

Court of Errors and Appeals of New Jersey.

THE TOWNSHIP OF DENVILLE IN
THE COUNTY OF MORRIS,
Appellants and Prosecutor,

VS.

ST. FRANCIS SANITARIUM &
STATE BOARD OF TAXES &
ASSESSMENTS,
Appellees and Respondents.

On Certiorari.
On Appeal from
Supreme Court.

BRIEF ON BEHALF OF APPELLANT.

Statement of Facts.

This is an appeal from the judgment of the Supreme Court, affirming the order of the State Board of Taxes and Assessment, fixing and determining the assessment to be made on the real and personal estate of St. Francis Sanitarium in the Township of Denville, Morris County, New Jersey. The assessor of said Township assessed the said property for the year 1914, at the sum of \$68,800.00. This assessment was apportioned as follows: land, \$12,300.; personal property, \$2,500., improvements \$54,000. (1-2-18). The Morris County Board of Taxation reduced the assessment as follows: real estate, \$10,820, personal estate, \$750 (18). Said Township appealed from the ruling or order of the Morris County Board of Taxation to the State Board of Taxes and Assessment, which Board exempted

from taxation the church, parsonage, cemetery, and building used as a sanitarium or hospital and five acres of land, and assessed the remainder of the property as follows: Land, \$12,300.; improvements, \$5,700; personalty, \$750 (18). The exemption made was based on the determination that the property exempted was exclusively used for purposes considered charitable under the Common Law and within the provisions of the Tax Act of 1903. P. L., 1903—Sec. 3, Sub-division 4 (as amended P. L., 1913, p. 570).

The title of the property concerned in this appeal, is in the Sisters of the Sorrowful Mother, a corporation of the State of Wisconsin and the Sanitarium is conducted by members of that order, although locally known and advertised as "St. FRANCIS SANITARIUM". The writ of *certiorari* in this case erroneously describes "St. Francis Sanitarium" as a corporation.

The property consists of two hundred and three acres of land in the Township of Denville, Morris County, New Jersey. On it are erected five buildings (15), three of which are two and one-half stories high and two two stories high. The larger building is used as a sanitarium and for sleeping and eating rooms (24), in the next building the third floor is used for sleeping rooms, the second floor for religious services and the first for a sisters' dining-room (26); there is also a sisters' building (27). The buildings are used for sickly people, it is not a hospital, but is for weakened people and nervous people (24). People are taken without pay if they ask for it (25), but they do not advertise for charity patients (25). In the winter there are twenty to twenty-five and in the summer seventy to eighty patients (27). There is now but one charity patient and two or three who partly pay (25). \$1,000.00 was devoted to free use (35); \$30,000.00 to \$40,000.00 are the gross receipts (35), and the expenses were not put in the case (36). The Sisters borrowed \$50,000.00 to purchase the land and buildings (34), but whether the

whole sum of \$50,000.00 has been repaid is not remembered by the Sister Superior (27-28). The profit, however, is returned to the Mother House located in Wisconsin, which has homes for orphans and hospitals in Oshkosh, Rhinelander, Marshfield, Wisconsin, and other places (29); all the money made in the various institutions is not for the individuals, but used for the extension of the work (33).

The Sisters of the Sorrowful Mother are incorporated under the laws of the State of Wisconsin (28) and the title of the property is in its name.

The members of the order conduct the Sanitarium without compensation (29).

Reasons.

1. NO PORTION OF THE PROPERTY OF ST. FRANCIS SANITARIUM ASSESSED BY THE ASSESSOR OF THE TOWNSHIP OF DENVILLE IN THE COUNTY OF MORRIS FOR THE YEAR 1914 IS SUBJECT TO EXEMPTION FROM TAXATION UNDER THE LAWS OF THE STATE OF NEW JERSEY.

2. NO PORTION OF THE SAID PROPERTY EITHER REAL OR PERSONAL ASSESSED BY THE ASSESSOR OF THE SAID TOWNSHIP OF DENVILLE IN THE COUNTY OF MORRIS AGAINST THE ST. FRANCIS SANITARIUM FOR THE YEAR 1914 IS USED FOR CHARITABLE PURPOSES AND EXEMPT FROM TAXATION WITHIN THE PROVISION OF SECTION 3, SUB-DIVISION 4, OF THE TAX ACT OF 1903, AS AMENDED BY THE ACT OF 1913, PAMPHLET LAWS, 1913, PAGE 570.

3. SAID PROPERTY, SO EXEMPTED FROM TAXATION BY THE JUDGMENT OF THE SUPREME COURT AFFIRMING THE DECISION OF THE STATE BOARD OF TAXES AND ASSESSMENT, WAS NOT USED EXCLUSIVELY FOR PURPOSES CONSIDERED CHARITABLE UNDER THE COMMON LAW.

(First and Third.)

1. NO PORTION OF THE PROPERTY OF ST. FRANCIS SANITARIUM ASSESSED BY THE ASSESSOR OF THE TOWNSHIP OF DENVILLE IN THE COUNTY OF MORRIS FOR THE YEAR 1914 IS SUBJECT TO EXEMPTION FROM TAXATION UNDER THE LAWS OF THE STATE OF NEW JERSEY.

