop, enlarge and extend said work by such means and by establishing homes for the friendless, the sick and the orphaned, and by such other means as the Applicant may deem necessary.

2. The Applicant is the owner of the property known as 216-24 South Cherry Street in the City of Richmond, Virginia, upon which is located the Grace Arents Free Library Building (hereinafter sometimes referred to as "the property"). In 1907 the Applicant acquired fee simple title to the land under two deeds from Charles E. Wingo and wife, dated April 25, 1907 and November 2, 1907, copies of which are attached to the Application marked Exhibits B and C and are hereby incorporated by reference herein. The Applicant erected the Grace Arents Free Library Building on a portion of said land with money received from Miss Grace E. Arents to house one of the first free, public libraries in the City of Richmond, known as "Grace Arents Free Library." Miss Arents paid all expenses incident to the maintenance and operation of this library until the time of her death.

3. The will of Miss Arents, probated in the Clerk's Office of the Circuit Court of Henrico County on June 25, 1926, a copy of which is attached to the Application marked Exhibit D and is hereby incorporated by reference herein, contained a bequest to the Applicant of \$100,000 to endow the continued operation of the library and, in furtherance of an expressed desire that the library become a part of the new library system of the City of Richmond, the will directed the Applicant to offer the library and endowment fund to the City within two years. By resolution of its members and directors adopted November 16, 1926, a copy of which is attached to the Application marked Exhibit E and is hereby incorporated by reference herein, the Applicant offered the property and the \$100,000 endowment fund to the City of Richmond, upon the express condition that the library remain in its then location and be continuously operated and upon the further condition that, upon a change in the location of the library or upon the discontinuance of the operation of the library for any period of six consecutive months, the property and said endowment fund should revert to the Applicant. By an ordinance approved February 19, 1927, the City of Richmond accepted the Applicant's gift upon the aforesaid conditions. By a deed dated May 14, 1927, the Applicant conveyed the property to the City, to be held subject to such conditions. At the same time, the Applicant paid over to the City the \$100,000 endowment fund to be held under the same conditions.

4. The City of Richmond held the endowment fund and operated the Grace Arents Free Library as a part of the City's library system until 1946. Pursuant to an ordinance of the City Council approved June 17, 1946, a copy of which is attached to the Application

marked Exhibit F and is hereby incorporated by reference herein, the City's operation of the library was ordered discontinued for a period of six months for the express reason that the library could no longer be economically or satisfactorily operated in its present location. The City discontinued the operation of the Grace Arents Free Library for the period July 1-December 31, 1946, and the property was reconveyed to the Applicant by the City by quitclaim deed dated January 9, 1947. Subsequently the City returned the \$100,000 endowment fund to the Applicant. Upon the return of the property to the Applicant, the supply of books in the library had deteriorated and repairs to the building were needed.

5. In 1946, the annual income from the endowment fund amounted to approximately \$4,000. The Applicant had no other income which it could devote to the operation of the library, nor was the invasion of the principal of the endowment fund for maintenance charges authorized by Miss Arents' will.

6. In the Fall of 1946, Mrs. Ralph H. Ferrell, Jr., President of the William Byrd Community House(hereinafter sometimes referred to as "Community House") approached the directors of the Applicant seeking an arrangement whereby the Community House, then located in very small quarters at 517 South Belvidere Street and serving the Oregon Hill area of the City, might make use of the library building. The Community House is a nonstock, nonprofit corporation organized under the laws of the State of Virginia on April 5, 1923, to provide, without profit to the corporation, a community center, or centers, for the development of civic and social life, and to institute and maintain educational and philanthropic enterprises to that end; to invest-
 page 112 } gate and improve the living, social and hygienic conditions of the people, especially in the neighborhood in which the community house or houses, may be located; and to cooperate with religious, educational, health, charitable, civic and other organizations interested in the improvement of health and social conditions (a copy of the certificate of incorporation is attached to the Application marked Exhibit G and is hereby incorporated by reference herein). After further negotiations (including the written proposal attached to the Application marked Exhibit H and which is hereby incorporated by reference herein), the Community House was allowed to move into the library building, upon the condition that the Community House would continue the operation of the Grace Arents Free Library with the aid of the income from the endowment fund. At a cost of approximately \$10,000 to the Applicant, the library building

was repaired and refurbished. On June 1, 1947, the Applicant and the Community House entered into a written agreement which was renewed on February 12, 1953, for a period of five (5) years, wherein the Community House was given the free use of the Grace Arents Free Library Building upon the condition that it would keep the building insured and in good repair, pay for all utilities, and further:

“That it will establish and maintain in a portion of the building to be selected by the party of the first part [the Applicant] a library for the free use of the people of the neighborhood, which library is to be designated and known as the ‘Grace Arents Free Library’ and to be operated and maintained as a continuation of the library established by St. Andrews Association with funds provided by Miss Grace Arents and after her death continued by the City of Richmond as a part of the city library system, taking care that this library shall not be merged with the other charitable works and facilities of the party of the second part [the Community House] but that its identify (sic) as a separate charity, organized and endowed through the benevolence of Miss Grace Arents, may be maintained and preserved.”

page 113 } A copy of the 1953 agreement is attached to the Application marked Exhibit I and is hereby incorporated by reference herein. This agreement is still the basis for the occupancy and use of the property by the Community House.

7. From 1947 to this date the Grace Arents Free Library has been operated under the supervision of the Applicant's directors by a committee of the Board of Governors of the Community House with the aid of the income from the endowment fund. The Grace Arents Free Library Building consists of two stories and a basement approximately 60 feet wide and 72 feet long, with a one story wing on the northwest corner of the main building approximately 24 feet wide and 44 feet long. As designated by the Applicant, the rooms devoted exclusively to the Grace Arents Free Library are the room in the one story wing and the adjacent room in the main building, having a combined floor space of approximately 1344 square feet. The room in the wing is used for book storage, reading and lending facilities. The adjacent room is occupied by magazine and newspaper racks and is also used by music appreciation groups conducted under the supervision of the library. The large room in the northeast corner of the main building is used by the library for storage and the area between, containing a table and chairs, is also used for home work and reading space. Books are furnished the

library by the Central Library of the City of Richmond and replacements and additions are made on the same basis as for branches of the City library system. (See Exhibit K attached to the application and hereby incorporated by reference herein. Exhibit K states the basis of cooperation between the Grace Arents Free Library and the City public library system.) The Community House has a membership of persons residing in the neighborhood and works in close cooperation with the Oregon Hill Improvement Association, the Neighborhood Council and the Grace Arents Garden Club. Working through its regular staff and with the assistance of many volunteer workers, the Community House operates a craft shop, a dental clinic, a nursery school, a dramatic club, a Boy Scout troop, a Girl Scout troop and many other activities for adult, teenage and younger groups. All these activities bring into the building a large number of persons each day. In 1958, the Community House's total membership was 608. Books, magazines and records suitable for organized groups are kept available or are procured as they are needed. The librarian is a regular member of the staff of the Community House. There is one assistant librarian, and volunteer workers from the Story League and Junior League, who work under the supervision of the Community House, render much needed additional help in the library's program. The library furnishes books and special literature for use by instructors, adult and youth study groups, clubs and other organizations sponsored by the Community House. The Community House distributes books and magazines from the library to shut-ins residing in the neighborhood. The increase in use of the Grace Arents Library by residents in the neighborhood is demonstrated by the following statistics for the years 1948, 1954, 1958 and the first 11 months of 1959:

	Books in Library	Circulation	Attendance	Activity (Ratio of Circulation to Attendance)
1948 (1st full year of operation)	not available	2993	5589	53.5%
1954	4628	2563	5910	43.4%
1958	4794	4894	8280	59.1%
1959 (1st 11 months)	not available	5317	8788	60.5%

8. The balance of the activities in the Community House program are conducted in other rooms in the Grace Arents Library Building and on the adjacent outdoor recreation area.

The first floor, of approximately 3840 square feet, page 115 } contains twelve rooms consisting of five offices, two halls, two nursery school rooms, one recreation room, one dental clinic room and one toilet. The second floor, having twelve rooms and approximately 4200 square feet, contains five club and class rooms, two toilets, two halls, one kitchen, one storage room, and one large assembly room. The basement floor of ten rooms and approximately 4200 square feet has six activity rooms, two storage rooms, one boiler room and one toilet. The toilets and heating plant also serve the library. The Internal Revenue Service has ruled that the Community House is exempt from federal income tax as a corporation organized and operated exclusively for charitable purposes, and that contributions made to the Community House are deductible in the manner provided in the Internal Revenue Code of 1954. See Exhibit L attached to the Application and hereby incorporated by reference herein. While the Kiwanis Club of Richmond has assumed the responsibility of improving facilities and providing major new equipment for the Community House and the Cosmopolitan Club sponsors a free dental clinic, the entire operating budget of the Community House is furnished by the Richmond Area Community Chest as succeeded by the United Givers Fund. In 1954, this operating budget was \$21,736.00, and in 1959 it was \$27,391.00.

9. On November 6, 1957, Richard A. Chandler, Assessor of Real Estate for the City of Richmond, notified the Applicant that the property at 224 South Cherry Street, Richmond, Virginia, was being assessed for City real estate taxes for the first time. Mr. Chandler assessed all of the said property on that date for omitted real estate taxes for the years 1954, 1955, 1956 and 1957. Subsequently, the property was assessed with City real estate taxes for the years 1958 and 1959. Said assessments were as follows:

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	Assessed value of the property	Real Estate tax	Penalty	Interest	Total
1954	\$47,490	\$1,044.78	\$52.24	\$191.98	\$1,289.00
1955	47,490	902.31	45.12	108.95	1,056.38
1956	47,490	892.82	44.64	51.56	989.02
1957	47,490	892.82	—	—	892.82
1958	47,490	892.82	—	—	892.82
1959	47,490	892.82	—	—	892.82
Total					\$6,012.86
	*	*	*	*	*

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OPINION OF THE COURT.

June 14, 1961.

Statute of Limitations.

The City has filed a plea of the Statute of Limitation in bar of the Court now granting relief from the assessments complained of covering the years 1954, 1955, 1956 and 1957, on the grounds that the petition was not filed within the applicable statutory period of one year as provided for in Code Section 58-769.

The Association has moved to quash this plea on the grounds that the proper limitation is that of two years as provided in Code Section 58-1145. That the limitation of Section 58-769 relied on by the City is only effective where the *value* of the property is sought to be corrected and to that extent only it repeals Section 58-1145. That the value is not contested in this matter. The correction of assessments otherwise erroneous is governed by Section 58-1145.

The decision, therefore, is to be determined by which of the above statutes shall govern the Court's action.

Finding of Fact.

The Court finds so far as relevant to the issue presented by this plea and the motion thereon:

That Section 58-769 so far as pertinent provides :

1. "CHAP. 261.—*An ACT to provide for the assessment of real estate in cities containing more than one hundred and seventy-five thousand inhabitants; to transfer to the assessor or assessors to be provided for pursuant to this act, the duties of the commissioner of revenue in respect to the assessment of real estate; to authorize such assessor or assessors to make up the land books in such cities and to extend the taxes thereon; and to repeal all provisions of law relative to the assessment and equalization of assessments of real estate in cities containing more than one hundred and seventy-five thousand inhabitants.*"

Approved March 25, 1936.

