

proper person to supervise such an arrangement, since by the provisions of section 1682 G. C. he is required to verify such vouchers of expense.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

2564.

INHERITANCE TAX LAW—AMERICAN BIBLE SOCIETY—BEQUEST TO SAID SOCIETY EXEMPT FROM SAID TAX—BEQUEST TO COLLEGE LOCATED IN OHIO WHICH IS AN INSTITUTION “FOR PURPOSES OF PUBLIC CHARITY ONLY” IS EXEMPT FROM SAID TAX THROUGH BEQUEST GIVEN TO ESTABLISH “BIBLE CHAIR” THEREIN.

1. *On facts stated as to the extent of the activities of the American Bible Society conducted in the state of Ohio, HELD*

*That a bequest to such society, which is a New York corporation organized for the purpose of publishing and promoting a general circulation of the Holy Scriptures “without note or comment,” and which, without view to profit, distributes, at times gratuitously, copies of the King James and American Revised versions of the Scriptures, or portions of them, in different languages, is exempt from inheritance taxation in Ohio.*

2. *A bequest to a college located in Ohio, and which as an institution is one “for purposes of public charity only,” is exempt from taxation, though given for the purpose of establishing a “Bible chair” therein.*

COLUMBUS, OHIO, November 10, 1921.

*Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—The receipt of the commission's letter of October 20th, enclosing a copy of the constitution, charter and by-laws of the American Bible Society and a letter of its counsel addressed to the probate judge of Jackson county, is acknowledged. In connection with the enclosures the commission submits for the opinion of this department the following question:

The American Bible Society was organized in 1841 by act of the legislature of New York “for the purpose of publishing and promoting a general circulating of the Holy Scriptures without note or comment;” its activities, as disclosed by its constitution, charter and by-laws and as described in the letter of its counsel, consist solely of publishing, according to the King James' version or the American Revised version, copies of the Holy Scriptures in the English language and in numerous other languages, and in so publishing portions of the Bible, such as the New Testament and Psalms, on the one hand, and the Old Testament, on the other hand. Particular attention is called by counsel to the fact that the Old Testament is printed separately in Yiddish and in Hebrew for the purpose of being circulated among the Jews.

The books so published are circulated through district agents, traveling agents and colporteurs, who receive compensation for their services, and also through volunteers who receive no compensation. The

books are sold to individual buyers at cost and to other distributing agencies for similar consideration. The society, however, gives away a large number of the books which it publishes to those who request copies and are unable to pay for them. The society has no capital stock; its membership consists of those who pay membership fees and are known as "subscribers;" and the society not only does not aim to reap profits, but has no power to distribute any incidental or accidental profits which it may derive among its members, or otherwise—in short, it is what would be known in Ohio as a corporation not for profit.

The state of Ohio constitutes a part of a district mapped out by the society for the convenient distribution of Bibles. The headquarters of that district are located in Cincinnati. In the year 1920 the society sent into that district more than \$20,000.00 worth of books and paid for salaries and wages to its compensated employes approximately \$11,000.00; traveling expenses, storage, rent and other miscellaneous expenses incurred in the district bring the total outlay of the society in the district for the year 1920 up to a sum in excess of \$35,000.00. This expense was incurred in the circulation in the district of more than fifty thousand volumes. The actual distribution was made through fourteen colporteurs, twelve correspondents and two volunteers. The volumes distributed in the district were printed in thirty-two different languages.

Is a bequest to this society generally exempt from inheritance taxation under the laws of Ohio?

The commission also submits another question arising under the will of the same decedent, as follows:

"By the will of the same deceased resident a bequest is made to M. college for the purpose of establishing a 'Bible Chair.' The college itself has been held to be an institution for purposes only of public charity carried on within this state within the purview of section 5334 of the General Code. Will you be good enough to advise us as to whether or not the purpose of the bequest is such as to render the fund covered thereby subject to inheritance tax?"

Section 5334 of the General Code of Ohio provides, in part, as follows:

"The succession to any property passing to or for the use of \* \* \* an institution for purposes only of public charity, carried on in whole or in substantial part within this state, shall not be subject to the provisions of the preceding sections of this subdivision of this chapter," (which are the sections providing for the levy of the tax known as the inheritance tax).

In *Humphreys vs. State*, 70 O. S., 67, it was held that a bequest to the American Bible Society was not exempt from the collateral inheritance tax then in force. The following quotation from the opinion of Price, J., at p. 76, will show the ground upon which that decision was placed:

"The aim of the American Bible Society is the distribution of the Holy Scriptures, translated into numerous languages, among the peo-

ple generally, and especially among the destitute and needy classes. \* \* \* The work laid out \* \* \* is carried on in all the states through local and subordinate agencies, and it may be admitted that theirs are works of charity in the broad sense, that the uplifting of men, women and children to the standard of life taught in the Scriptures is indeed a work of charity, the greatest of the three Christian graces. The funds to carry forward these religious enterprises, under the various names and organizations, are raised by church and other collections and largely aided by devises and legacies.