3. SAID PROPERTY, SO EXEMPTED FROM TAXATION BY THE JUDGMENT OF THE SUPREME COURT AFFIRMING THE DECISION OF THE STATE BOARD OF TAXES AND ASSESSMENT, WAS NOT USED EXCLUSIVELY FOR PURPOSES CONSIDERED CHARITABLE UNDER THE COMMON LAW.

We submit that while the purpose may be charitable, the use and application of the profits are not charitable under the laws of this State.

In 1913, a supplement to the section of the Tax Act concerning exemptions was passed by our Legislature.

The Act under which the exemption was granted reads as follows:

“All buildings actually used for colleges, schools, academies, seminaries, associations and corporations organized exclusively for the moral and mental improvement of men or women or for religious, charitable, benevolent or hospital purposes, or for one or more such purposes, not conducted for profit; also all buildings actually and exclusively used for public libraries, religious worship or for asylums or schools for feeble-minded or idiotic persons and children, and owned by corporations of this state authorized to carry on such charities; the land whereon the same are situated necessary to the fair use and enjoyment thereof, not exceeding five acres in extent for

each; for furniture thereof and personal property used therein, and the endowment or fund held exclusively for the charitable, benevolent or religious purposes of the corporation owning such buildings; the parsonage and land whereon the same stands to an amount not exceeding five thousand dollars owned by any religious corporation of this state while actually used by the officiating clergyman thereof, * * * also all buildings used exclusively for purposes considered charitable under the common law." * * * "shall be exempt from tax" (see laws 1913, p. 570).

The respondent, by its advertisement (54) solicits the patronage of the general public; it enunciates certain rules to which those seeking admission must conform, and provides for the payment of a substantial sum per day for each patron, *and by its terms the least service requires the least pay, but all service requires some pay.*

In no place is the alleged charitable side of the institution set forth in its circulars, and the case is barren of any evidence where the poor, but weak and enfeebled, of any denomination, are *requested* to come to its hospitable doors for treatment. Charitable patients must *ask* for charity (25-35).

The necessary domestic duties are rendered by the Sisters, who under their voluntary vows of renunciation receive nothing for their services (29).

In the memorandum by the state board it is said:

"the entire income of the institution is used by the corporation to carry on its work, either in this state, or other states, in which it maintains its branches."

The sister Superior testified the income was used in betterments or sent to the Mother Superior in Wisconsin, who used it in locating other branches (29-33).

Apparently not one cent is used for charity or charitable purposes. There being no evidence to the contrary, it is fair to assume that each of the

new institutions is run on similar principles, viz., to use the profit to establish other branches. This is not charity; it is business. If this be permitted under the guise of a charitable use, not thousands, but millions of dollars will soon be invested in these undertakings which in turn will pay nothing, or at least a very small part of the support necessary for governmental and local purposes. It receives the protection of our courts, local police service and all other local protective functions, and in return gives free board to not over three persons a year, and this it is claimed exempts its property from taxation as a charitable institution. It is run at a profit and the profit not devoted to charity, but to purchase and hold valuable lands and improvements in the name of a Wisconsin corporation. This corporation seeks to avoid taxation because its *charter states* its mission to be a charitable one. It is not what its charter states its purpose to be, *but what it does*, that should be the criterion of exemption, as the decisions declare it must be a charitable *use*.

In Thompson's *Executors vs. Norris*, 20 N. J. Eq. 489, at 522, Chief Justice Beasley said:

"I do not understand there is any difference whatever between the common law of England and the law of this State as to what constitutes the legal definition of a charity, and by this common law I mean the system so far as respects this question which has grown up in a series of decisions founded in part, upon ⁴³ Elizabeth C-4 the statute of charitable uses."

In *Mackenzie vs. Trustees of Presbytery of Jersey City*, 1 Robins, 652, at 665, our Court of Errors adopted the decision of *Jackson vs. Phillips*, 96 Mass. 539, at 566, as to what constitutes a charity as follows:

"A charity, in its legal sense, may be more fully defined as a *gift to be applied*, consistently with existing laws, *for the benefit of an indefinite number of persons*, either by bring-

ing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint; by assisting them to establish themselves in life; or by erecting or maintaining public buildings or works, or otherwise lessening the burdens of the government. It is immaterial whether the purpose is called charitable in the gift itself, if it be so described as to show that it is charitable in its nature."

"Of this definition Mr. Perry in his work on Trusts (5th Ed.), 697, has said that it leaves nothing to be desired; and the editors of 5 Am. & Eng. Encyl. L. (2nd ed.) 89, and of 6 Cyc. L. & P. 900, have accepted it as comprehensive and satisfactory. The decisions of the Courts of Massachusetts and New Jersey are not always at one in cases of charities; but, for present purposes, we may give hearty assent to Justice Gray's definition."

See also

Town of Montclair *v.* Montclair Academy,
86 N. J. L. 497.