"Be it enacted by the General Assembly of Virginia:

"1. That in cities containing more than one hundred and seventy-five thousand inhabitants, according to the last preceding United States census, the council or other governing body of such cities, may in lieu of the method now prescribed by law, provide for the annual assessment of real estate for local taxation, and to that end, may elect one or more persons to assess such real estate for taxation, and the council or other governing body in such cities may prescribe the duties of such person or persons. * * *,"

"2. All duties now developed upon the commissioner of revenue with respect to the assessment of real estate and making up the land books in such cities, shall be transferred to and devolved upon the assessor or assessors to be appointed pursuant to this act. All such real estate shall be assessed at its fair market value, and taxes for each year on such real estate shall be extended by such assessor or assessors on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made."

"3. Any person or any such city aggrieved by any such assessment, may apply for relief to the hustings or corporation courts of such city, within one year from the thirty-first day of December of the year in which such assessment is made, and the procedure in such cases shall be in the manner prescribed by section four hundred and fourteen of the Tax Code of Virginia."

"5. The act entitled 'An act to provide for the assessment and the equalization of the assessment of real estate in cities

containing more than one hundred and seventy thousand inhabitants,' approved March tenth, nineteen hundred and thirty-two, and all provisions of law relating to the equalization of real estate assessments insofar as the same are applicable in cities containing more than one hundred and seventy-five thousand inhabitants according to the last preceding United States census are hereby repealed, and all other acts or parts of acts in conflict with this act, are to the extent of such conflict, hereby repealed."

Note: Paragraph (3) of the above was amended in 1950 by Ch. 422 to provide for a board of review of assessments made by assessor appointed pursuant to paragraph (1), with power upon complaint of owner to change, revise, correct and amend such assessment, and to have all powers conferred upon assessor. It provided further that any person or any city aggrieved by any assessment, either by assessor or board might apply for relief to corporation or hustings court within one year from December 31st of the year in which assessment made and provides that procedure shall be as prescribed in Section 58-1145 to 58-1151 inclusive.

Acts of Assembly 1958—Chapter 339, amended paragraph (2) of the 1936 Act and provided that assessor, upon completion of assessment, shall certify that "*all real estate subject to taxation* has been assessed by him at its fair market value."

2. That Section 58-769 is applicable to the City of Richmond. That the Council of the City duly adopted the assessor system provided therein.

3. That the property was duly assessed on November 6, 1957, by the City Assessor as omitted real estate covering the above years, in accordance with Section 58-1164 and Section 58-769 of the Code.

page 211 } 4. That the Association's application to this Court for the correction of the assessments complained of, including those for the years 1954, 1955, 1956 and 1957, was filed on December 31, 1959; more than one year from December 31, 1957.

5. Section 58-1145. *Application to court to correct erroneous assessments of local levies generally.*—Any person assessed with county or city levies or other local taxes on real estate aggrieved by any such assessment, may, unless otherwise specially provided by law, within two years from the thirty-first day of December of the year in which any such assessment is made, and any person assessed with local levies on personal property or a local license tax, aggrieved thereby, may, within one year from the thirty-first day of December

of the year in which such assessment is made, apply for relief to the circuit court of the county or any city court of record of the city wherein such assessment was made. In such proceeding the burden of proof shall be upon the taxpayer to show that the property in question is assessed at more than its fair market value or that the assessment is not uniform in its application, but it shall not be necessary for the taxpayer to show that intentional, systematic and wilful discrimination has been made. (Code 1919, Paragraphs 2249, 2389, 2390; 1920, p. 341; 1924, p. 589; 1926, p. 644; 1928, p. 228; 1936, p. 253; 1942, p. 610; Tax Code Paragraph 414.)

page 212 } *Conclusion and Holding of the Court.*

The chief concern of the Court is interpreting and construing any statute is the ascertainment of the purpose and intention of the law making body in enacting it. Our Supreme Court in *Chesapeake and Ohio Railway v. Hewin*, 152 Va. 649 said:

“It is one of the fundamental rules of construction of statutes that the intention of the legislature is to be gathered from the view of the whole and every part of the statute, taken and compared together, giving to every word and every part of the statute, if possible, its due effect and meaning, and to the words used, their ordinary and popular meaning, unless it plainly appears that they were used in some other sense. If the intention of the legislature can be thus discovered it is not permissible to add to or subtract from the words used in the statute.”

* * * “Primary and ordinary definitions of words are to be adopted unless their context and the conditions in which they are used appear to make some more meticulous construction necessary.”

In the case at bar, and the matter at hand, the purpose and intention of the legislature in enacting Section 58-769 should be looked to, in considering what is meant by “assessment of real estate” in paragraph (2) and “such assessment” in paragraph (3) thereof.

Specific provisions of Section 58-769, enable the designated class of cities to provide for:

- (1) Annual assessments of real estate;
- (2) Appointment of assessor or assessors, to be selected as therein provided;
- (3) Transfer to such assessors the duties theretofore exercised and performed by Commissioners of Revenue.

(4) Authorize, in accordance with such duties, such assessors to make up land books and extend taxes thereon; certify that "all real estate *subject* to taxation has been assessed at its fair market value; and

(5) That upon its adoption by the City, all provisions of law, relative to the assessment and equalization of assessments of real estate in such cities, were repealed.

There assuredly is no clear evidence in the provisions of this statute, that it intends to limit the duties of the assessor to only a determination of the "fair market value" of the property.

page 213 } Very definitely the duties of Commissioner of Revenue under the general law are transferred by the statute. Examination of Section 58-796, provides that he shall annually ascertain all real estate in his city and *the persons to whom taxes are chargeable*. He in the first instance, decides what property is exempt. Does it not follow that he must decide when property is not exempt?

Not undeserving of notice is the duty of a Commissioner of Revenue in connection with assessment in name of unknown owner (Section 58.770.1) assessment upon owner's death (58.771) assessment of lots in subdivisions upon rezoning of property 58.772.1 and division of land among several owners Section 58-773.

True the word assessment is used to mean ascertainment of value in reference to taxation of real estate; but valuation nevertheless is only a part of the duty of assessment required of a Commissioner of Revenue. The ordinary and popular meaning of assessment in connection with the taxation of real estate, connotes something more than appraisal of value. As to the Commissioner of Revenue, generally, it consists of determination of the ownership; listing of the property; whether such is liable taxation; valuation thereof, and extension of taxes thereon. Such duties were transferred to the assessor by Section 58-769, when adopted by the City.

A comparison of Section 58-769 with Sections 58-1145 thru 58-1148 discloses no marked differences, pertinent to the proper meaning to be given to "assessment" which clearly would require the interpretation contended for by the Association in this case. It is noteworthy that Section 58-1145 and 58-1148 both use "fair market value" in speaking of applications for relief from the erroneous assessment. Yet our Supreme Court uniformly has held that relief under 58-1145 should not be confined to only errors in valuation, but include those assessments which are illegal or void.

Leesburg v. Loudoun National Bank; 141 Va, 244.

Alexander v. Commonwealth; 137 Va. 477.

(Also held that question whether land was taxable as mineral land was to be decided by assessing officer.)

Todd v. County of Elizabeth City, 191 Va. 52.

It appears clear to the Court that the purpose and intent of the Legislature in enacting 58-769 was to give to the assessor appointed therein, full power and duty as theretofore existed in Commissioners of Revenue under general law. That it is implicit in such assessment of real estate, that he determine ownership of the property and whether it be liable to taxation. No satisfactory reason is advanced which demands that "assessment" as used in this statute, was intended to be limited to valuation of real estate. Assuredly there is evident no plain intent of the Legislature, from which such may be implied.

page 214 } With due deference to the opinion of Judge Wilson set forth in *City of Richmond v. Eubank*, 179 Va. 70, this Court does not feel that this case and its opinion, is controlling. While it is true Judge Wilson was of opinion and so held that the limitation of one year as provided in Section 58-769 was not applicable as no valuation was involved in the assessment in that suit, yet the Supreme Court refused to pass upon that precise question raised by the City, on the grounds it had no jurisdiction. It did see fit to pass upon certain other issues. At best, in this Court's opinion, Judge Wilson points up the confusion and doubt in Section 414 as to meaning of "assessment" as used; pointing out that it has two different meanings depending upon the particular context. Judge Wilson clearly recognized that "assessment" as used was not a word of art.

The Court holds that:

(1) That Section 58-769 was effective to repeal Section 58-1145 insofar as it provided the limitation of two years within which relief might be applied for in the case of erroneous assessments of real estate.

(2) That "assessment" as used in Section 58-769 is not confined to determination of value, but embraces all other duties of a Commissioner of Revenue.

(3) That the limitation of one year as contained in Section 58-769 is applicable.

(4) That such limitation upon the granting of relief, applies where the errors in assessments complained of consist not only in valuation of the property but illegal and void assessments as well.

As the petition was not filed within the time limit provided,

the plea of the Statute of Limitation on behalf of the City of Richmond against relief from taxes assessed for the years 1954, 1955, 1956 and 1957 is sustained and the motion of the Association to quash is overruled.

* * * * *

page 215 } *Application on the Merits.*

Is St. Andrew's Association entitled to exemption from City Real Estate Taxes on its property designated as #224 South Cherry Street, Richmond, Virginia.

Finding of Facts.

Upon consideration of the record, there does not appear to be any substantial controversy over the facts, which in brief and so far as deemed pertinent, may be summerized as follows:

St. Andrew's Association (herein referred to as Association) is a Virginia non-profit corporation and authorized under its charter to operate a public library, schools and other related charitable activities.

That is it a public library association and the owner of the property involved, #224 South Cherry Street, Richmond, Virginia; owned and operated by it beginning in 1908.

That this property was originally purchased for the use and purposes of the Association and used *exclusively*, for the conduct of a public library until 1946; until the year 1927, by the Association.

That during the period from 1927 to 1946 the property was owned by the City of Richmond to whom the Association had conveyed it for operation by the City as a public library; upon the death of Miss Grace Arents, sponsor of this Association and in accordance with her previously expressed wishes. In 1946 for economic reasons, the City closed the library and reconveyed the property back to the Association; together with its endowment of \$100,000, the income from which was used in operation of the library.

That William Byrd Community House (herein referred to a Community House) is a charitable corporation, organized under the laws of Virginia in April, 1923, "to provide without profit to the corporation, a community center, or centers for the development of civic and social life * * * and to institute and maintain educational and philanthropic enterprises to that end * * *."

That in 1946, at the time the public library was closed, arrangements were made by the Association with Community House, whereby the latter would occupy and use a part of the building for the conduct of activities for which it was organized and operate in a portion of the building the library on behalf of the Association, using the income from the afore-said endowment in the latter operation. This arrangement culminated in the execution of a formal lease, the substantial terms of which were effective during the tax years in question.

That no revenue or profit was or is realized by the Association under the terms of this lease. Nor is the public library or the property conducted or operated otherwise for profit; nor are the activities of Community House conducted for revenue or profit.

page 216 } That the space actually occupied and used exclusively in the operation of the library proper constitutes probably only an 1/7 of the total area of the building.

