

56	508
69	446
56	508
74	540
74	545

Mar. 21, }  
1876. }

## WARDE v. MANCHESTER.

Lands and buildings used exclusively for the purposes of an academy or seminary for the instruction of females, agreeably to the faith and practice of the Roman Catholic church, and for dormitories and convenient out-buildings in connection therewith, are exempted from taxation by the provisions of Gen. Stats., ch. 49, sec. 2.

## HILLSBOROUGH COUNTY.

PETITION for abatement of taxes. The case was referred to a commissioner to report the facts, who subsequently made report as follows:

"I find the following to be the material facts involved in said cause; that is to say, I find and report, that, in the assessment of the public taxes by the city authorities of Manchester for the year 1873, a tax of sixty-two dollars and fifty cents was assessed upon a lot of land, on the corner of Beach and Laurel streets, in said city, known as lot 1306, and a tax of fifty dollars upon the lot adjoining, known as lot 1307, it being stated in the record-book of assessments that the owners of said lots were unknown, and the ownership of said lots being, in fact, unknown to the assessors at the time of the assessment; that said lot 1306 was purchased in 1870 by the Rev. Wm. McDonald, then and ever since pastor of St. Anne's church in said Manchester, and a conveyance taken to the petitioner by the name of Maria Theresa F. X. Warde, and the purchase-money for said conveyance paid from funds belonging to a religious order or association connected with said church, of which the petitioner was and has ever since been the recognized lady superior or head; that neither said church nor religious order or association is organized as a corporation under the laws of this state, or of the United States, but according to the forms and methods of the Catholic church, for the purposes of religious worship, and of maintaining religious institutions, agreeably to the faith and practice of that church; that said lot 1307 was purchased in 1869, and paid for in like manner, and a conveyance thereof taken to said Warde by the name of Frances T. Ward; that, prior to said purchase in 1869, an academy or seminary for the instruction and education of females had been established, and was and has ever since been maintained upon a lot adjoining said lots 1306 and 1307, under the particular supervision of the petitioner as the 'Mother Superior' of said order or association designated the 'Sisters of Mercy,' the funds for the support of said establishment being derived mainly from the tuition fees and charges for the board of pupils educated at said institution; that the educational course in said academy comprises all the branches of instruction, useful and ornamental, usually included in the academic course of the higher seminaries for the finished education of young ladies; that, in addition thereto, the pupils are carefully instructed in moral and relig-

ious principles, as understood by the adherents of the Catholic faith ; that said two lots were purchased for the purpose of using the same, in connection with said educational institution, as an enlargement of the establishment, for the accommodation of a greater number and of a different class of pupils, the said lot 1306 and the buildings thereon being used exclusively as an academy for day scholars, not boarders, at the establishment, and the other lot, 1307, and buildings thereon, being used for dormitories for the pupils and teachers and others, boarders or having their homes at the institution, and necessary and convenient outbuildings,—and ever since they were purchased they have been so used ; that due application was made to the assessors of said city to abate said taxes, which was refused, and that said petitioner is not precluded from maintaining said petition by reason of any neglect to comply with the law.”

The circuit court—CUSHING, C. J., of the superior court, presiding—ordered, *pro forma*, that the tax be abated according to the prayer of the petition.

To this order the defendants excepted, and the questions thus raised were transferred to this court.

*Salloway & Topliff*, for the petitioner.

*Briggs & Huse* and *J. P. Bartlett*, for the city of Manchester.

\* FOSTER, C. J., C. C. This property is devoted exclusively to the purposes of a seminary of learning, the educational course of which comprises all the branches of instruction, both useful and ornamental, usually included in the academic course of the higher seminaries for the finished instruction of young ladies. In addition to this, the pupils, we are told, are carefully instructed in moral and religious principles, as understood by the adherents of the Roman Catholic church.

Notwithstanding by the policy of our fathers, as expressed in their bill of rights, Art. 6, the protestant religion is regarded with peculiar favor, still every denomination of Christians, demeaning themselves quietly and as good subjects of the state, is declared to be equally under the protection of the law.

Protection and taxation are reciprocal. Our constitution prescribes the duty of legislators and magistrates, “in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools ; to encourage private and public institutions for the promotion of \* \* arts, sciences, &c., \* \* to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry, economy, sincerity, sobriety, and all social affections.” Const., art. 83.

In the performance of this prescribed duty, the legislature has seen fit to provide for the exemption from taxation, without distinction of

---

\* CUSHING, C. J., having presided at *nisi prius*, did not sit.

sect, denomination, or party, all houses of public worship, school-houses, and seminaries of learning. Gen. Stats., ch. 49, sec. 2.

We live in an age three hundred years later than the eve of St. Bartholomew and the fires of Smithfield. The fruits of the age, grown from the rough but kindly soil where our fathers planted good seed, are charity and toleration. They hoped their children might possess, enjoy, and practice these virtues, precious in their estimation, because to them their grace and beauty had been denied; and, because we have regarded the precepts of our fathers, the laws of this generation encompass, encourage, and protect all classes alike.

So long as people behave themselves in a peaceable and orderly manner, the doors to intellectual culture, enjoyment, and progress stand wide open. It is none of our business, in such a case, whether the lady superior of the sisters of mercy upholds the dogmas of the Romish church, or inculcates the doctrine of universal salvation after the most liberal sort of protestantism. It would be a reproach to us if it were otherwise, and, happily, under the law it cannot be.

The law requires that these taxes shall be abated.

LADD, J., and RAND, J., C. C., concurred.

*Exceptions overruled.*

56	510
69	69
69	396

Mar. 21, }  
1876. }

RITCHIE v. GLOVER.

*Landlord and tenant act—Pleading.*

In an action by a married woman, under the landlord and tenant act, the defendant pleaded that the plaintiff's husband, being indebted to him, had theretofore conveyed the premises, through a third person, to the plaintiff, without consideration, and to hinder and delay the defendant in the collection of his debt. *Held*, bad on demurrer.

HILLSBOROUGH COUNTY.

ACTION under the landlord and tenant act to recover the possession of a certain tenement in Manchester. It was originally commenced in the police court, where the defendant pleaded soil and freehold, and it was transferred to this court.

At this term the defendant, by leave of the court, filed the plea of *nul disseizin*, and also the following: And for a further plea, by leave of the court, the said defendant says the plaintiff her action aforesaid thereof against him ought not to have and maintain, because, he says, that on April 21, 1875, one James Ritchie, Jr., husband of the said plaintiff, was, and has continued hitherto, indebted to the said defendant in a