

value of the lots liable to assessment for the proposed improvement: sec. 12; that the appellants owned more than one-half in value of the lots liable (according to their contention) to be specially assessed for this improvement, and that the petition was not signed by them, and hence the petition was invalid and the by-laws had no legal foundation.

The respondents contended that the lands of the appellants were not liable to assessment for local improvements, being exempt by the Upper Canada College Act, R.S.O. 1914 ch. 280, sec. 10; and the appellants argued that their lands were liable to assessment for local improvements under sec. 47 of the Local Improvements Act, coupled with secs. 5 and 6 of the Assessment Act, R.S.O. 1914 ch. 195.

The learned Judge was of opinion that the collection of money for local improvements, pursuant to the Assessment Act, is taxation; and understood it to be admitted that Upper Canada College is not a school maintained in whole or in part by a legislative grant or a school tax, and that it is a college or seminary of learning. The provisions of sec. 47 would therefore apply to render the appellants' lands liable to assessment for local improvements. But sec. 10 of the Upper Canada College Act exempts the appellants broadly from all taxation, including local improvements, if lands of the Crown are likewise so exempt. (Crown lands are exempt from taxation by sec. 5 (1) of the Assessment Act.) The two sections being in conflict, the Court had to determine which of them should govern. The general Act provides that a college or seminary of learning shall be liable to taxation for local improvements; the Upper Canada College Act makes that particular institution an exception to the general rule; the rule as to exceptions should govern; and, therefore, the appellants were not liable to taxation for local improvements.

Reference to Craies' Statute Law, 4th ed., p. 469; Ontario and Sault Ste. Marie R.W. Co. v. Canadian Pacific R.W. Co. (1887), 14 O.R. 432.

It was argued that the later general Act repealed the earlier special Act; but the rule of construction above applied (if the provisions in a special Act and in a general Act on the same subject are inconsistent, and the special Act gives a complete rule on the subject, the expression of the rule acts as an exception of the subject-matter of the rule from the general Act) must override the argument; and, apart from the rule, the argument of the appellants was not sound.

The by-laws appeared to be valid, and this action not well-founded.

*Appeal dismissed with costs.*