In support of its decision the State Board of Taxes and Assessment refers to the case of Litz *vs.* Johnston, collector, 36 Vr. 169. It is true that a society whose objects are the *free* education of the young, the conducting of religious services, and the furnishing of spiritual aid and material assistance to a missionary priesthood is an association for exclusively charitable purposes, whose lands and buildings, *so applied* are exempt from taxation. The lands and buildings of the respondent are not so applied but are used to make profit for the corporation, and this profit returned to the Wisconsin Corporation.

In the Litz case the Supreme Court referred to Sisters of Charity *vs.* Township of Chatham, 23 Vr. 373, as one of the decisions upon which it relied for its decision. This decision was overruled in the Court of Errors in Sisters of Charity *vs.* Cory, Collector, in 44 V. 699.

In the case of *Jones vs. Davis*, 3 Dick. 493, the word "profits" received judicial determination, where the court held the profits do not merely imply money, but may consist of unsold portions of property.

If the moneys realized over and above the expense of conducting the respondent's sanitarium are used for the betterment of the buildings, purchase of lands, &c., it is conducted at a profit, because the title of this land vests in a corporation, and represents an income above the expenses.

(Second.)

NO PORTION OF THE SAID PROPERTY EITHER REAL OR PERSONAL ASSESSED BY THE ASSESSOR OF THE SAID TOWNSHIP OF DENVILLE IN THE COUNTY OF MORRIS AGAINST THE ST. FRANCIS SANITARIUM FOR THE YEAR 1914 IS USED FOR CHARITABLE PURPOSES AND EXEMPT FROM TAXATION WITHIN THE PROVISION OF SECTION 3, SUB-DIVISION 4, OF THE TAX ACT OF 1903, AS AMENDED BY THE ACT OF 1913, PAMPHLET LAWS 1913, PAGE 570.

We submit that the property, being owned by a foreign corporation, it is not entitled to exemption from taxation.

The State Board held:

"the circumstances that the legal title is in a trustee and that the *cestui que trust* owes its corporate existence to the laws of a sister state do not militate against the general policy of our state embodied in the act referred to."

Our statute, P. L. 1913, p. 570, specifically declares that the property to be exempt "must be owned by a corporation of this state".

In re Estate of Jane Ann Gopsill, 77 Eq. 215, at

page 217, the Court held that unless the statute exempted foreign corporations, the word "corporations" would be restricted to such as were domestic, and followed the case of Alfred University, Appellant, against William S. Hancock, Comptroller, 3 Robbins, 470.

The Gopsill case was followed by Board of Domestic Missions of the Reformed Church in America against Edwards, decided November 3, 1913, 91 Atl. Rep. 989, where the tax against a foreign corporation was upheld.

Furthermore, no building is actually and exclusively used for a public library, religious worship or an asylum or school for feeble minded or idiotic persons and children.

Under the first paragraph, in order to be exempt, building must be actually used for "a college, school, academy, seminary", or by an "association and corporation organized exclusively for the moral and mental improvement of men or women, or for religious, charitable, benevolent, and hospital purposes, or for one or more of such purposes and not conducted for profit".

It is admitted that the respondent's buildings are not used as a college, school, academy or seminary.

The building in which religious worship is conducted is not used exclusively for that purpose. The services are held on the second floor and the remainder of the building is used for other purposes.

The Court of Errors in *Sisters of Charity vs. Cory, Collector*, in 1906, 44 Vr. 699, reversed *Sisters of Charity vs. Township of Chatham*, 23 Vr. 373, wherein it was held that:

"the statute relating to taxation should be construed not narrowly by its letter, but liberally and in view of its object and spirit"

and held on page 706:

"a grant of exemption from taxation being in the nature of a renunciation of sovereignty

must invariably be construed most strictly against the grantee, and can never be permitted to extend either in scope or duration beyond what the terms of the concession clearly require."

We submit that

- (a) the use is not a charitable one.
- (b) the work is being conducted for a profit.
- (c) the land is owned by a Wisconsin corporation and is not exempt.

The judgment of the Supreme Court should be set aside.

JOHN F. STICKLE,
ELMER KING,
Attorneys of Appellants.

New Jersey Court of Errors and Appeals.

THE TOWNSHIP OF DENVILLE,
Appellant and Prosecutor,

vs.

ST. FRANCIS SANITARIUM and STATE
BOARD OF TAXES AND ASSESSMENT,
Appellees and Respondents.

On *Certiorari*.
On Appeal from
Supreme Court.

BRIEF OF THOMAS J. HILLERY AND EDWARD K. MILLS ON BEHALF OF ST. FRANCIS SANITARIUM, APPELLEE.

This is an appeal from the judgment of the Supreme Court affirming the order of the State Board of Taxes and Assessment.