That in addition to this specific space used exclusively by the Association, there should be borne in mind that there are other parts of the building where its books are used in connection with the activities of Community House; also the area embraced within the hallways, and that occupied by the heating facilities are certainly used in common by the occupants.

That it is difficult to draw a well defined line marking the space used in common in the activities of each of these associations.

But it may not be controverted, that over all, the Community House occupies a greater portion of the building for its activities as authorized by its charter; separate from that used in common with the Association.

The Association on the basis of the above facts claims exemption from taxation of this property; under the Constitution and statutes of Virginia a following:

Section 183 (d) and (e) of the Constitution and Section 58-12 (4) and (5) of the Code, as construed by our Supreme Court; and other pertinent decisions.

Section 183 and paragraph (d) and (e) of the Constitution as amended so far as pertinent provide:

“Unless otherwise provided in this Constitution the following property and no other shall be exempt from taxation, State and local, inheritances taxes:

* * * * *

(d) Property owned by public libraries, incorporated colleges, or other incorporated institutions of learning, not conducted for profit together with endowment funds not invested in real estate. But this provision shall apply only to property primarily used for literary, scientific or educational purpose or purposes incidental thereto. It shall not apply to industrial schools which sell their product to others than their own employees or students."

"(e) Real Estate belonging to, actually and exclusively occupied and used by, and personal property, including endowment funds, belonging to Young Men's Christian Associations, and other similar religious associations, orphan or other asylums, reformatories, hospitals and nunneries conducted not for profit, but exclusively as charities, also parks or playgrounds held by trustees for the perpetual use of the general public."

Section 58-12 and paragraph (4) and (5) of the Code of Virginia (1950) as amended, provide in part:

page 217 } "The following property shall be exempt from
taxation, State and local including inheritance
taxes:"

* * * * *

"(4) Property owned by public libraries not conducted for profit, together with the endowment funds thereof not invested in real estate. But this provision shall apply only to property primarily used for literary, scientific or educational purpose or purposes incidental thereto."

"(5) Real Estate belonging to and actually and exclusively occupied and used by Young Men's Christian Association and other similar religious associations conducted not for profit but exclusively as charities * * * and also property whether real or personal owned by any community club or association * * * when said property is used or operated exclusively for general and community purposes and not for profit."

Conclusion and Holding of the Court.

In the opinion of this Court, applicable decisions of our Supreme Court establish the following:

(1) That taxation of property of the character defined in the foregoing Sections of the Constitution and Code of Virginia, is the exception and *exemption from taxation is the rule*. *Commonwealth v. Smallwood Memorial Institute*, 124 Va. 142.

(2) The policy of State has always been to exempt property of the character mentioned.

That such Sections should not be construed with the same degree of strictness that applies to other provisions making *exemptions* contrary to State policy.

City of Norfolk v. Board of Supervisors, 168 Va. 606.

Commonwealth v. Lynchburg Y. M. C. A., 115 Va. 748.

(3) That under the several clauses, under which exemptions have been asserted even though providing in certain instances, that the building and land which they actually occupy should, "not be operated for profit" or "actually and exclusively occupied and used," for the defined purpose, our Supreme Court has held:

(a) Leasing of a part of property for revenue, if it had direct reference to the purpose for which the association was incorporated, would not forfeit the exemption.

Commonwealth v. Lynchburg, Y. M. C. A., 115 Va. 748.

Commonwealth v. Hampton Institute, 106 Va. 614.

(b) The exemption is to be determined by the dominant purpose of the association in the use, and whether such use "tends immediately and directly to promote the purposes for which it was organized and existed."

Commonwealth v. Lynchburg, etc., *Supra*.

page 218 } (c) That it is the duty of the taxing power to clearly and precisely ascertain and fix the subject of taxation and the amount of the burden imposed; point out with exactness the ratio between that which is taxable and that which would be exempt; and all doubts thereon to be resolved in favor of the taxpayer.

(d) That exemption does not depend upon the percentage of use of property, but upon the nature of the institution and the purpose and use to which the operations are put.

City of Richmond v. Memorial Hospital, 202 Va. 86.

(e) That the language of the Constitution and Statute:

"Primarily used for literary, scientific or educational purpose or purposes incidental thereto," is not to be taken literally, but construed in the light of the dominant purpose in the use as tending to promote the purpose for which the association was organized.

Applying the above principles, the Court has no difficulty

in holding that the property of the Association is exempt from taxation under Section 183 (d) of the Constitution and 58-12 (4) of the Code.

It is abundantly clear that the arrangement made with Community House, had but one object in view, so far as the Association was concerned; i. e. to provide for the continued operation of a public library on the premises. That such was the dominant purpose; and that use made of the property under this arrangement tended "immediately and directly to promote the purposes" for which the Association was organized and existed. Assuredly the purpose, the objective to be obtained, the result intended, was the conduct of a public library on the property.

If it were necessary for the Court to characterize the practical relationship between the Association and Community House, it could properly be termed that of principal and agent, for the operation of a public library; or perhaps as manager of the library on its behalf.

The Court does not agree with the contention of the City that the great disparity between the space actually occupied by the Association and Community House forfeits the exemption; particularly so in view of the opinion of the Supreme Court in *City of Richmond v. Memorial Hospital*, etc.; and a comparison of the previous provisions of Section 183 of the Constitution with the amendment in 1928. Previously the pertinent Section had specifically required that the buildings and land be "wholly devoted to educational purposes and actually and exclusively occupied and used"; and that if any part were leased or a source of revenue, all of such property should be taxed.

The change in the Constitution as amended in 1928, reflects the holding of the Court in *Commonwealth v. Hampton*, *Supra*; the strict requirements noted above were modified, deleting "wholly devoted to educational purposes" and "actually and exclusively occupied and used."

page 219 } The Court further has no difficulty in finding that the property is "primarily used for literary * * * or educational purpose or purposes incidental thereto." However it may be significant that this clause does not directly require that a public library owning the property must conduct the activity; that it may not permit others to use the property, so long as it is used for literary * * * or educational purpose or purposes incidental thereto; without profit.

Here again, it is the dominant purpose in the use, which determines the exemption.

It does not seem necessary to further labor the point that "primary * * * purpose" as used should be construed to mean

that purpose "which was first in the mind or intention" of the owner and user of the property; as the evidence satisfactorily supports this finding.

It would be unwarranted, considering the foregoing principles of law settled by the Supreme Court and applying them to the facts of this case, to conclude that the property of the Association must lose its exemption from taxation, solely, it seems, because in the interest of charity and benevolence, it permitted, without profit, a charitable association to occupy a portion of the premises it presently was not occupying, and in which to conduct its charitable or educational activities. Such a conclusion without more would certainly be harsh. But when it is further recognized that such use was granted primarily to enable the carrying out of the purpose of the Association, the conclusion is compelled that the exemption should not be lost by such circumstance.

Would the property lose its exemption if the part occupied by Community House were to remain vacant?

The Court is satisfied that neither the Constitution or the Statute, requires that the Association owning the property shall occupy exclusively the entire property; and clearly where such other use permitted by it is incident to and to enable the accomplishment of the purpose and object for which the Association was formed.

Accordingly the Court holds that the Association qualifies as a public library and the property owned by it is used primarily for literary and educational purpose or purposes incidental thereto; and pursuant to the provisions of paragraph (d) of Section 183 of the Constitution and paragraph (4) of Section 58-12 of the Code of Virginia, the property #224 South Cherry Street, Richmond, Virginia, is exempt from real estate taxes.

6/14/61.

S. B. W., JR.

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* * * * *

DECREE.

This proceeding came on to be heard upon the papers formerly filed, including the application and exhibits thereto

(filed December 31, 1959), the City of Richmond's plea of the statute of limitations to the assessments of real estate taxes for the years 1954-1957, inclusive (filed January 4, 1960), the Applicant's motion to quash the City's plea of the statute of limitations (filed January 11, 1960) the City of Richmond's answer (filed March 17, 1960), the stipulation of facts (filed November 25, 1960), which stipulation is hereby made a part of the record in this proceeding, the transcript of the testimony of witnesses taken *ore tenus* on November 29, 1960, and all exhibits filed therewith, which transcript and exhibits are hereby made a part of the record in this proceeding, and upon the briefs and arguments of counsel for the parties.

Upon consideration whereof, for the reasons stated in the Court's written opinion filed herein on June 14, 1961, and hereby made a part of the record in this proceeding, it is

ADJUDGED, ORDERED and DECREED as follows:

1. The plea of the City of Richmond of the one-year statute of limitations under Chapter 261 of the Acts of Assembly of 1936, as amended, is hereby sustained and the page 221 } Applicant's motion to quash said plea is hereby overruled, and relief from the real estate tax assessments by the City of Richmond for the years 1954, 1955, 1956 and 1957, plus penalties, interest and other charges (which the parties have agreed aggregate \$5,191.13 as of June 30, 1961) is hereby denied; to which actions the Applicant, by counsel, duly objected and excepted.

2. The Court finds as a fact, and hereby certifies, that during the entire period under consideration the Applicant qualifies as a public library and the property known as 224 South Cherry Street, Richmond, Virginia, owned by it and assessed for taxation, is used primarily for literary and educational purposes or purposes incidental thereto; and pursuant to the provisions of paragraph (d) of Section 183 of the Constitution of Virginia and paragraph (4) of Section 58-12 of the Code of Virginia, 1950, as amended, such property is exempt from real estate taxes; to which action the City of Richmond, by counsel, duly objected and excepted on the grounds that the Applicant was not and is not a public library and said property was not primarily used for literary, scientific or educational purposes or purposes incidental thereto within the meaning of said sections.

3. The real estate tax assessments made by the City of Richmond against St. Andrew's Association for the year 1958 in the amount of \$892.82 and for the year 1959 in the amount

of \$892.82, for the year 1960 in the amount of \$892.82, and for the year 1961 in the amount of \$892.82 on property described on the Land Books of the City of Richmond as

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W. CHERRY CUMBERLAND AND
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are hereby cancelled and ordered to be stricken
page 222 } from said Land Books as erroneous assessments,
and said assessments are hereby declared void
and of no effect, to which action the City of Richmond, by
counsel, duly objected and excepted on the grounds stated
above.

The City Attorney for the City of Richmond defended the said application and the Assessor of Real Estate who made the said assessments was present and was examined as a witness touching the application.

4. The Clerk of this Court is directed to cause certified copies of this decree to be delivered to the Commissioner of the Revenue, the Assessor of Real Estate and the Collector of City Taxes of the City of Richmond.

5. The Applicant shall recover from the City of Richmond its costs in its behalf expended in this proceeding, to which action the City, by counsel, duly objected and excepted.

And the Applicant having indicated its intention to apply for an appeal to the Supreme Court of Appeals of Virginia from the rulings of the Court sustaining the City's plea of the one-year statute of limitations and denying the Applicant's motion to quash the same, the Court doth further ORDER that the execution of this decree be suspended for a period of 60 days from the date of this decree, and until the Supreme Court of Appeals may have finally acted upon this matter, provided Notice of Appeal and Assignments of Error are given within 60 days from the date of this decree and the Applicant within such period enters into bond with surety approved by the Clerk of this Court in the penalty of \$500.00 for costs on appeal, conditioned as by law provided, and provided further that such appeal is perfected in the manner provided by law.

