

WORLDWIDE EVANGELIZATION CRUSADE (CANADA) (<i>Plaintiff</i>)	}	APPELLANT;
AND		
THE CORPORATION OF THE VIL- LAGE OF BEAMSVILLE (<i>Defend- ant</i>)	}	RESPONDENT.

1959
 *Jun. 10
 Nov. 30

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Taxation — Municipal — Missionary training centre — Whether property exempt from municipal taxation as “seminary of learning maintained for philanthropic or religious purposes” — The Assessment Act, R.S.O. 1960, c. 24, s. 4(5).

The plaintiff, a non-profit evangelical corporation, owned properties in the defendant municipality, which it used for training and preparing persons to be missionaries in foreign fields. The training given consisted of Scripture readings and general religious discussions, and in learning skills considered valuable to missionaries, such as cooking, sewing, motor mechanics, carpentry, etc. There was no fixed curriculum.

The plaintiff sued the municipality for a declaration that the properties were exempt from taxation under s. 4(5) of *The Assessment Act*, which provides exemption from tax for buildings used *bona fide* “in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes, the whole profits of which are devoted or applied to such purposes”. The action was dismissed by the trial judge, and this judgment was affirmed by a majority in the Court of Appeal.

Held (Kerwin C.J. and Judson J. dissenting): The plaintiff was entitled to the exemption claimed.

The word “seminary” standing by itself, has no fixed legal meaning. It is not a term of art and its primary meaning is simply a place of education. The proper way to decide whether para. 5 of s. 4 of the Act applied was not to compare the plaintiff’s method of instruction with that given in other institutions falling within the description of “seminary of learning”, but rather to inquire whether those in attend-

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ance learned to fulfil better and more effectively the religious purpose to which they had dedicated themselves. The evidence showed that that result was achieved.

APPEAL from a judgment of the Court of Appeal for Ontario¹, affirming a judgment of LeBel J. Appeal allowed, Kerwin C.J. and Judson J. dissenting.

P. B. C. Pepper, for the plaintiff, appellant.

G. M. Lampard, Q.C., for the defendant, respondent.

The judgment of Kerwin C.J. and Judson J. was delivered by

THE CHIEF JUSTICE (*dissenting*):—I agree with the reasons given by Schroeder J.A. The appeal should be dismissed with costs.

The judgment of Locke, Cartwright and Martland JJ. was delivered by

CARTWRIGHT J.:—This as an appeal from a judgment of the Court of Appeal for Ontario¹ dismissing an appeal from a judgment of LeBel J., as he then was, whereby the appellant's action for a declaration that certain property owned by it situate in the respondent village is exempt from taxation was dismissed. Mackay J.A., dissenting, would have allowed the appeal and granted the declaration.

The relevant facts are not in dispute. They are conveniently summarized in the following passage in the reasons of Mackay J.A.:

The Plaintiff is a corporation incorporated by Letters Patent issued pursuant to the provisions of The Ontario Companies Act. The Letters Patent provide that the corporation shall be carried on without the purpose of gain for its members, and that any profit or other accretions to the corporation shall be used in promoting its objects. The purposes and objects of the corporation as set out in the Letters Patent are:

“To train, equip and send missionaries for service in the foreign countries in which the Worldwide Evangelization Crusade operates; to maintain and support such missionaries; to disseminate missionary and spiritual literature and information; and to do all such other things as are incidental or conducive to the attainment of the above objects.”

The properties owned by the appellants are two adjoining house properties known as Numbers 127, 133 and 149 King Street, in the Village of Beamsville. The permanent staff, who live on the premises, are Mr. Arthur E. Frid, Canadian Secretary and Executive Officer of the appellant corporation, his wife, who is a former school teacher; Miss Evelyn Thomas,

¹[1957] O.R. 80, 6 D.L.R. (2d) 605.

a former school teacher and also a qualified dietitian, and Miss Annabel Truedson, also a former school teacher, who acts as treasurer and as secretary and assistant to Mr. Frid.