The writ in this case brought up for review the judgment of the State Board of Taxes and Assessment and the proceedings had in connection therewith. Said judgment fixed the assessment on the property of the Defendant, the St. Francis Sanitarium, situate in Denville Township, Morris County, New Jersey, for the year 1914, and was rendered on the appeal of the Township of Denville from the judgment of the Morris County Board of Taxation. This latter judgment reduced the assessment against the property of the St. Francis Sanitarium from Sixty Eight Thousand Eight Hundred Dollars to Eleven Thousand Five Hundred and Seventy Dollars. The judgment of the State Board of Taxes and Assessment now under review fixed this total assessment at Eighteen Thousand

Seven Hundred and Fifty Dollars. Both the Morris County Board of Taxation and the State Board of Taxes and Assessment made the reductions from the original assessment of Sixty Eight Thousand Eight Hundred Dollars on the ground that certain buildings and the land whereon the same were erected necessary for the fair enjoyment thereof were exempt from taxation under Section 3, Paragraph 4 of, "An act for the assessment and collection of taxes," approved April 8, 1903, Compiled Statutes, page 5079, as amended April 8, 1913 (P. L. 1913, page 570). The judgments of the County and State Boards differed only in regard to the number of buildings entitled to exemption and the value of the land not exempted.

The Sisters of the Sorrowful Mother, a Wisconsin corporation, is the owner of the property in question. This suit, through an oversight, was brought against St. Francis Sanitarium, which is not a corporation but is the name by which the institution at Denville is usually known.

The reasons relied upon by the Prosecutor, The Township of Denville, are three in number.

The second reason advanced is that no portion of the property of the Respondent is used for charitable purposes and exempt from taxation within the provision of Section 3, Subdivision 4, of the Tax Act of 1903 as amended by the Act of 1913, P. L. 1913, page 570. The other two reasons are to the same effect.

Statement of Facts.

No testimony was taken under the *certiorari* proceedings. The testimony taken before the State Board of Taxes and Assessment appears in the printed case, pages 23-52. The facts are stated in the memorandum filed by Mr. Jess as follows:

"The property consists of two hundred and three acres of land, a church, a parsonage, a convent, several buildings used for sanitarium purposes, and a number

of farm buildings. About one acre of the land is used as a cemetery. The title to the property is in the Sisters of the Sorrowful Mother, a corporation of the State of Wisconsin. The certificate of incorporation states that the objects of the corporation are the establishment and maintenance of beneficiary or charitable institutions and the establishment and maintenance of hospitals for the care, treatment or relief of sick, infirm or other persons in need of or wanting care, treatment or relief, and of asylums and other institutions for the care, treatment or relief of insane or feeble minded persons, or both, either in conjunction with said hospitals or beneficiary or charitable institutions, or separate and apart therefrom.

The institution at Denville is employed chiefly in the care and treatment of persons suffering from nervous breakdown, from overwork or shocks, and of those who are convalescing from serious illnesses or surgical operations. Fees are charged patients who are able to pay, and persons who are unable to pay are treated gratuitously. No distinction is made in the admittance of patients as to sex, race or creed. The entire income of the institution is used by the corporation to carry on its work, either in this state or other States in which it maintains branches."

Grounds for Exemption.

The exemption in this case was granted by virtue of Section 3, paragraph 4, of the General Tax Act of 1903 above referred to as amended and especially by virtue of the clause contained therein, namely :—

"also all buildings used exclusively for purposes considered charitable under the common law * * * with the land whereon the same are erected and which may be necessary for the fair enjoyment thereof * * *."

This Section was amended in 1913 (P. L. 1913, page 570), but the amendment does not affect the matters in

controversy and only enlarges the class of property to be exempted. The words above quoted first appear in their present form in the Revision of 1877, the wording being somewhat different from that contained in Nixon's Digest. Since 1877 the list of properties to be exempted has been enlarged but the above quoted wording has remained the same.

The State Board of Taxation found that the corporation, the Sisters of the Sorrowful Mother, was entitled to exemption under the provisions of the above quoted paragraph and other provisions of Section 3, from tax on the church and parsonage, the cemetery, the buildings used as sanitariums or hospitals and the land whereon the same were erected necessary for the fair enjoyment thereof. Said Board found that five acres of land were necessary for that purpose. The balance of one hundred and ninety-eight acres and the farm buildings were assessed for taxation. This determination was based on the finding of fact which has been quoted heretofore in this brief.

It was not contended by the Prosecutor before the Supreme Court that the purposes for which the "Sisters of the Sorrowful Mother" were incorporated and which are set out in the Articles of Incorporation (case 28) were not considered charitable under the Common Law, nor was it seriously urged that the buildings and lands of the St. Francis Sanitarium exempted from taxation were not used for such charitable purposes.

Sisters of Charity vs. Township of Chatham,
23 Vroom, 373.

Sisters of Charity vs. Corey, Collector, 44
Vroom, 699.

The contention is made, however, that The St. Francis Sanitarium of Denville is so conducted that a profit is in fact made and that consequently by reason of this profit the work ceases to be charitable.

It appears from the testimony of Sister Virginia (case 23-36) that St. Francis Sanitarium is managed

by the Sisters of the Sorrowful Mother. That patients are charged for services when they can pay but that patients are taken free or on part pay when they cannot afford to pay the full rates. That there is no distinction as to creed or race.