Enter July 19th, 1961.

SAMUEL B. WITT, JR., Judge.

* * * * *

RICHARD A. CHANDLER,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

Q. Your name is Richard B. Chandler?

A. Richard A. Chandler.

Q. I am sorry. Your occupation—?

A. Assessor of Real Estate for the City of Richmond.

Q. How long have you been Assessor of Real Estate for the City of Richmond?

page 10 } A. Since 1956—December of 1956.

Q. Mr. Chandler, in the Fall of 1957, did you assess the property of St. Andrew's Association known as the Grace Arents Free Library property at 216-224 South Cherry Street in the City of Richmond?

A. Yes, sir.

Q. Will you tell us first the assessment, and break it down land and buildings, if you will, and then give us the total, and then the tax?

A. We have the land assessed at \$1,790.00; the improvements at \$45,700.00; a total of \$47,490.00.

Q. What is the highest and best use for that property, or did you ascertain that?

A. Actually the highest and best use, under present zoning, would be two-family. We concluded the use of the property or the land for community property would be the highest and best use of this particular site.

Q. In other words, you would agree that library purposes, for which it was built, would be one of its best uses, assuming it would be feasible to use it for this purpose?

A. We didn't think so, because the library there previously failed. It looks to me like a community house would be the highest and best.

Q. Were you connected with the city in 1946
page 11 } and 1947 when the library failed?

A. No, sir, I was not.

Q. So you don't know any of the background for the City turning the property back to St. Andrew's Association?

A. No. That just came up in subsequent investigation, we found they had turned it back. We didn't know it at the time.

Q. This property could not be used for two-family dwellings, could it?

Richard A. Chandler.

A. The site could be.

Q. You would have to raze the building you assess at more than forty-five thousand dollars and then erect the two-family dwellings on the property. Isn't that right?

A. That's right, unless you want to convert that very large building into a two-family dwelling.

Mr. McGuire: Excuse me. I don't think this is particularly relevant, unless Mr. Ferrell is challenging the amount of the assessment.

Mr. Ferrell: Oh, no.

The Court: I agree with you, Mr. McGuire.

page 12 } Mr. Ferrell: I just want to get the highest and best use to which the property could be put.

Mr. McGuire: Well, I object to it.

By Mr. Ferrell:

Q. You say it is zoned two-family residence?

A. It is zoned R-5 which is the old D—two-family.

Mr. Ferrell: Could we put in evidence Ordinance No. 60-141-146, adopted June 1, 1960, which is the zoning ordinance of the City of Richmond, and direct the court's attention to the two articles in that ordinance which relate to the property, being Article VI, R-5 two-family dwelling district regulations, which incorporates by reference the provisions in Article V.

The Court: Let me ask you, Mr. Ferrell, if I am correct your position is that this property is exempt from all taxes on account of these exemptions that are permitted under the constitution and the statute. Is that correct?

Mr. Ferrell: That's right.

page 13 } The Court: Maybe I don't get your point, but what relation would zoning have to this question?

Mr. Ferrell: I will tie it up later through some testimony to the effect of what was St. Andrew's to do with this property after it was turned back to them by the city.

The Court: All right. Go ahead.

Mr. Ferrell: We would like to introduce this ordinance.

Mr. McGuire: I object to the introduction of the ordinance in evidence as having no relevancy.

The Court: It will be admitted as Exhibit No. 1, subject to your establishing its relevancy.

Richard A. Chandler.

Note: Copy of Ordinance No. 60-141-146 was marked Petitioner's Exhibit No. 1 and filed.

By Mr. Ferrell:

Q. Mr. Chandler, your assessments on this property were for the year 1957 and what other years?

A. The three years prior to that.

Q. That would be '54, '55, '56 and '57?
page 14 } A. Yes.

Q. And those assessments have been filed, or copies of the assessments have been attached to our application in this case. Incidentally, have you received notice of the application for relief from taxes?

A. Your petition, you mean?

Q. Yes.

A. Yes, sir, I have.

Q. Now, for the years subsequent to 1957 you have also assessed taxes?

A. Assessed them, yes, sir.

Q. For the year 1958?

A. 1958, '59 and '60.

Q. And in addition to the assessment for taxation, will you give us the principal amount of the assessments, that is, for the annual assessment?

A. You mean, the actual amount of the tax?

Q. That's right.

A. I don't have that information. We don't compute that in our office.

Q. You don't know?

A. No, sir.

The Court: That is in your stipulation, is it not?

Mr. Ferrell: We have stipulated that fact. I
page 15 } just wanted to bring out the assessment was a certain amount and has not been changed.

By Ferrell:

Q. Is that right? It has not been changed, has it?

A. No, sir, it hasn't been changed.

Q. All of these years, the same assessment has been made?

A. That is correct.

Q. The valuations you have just testified to?

A. That is correct.

Q. Can you state why the property had not been assessed prior to November 6, 1957?

A. Yes, sir. We erroneously carried it as belonging to the

Richard A. Chandler.

City of Richmond. My staff in just a routine check discovered an ordinance which apparently authorized the conveyance of this property back to St. Andrew's Association, and in further checking we found a deed had been put to record conveying the property from the City of Richmond to St. Andrew's which we apparently never received, so for the years 1947 up until the time we discovered it, it had been carried in the name of the City of Richmond.

page 16 } Q. You didn't go back to 1927 or before and find out whether it had been assessed previously when it was not owned by the City?

A. No. Our records actually went back to 1934 and it was carried in the name of the City of Richmond at that time.

Q. Are there any other matters you wish to state concerning the application for revising or evading this tax assessment? You are required to be examined under Section 58-1149 of the Code. Is there anything else you would like to state in regard to the assessment?

A. No, except, of course, that we put it on the tax rolls because we believe that it where it belongs.

CROSS EXAMINATION.

By Mr. McGuire:

Q. Did you ever ask the City Attorney for advice as to whether this property was exempt from taxation?

A. Yes, sir. After we notified the owner—actually we called the Director of the William Byrd Community House who suggested that we get in touch with Mr. Wellford
page 17 } and inform him of our intention to place this property on the tax rolls, which we did, and requested exemption and indicated the City Attorney had additional information we didn't have, and so we requested a formal opinion as to whether or not this property should be exempt from taxation.

Q. Did you receive such opinion?

A. Yes, sir, Opinion No. 1,419.

Q. Do you remember the date of the opinion?

A. January 10, 1958.

Q. Is that the first and only opinion that your office received from the City Attorney on this subject?

A. On the subject property, yes.

Q. On this particular property—the Grace Arents Free Library property?

Richard A. Chandler.

A. On this William Byrd Community House property, it was the first opinion we had received.

Mr. McGuire: If the court please, I have a copy of that opinion which other counsel also have. I should like to introduce it in evidence—not as evidence that the views in the opinion are correct, but as evidence of what was the conclusion reached by the City Attorney. I want it to
page 18 } clear from the record there has been no administrative construction by the City of Richmond that the property is exempt from taxation.

Mr. Ferrell: We have no objection to your offering it for that purpose.

Note: Opinion No. 1,419 of the City Attorney, dated January 10, 1958, was marked City Exhibit No. 1 and filed.

By Mr. Ferrell:

Q. Mr. Chandler, this letter dated January 10, 1958—

A. The opinion.

Q. The opinion. Of course, you made the assessment actually on November 6, 1957. Is that correct?

A. I probably made it on October 31, 1957. That is the date I have in my records. I notified Mr. Wellford, I think, on that date, too.

By Mr. McGuire:

Q. Mr. Chandler, did you or your office about this time make any examination of this building or investigation of the purposes for which the property was used?

page 19 } A. Yes. As soon as we discovered the property had been carried erroneously, we sent a staff up to go through the property and examine it. Their report indicated it was used, as far as we could tell, almost exclusively for a community house.

Q. Do you have a copy of that memorandum?

A. The memorandum I addressed to the Law Department?

Q. No—I mean—

A. My staff put most of the information on the back of the property card. I could read that.

Q. Let me see if I have it here.

A. I think we sent you a copy of some of the staff's findings. I have here recorded most of their findings on the back of the property card itself.

Richard A. Chandler.

Q. Can you state briefly what those findings were, if the memoranda you have will permit you to do that?

A. Yes, sir, I think so. In general, the staff went through the building and discovered it was occupied, according to the Director of the William Byrd Community House, by the William Byrd Community House, and they made a memorandum as to what was contained on each floor. Generally speaking, on the first floor, offices, nursery, lavatory, dental clinic,

I believe, and in a wing on the first floor, a small page 20 } library. On the second floor, some more offices and a large assembly room and some lavatories. The basement had some rooms—they call them workshop rooms, I believe—and lavatories and, of course, mechanical equipment for heating.

In talking to them it was indicated to us the library, which did not strike me as being stocked at the time, was usually open only on certain days and certain hours and was apparently operated by William Byrd Community House, so at the time we didn't place a great deal of stress on the library because it seemed to be a function of the William Byrd Community House.

I was not able to conclude that the property, being owned by one association and operated by another, came within the tax exempt provisions. That is why I called the Director of the William Byrd Community House and told him of our views and findings and he suggested we call Mr. Wellford, which we did, and ask him if he disagreed with our findings in any way to please let us know.

We computed that the property had roughly a little over 15,000 square feet, outside measurements, the library being a wing of the building, and in addition, I understand, it has a room inside—all told it contains approximately 1,200 square feet, or a little less than ten percent of the total page 21 } property.

Q. Did you write a letter to Mr. MacDonald Wellford under date of October 31, 1957?

A. Yes, sir.

Q. Is this a copy of it, signed by you?

A. Yes, sir.

Mr. McGuire: I offer that in evidence as City Exhibit No. 2.

Note: So marked and filed.

Richard A. Chandler.

Q. Is this the original of your request dated November 12, 1957, for an opinion from the City Attorney on the question of whether or not this property at 224 South Cherry Street was exempt from taxation?

A. Yes, sir, that is my original request.

Mr. McGuire: I call the court's attention to the fact there are some pencil notations about the dates of some deeds on this letter, which notations I made myself.

Mr. Ferrell: I don't think it is material at all. I don't have any objection.

Note: Marked City Exhibit No. 3 and filed.

page 22 } By Mr. McGuire:

Q. Do you have the original of Mr. Wellford's reply?

A. Yes, sir.

Q. We might as well put that in.

A. All right.

Q. What is the date of the reply?

A. November 8, 1957.

By Mr. Ferrell:

Q. May I ask a question? He disagreed with your views—is that a correct summary?

A. He indicated he would certainly like to talk to us about it. He didn't name any particular clause, but he said he believed it would come under Section 183 of the Constitution and indicated St. Andrew's was a charitable organization.

Q. The letter will speak for itself. He disagreed with your assessment, didn't he?

A. Yes.

Mr. McGuire: We will have verifax copies made and file the original.

Mr. Ferrell: Either way—you may file the copies, if you wish.

page 23 } Note: Original letter dated November 8, 1957,
addressed to Mr. R. A. Chandler, Assessor of Real Estate, signed by MacDonald Wellford, was marked City Exhibit No. 4 and filed.

