

YALE'S TAX CASE.

[Continued from 1st page.]

taining order, preserving discipline and securing the proper observation of rules and regulations established by your appellant for the proper ordering of the building as a college house, which rules and regulations are posted in each room in said building.

"Each student occupying a room in said building is charged a certain sum for the accommodation and service thereby afforded him, which charge is made in the term bill so-called, regularly rendered to each student at the beginning of each term.

"In the year 1893, in conjunction with the erection of said White Hall, and with the same end in view as in the case of that structure, the building known as Berkeley Hall, one of the items added to the tax list of this appellant as set forth in said appeal, and assessed by said assessors, together with said White Hall, at the sum of \$147,150, was erected by this appellant at a cost in all of about \$54,000, out of funds therefor donated to this appellant for college purposes.

"In the year 1896, for the purpose of still further extending its educational facilities and the means used for the purposes of education, the building known as 'Pierson Hall,' being one of the items added to the tax list of this appellant by said board of assessors, as set forth in its appeal, and assessed by said board at the sum of \$59,741, was erected by this appellant at a cost in all of about \$80,000, out of funds theretofore donated to this appellant for college purposes.

"Said several buildings, White Hall, Berkeley Hall and Pierson Hall, are unfitted for any other use or purpose than that to which they are at present devoted, to wit, as living, study and sleeping rooms for the use of the students occupying the same, and apart from said use and occupation have no substantial commercial or pecuniary value as income-producing properties.

"The annual outgoes of this appellant, for tuition and the other expenses of supporting, maintaining and providing for the institution of learning authorized by its act of incorporation, have always exceeded the annual income from its invested funds, tuition fees and all other sources, including the amounts received for the use and occupancy of the rooms in said White Hall, Berkeley Hall and Pierson Hall, excepting benevolent and charitable contributions, and for several years past have so exceeded such annual income by several thousand dollars per annum; which sum has been made up by such contributions of divers persons, made for that purpose, without which contributions there would have been an annual deficit of income over outgoes; and the tax laid on the additions made by said assessors to said appellant's tax list, if collected, must be met and paid out of such benevolent and charitable gifts and contributions.

"While the whole net annual income derived by the appellant from all the college buildings containing study and sleeping rooms, from the students occupying the same, does not exceed the sum of \$55,000, the sum of \$54,000 and over, from the income of its invested funds and from scholarship funds, so-called, is annually appropriated by this appellant to the use of worthy and needy applicants, to help them to meet their expenses while availing themselves of the educational advantages afforded by this appellant; whereby students to the number of 160 at all times receive their tuition gratuitously, without the payment of any money, fee or reward therefor, while additional students to the number of about 270 have their tuition remitted in part, most of the latter paying only about one-quarter of the customary and regular charge therefor.

"The salaries of the professors, tutors, instructors and other officers employed by this appellant are reasonable and moderate in amount, and in many cases the services of such officers are given gratuitously, in whole or in part, while in other cases the salaries received by them are applied by them, in whole or in part, to the uses and purposes of the college.

"For a period of nearly two hundred years, from the erection of 'Yale College' in 1717 down to the additions to the appellant's tax list attempted to be made by the board of assessors of the town of New Haven, in 1896, as set forth in said appeal, no claim was ever made that said buildings so occupied by said students for living, study and sleeping rooms, or any of them, or any

other building in a like way for similar purposes, were liable to taxation, nor were said buildings, or any one of them, during all that period, ever, in fact, taxed or set in the list of the town of New Haven or elsewhere for that purpose.

"Said several buildings, to wit, White Hall, Berkeley Hall, Pierson Hall, by reason of the facts hereinbefore set forth in this reason of appeal, are not income-producing in any proper sense, but are held, occupied and used by this appellant solely for the purposes expressed in its act of incorporation and as a part of the plant necessary for the instruction of youth and ordering and managing the institution authorized by said act, in the most advantageous and beneficial manner for the promoting of good literature, and so are both occupied exclusively as colleges and belong to and are used exclusively by a literary and scientific society, within the true intent and meaning of the statute in such case provided."

SECOND.

"The several paragraphs and the allegations therein contained, set forth in the foregoing and first reason of appeal, are hereby referred to and made part of this second reason of appeal, as if stated at full length therein.

"On or about the year 1826 the invested funds of this appellant were seriously impaired by the failure of the Eagle bank of New Haven, and to make good such impairment and carry into effect its chartered powers, and enlarge and increase the educational facilities of this appellant, a subscription was set on foot which resulted in raising a fund of \$100,000, commonly known as the 'Centum Milia Fund,' made up of gifts, donations and voluntary contributions of divers persons to this appellant, for the uses and purposes expressed in its act of incorporation.

"At the May session of the General Assembly in 1834, and after the raising of the 'Centum Milia Fund,' an act was passed as follows, to wit:

"Be it enacted that the funds which have been or may be hereafter granted, either by the State of Connecticut or given by any person or persons to the corporation of the President and Fellows of Yale College in New Haven, and by them invested and held for the use of that institution, shall, with the income thereof, be and remain exempt from taxation, provided, however, that the said corporation shall never hold in this State real estate free from taxation affording an annual income of more than \$6,000, and provided also that the private property of the officers of the institution shall not be exempt from taxation."