It also appears that the total amount received has at times exceeded the expenses in the past but that the institution would have been run at a loss if twenty or more sisters had not contributed their services without pay.

The property was acquired by means of an advancement made by the Mother House of about Fifty-Five Thousand Dollars in the form of a loan and this amount has been materially reduced (34) by the Denville Institution but has not been paid and no interest on the loan has been paid (34). During the past two or three years nothing has been sent to the Mother House because the Sisters were building a church on the property and for this purpose they received additional help from the Mother House (31). The Church in question is being erected on the property to take the place of a chapel on the second floor of one of the buildings which is now being used in connection with the institution, and as a church for the people in the neighborhood. This chapel is too small and the church became a necessity.

It does not appear anywhere in the testimony that the Mother House in Wisconsin has received a profit, nor is it a fact. All it has received is part payment of its advancement without interest and during the past two or three years it has made further contributions.

The principle has long been established in New Jersey that the receipt of remuneration for work done does not affect the exemption.

The wording of the amendment of 1913 (P. L. 1913, page 570) on this subject is as follows :—

“The exemption described in this paragraph of a building and land used for charitable, benevo-

lent or religious purposes shall extend to cases where the said building and the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of the beneficiaries using or occupying the said building provided the building is wholly controlled and the entire income therefrom is used for said charitable, benevolent or religious purposes."

The above wording is substantially the same as that contained in Section 3, Paragraph 4, of the Tax Act of 1903. This principle is first recognized by statute in a supplement to the Tax Act of 1846 (P. L. 1901, page 300), but prior to that time it had been recognized repeatedly by the Courts of this State. Without it practically no school, college or hospital and few other charitable institutions could be exempted.

The St. Francis Sanitarium is in fact a convalescent hospital and it might well have been exempted under the hospital clause of the exemption act. The work could not be carried on at all except for the gift of their services by many Sisters who have unselfishly devoted their lives to charity without hope of remuneration.

Beyond paying a portion of their debts the Sisters have devoted the money at their disposal to the erection of a church at Denville. This surely is devoting it to a purpose "charitable, benevolent or religious."

The Ownership of Property in Question by a Foreign Corporation Does not Affect the Right to Exemption.

The State Board in its opinion in reference to this matter said,

"There is nothing in the provision applicable to the situation with which we are dealing that requires ownership by a New Jersey corporat on as a pre-requisite to the exemption allowed," and cites *Litz vs. Johnson*, 65 New Jersey Law, 169.

In the case of *Congregation St. Vincent de Paul vs. Brakeley*, 38 Vroom, page 176, the Court in its opinion in discussing the question of the right of a foreign corporation to an exemption says,

“that it did so exist notwithstanding that the latter society was a foreign corporation is decided by the case of *Litz vs. Johnson*, *supra*.”

In both of the above cases the claim for exemption was based upon provisions identical to those of Section 3, paragraph 4, of the General Tax Act above referred to.

It was argued before the Supreme Court that—

In re Estate of Jane Ann Gopsill, 7 Buchanan, 215 ; and *Alfred University, Appellant vs. William S. Hancock, Comptroller*, 3 Robbins, 470, reversed the above cases. The two latter cases hold in effect that bequests, &c., to foreign corporations are not exempt from taxation. Without going into the reasons why the Court so held, it is obvious that there is no analogy between the two sets of cases. In the transfer tax cases the property goes out of the State and the State therefore receives no benefit therefrom and the reason for the exemption does not exist. In the case of the exemption of property in this State from taxation, which is used for charitable purposes, on the other hand, the benefit to the State and of its inhabitants is identical whether the charity is carried on by a domestic or foreign corporation.

This distinction is recognized in *Alfred University vs. Hancock* above cited. The Court in its opinion quotes from *In re Prime*, 136 N. Y., 347, in part as follows :

“It is the policy of society to encourage benevolence and charity, but it is not the proper function of a State to go outside of its own limits and devote its resources to support the cause of religion, education or missions for the benefit of mankind at large.”

The adoption of a different rule from that laid down in *Litz vs. Johnson* would be unfair, for the property of one institution would be exempt while the property of another institution in the same locality devoted to the same kind of charitable work would be taxed.

It is also urged that Section 3, Paragraph 4, in question provides that property to be exempt must be owned "by corporations of this State." This is not correct.

A clause in Paragraph 4 does provide as follows :

" also all buildings actually and exclusively used for public libraries, religious worship or for asylums or schools for feeble-minded or idiotic persons and children, and owned by corporations of this State authorized to carry on such charities ; "

but it is not claimed that the exemption in question is based on this clause.

A clause similar to the above quoted clause and referring to corporations incorporated under the laws of this State, was contained in the exemption act in force at the time *Litz vs. Johnson* and *St. Vincent de Paul vs. Brakeley* was decided (See General Statutes, page 3320, Section 200).

For the above reasons we submit that the judgment under review should be affirmed.

