

son d'éducation ? *An educational institution ?*

Et parce que ces institutions sont privées, appartiennent à un particulier, n'ont-elles pas autant de droits qu'une institution semblable qui serait sous le contrôle d'une corporation ?

Sans doute, et ces motifs me sembleraient très-puissants en législation. Mais sont-ils bien fondés en loi ? Là est la question.

Il est assez difficile de trouver des autorités et surtout des précédents sur le point : aux Etats-Unis, chaque Etat a sa législation particulière sur les exemptions de taxes et chaque législation a employé des termes différents.

La loi qui me paraît le plus ressembler à la nôtre, est celle de l'Etat de New-York : elle est dans les termes suivants :

"The following property shall be exempt from taxation :

"40. Every building erected for the use of
"a college, incorporated academy, or other
"Seminary of learning, every school-house...."

Sous l'opération de cette loi on a maintenu que :

"Exemptions from taxation of educational
"property are held not to include *private*
"schools, nor the property devoted to their
"use."

Hilliard on Taxation, Ch. 3, § 31.

Les tribunaux ont aussi décidé en ce sens.
3 Sandford Rep. p. 409.—*Clegaray v. Jenkins*.

Le juge Paine en rendant jugement, s'exprime dans les termes suivants :

"It is urged on behalf of the plaintiff, that the premises are a seminary of learning, within the meaning of this statute. It is very questionable, however, to say the least, whether upon a just construction of it, boarding-schools of this description, are comprehended within its letter or spirit.

"This school was established by private enterprise, is under no legal or public control, and is no more of a public character than any boarding-house, or other private property used for the accommodation of the public. On the other hand the institutions among which seminaries of learning are classed in this statute, are not merely of a public character, and under the management and control of the public, but are incorporated and endowed by the State.

"The clause is : 'Every building erected for the use of a college, incorporated academy,

or other seminary of learning.' The maxim *noscetur a sociis* appears to be applicable here, and to limit the exemption from taxation to such seminaries alone as are incorporated. The expression was, no doubt, intended, such incorporated institutions of this description, as might not be properly called colleges or academies.

"Neither does it appear to us that the school in question is any more within the spirit than the letter of the statute.

"We certainly do not mean to detract from the great responsibility and usefulness of this and similar schools : but taxation is designed to be an equal burden upon all : and if any inequality is allowed to exist, it is supposed to be in favor of the poor rather than of the rich. Boarding-schools, however, are not within the reach of the poor.

"Their children live in such accommodation as can be provided for them at home, and are taught at schools that are common to all, and which are expressly exempted from taxation. If boarding-schools, therefore, were exempted from taxation, it would be exclusively for the benefit of the rich."

3 Sandford Rep. p. 413 et seq.

Une décision dans le même sens a été rendue par la Cour d'Appel de l'Etat de New-York, en 1855.

3 N. Y. Rep. Kerman, p. 220.

So a grammar school kept by a person at his own risk and on his own account, is not "a college, academy or seminary" within the exemption of the (N. Y.) tax act of 1851.

Hilliard, on Taxation.—Ch. 3, § 31, p. 88.

But buildings erected, kept, and appropriated for the use of a literary and scientific institution, and in which a corps of teachers has been engaged in teaching pupils in all the branches of education usually taught at colleges, are exempt from taxation under the (Ind.) act of 1861, although the institution is conducted on private account and the earnings are applied to the personal benefit of the individual proprietor.

Hilliard loc. cit. Et il cite 24 Ind. R. 391. Mais il ne cite pas les termes de l'acte de 1861.

Les termes dont se sert notre statut : "Toutes maisons d'éducation" ; "*Every educational institution*," me semblent indiquer