\* \* \* \* \*

The will \* \* \* gave no directions to her executor or her legatees as to the place where the money should be expended \* \* \*. Once in the possession of these institutions, it may be disbursed as they deem proper, and all of it may be disbursed in communities beyond our borders. \* \* \* We think these legatees are not 'institutions in this state' within the meaning of the statute."

The learned judge then comments on certain authorities, among them *Matter of Prime*, 136 N. Y., 347, and concludes with a proposition which is best phrased in the language of the second branch of the syllabus of the case, as follows:

"\* \* \* societies \* \* \* which are incorporated and organized under the laws of other states, for 'purposes of purely public charity or other exclusively public purposes,' are not 'institutions' of that class *in this state* within the meaning of the latter clause of section 2731-1, Revised Statutes; and where they are entitled to receive property within the jurisdiction of this state, by deed of gift, bequest or devise, such gift, bequest or devise is liable to a collateral inheritance tax as provided in said section, although some of the charitable work, operations and enterprises of the institutions so incorporated and organized are carried on within this state."

In short, the court placed its conclusion in this case, not upon the premise that the American Bible Society was not "an institution for purposes only of public charity," or rather, in the language of the act then before the court, "for purposes of purely public charity or other exclusively public purposes," but upon the ground that as an institution it was not "in this state," as the statute then read. (See section 5332, General Code, before its amendment in 1919).

The present statute, as is apparent from the quotation of it above made, differs from the former statute on this point. The words "in this state" are not in present section 5334, but in their stead language is used importing an entirely different idea of localization, viz., "carried on in whole or in substantial part within this state."

It is the opinion of this department that the activities of the American Bible Society in the state of Ohio represent a substantial part of its total activities within the meaning of the present statute; so that if the general purposes of the society are "purposes only of public charity" they satisfy the test of localization exacted as a condition of exemption by present section 5334 of the General Code.

It would be easy to dispose of the question as to the nature of the purposes of the society by referring to the portion of the opinion in *Humphreys vs. State*, above quoted, where the concession is apparently made that such pur-

poses are "works of charity in the broad sense" on the ground that the motive is "the up-lifting of men, women and children to the standard of life taught in the Scriptures."

It must be conceded, however, that such a disposition of the question would be unsatisfactory, for two reasons:

In the first place, the passage quoted from the opinion of Price, J., is in a sense dictum because the decision of the court was placed upon another ground.

In the second place, a distinction has always been drawn, and has been referred to in previous opinions of this department, between charitable purposes and religious purposes. Thus, it has been held that a general bequest to a church, the proceeds of which may be expended for any or all of the activities in which the church engages, is not exempt because the purposes of the church are not purposes of public charity *only*. In other words, among the purposes of a church are public worship and the inculcation of certain religious doctrines. Though broadly akin to charity, these purposes are not, strictly speaking, charitable but, rather, religious. Now, it must be conceded that the activities of the American Bible Society are actuated principally by a religious motive, so that the dictum in *Humphreys vs. State* is an unsatisfactory basis for final conclusion on the question.

On the other hand, the religious motive of the society is not conclusive against its classification as an institution the purposes of which relate only to public charity. It is obvious from the statement of facts furnished by the commission that public worship is no part of the activities of the society; neither is the inculcation of doctrine in the sectarian sense a part of its aims. To be sure, the versions of the Bible which the society distributes are not those accepted by all Christian churches or denominations, and, obviously, do not represent the religious ideas of those who are neither Christians nor Jews. In this sense it might be argued that inasmuch as propaganda, in the non-invidious sense of that term, must be a purpose of the distribution of these books, the case should be regarded as falling on the same side of the line with a general bequest to a church.

This view may, however, be easily pressed too far. It could be easily argued that an educational institution under denominational auspices, but open to all on the same terms, would have to be treated in the same way; whereas the contrary is firmly established in this state by decisions under the general property tax laws.

*Little vs. Seminary*, 72 O. S., 417;

*Humphries vs. Little Sisters of the Poor*, 29 O. S., 201;

*Gerke vs. Purcell*, 25 O. S., 229;

*Watterson vs. Halliday*, 77 O. S., 150.

Without, therefore, relying upon the extreme view apparently taken in *Davis vs. Camp Meeting Association*, 57 O. S., 257, it seems clear that the possible religious motive of the society, and even the partial limitation of that motive to the dissemination of literature which may be supposed to be promotive of religious views that are not shared by all, are not fatal to the claim of exemption.

