

met, in the case of this community, by the provisions of sec. 2 of the Act of incorporation and the amending Act. That these proceeds may be applied to the maintenance of the members of the corporation is not inconsistent with this view, for the members of the community are the instrument by which the charitable work I have mentioned is directed and carried on.

The only question as to which a doubt might arise is as to the boarding of the pupils attending the schools which are carried on in the convent building. That is but a very small part of the work of the community, and, for the purposes of clause 9 of sec. 5, is, I think, immaterial, as the dominant or principal use of the building is for charitable purposes. The carrying on of that part of the work of the community may be in itself charitable; but, if not, the fact that it is carried on cannot deprive the institution of its character of a charitable institution conducted on philanthropic principles, and not for the purpose of profit or gain. . . .

[Reference to *Salem Lyceum v. Salem* (1891), 154 Mass. 15-17; *Phillips Academy v. Andover* (1900), 175 Mass. 118, at p. 126.]

This conclusion is not inconsistent with the answers of the Court of Appeal to the questions stated for its opinion as to the liability of the property of the Sisters of the Congregation of Notre Dame to taxation (1912), 3 O.W.N. 693. In that case the question arose, not on clause 9, but on clause 3a, of sec. 5, which has application to seminaries of learning, and expressly provides that the grounds and buildings "shall be exempt only while used and occupied by the seminary." In that case the view of the Court was that the part of the building occupied by pupils attending the normal schools, and who were not pupils of the seminary, was not exempt from taxation. No such qualification is contained in clause 9; and that decision has, therefore, no application to the questions which are to be dealt with on this appeal.

For these reasons, I am of opinion that the appeal should be dismissed with costs.