A. (Continuing) He disagreed, I would say.

James M. Ball, Jr.

Mr. McGuire: I have no further questions of this witness.

REDIRECT EXAMINATION.

By Mr. Ferrell:

Q. Let me ask you this, Mr. Chandler, in view of what you just testified to. Aside from this wing in which there is a book receiving and distributing desk, you said something about there is another room outside that which has book shelves and other things for the library—is that what you said?

A. I said specifically that there was small additional space outside the wing—the board didn't report it.

Q. That was not reported?

A. It was only 120-some feet—it wouldn't make much difference.

page 24 } Q. Isn't it true that in the room on the first floor
in the northeast corner there is book storage
space?

A. They indicated to me somewhere in that area was the dental clinic.

Q. We will establish it later, but I am now trying to find out what you know. Do you know as to what portion of the building was actually devoted to use of the library when the city had the property?

A. No, sir.

Q. You haven't investigated that?

A. No, sir. It seemed to me that the entire building was used for William Byrd Community House.

Q. What I want to get at is how much of that building was actually used for a library before it was turned over to the present occupant. You don't know?

A. No, I do not.

* * * * *

page 25 } JAMES M. BALL, JR.,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

Q. Now, Mr. Ball, how long have you been connected with St. Andrew's Association, the applicant in this proceeding?

A. I was elected to the board of St. Andrew's Association in 1931.

James M. Ball, Jr.

* * * * *

page 26 }

* * * * *

Q. And you have served on the board continuously from that time?

A. Continuously since 1931. I have been President for a number of years—I can't recall how many.

Q. You are the present President, are you not, Mr. Ball?

A. Yes.

Q. Were you President in 1946 and 1947?

A. I was.

* * * * *

page 32 }

By Mr. Ferrell:

Q. Let me put it this way. Mr. Ball, in 1946 what was the situation as far as you know as to the city's continuing the operation of the library?

A. We were advised, as I understand it and as I recall, in 1946 that they could no longer operate the library on the income from the \$100,000.00. The agreement I made with the city was that it be closed six months and they proceeded to close it for six months, as of January 1947, and after the six-month period had elapsed, then they proceeded to turn the property and the endowment fund over to us.

* * * * *

page 33 }

* * * * *

Q. Well, what was the problem, if any?

page 34 } A. It was demonstrated they couldn't take care of the building because the building was in bad condition. The directors of St. Andrew's felt morally bound to accept the building and the endowment. We felt a heavy responsibility for Miss Arents' will and to carry out her wishes. The directors all serve without compensation; they are all busy men.

James M. Ball, Jr.

Mr. McGuire: If the court please, I cannot help but think this is irrevelent testimony.

The Court: Well, it is somewhat—

Mr. Ferrell: He is going to say why he turned the problem over to William Byrd.

A. (Continuing) It was something we couldn't handle as individuals. We had to find somebody to run the library for us and fortunately at that time William Byrd came into the picture. Is it all right to go ahead with that?

Q. Yes, sir.

A. William Byrd came into the picture. They had been running their orphanage on Belvidere Street in a piece of property which belonged to St. Andrew's Association, an old mission church. The building was practically unusable it had deteriorated to such an extent and they had to
page 35 } move. It was a Godsend to us that we could find somebody who would handle that library, and they could handle it. The tie-up there was just an answer to prayer.

Q. You say you were approached by representatives of the William Byrd Community House?

A. Yes. They were looking for new quarters; we were looking for somebody to run the library; and, as I said, it was an answer to prayer that those two organizations got together.

Q. Who was the person that first approached you, Mr. Ball?

A. We worked with the President of the William Byrd Community House, Mrs. Ferrell. Every man on the board knew the William Byrd organization. We had worked with them on the building on Belvidere and we knew they were well-qualified to handle it.

Q. When you were first approached by William Byrd Community House, what, if anything, did you advise them with respect to the use of that building?

A. There isn't but one thing to say and that is the fact our obligation was to operate that library. That was a trust to us and that is what we had to do.

Q. Let's outline the steps. What you did specifically when you were first approached about the use of the
page 36 } building and William Byrd's needs—what did you tell Mrs. Ferrell?

A. We told her the responsibility would be to run the library—that was the first responsibility.

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Q. Did you refer her to anyone?

A. We took it up with our attorney and the other members of the board of St. Andrew's Association.

Q. Who was your attorney?

A. Mr. Duval.

Q. Mr. John Duval?

A. Yes.

Q. And you referred the representative of William Byrd Community House, Mrs. Ferrell, to Mr. Duval?

A. Yes.

Q. After that, what was the next thing you heard from William Byrd?

A. Well, the proposition was put up to us they had worked out a proposal whereby they could operate the library and there was a meeting of the minds it could be operated satisfactorily in accordance with the wishes and desires of the original founder, Miss Arents.

Q. This is a little repetitious but it will lead to the next step. Mr. Ball, I hand you Exhibit H attached to the application and ask you if that is the proposition made to St. Andrew's Association on behalf of William Byrd
page 37 } Community House for the operation of the library
and the use in connection with that of the building
by William Byrd?

A. This is a copy of what?

Q. Exhibit H with the application. Can you identify that?

A. I can't see it.

Mr. Ferrell: I am sure Mr. McGuire will stipulate.

By Mr. Ferrell:

Q. You did receive a written proposal from William Byrd, did you not?

A. Oh, yes, but I haven't reviewed it in the last day or so and I can't say everything about it.

Q. Let me ask you this—was this written proposal of the William Byrd Community House taken up with the board of St. Andrew's Association?

A. Oh, certainly—yes.

Q. What action was taken on that?

A. We agreed to the conditions of operating the library.

Q. Was that unanimous?

A. Oh, yes.

Q. Now, that Exhibit H doesn't mention anything about

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the money. You mentioned a moment ago the page 38 } building wasn't in very good shape. Was it necessary to refurbish the building?

A. St. Andrew's put up ten thousand dollars to put the building in condition, and since that time we have given them money from time to time to keep the building in shape.

Q. This is in addition to the income from the endowment fund to operate the library?

A. Oh, yes. The fund from the hundred thousand dollars has been used to operate the library and St. Andrew's Association has put up other funds—other money that Miss Arents left—that money has been used to refurbish the building from time to time, and we put up ten thousand dollars in 1947 and gave them fifteen hundred dollars in 1957 for repairs.

Q. Let me ask you this— in January of 1947, in your opinion, could St. Andrew's Association operate the Grace Arents Free Library building with the income from the endowment fund?

A. Not by ourselves, no.

Mr. McGuire: The court *understands*, I believe, that I object to all this line of testimony.

The Court: All of this line of testimony is page 39 } objected to by the City. Let the record show that objection to all of this line of testimony.

By Mr. Ferrell:

Q. Prior to the contact made by William Byrd, had the board considered any other possibilities?

A. We had been studying every possibility of how it could be run. We had consulted with Mr. Ayers of the City Library and he was very much in sympathy with keeping the library going and helped us in all sorts of ways.

Q. Could you see any way to operate it before William Byrd came into the picture?

A. No.

Q. If William Byrd had not appeared on the scene, was the library going to be closed?

A. We didn't know what we would do.

Q. Were you considering anything about court proceedings for the construction of the will?

A. Yes, that was contemplated, but it was held up, I believe, when William Byrd appeared in the picture.

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Q. All of that was under consideration when William Byrd appeared and was the answer to prayer, as you put it?

A. It certainly was. We were terribly put to it page 40 } to know what on earth to do.

Q. Mr. Ball, William Byrd has been operating for you, running this library, since 1947. Is that correct?

Mr. McGuire: If the court please—

By Mr. Ferrell:

Q. Let me rephrase the question. How has the library been operated from 1947, in the Fall, I believe—wasn't it in the Fall that the library reopened?

A. Yes.

Q. How has it been you have been able to operate it since that time?

A. We have been able to give the necessary money to keep it going. Every report shows improvement in the general handling of the library, as a library, and we have been very happy with the way it has been run and it is just growing in use all the time. We have kept in touch with it by monthly reports from the library.

Q. You require, then, monthly and annual reports?

A. I can't say it is definitely stated, but we get them with regularity.

Q. Do the members of your board supervise—do they go there?

page 41 } A. Yes, indeed, we go there and inspect it from time to time.

Q. Just who is operating it for you?

Mr. McGuire: May the court please, I would like for you to ask Mr. Ferrell not to lead the witness.

Mr. Ferrell: Strike the question.

By Mr. Ferrell:

Q. How is it being operated? You say you give the money and get these reports from time to time.

A. They employ a librarian.

Q. Who is "they"?

A. The William Byrd Community House.

Q. Do you know how "they"—the William Byrd Community House—actually handles the operation of the library? Are you familiar with that?

A. I can't say I am familiar with the detail. They have a

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paid and fulltime librarian and she has quite a number of assistants, volunteer assistants, that come in there and help her, and she works in connection with several schools in the neighborhood.

Q. You said something about annual reports. Does that include accounting for the money you said you give them?

A. No, I can't say I have seen an actual account—page 42 } ing of the money. We know it is well-spent.

* * * * *

page 43 } CROSS EXAMINATION.

By Mr. McGuire:

Q. Mr. Ball, we know what the charter of the St. Andrew's Association says. It is filed as Exhibit A with the application in this case. What does St. Andrew's Association actually do at the present time? What is the nature of its work or activity?

A. You will get me off on some of the sentimental stuff. There are forty-five units of real estate rented—excellent houses and they are all rented to help that neighborhood by St. Andrew's Association. They were dedicated and given to St. Andrew's by Miss Arents—she built them. We run the St. Andrew's playground; we run the St. Andrew's school in connection with St. Andrew's church. Well, we don't actually run it but we furnish the money for it. I don't know whether you have been along Idlewood Avenue recently and seen that beautiful playground with the gymnasium. That is on the property which belongs to St. Andrew's which was left by Miss Grace Arents and bought by her to pick up that neighborhood.

Q. Who operates the playground?

page 44 } A. The Rotary Club.

Q. It is not operated by St. Andrew's?

A. No. We give them the property to use for it.

Q. What else does St. Andrew's do?

A. We make contributions—grants—to various charities. You will find any number of them around Richmond that have benefited from her generosity—The Home for the Incurables, the Southside Nursery—dozens of them—Camp Merrywood Harrison—

Q. What is St. Andrew's Association?

A. A charitable trust. We have income that we give.

Q. That you give to those organizations?

A. Yes.

MacDonald Wellford.

REDIRECT EXAMINATION.

By Mr. Ferrell:

Q. Since you have been asked on cross examination as to what St. Andrew's Association does, your answers indicated that—

page 45 } Mr. McGuire: Don't lead the witness.

Q. (Continuing)—you do these things through other associations and agencies. Is that correct?

A. We are not qualified to go out and run a playground. We haven't got the time to do it. We can't run Camp Merrywood Harrison; we can't run the Home for the Incurables—but we have the privilege to grant funds where we think the money can be used for good purpose. We feel we are carrying out Miss Grace Arents' wishes.