On the other hand, it must be stressed that the activities of the society are not directly sectarian, are certainly not tainted with denominationalism, and have in them no element of the inculcation of institutional dogma. It is distinctly stated in the charter of the society that the publication shall be made and distributed "without note or comment." Moreover, the activities

of the society are distinctly charitable in the sense that they are conducted without a view to profit and with the declared purpose of placing the Scriptures, or portions of them, in the hands of those who may desire them but have not the means to purchase them for themselves; in other words, the publications are given away where the circumstances of the case justify.

It being established, then, that the mere fact that the publications to be distributed consist of a certain version or versions of the Bible, or parts of it, is not sufficient to classify the activities of the society as religious in the sense in which the general activities of a church are religious, there seems to be no ground for distinguishing the case from that of a society formed for the purpose of distributing gratis, or without profit, any great book in general demand among the people. Such an enterprise would be just as clearly charitable as the distribution of food and clothing to the needy, or the rendition of medical services, or the conduct of a hospital maintaining charity beds.

Without prolonging the discussion, then, it is the opinion of this department that the bequest to the American Bible Society inquired about in the commission's letter is exempt from taxation under the inheritance tax law.

It would seem that the reasoning above indulged in disposes also of the second question. To be sure, this question differs from the one just considered in that the bequest is not general but particular, so that we must look, not to the nature of the institution as a whole, but to the purposes marked out by the testator in his will, to determine whether the succession is "for purposes only of public charity" or not. The principles underlying this conclusion have been expressed in previous opinions of this department. However, for the reasons hereinbefore stated, there can be no distinction between an endowment for the foundation of a "Bible Chair" and an endowment for the foundation of a chair of economics, sociology, or any other proper subject of instruction. No doubt the occupant of the chair will in the giving of instruction add "notes and comments" to the text of the version of the Bible which he uses. No doubt, also, the nature of the comments which he makes will be influenced, if not determined, by the possible sectarian affiliation of the institution itself. To this extent there may be said to be a distinction between this question and the one just discussed. The existence of such a distinction makes it necessary, therefore, to dispose of a point which was not fully considered in connection with the first question because it was not necessary to do so. In the opinion of this department, the authorities hereinbefore referred to really dispose of this point. The institution of learning which was held to be one of "purely public charity" in *Little vs. Seminary, supra*, was a theological seminary under the auspices of the United Presbyterian church; it was described in the petition in the case as "an educational institution for the training of young men for the gospel ministry, free and open to all upon the same conditions." Obviously, the teachings of such an institution would be both religious and denominational. It was, nevertheless, expressly held to be an institution of purely public charity.

In *Gerke vs. Purcell, supra*, parochial schools, maintained by and under the auspices of the Catholic church, were held to be institutions of purely public charity. The nature of the curriculum of instruction in such institutions is well known, and it is believed that Shauck, J., writing the opinion in *Little vs. Seminary*, was right when he referred to *Gerke vs. Purcell*, as holding that "an institution such as the petition alleges the (theological) seminary to be is 'an institution of purely public charity' within the meaning of this section of the constitution" (Article XII, section 2).

If a parochial school or a Presbyterian theological seminary as a whole is "an institution of purely public charity," it seems clearly to follow that a bequest to a college for the purpose of founding a "Bible Chair" is one "for purposes only of public charity" within the meaning of section 5334 of the General Code.

It is therefore the opinion of this department that the second bequest inquired about in the letter of the commission is exempt from inheritance taxation.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

2565.

DISAPPROVAL, BONDS OF HURON COUNTY, OHIO, IN AMOUNT OF \$15,729.03 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, November 10, 1921.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

Re: Bonds of Huron county in the amount of \$15,729.03 for the improvement of I. C. H. No. 289, Section O., being 19 bonds of varying denomination.

GENTLEMEN:—The transcript for the above bond issue discloses that the bonds under consideration are issued under authority of section 1223 G. C.

Under this section the county commissioners are without authority to issue bonds in excess of the county's share of the estimated cost and expense of such road improvement.

As shown by the transcript, the county's share of the estimated cost and expense of this improvement was \$14,050.

The county commissioners are therefore attempting to issue bonds in excess of the authority granted them by the section of the General Code referred to.

I am therefore of the opinion that the bonds under consideration are not valid obligations of the county and advise the commission not to purchase the same.

The transcript is incomplete in other particulars, but in view of the defect referred to herein, it would be useless to attempt at this time to supply the additional information, as it will be necessary for the county commissioners to reduce the issue of bonds to an amount within the engineer's estimate of the county's share of the improvement before they can again be offered to the Department of Industrial Relations.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*