"The amounts received by this appellant for the said use and occupation of White Hall, Berkeley Hall, Pierson Hall and the 'Old Gymnasium,' and from the other buildings owned by this appellant and used and occupied by its students as living, study and sleeping rooms, are not, by reason of the facts set out in the first reason of appeal, income, within the true intent and meaning of said act or of the provisions of the Revised Statutes of this State, Section 3822.

"All the real estate of this appellant, other than the items contained in the said tax list returned and sworn to on the 21st day of October, 1896, and except the buildings referred to in the preceding paragraph, as set forth in said appeal, do not afford an annual income of more than \$6,000, and so are exempt from taxation, within the true intent and meaning of said act of 1834 and of the provisions of the Revised Statutes of this State, Section 3822."

TOWN COUNSEL'S OPINION.

This appeal was entered against the opinion of J. P. Goodhart, '85 S., town counsel, delivered at the request of the board of assessors fifteen months ago. Mr. Goodhart's opinion in substance follows:

The liability of the Corporation to pay taxes depends upon the character of the corporation and the statute laws of this state.

The General Statutes, Section 3,620, provides among other things that "buildings or portions of buildings exclusively occupied as colleges shall be exempt from taxation."

A "college" is a literary institution, or an institution for the purpose of study and learning. It is a society of schools incorporated for the purpose of study and instruction. It is not, and does not include any provision for recreation, like gymnasiums, nor boarding houses and dormitories for students. It does include libraries and buildings used for laboratories and recitation rooms, which are in use in the course of the usual instruction and study of the students.

The public acts of 1895, page 700, provide as follows: "The funds and estate which have been, or may be given, or provided by the state, or given by any person or persons to the President or Fellows of Yale College, etc., shall, with the income thereof, remain exempt from taxation; provided, however, that neither of said corporations shall ever hold in this state real estate free from taxation, affording an annual income of more than \$6,000." It is certain that the General Assembly has not declared that the corporation should be exempt from taxation upon every separate piece of property which did not itself afford an income of more than \$6,000, and I am of the opinion that the Legislature did not so intend. The act can be read, and the intention of the General Assembly doubtless was, that the corporation should hold free from taxation real estate consisting of one or more separate tracts, which in the aggregate yield an income not to exceed \$6,000.

I am, therefore, of the opinion that real estate of the corporation, for the purposes of taxation, should be divided in three parts.

1. The buildings and parts of buildings with the land on which such buildings are situated, which are exclusively occupied as colleges, are not taxable.

2. Such a part of the remainder of the real estate and buildings of the corporation which yield a yearly income up to \$6,000 are also exempt and should not be taxed.

3. All the rest and remainder of said corporation's real estate, consisting of lands, buildings, dormitories, gymnasiums, restaurants, etc., should be assessed and taxed.

PROPERTY IN QUESTION.

The list of the property belonging to Yale University which, in the opinion of Town Counsel J. P. Goodhart, '85 S., is taxable, follows:

Fifteen lots with houses in various parts of the city..	\$105,442.00
Observatory property.....	24,678.00
White and Berkeley Dormitories	147,150.00
Pierson Hall.....	59,741.00
Old Gymnasium.....	8,100.00
Undeveloped real estate in various parts of the city and town.....	94,671.00

Total amount liable for assessment \$439,782.00

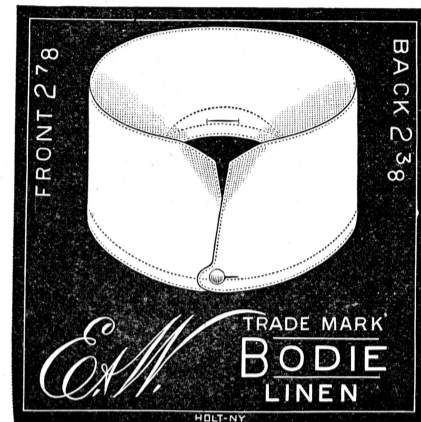
According to the statement of Mr. W. W. Farnam, in the opinion of the University's legal advisor there is but \$58,916.00 of taxable property, the remainder of the realty belonging to the University being exempt, as it yields an income of less than \$6,000.

A PRECEDENT.

A precedent, dealing directly with the dormitory and gymnasium question, is the test case made by the town of Princeton against Princeton College in 1852. That year the assessors included in their list the dormitories, literary society halls, libraries, refectories and even the dwelling-houses of the President and professors. The Court decided in this case that all these items of real estate were included under the term "college," and were hence exempt from taxation. The words of the Supreme Court were as follows: "If the term (college) be not confined to the mere lecture or recitation room, then it must be so construed as intended to include everything necessary to the proper management of the institution, according to the plan or principle in which it was originally founded or by authority subsequently adopted. The plan of the trustees was to lodge and board as well as instruct the students."

This decision of the Supreme Court in the Princeton case will undoubtedly be of much weight in the discussion of the question now at issue.

At the New Jersey Athletic Club carnival in Madison Square Garden in New York on Dec. 18, Bernard J. Wefers, the Georgetown College sprinter, was beaten in the 40-yard dash and the 220-yard run by J. H. Rush of the Chicago Athletic Club. Rush's margins were small.



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