Q. Does that apply also to this library property on Cherry Street?

A. We feel that the library is a little bit different from the general run of St. Andrew's Association. We are holding that endowment in a special fund and we feel that endowment should be used for the library and not granted to other organizations. Not a penny of the library endowment money has been given to other organizations. It is from St. Andrew's general fund that we do make these grants.

By Mr. McGuire:

Q. Does St. Andrew's Association itself make any use of the building at all?

A. No.

* * * * *

page 46 } MacDONALD WELLFORD,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

* * * * *

Q. Are you a member of the board of St. Andrew's Association?

A. I am.

MacDonald Wellford.

Q. Are you an officer of that association?

A. I am the secretary.

Q. Were you on the board in 1946 and 1947?

A. No, sir, I went on the board in December of 1948.

Q. Are you familiar with the lease that was prepared and executed between St. Andrew's Association and William Byrd Community House dated February 12, 1953, that has been filed as Exhibit I with the application in this case?

A. I am.

page 47 } Q. Did you prepare or have anything to do with the preparation of that lease?

A. I did.

Q. Would you state the reason why you wanted to prepare such a document?

Mr. McGuire: I think the terms of the lease speak for themselves.

Mr. Ferrell: That's why I asked him the question that way—why did they enter into such an arrangement?

The Court: How is that relevant, Mr. Ferrell, to the issues?

Mr. Ferrell: We think it is very important to explain the reason they entered into such an arrangement.

Mr. McGuire: If the court please, I think that is pure argument.

Mr. Ferrell: No. I am asking him why was it necessary.

The Court: As I recall, previous to that they had entered into an agreement—Exhibit H.

Mr. Ferrell: That was the proposition which had been accepted and that is why I want to ask him why was it necessary to do anything more. I am not asking him
page 48 } what it provided—the agreement speaks for itself.

By the Court:

Q. Why was it necessary to go further?

A. Your Honor, it is difficult for a lawyer to testify. If Mr. McGuire objects, I hope he will stand up. I have to go ahead on my own free will.

St. Andrew's Association has to work through agents. We have a lease with the Kiwanis Club; we have a lease with St. Andrew's School which we operate and give all the funds for. Concerning the library, we had an agreement which was proposed by Mrs. Ferrell and we had to have an agreement in writing. The lease that was prepared is an agreement—there

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is no consideration paid for it, other than as has been indicated, the payment for any improvements that might have to be put on it, and the insurance and taxes.

We put it in the form of writing in order to have something to fall back on in case any question arose. There was a change in the form of the agreement from the one executed in 1947—one or two changes. One change was an increase in the amount of insurance required; another was the amount being paid over to the library. The fund brought in at one time slightly over two thousand dollars; then three thousand dollars. We put a limit of four thousand dollars income, so there would be some amount put aside to take care of improvements for the library building. St. Andrew's contributed out of its own funds for the library building improvements.

But the reason the agreement was entered into was simply to have something in writing. There was a period of over a year when there was nothing in writing. The first lease terminated in May 1952 and the next one was entered into in June, 1953.

By Mr. Ferrell:

Q. And that was for a period of five years?

A. Yes.

Q. And there has been no subsequent agreement in writing?

A. No subsequent agreement in writing.

* * * * *

page 50 } MRS. RALPH H. FERRELL, JR.,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

* * * * *

Q. Were you president of the William Byrd Community House in 1946 and 1947?

A. Yes I was.

* * * * *

Q. When you first saw Mr. Ball, what was the understand-

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ing that you had—the understanding that you went away with—as to the use of the property known as Grace Arents Free Library on Cherry Street?

A. We were looking for a location in the neighborhood we served—we were across Belvidere Street from it, page 51 } and when we heard the Arents Library building was vacant we immediately went to Mr. Ball to ask if we might occupy it, and his first reaction was—“It would be wonderful, but you can’t. It was constructed to be a library and it has a trust fund attached to it to run it as a library, and we can’t turn it over to you as a community house.”

What Mr. Ball didn’t know is our purpose, as stated in our constitution, is to promote and further the educational and cultural development of the neighborhood. So I said to Mr. Ball, “A library is to promote education. Your library is dead. It needs renovation and stimulation. We are an educational institution; we are endeavoring to promote the cultural development of the neighborhood. Why can’t we unite?”

Mr. McGuire: Excuse me. I must object to this testimony. It is purely argumentative.

Mr. Ferrell: I disagree with you, Mr. McGuire.

The Court: I will let it in. But I do think you can shorten it, Mrs. Ferrell.

Mr. McGuire: May I make it clear the reason for my objection. Exhibit 2 with the application says what page 52 } the charter powers of William Byrd are, and Mrs. Ferrell can state what activities are now carried on by William Byrd Community House, but I don’t think she can state it is an educational institution.

The Court: I think that is very true. Mrs. Ferrell, the charter attached to the petition in this matter sets forth the character of the organization you have.

Mr. Ferrell: That’s right. I think both counsel will agree the matter of interpreting what type of organization it may be and what its powers and authorities are has to be governed by what the charter says, but the witness may testify as to what it actually does.

A. (Continuing) What I am trying to point out is we are not a community house like Ginter Park Community House or one that is run purely as a social or recreational organiza-

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tion or club. We are a community house trying to improve and benefit the community in which we operate.

Mr. Ball said if we came in and took over the page 53 } building, we would have to prove legally we were carrying out and espousing the meaning of Miss Arents' will in occupying the library and the building—so I wrote the paper which you have in evidence.

Q. Exhibit H—you prepared that and submitted it to Mr. Duval and Mr. Ball?

A. That's right.

Q. What is the next thing that happened?

A. When it was proven we were legally in the bounds of the will, the building was turned over to us, along with ten thousand dollars to make it usable.

Q. Did you go in the library building—

Mr. McGuire: Just a minute. It is clear to me her conclusions are not proper evidence—as to it being legally proved.

Mr. Ferrell: Absolutely.

Mr. McGuire: If the court please—

Mr. Ferrell: I am not offering her as an expert on that.

The Court: I think, gentlemen, the evidence can go in, subject to any further objections and to the court's consideration as to its admissibility. It will save time.

page 54 } Mr. McGuire: That is acceptable to me.

By Mr. Ferrell:

Q. Did you go in the building while it was being operated by the city as a library?

A. I did, because I was raised on the 800 block of West Grace and as a child I used the library. As a library run by the city, the main floor of the building was the only part of the three stories used by the library. The basement was used for the furnaces; upstairs there was a large room across the front which had been planned to be a children's library but then a wing had been built and it never had been used. The back half of the upstairs was living quarters for the librarian.

So our proposal was not to come in on top of it but to come in with it. We had a basement and second story which never had been used for the library. The main floor, which had been the library, contained one big room with books around a podium. Our proposition was to condense the library in the wing and put in shelves which made more floor space than

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there had been, by using shelves around the walls in the large part of the first floor for the storage of books which would not have to be readily accessible and by putting doors on those shelves. Thus we are able to have a listening room for music appreciation.

page 55 } The rest of the main floor, the center part, remains open as it was. We have an enclosed office, rather than having the director sit in the middle of the floor in that large room.

Q. As to the use now, as contrasted with when the city had it —

A. Yes.

Q. When I was examining Mr. Chandler we talked about the storage area in that northeast room.

A. The shelves all the way around that room are used as stacks for the library. They all contain books.

Q. The open area in the foyer separating the northeast room from the wing, what is that used for now?

A. That is our general lobby through which people must come and go. There is a large table in the center and children who are waiting for a program to start or for appointments or for various other things can sit there and study in the afternoons.

Q. All these renovations you mentioned cost money. Where did you get it?

A. St. Andrew's gave us the thousand dollars and I think the Community Chest gave us four thousand dollars, although I couldn't swear to that. But we did do the building over, from top to bottom. It was in terrible condition.

Q. In the large room upstairs, originally designed for a children's library, why wasn't that used for that purpose, if you know?

A. It wasn't used because it had to have outside fire escapes, and so Miss Arents preferred to put the children's wing downstairs and planned to use the inside for something else. Actually, it never came to be used at all.

Q. What have you done to it now?

A. That is our social room, used for all types of meetings, for dancing and for dinners.

Q. That is on the second floor?

A. Yes—a large room across the front of the building. It has a stage, also, which we have constructed at one end. Do you want to go into the problems?

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Q. Yes.

A. For instance, if you have a club group that wants to put on a play or a skit, you might say to give you two or three weeks to find something in the library that will be suitable. The library is right there available to them. We have Brownie and Scout groups working on various and sundry things, and they have the books readily accessible. page 57 }

When we have dinners, the garden club will do the table decorations and each group vies with each other. These women can go to the library and get books on flower arrangements and learn how to do it.

Q. As far as this library is concerned, couldn't your program be operated just as well with the library across the street?

Mr. McGuire: If your honor please, I would like to ask that Mr. Ferrell not lead the witness.

Mr. Ferrell: I am leading her in the opposite direction.

Mr. McGuire: Don't lead her either way.

The Court: It is a rather unusual situation we have—a husband leading his wife.

By Mr. Ferrell:

Does it make any difference that the library facilities are where they are?

A. Let me express it this way—the library is located in a neighborhood where the mothers and fathers are manual laborers. They don't read; they have no contact with books; they have no books in their homes. These children are not going out looking for books. page 58 }

William Byrd Community House can put up posters that say, "Story Hour, Three O'clock in the Library"—and the children will come. Then the children can stay on after the story hour and have a contest as to who can illustrate the story the best or who can act it out.

The library we are promoting has to be a vital thing. It is not stodgy, like the city library has to be. We have to make it stimulating and imaginative to get the children in there, and that is how it ties in to our entire program.

Q. State briefly what has been your experience with the city library people during the years William Byrd has been using and operating it?

A. At the time we moved in, Mr. Ayers was the City Librarian. He couldn't have been more interested in what we were trying to do. He helped us go through hundreds of

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books there—I wish I knew what proportion we threw away that were outdated. They had been there ever since the building was constructed. After we did that, we organized what was usable and then he supplemented what we had in order to build up our library.

page 59 } I am sure the librarian is better qualified than

I to tell you what the agreement has been since that time, about his supplying us with new books. Mr. Ayers used to help us from time to time to procure a librarian whenever we needed one, and I am sorry to say that has been often because it is not a lucrative job and people don't stick to it too much.

Q. Specifically, how does William Byrd come into this picture—speaking of the board and the organizational set-up?

A. When we moved into the building with the library, William Byrd assumed responsibility for running both the community house program and the library and therefore we had to set up a special library committee for that purpose.

Every board has any number of committees and usually you select the committee chairmen in order of importance. Our board selects the president first and the library chairman second, because we know our being in the building is determined by the successful operation of the library. If we fall down on that we will be evicted. Our primary concern as a board is to see that the library is a going concern. The library committee has charge of the fund St. Andrew's furnishes to run the library and has charge of the program, to see that new things are being set up. This fall

page 60 } we set up the homework clinic, and we have procured volunteers to come in and do homework with the children who are behind in school. The children who are behind in school are behind because they stay away from books, not because they lack for them. But when you get them to come in and a volunteer says, "You are behind in history. Let's get a parallel book and get some facts you haven't gotten in class"—that way we make the library come into the lives of the children.

