

doors are open only to the children of deceased members of the Order.

It is not carried on for profit or gain, nor is the land or any part of it occupied by a tenant or lessee.

Question: "Is this home an institution entitled to exemption from taxation, as held by me, under the provisions of sub-sec. 9 of sec. 5 of the Assessment Act, R.S.O. 1914 ch. 195?"

The case was referred by an order in council, and was heard in Chambers on the 5th October.

D. Henderson, for the town corporation.

W. H. Hunter, for the society.

HODGINS, J.A., said that the Assessment Act, R.S.O. 1914 ch. 195, sec. 5, sub-sec. 9, exempts "every . . . orphan asylum;" and the institution in question comes literally within those words. The words following—"and every boys' or girls' or infants' home or other charitable institution conducted on philanthropic principles and not for the purpose of profit or gain"—indicate that the orphan asylum must be a charitable institution within the meaning of the cases cited by counsel for the town corporation.

The judgment in *Struthers v. Town of Sudbury* (1900), 27 A.R. 217, dealing with a hospital, states the principle to be applied; and the changes in the statute since that decision suggest that it has been accepted by the Legislature as correct.

Question answered in the affirmative; costs follow the result.

HIGH COURT DIVISION.

SUTHERLAND, J.

OCTOBER 18TH, 1915.

ROBINSON v. MOFFATT.

Infant—Contract to Purchase Land—Repudiation—Absence of Fraud—Action to Recover Money Paid on Account of Purchase—Rescission—Specific Performance—Costs.

Action to recover \$390 which the plaintiff had paid to the defendant upon a contract for the purchase of land, and for rescission of the contract, or, in the alternative, for specific performance.

The action was begun on the 19th October, 1914; the plaintiff alleging that he was an infant, and suing by his next friend.