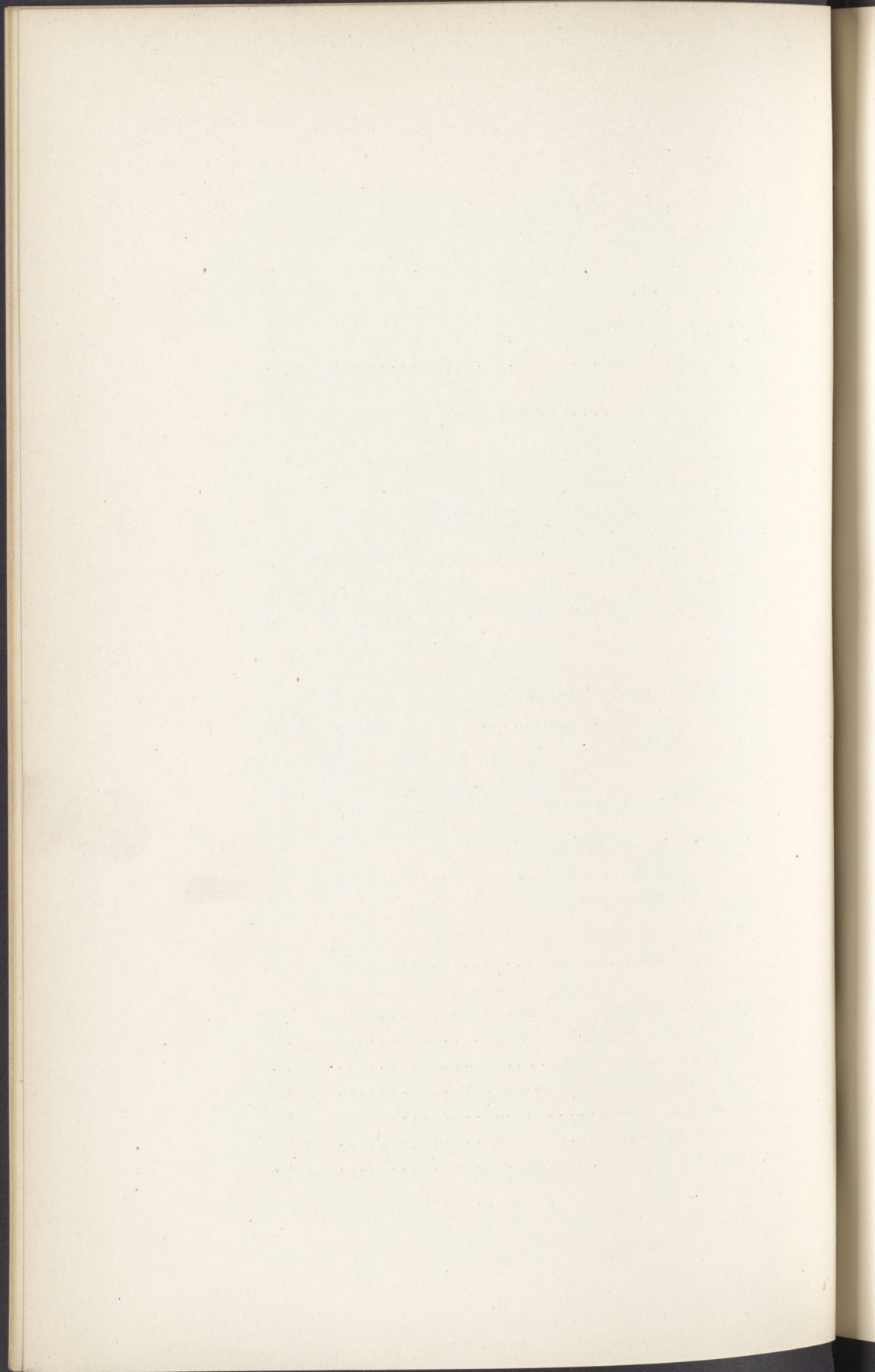
THOMAS J. HILLERY,

EDWARD K. MILLS,

Of Counsel.

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Affidavit of Mr. Ellsworth.

(Filed Oct. 5, 1915.)

10

New Jersey Supreme Court.

THE TOWNSHIP OF DENVILLE,
in the County of Morris,
Prosecutor,

vs.

STATE BOARD OF TAXES AND AS-
SESSMENTS, and ST. FRANCIS
SANITARIUM,
Respondent.

On Application
for Writ of *Cer-
tiorari*.

Affidavit.

20

STATE OF NEW JERSEY }
County of Morris } ss.