Q. Do you require in your set-up any report as to the library activities?

A. We have monthly reports on everything the library has done—the money that has been spent, statistics on lending and attendance.

Q. Where do the reports go?

A. They are read at the board meeting, sent to the city library and St. Andrew's, and filed at William Byrd House.

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Q. Would you take up any activities that you know of, and be more specific as to bringing them into the library? You have named this homework group. Are there any others?

A. Again, I am sure the Director of the William Byrd House is better qualified to do that than I am. Of course, the nursery school is in the building and they use the page 61 } library all the time.

Q. How many rooms does the nursery school occupy in the building?

A. Two rooms, adjoining the library.

Q. On the first floor?

A. Yes.

Q. Are they small or large?

A. Large. That is the only group meeting we have on the first floor. The club rooms are upstairs and the boys' activities group is in the basement.

Q. How about activities on the second floor, and their use of the library?

A. I still say the Director is better qualified to answer than I. I know that the craft shop uses it and the girls' club groups.

* * * * *

page 63 } MRS. SIDNEY C. WATSON,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

* * * * *

Q. Are you the present director of the William Byrd Community House?

A. Yes I am.

Q. How long have you been director of the William Byrd Community House?

A. Since February 1959.

* * * * *

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* * * * *

Mrs. Sidney C. Watson.

Q. Now would you state the use of the library in the program of the William Byrd Community House, or vice versa?

A. The program of the William Byrd Community House, very briefly, is the fact that we are set up to work with all age groups in the Oregon Hill area, from the Nursery School to the Senior Citizen. I might say we have a real nursery school—not a baby-sitting agency—with a definite program of learning, based on music and dramatics. It meets five days a week, every morning. It has a well-qualified teacher and an assistant.

In the afternoon boys and girls from seven to twelve years of age come directly from school. Many go to the library first, or they may go to the library after they have met with their program groups. The Scout program has a great deal of activity which necessitates use of the library facilities.

We also have a Song and Story Club which uses
page 69 } the library facilities a great deal. We also have
qualified instructors for all age groups.

All books we can possibly use in the library are used for this purpose, not only for education but for stimulating and creating new ideas.

In the homework clinic, all the books we are able to use, with the exception of school books, come from the library.

In the woodworking classes, the instructor uses materials and books that come from the library.

In the adult program, the Senior Citizen, they know the library is available and they can check out books and magazines. You will find books and magazines throughout the entire William Byrd Community House—the first floor to the basement—all over the building you will find books and magazines from the library.

We also use the Nursery-PTA in this group for adult education because we feel education through parents is a very vital part of the development of any child.

We have the Young Mothers' Club with instructors in sewing and crafts or whatever they would be interested in. Also,
the Grace Arents Garden Club, which has been very
page 70 } instrumental in the physical improvement of the
Oregon Hill area. Books on landscaping are available for their use in the library and are used frequently.

Also, seven students from RPI are being trained here, so if no more, it serves as training for these seven individuals.

I don't think figures are vital, but in September 1960—during the period from September 1959 to September 1960,

Mrs. Sidney C. Watson.

we had over six hundred members that used the building 34,425 times. Of course, that figure would exclude the nursery school which comes every day.

In all of our programs, whether special events or whatever, the nursery school or field trips, these people go to the library to see what materials are available to prepare themselves for their use of the library and the agency itself.

Though basically interested in recreational activities for the people, it is very hard to draw the line between education and recreation, because we are trying to develop a higher standard of living for the people in the Oregon Hill area.

Q. Tell us what the building is used for during the period from June 1 to September 1 of each year.

page 71 } A. The building itself is totally used for library purposes. All the programs sponsored by William Byrd are confined to the Kiwanis lot or playground in the back of the building. Boys and girls throughout the season come into the library for songs and stories but that is the only time the building is used, other than for the Grace Arents library.

Q. So that particular building is used solely for library purposes during that period. Is that correct?

A. Yes.

Q. Now what things specifically does the library sponsor in connection with the schools in that area?

A. Well, they sponsor the drawing contest each year and the reading contest and that is a very special thing for the children. Awards are given and interest is high. Perhaps the teachers will be able to give you a little more information about that phase of it.

Q. Can you identify what schools are involved?

A. St. Andrew's and Grace Arents Public School.

Q. You say awards are given. What are the awards?

A. They are books.

page 72 } Q. Who pays for them?

A. The library fund set up by St. Andrew's Association.

Q. Now, Mrs. Ferrell testified to a library committee. Will you tell us who is on the library committee now?

A. I am not sure of all the names—but it is headed by Mrs. Hening, and William Harrison, Mrs. Pasco, Mrs. Mattern is president of our board at this time and ex officio a member of that committee, and Mrs. William Martin.

Q. There is filed with this application as Exhibit J the

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basis of cooperation between the Grace Arents Library and the Richmond Public Library. Are you familiar with that?

A. Not as much as your librarian would be.

Q. Do you know how many books actually are received from the public library to go in the library there on Cherry Street every month?

A. If I am not mistaken, I believe the number is fourteen.

Q. Do you know who repairs the books at this library?

A. Our librarian and the library committee page 73 } give their free time.

Q. Do you know specifically about the storage of the books in the northeast corner in the large room on the first floor?

A. Yes. That space is used for book storage for reference books and materials of that type.

Mr. Ferrell: Your Honor please, we have a little brochure. I admit it is for the period 1960-61, but this lady was not director of the activities at William Byrd prior to this. I think I can ask her this question.

By Mr. Ferrell:

Q. Is this, as far as you know, generally typical of the program that has been followed there in prior years?

A. Yes, generally—but we feel there is a great deal of improvement as far as adult recreation is concerned and the caliber of the nursery school is better. Basically, it is the same, with the exception of growth in those areas.

Mr. Ferrell: Maybe it will save time if we would identify this as an exhibit and then I will ask her to look at this and relate what activities, if any, have any connection page 74 } with educational purposes or library purposes.

Mr. McGuire: I don't care about the mechanics of it, but I am certainly going to object to that. This sort of testimony, like all this testimony, is irrelevant and inadmissible. The facts of the case are already shown by the stipulation. Whatever mechanics you find convenient, that's all right—but I object to this.

Mr. Ferrell: We are offering this evidence to show the dominant purpose in the use of the building is for educational and library purposes.

The Court: I will admit it, subject to your objection.

Mrs. Sidney C. Watson.

Mr. McGuire: Note an exception.

Note: The brochure, entitled Activities at The William Byrd Community House, 224 South Cherry Street, 1960-61 Program Year, was marked Petitioner's Exhibit No. 2 and filed.

By Mr. Ferrell:

Q. Let's look at the lefthand side of Exhibit No. 2 and answer the questions I will ask you. Relate briefly page 75 } what, if any, educational or library activities—

* * * * *

A. All of our boys' groups in the afternoon are given a name of an Indian tribe. The Apaches are ten year old boys that meet once weekly for sports activities and use the facilities of the building and secure patterns from the library.

Q. Woodworking patterns, you mean?

A. That's right. The Explorers are a group of girls. They are interested in the facilities they have in their neighborhood and take many field trips around the city.

The Court: Isn't that more in connection with the William Byrd Community House activities?

Mr. Duval: May I, Your Honor? The constitution provides that if this building is owned by the library, page 76 } if it is used for literary, scientific or educational purposes, it is exempt from taxation. It is very important for us to show here to what extent the use of this whole building is tied in with educational matters. That is the purpose of this.

Mr. McGuire: What the constitution says is "primarily used for"—that is what it says.

The Court: I think that has been interpreted as being the dominant purpose. The point I am making is the Apaches, the Explorers and the Brownies—they are not necessarily associated with the library part of it. They are associated with the William Byrd Community House activities.

The Witness: They can be jointly with the library—as a reference source and to stimulate interest.

The Court: All right. Go ahead.

By Mr. Ferrell:

Q. These Explorers—I suppose they go exploring around?

Mrs. Sidney C. Watson.

A. In the vicinity or other things in the city.
page 77 } Q. Does that have any connection with the library?

A. We feel that it does because if the girls are interested and you can stimulate interest in the city about them, it is educational. There are many reference books in the library used by this group.

Q. How about the Brownies?

A. That is a very strict thing in scouting and they have their own things they learn for the badges. The librarian knows references and equipment to help with their completion of the work on their badges.

The smaller children are the Fun Bunnies—they are five and six years old. This is a continuation of the nursery school work—stories and dramatics and music—with the privilege of using the library if they want to, and in connection with their Song and Story time.

Q. How about Crafts? You have two groups of Crafts.

A. That's right. The purpose is to train people in the neighborhood interested in crafts. This is strictly a creative thing, so it must be stimulated with everything you can find to help the children to make something to make their homes more attractive. The girls meet in the afternoon on Thursday—the boys on Tuesday afternoon.

page 78 } Q. How about the Song and Story Clubs?

A. We have kept the one for the smaller boys and girls. This is the group we work with with the idea of telling stories and learning songs. We get the best books we can find to capture their interest and we work with the songs from that—also, different stories from different countries and different songs. Of course, the library would help with that.

Q. Next is the program on Wednesday. What are the Playmates?

A. That is a group of little girls who are interested in cooking and learning how to set the table properly and that sort of thing.

Q. Does the Junior Cotillion have anything to do with the library?

A. The Junior Cotillion has an instructor to teach them to dance.

Q. They use the room upstairs?

A. That's right.

Q. How about the Black Hawks?

A. That is basically a group of boys interested in athletics.

Q. And they are either in the basement or outside?

Mrs. Sidney C. Watson.

page 79 } A. In the basement or on the playground.
Q. Do they have any instruction?

A. Yes. Every group we have has a leader, whether one of our staff personally or one of the students from RPI.

Q. So those are all supervised activities?

A. All supervised activities, yes.

Q. What are the Craft Classes?

A. There is a qualified instructor that meets with the boys and girls. There are two rooms upstairs that have been set up as space for the craft classes—ceramics and all that sort of thing—all kinds of things, actually. Mainly we have to use group materials because of our budget, but everything is creative.

Q. Does that have any connection at all with the library?

A. It is supervised by a qualified crafts instructor.

Q. Does that have any connection with the library of any kind?

A. They use the library for resources—getting books on pottery and things they can use.

Q. What about the Girls' Craft Class?

page 80 } A. That, of course, is strictly operated by Girl Scout procedure, and at the time they are working on their badges, the librarian can and does help them.

Q. Swimming at the YMCA—of course, that is not carried on at the house?

A. No.

Q. What about the dance classes—are these ballet classes?

A. That is in the back social room upstairs.

Q. Do they have instructors?

A. Yes, they have instructors. All of our activities have instructors. They don't come in and just run free will. They come at a definite time each day and we have to know the groups they are going to attend.

Q. Is there anything educational about the Nursery School?

A. This is not a baby-sitting agency. They have supervised play, they learn certain things, such as the pledge to the flag, and to wash their hands before they eat, and to sit down to eat. That might not be very important to you, but these children have to learn to do these things. They have their first taste of music and dramatics. They have been taken to the Washington Zoo and to the Mattaponi Indian Re-

Mrs. Sidney C. Watson.

page 81 } Q. What is the enrollment?
 A. We have thirty children that come five days

a week. That is all we can possibly handle.