The only purpose for which the premises are said by the appellant to be used is for training and preparing candidates for service as missionaries in foreign fields. The students are persons who are either graduates of recognized Bible Schools and ordained for the ministry, or persons who are qualified to be ordained, and in addition to these students, missionaries who are former graduates of the institution and who have served as missionaries in foreign fields, are required, when they return to Canada, on furlough to attend in the dual capacity of students taking a refresher course and as instructors to give instruction and counsel in regard to problems and conditions encountered by them in their work as missionaries, to those students who have not yet served as missionaries.

While there is no fixed curriculum, the staff and all students each morning, for two and a half hours, attend a meeting for Scripture reading and general religious discussion, including the application of the lessons of the Scriptures to practical daily problems of living and working, particularly with relation to missionary work in foreign fields. During the rest of the day the students are given instruction in dietetics, cooking, sewing, motor mechanics and carpentry, a knowledge of such skills being considered necessary to enable them to successfully carry on their work as missionaries in foreign fields under primitive conditions. The minimum length of time the students are required to attend at the institution is six months and the maximum two years. There are no examinations and the length of time the students attend depends on the discretion of the staff, the students being allowed to leave and enter missionary work when the staff feel that they are qualified to do so. The institution is financed by voluntary contributions. The students do not pay any fees or make any payment for board and lodging. The staff do not receive any salaries.

The appellant's claim to exemption is based on para. 5 of s. 4 of *The Assessment Act*, R.S.O. 1950, c. 24, but it will be convenient to set out paras. 4 and 6 of that section also:

4. All real property in Ontario shall be liable to assessment and taxation, subject to the following exemptions from taxation:—

* * *

4. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied.

5. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary.

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6. The buildings and grounds not exceeding in the whole fifty acres of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for educational purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary, and such exemption shall not extend to include any part of the lands of such a seminary which are used for farming or agricultural pursuits and are worked on shares with any other person, or if the annual or other crops, or any part thereof, from such lands are sold.

It is conceded that the activities carried on by the appellant in the buildings and grounds for which it claims exemption are "for religious purposes" but the respondent contends that those activities are not such as to bring the appellant's institution within the meaning of the word "a seminary of learning" as used in para. 5.

I agree with the view expressed by Schroeder J.A. that the word "seminary", standing by itself, has not acquired any fixed legal meaning. It is not, in my opinion, a term of art and its primary meaning is simply a place of education.

It is, however, argued for the respondent that the phrase "a seminary of learning" requires as a condition of its application to any institution that the instruction given therein shall be of a higher standard of scholarship and erudition than that given in the appellant's establishment, and shall approximate that given in universities. One difficulty that I have in accepting this argument is that any institution fulfilling the suggested requirements would appear to fall within either para. 4 or para. 6 of s. 4, and para. 5 would become unnecessary.

It appears from uncontradicted evidence that the purpose of those attending the appellant's establishment is to learn how to become missionaries or, in the case of those who are already engaged in that calling, to become better missionaries. It further appears that there has been great success in achieving the desired result. Learning to be better missionaries is no mere by-product or chance result of these persons living and working together in this establishment; it is the primary purpose of their association. That the subjects of their study comprise only the Holy Scriptures and those practical skills useful in the mission field does not, in my opinion, render the word "learning" inapt to describe their activities.

In my opinion, the proper way to decide whether para. 5 is applicable is not to compare the appellant's method of instruction with that given in other institutions which undoubtedly fall within the description of "seminary of learning", but rather to inquire whether those in attendance do learn to fulfil better and more effectively the religious purpose to which they have dedicated themselves.

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I have reached the conclusion that the appellant is entitled to the exemption claimed.

Cartwright J.

While in view of the difference of opinion in the Courts below I have endeavoured to express my reasons in my own words, I wish also to rest my judgment on the reasons of Mackay J.A. with which I am in full agreement.

I would allow the appeal and direct that judgment be entered for the appellant for the declaration claimed with costs throughout.

Appeal allowed with costs, KERWIN C.J. and JUDSON J. dissenting.

Solicitors for the defendant, respondent: Seymour, Lampard, Goldring & Young, St. Catharines.

*PRESENT: Kerwin C.J. and Taschereau, Locke, Fauteux and Abbott J.J.