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THE Yale tax case, just decided by the Supreme Court of Errors of this State, involved most important consequences to the University and to the cause of education in general.

In the fall of 1895 the authorities of the University prepared and filed with the assessors of the town of New Haven its list of taxable property, embracing real estate valued at about $57,000. Certain improved real estate was covered by the list, but dormitories, buildings used for recitations or other strictly collegiate purposes, and unproductive property, were not included. The assessors added to this list property which brought the total amount up to about $380,000, including in the items added the college dormitories and unproductive real estate. From the action of the Board of Assessors an appeal was taken to the Board of Relief, and because of its refusal to grant relief the case was appealed to the Superior Court. By consent of parties that court reserved the questions of law for the advice of the Supreme Court of Errors, the facts being found by a committee.

The point of most general interest involved in the case was the proper construction of the statute of the State exempting collegiate buildings from taxation. That statute, which is embodied in Sec. 3820 of the General Statutes, provides for the exemption from taxation of "buildings or portions of buildings exclusively occupied as colleges, academies, churches or public school houses or infirmaries."

As similar statutes exist very commonly with reference to the property of colleges, the definition of the word "college," which was as to this feature of the case the turning point, became a matter of general interest.

The case was very fully presented in argument, and it was contended that as to its dormitories the college simply carried on, principally from motives of gain, the business of renting rooms to students at their market value. The court, after a very thorough historical review of the subject, takes the ground that living together is an essential and distinguishing feature of collegiate life, and that it is immaterial in this connection whether the college be the only one embraced in the university, or the university, as in the case of the English institutions, consists of a family of colleges. The history of the American college system is traced, and the idea developed that "the entertainment of scholars" is an essential part of the province of the college; that the college at all times has "involved necessarily buildings for the residence and entertainment of the officers and students." As a conclusion from this argument, the college is defined as "a building or group of buildings in which scholars are housed, fed, instructed and governed under college discipline, while qualifying for their university degree;" and it is held to be immaterial that the charges made against the students are regulated, to some extent, in accordance with the kind of quarters which they occupy; the court reasoning:

"A church is none the less a church because the worshippers contribute to the support of services by way of pew rent. A hospital is none the less a hospital because the beneficiaries contribute something toward its maintenance. And a college is none the less a college because its beneficiaries share the cost of maintenance; and it is immaterial whether such contribution is lumped in one sum or apportioned to sources of expense, as tuition, room rent, lecture fee, dining hall, etc."

It follows of course logically from this that the dormitories are exempt from taxation.

The court holds that the provision of the statute, reference to which has been made, is not, in a strict sense, an exemption at all, as property of this nature has never been the subject of taxation in this State; that it has been the policy of its government to lay taxes in accordance with the principle laid down in the code of 1650: "Every inhabitant shall contribute to all charges, both in church and commonwealth, whereof he doth or may receive benefit, proportionately to his ability." As a college exists not for the benefit of any individual, but for the good of

the community at large, it cannot be logically taxed upon this theory, as it would be indirectly but taxing itself. "To tax such property would tend to destroy the life which produces a constant increase of taxable property, as well as some benefits more valuable. It is a misnomer to call the non-taxation of such property an exemption in favor of the governmental agency in whom the legal title is vested. When sequestered to such public use the whole property by that act equivalent to a single taxation to the extent of confiscation—passed out of the domain of private property, lost all value of ratable estate, and became incapable of measuring the ability of any person to contribute to the charge of the commonwealth whereof he receives the benefit."

The other exemption construed by the court is the one contained in a proviso to the act exempting the property of the university from taxation, "that said Corporation shall never hold in this State real estate free from taxation affording an annual income of more than six thousand dollars." The contention of the Town of New Haven was, that whenever the income from real estate exceeded that sum, not only the land producing such excess of income, but also all the unproductive real estate the college might hold was liable to taxation. The decision of the court is adverse to this contention, and the Superior Court is advised to render judgment ordering the Board of Relief to strike from the tax list all of the property belonging to the University and assessed against it, except such items of productive real estate, if any there be, as it may find to be necessary in order to bring the net income from all real estate within the exemption of $6,000.

There are few cases not of a criminal or sensational nature which have awakened as much public interest as the present one. Its adverse decision would have resulted in the serious crippling not only of educational, but of charitable and religious interests in the State, and would have constituted a precedent the influence of which would have been felt far beyond its borders.

G. E. B.