Q. How about instructors?

A. We have two.

Q. Do you turn away children?

A. Yes. We have a waiting list. We can't handle any more children in the small area we have.

Q. All right. Just briefly, in connection with the evening program—

A. The evening program is geared to the teenager in the community, to keep them off the streets and in a place where they can find wholesome activities. The library is open at this time. The boys and girls might come in to work on their lessons and then participate in our program.

The Girls Club has domestic training for those who want to learn to cook and sew, with instructors for those things. Also, women from different walks of life come in from time to time to explain the work a secretary or a nurse or a teacher does. This is important because most of the girls' mothers work and they don't spend a great deal of time with their children

The woodworking is in the basement, under instruction, of course. They work on projects for improvement
page 82 } of the home, and also to improve the community
 house. They are in the process now of making wooden boxes to use in the front of the building.

Q. And that goes on in the woodworking shop in the basement?

A. That's right.

Q. And it is under qualified instructors and supervised?

A. Yes.

Q. I believe the Boy Scouts speak for themselves?

A. That's right. And the Teen Club that meets on the other nights is definitely supervised. The building is never open for anything unless there is a supervisor on each floor. We might have anywhere from fifty to a hundred teenagers for those particular activities.

Q. You say you have workers from RPI?

A. That right—seven.

Q. How many are used in your program usually?

A. We use six in the afternoon program and one in the night program.

Q. Any other volunteer workers?

Mrs. Sidney C. Watson.

A. We have many volunteer workers, through the Junior League, also through the Kiwanis Club, and many people in Richmond who are interested in the work. The Story Telling Lady comes in four times a week to work with the children.

Q. Are you familiar with the reports that are made monthly by the librarian and furnished, as has been testified to here, to the Director of the Community House, to the City Library and to St. Andrew's Association?

A. Yes.

Q. Did you prepare these copies for me for the year 1954 through 1959, and the year 1960 to date?

A. Yes.

Mr. Ferrell: I will ask that these be received seriatim and marked separately for each year. When I am identifying them by calendar year, that is approximate because sometimes they are from December 15th on.

Note: The reports referred to were filed in evidence, marked as follows:

1954—Exhibit No. 3

1955—Exhibit No. 4

1956—Exhibit No. 5

page 84 } 1957—Exhibit No. 6

1958—Exhibit No. 7

1959—Exhibit No. 8

1960—Exhibit No. 9

By Mr. Ferrell:

Q. I believe Exhibit No. 9 is for January 1960 through October 1960. Is that correct?

A. Yes.

* * * * *

page 85 } Q. How are the reports prepared?

A. They are prepared by the Librarian from the daily records she keeps and she in turn makes a report at the end of the month to the board of the William Byrd Community House, to St. Andrew's Association, and to the City of Richmond.

Q. And these reports were taken from your file?

A. Yes.

William R. Wooton, Jr.

* * * * *

page 89 } WILLIAM R. WOOTON, JR.,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

Q. Your name is William R. Wooton, Jr.?

A. That's right.

Q. What is your occupation, sir?

A. I am a minister of the Episcopal Church, at present Assistant Minister at St. Andrew's Episcopal Church and Principal of St. Andrew's Parochial School, on the corner of Idlewood Avenue and Cherry Street.

Q. Does that school have any library facilities in the school?

A. At the present time we do not have library facilities.

Q. In school circles, I understand there is what is called a central library. Will you explain to the court what a central library is?

A. A central library is a library the students can draw upon for reference material.

page 90 } Q. Do you have such a library for your school?

A. No, we do not.

Q. What do you do, then? Is it necessary to have the use of library facilities in connection with the operation of your school?

A. Yes, sir.

Q. What do you do?

A. Our children at the present time attend and participate in the library programs at the Grace Arents Library.

Q. Give us some of the details as to how this is worked out.

A. At the present time our children attend on a regular weekly schedule and the number of classes with weekly appointments at the present time is six.

Q. How many in a class?

A. Approximately twenty in a class. I can give you exact figures if you wish.

Q. I wish you would.

A. The number of children attending weekly at present is one hundred and twenty-three, and within a short time our total enrollment of one hundred and fifty-four will be attending.

Frances Wood.

page 91 } Q. And that is once a week, you say?
A. Yes, sir, once a week on a regular schedule.

Q. What grades are encompassed in this group?
A. At the present time Grades 1, 2, 3, 4 and 5 have attended, and the 6th Grade has started this week. The Junior Primary Class, which consists of five-year olds, will start soon. The only reason they are not attending now is because of their age—being adjusted to school.

Q. What happens when they use the library?

A. Our children go once a week and spend approximately one-half hour in the library. They are instructed as to library procedure, what to do when they go to the library, how to care for books, how to select books, how to check out books—and each child checks out a book and brings it back to the school.

Q. How long, to your knowledge, has this program been followed at your school?

A. To my knowledge it has been followed since 1954, and this comes from the former principal, Mrs. Roberta M. Guy. That is a period of six years. I succeeded Mrs. Guy in September 1959 and it has been followed since I have been principal.

Q. Were you connected with the church prior to
page 92 } that?

A. I have been Assistant Minister of the church since June 1957.

Mr. Ferrell: No further questions.

Mr. McGuire: I have no questions, but I make a similar motion to exclude the testimony of this witness.

The Court: The motion will be taken under consideration.

* * * * *

page 93 } MRS. FRANCES WOOD,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

Q. What is your present occupation?

A. Librarian, Grace Arents Library.

Q. How long have you been Librarian at the Grace Arents Library?

A. I worked part time for two years, and I have been full time Librarian for three weeks.

Q. So that has been since November 15th of this year?

Frances Wood.

A. That is correct.

Q. You succeeded whom?

A. Mrs. Grace Ellett.

Q. How old approximately is Mrs. Ellett? What is the state of her health?

A. She retired because she had bad health. I don't know her age.

page 94 } Q. An exhibit has been placed in evidence as to the working agreement with the City Library. I think it is Exhibit J. Are you familiar generally with the basis of cooperation between Grace Arents Library and the Richmond City Library?

A. Yes, sir.

Q. Have you received this Exhibit—have you looked it over?

A. Yes.

Q. Is that procedure generally the procedure that has been followed, to your knowledge?

A. Yes, sir.

Q. What are the number of books furnished each month or during any other period by the City to your library?

A. We get fifteen new books from the City Library each month. They pick them out for us but I think the library committee pays for them. I am not sure just how that is done. They furnish any books we ask for and want to borrow.

Q. So you can request books to be on loan to your library?

A. Yes—long-term loan or short-term loan. We get some for two months and some for six months—it depends on how the children use them. Then we return them them
page 95 } and get more.

Q. Who repairs the books at the library?

A. The librarian and our volunteer help.

Q. What do you do with the fines for overdue books?

A. We take that money and buy postage and glue and things for repairing books.

Q. Are you familiar with the procedure that has just been testified to with respect to the school children coming in from St. Andrew's School?

A. Yes, sir.

Q. Do these children meet with you, or does the teacher come with them?

A. The teacher brings the children over there and she comes in with them and she helps them select the books and check them out.

Estelle Wade.

Q. About the storage of books outside the wing. Do you know where some of the books are stored?

A. Yes. We have the stacks there off the big room, and we have a room we call the music room we use also for files and books.

Q. You haven't filed a monthly report yet, have you?

A. No—not for November.

Q. You are *familiar* with the procedure?

page 96 } A. That's right.

Q. And that is required—or do you know?

A. Yes, sir—it is required.

Mr. McGuire: I have no questions, but I make the same motion in regard to this testimony.

* * * * *

page 97 } MISS ESTELLE WADE,
after being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Ferrell:

Q. Your name is Miss Estelle Wade?

A. Yes, sir.

Q. What is your occupation?

A. Public school teacher in the Grace Arents School.

Q. How long have you been teaching in the public schools?

A. Since 1928.

Q. And what grade do you teach?

A. Second and third grades alternately.

Q. Does Grace Arents Public School have a school library?

A. No it doesn't. We have some books in each classroom but there is no school library in the school.

Q. Does your class and other classes to your knowledge make any use of the Grace Arents Library on Cherry Street?

page 98 } A. Yes, sir, it is one of the bright spots in our
life because we have such a good time going to the
library and having a chance to browse in the books
and make a choice. We select books and bring them back to
our school and keep them for a period of time.

Q. Where is Grace Arents Public School located—for the record?

A. 600 South Pine Street.

Estelle Wade.

Q. How long have your classes been going to the Grace Arents Library?

A. I think this is the fourth year I have taken children to the library.

Q. How often do you go?

A. Sometimes once a week, but most of the time every other week. We have a schedule and we go at a time designated by the librarian.

Q. Do you know the number that follow this procedure from that particular school?

A. I think we have four classes.

Q. How many in a class?

A. We average thirty in a class—thirty children.

Q. Is anything done in advance of going over there?

A. We feel that going to the library is a part
page 99 } of our school curriculum and we make preparations
for going to the library. We talk about good behaviour and good manners and being good citizens along the street as we go, and how to act in the library and how to get the most out of the situation, because I feel the time spent in the library is equal to time spent in the classroom. The time is utilized in every way.

Q. Do you go with the children to the library?

A. I certainly do.

Q. Tell us briefly what happens?

A. When we go into the library, we are impressed by the seriousness, by the books there and the way they are arranged, and the smile of the librarian. The *environment* is considered conducive to good education. Our children have a chance to browse on the shelves—not all at the same spot—but they make their choices and come and stand in line and get their book checked out. Quite often we sit down in the library and spend time there before we leave and while we are there will see if there is a book we like. We have an allotted time.

Q. How long do you stay there?

A. From thirty to forty minutes.

page 100 }

* * * * *

By Mr. Ferrell:

Q. Do you regard the use of this Grace Arents Library

Estelle Wade.

in the manner that you have described as necessary in your curriculum for these children?

Mr. McGuire: I object to the question as to form and as to relevancy. This whole line of testimony is certainly not relevant, and I make the same motion in regard to this testimony.

The Court: Rephrase your question, Mr. Ferrell.

By Mr. Ferrell: Tell us as to the necessity, if any, in your school program for the use of this library as you have described?

By the Court:

Q. Is it provided in your program? Does your school provide that you shall go to the library?
page 101 } A. My principal approves of our going and allots the time for us to go.

The Court: All right. That answers the question.

A. (Continuing) Because, as I said, I feel it is a part of our curriculum.

By Mr. Ferrell:

Q. Do you have any additional evidence to give the court as to the success or lack of success of this program?

A. I can give you an illustration. One afternoon we had a time—we came back with these books from the library. Dr. Suess has written wonderful books and we found we had five different books and we had a glorious time as a result of these books which are not in our school. We were able to get those at Grace Arents Library.

* * * * *

page 104 }

* * * * *

By Mr. Ferrell:

Q. —and the reaction of the children, if you know—and if you don't know, say so.

A. I feel we get good service at Grace Arents Library and we are not bothered with the traffic situation, and I feel we

Estelle Wade.

can get equally as good books at Grace Arents as we would at the City Library.

* * * * *

A Copy—Teste:

H. G. TURNER, Clerk.

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