JOSEPH ELLSWORTH, of full age, being duly sworn, 30
according to law, upon his oath, deposes and says:
that he is the assessor of the Township of Denville,
and that the St. Francis Sanitarium is assessed for
two hundred and three acres of land, more or less,
situated in the Township of Denville, in the County
of Morris and State of New Jersey; that there are
certain improvements on said land and that he as
the Assessor of the said Township assessed for the
year 1914, the said land at the sum of Twelve Thou-
sand Three Hundred Dollars and personal property 40

Affidavit of Mr. Ellsworth.

at Twenty-five Hundred Dollars; and the improvements as follows:—

	No. 1. Original brick building on property 34 x 47 2 1/2 story	\$5,000
	No. 2. Addition 44 x 52 brick 2 1/2 story, 1st floor used for dining room and parlors, 2nd. floor sleeping rooms.	12,000
	Connection No. 1 20 x 47 connects 2 & 3 frame and shingle 2 1/2 story high	2,000
10	No. 3. Addition 36 x 101 frame and shingle, 2 1/2 story, 1st floor dining rooms and parlors, 2nd. floor sleeping rooms.	11,000
	No. 4. Addition 30 x 64 stone brick and asbestos shingles, 1st floor reception room, doctor's rooms, 2nd. floor sleeping rooms.	15,000
	Connection to 2 connects 3 and 4, 11 x 20 2 1/2 story frame.	1,000
20	No. 5. Addition 27 x 40 frame and shingle sleeping rooms.	2,000
	Porches.	300
		\$48,300

Outbuildings & Barns.

	1 Billiard & pool room 22 x 30.	\$100
	1 store room 14 x 32.	50
	1 ice house 14 x 21.	200
30	1 ice house 19 x 20.	400
	1 house 13 x 27.	50
	1 dwelling house 22 & 26 L 12 x 14.	700
	Water supply, pipe line tank, tower eng. & eng. house & boiler.	1000
	1 barn 24 x 36.	600
	1 barn 22 x 61.	900
	1 barn 20 x 60 34 x 39 L.	1300
	1 shed 20 x 102.	400
		\$5700

Affidavit of Mr. Ellsworth.

Total amount of the said assessment is \$68,800.00.

Deponent further says that the larger building is used as a Sanitarium, containing sleeping and eating rooms, together with laboratory, and other modern conveniences. It is not a hospital, but is used for nervous people. At the time of the hearing on the seventeenth day of June, One Thousand Nine Hundred and Fifteen, there was but one person in the sanitarium without pay, and possibly two or three who partly paid. The sanitarium is run at a profit. There are between forty and fifty persons in the sanitarium, increasing in the summer to seventy or eighty, and decreasing in the winter to twenty or twenty-five. The said sanitarium does not advertise that it receives any other than pay patients;

“Terms: Board, lodging and ordinary service \$14.00 per week; those staying less than a week will be charged \$2.50 per day. The first medical consultation and examination \$2.00. Hydrotherapeutic treatment \$2.00 per week. Massage \$1.00 per application. Vibratory treatment from \$.25 to \$1.00.”

Deponent further says that adjoining the sanitarium is a building, the first floor of which is used as a reception room &c. and the second floor as a church for church services, and the third floor for bed rooms for the guests of the sanitarium. There is also a building which is separate from these buildings used as a home for the priests.

The total income for the year is between \$30,000 and \$40,000.

Deponent further says that the Morris County Board of Taxation reduced the assessment of said assessor as follows: Real Estate, \$10,820; Personal estate, \$750; that thereupon the said Township appealed from said decision, and on the hearing before the State Board of Taxes and Assessment that board

Affidavit of Mr. Ellsworth.

allowed and excepted from taxation the church, parsonage, cemetery, and building used as a sanitarium or hospital and five acres of land, and assessed the remainder of said property as follows:

Land	\$12,300
Improvements.....	5,700
Personalty	750

10 Deponent further says that no exemption should have been allowed to the said St Francis Sanitarium, because the property is owned by a corporation of the State of Wisconsin, and that no part of the same is used for charitable purposes within the laws of the State of New Jersey, and that the exemption from taxation by the State Board of Taxes and Assessment of any part thereof, on the ground the same is conducted or used for charitable purposes, is illegal.

20

JOSEPH ELLSWORTH.

Sworn and Subscribed to before me this twenty-eighth day of September, A. D. 1915. }

NORA C. PRUDEN,
Notary Public
of New Jersey

30

40

Writ of Certiorari.

(Filed Oct. 26, 1915.)

New Jersey, to wit:—

THE STATE OF NEW JERSEY TO STATE
BOARD OF TAXES AND ASSESSMENT
[SEAL] AND ST. FRANCIS SANITARIUM, a corporation GREETING:—

We being willing for certain reasons to be certified of the petition of appeal, evidence, exhibits, judgment and order, lately made and rendered by said State Board of Taxes and Assessment, and the proceedings therein, on appeal to said State Board of Taxes and Assessment from a ruling or order made by the Morris County Board of Taxation by which judgment or order, in fixing and determining the assessment to be made on the real and personal estate of St. Francis Sanitarium, in the Township of Denville, Morris County, New Jersey, said State Board of Taxes and Assessment held that certain real estate owned by said St. Francis Sanitarium was used for charitable purposes and therefore exempt from taxation by virtue of Section 3, Sub-division 4, of the tax act of 1903 as amended by the Act of 1913 (P. L. 1913, page 570). 10 20

We do hereby command you that you send under your seal to our Justices of the Supreme Court of Judicature of the State of New Jersey, on the 25th day of October, 1915 next, the petition of appeal, evidence, exhibits, judgment, order and proceedings aforesaid, together with all things touching and concerning the same, as fully and entirely as they remain before you, together with this writ that we may further cause to be done what of right and according to the laws of this State should be done. 30

Witness William S. Gummere Esquire, Chief Justice of our Supreme Court, at Trenton, this Fifth day of October, One Thousand Nine Hundred and Fifteen.

WILLIAM C. GEBHARDT
Clerk.

KING AND VOGT
Attorneys of Prosecutor.

40

Reasons.

(Filed .)

NEW JERSEY SUPREME COURT.

10	THE TOWNSHIP OF DENVILLE in the County of Morris, Prosecutor,	}	On <i>Certiorari</i> .
	vs.		Reasons.
	ST. FRANCIS SANITARIUM, a Corporation, <i>et al.</i> , Respondent.		

The prosecutor will rely upon the following reasons for setting aside the judgment of the State Board of Taxes and Assessment in the above entitled matter:

1. No portion of the property assessed by the Assessor of the Township of Denville in the County of Morris is subject to exemption under the laws of the State of New Jersey.
2. No portion of the said property either real or personal assessed by the assessor of the said Township of Denville in the County of Morris against the St. Francis Sanitarium is used for charitable purposes and exempt from taxation within the provision of Section 3, Sub-division 4, of the Tax Act of 1903, as amended by the Act of 1913, pamphlet laws 1913, page 570.
3. Said property so exempted from taxation by the State Board of Taxes and Assessment was not used exclusively for purposes considered charitable under the Common Law.

KING & VOGT,

Attorneys of Prosecutor.

Return to Writ of Certiorari.

(Filed Oct. 26, 1915.)

NEW JERSEY SUPREME COURT.

THE TOWNSHIP OF DENVILLE, in
the County of Morris,
Prosecutor,

vs.

ST. FRANCIS SANITARIUM, a Cor-
poration, *et als.*,
Respondent.

10

On Certiorari.

The State Board of Taxes and Assessment, established under the provisions of Chapter 244 of the Laws of 1915, doth herewith send to the Supreme Court of the State of New Jersey the petition, judgment, memorandum, exhibit stipulation and proceedings before the former Board of Equalization of Taxes of New Jersey, and continuing before the said State Board of Taxes and Assessment, in the matter of the appeal of the Township of Denville from the action of the Morris County Board of Taxation in reducing and cancelling the assessments on property of St. Francis Sanitarium, located in the said Township of Denville, County of Morris, as within it is commanded, as by the transcript under the seal of said Board hereto annexed more fully appears.

STATE BOARD OF TAXES AND ASSESSMENT.

By IRVINE E. MAGUIRE,

Secretary.

(SEAL)

Petition of Appeal.

In the matter of the application
 of ST. FRANCIS SANITARIUM
 for the reduction of the tax
 assessment for the year 1914,
 on property situate in the
 Township of Denville in the
 County of Morris and State
 of New Jersey,

}
Petition.

TO THE BOARD OF EQUALIZATION OF TAXES OF NEW
JERSEY

Your petitioner, "The Township of Denville in
 the County of Morris" (P. O. address Denville
 Morris County N. J.) respectfully shows that the
 said St. Francis Sanitarium is the owner of certain
 property situate in the taxing district of "The
 Township of Denville in the County of Morris"
 consisting of two hundred and three acres of land
 with the improvements thereon, which improve-
 ments consist of a number of large buildings and
 also personal property on said premises, and known
 as St. Francis Sanitarium at Denville Morris County,
 New Jersey.

That the said property has been assessed by the
 assessor of the said Township of Denville in the
 County of Morris for the purpose of taxation for
 the year 1914, at valuations as follows, to-wit, Land
 at twelve thousand and three hundred dollars
 (\$12300.00), Improvements at fifty-four thousand
 dollars (\$54000.00), Personal Property at two thou-
 sand and five hundred dollars (\$2500.00), Total at
 sixty-eight thousand and eight hundred dollars
 (\$68800.00).

That an appeal from said assessment was filed by
 the said St. Francis Sanitarium with the Morris

Petition of Appeal.

County Board of Taxation, which appeal said Board disposed of as follows, by reducing the value of the real estate to ten thousand and eight hundred and twenty dollars (\$10820.00), and by reducing the value of the personal property to seven hundred and fifty dollars (\$750.00) and thereby fixing the total amount of the assessment for the year 1914, at eleven thousand five hundred and seventy dollars (\$11570.00), at which assessment so made by the said Morris County Board of Taxation your petitioner is greatly aggrieved because the said assessment of the land and personal property is greatly below their true value, and also because the Improvements are excluded and stricken from the said assessment so made by the said Morris County Board of Taxation, and your petitioner therefore prays that the said assessment so made by the said Morris County Board of Taxation may be set aside and that the assessment made by the assessor of the taxing district of the Township of Denville in the County of Morris may be sustained and affirmed by Your Honorable Body.

Dated March 3rd, 1915.

“THE TOWNSHIP OF DENVILLE IN THE
COUNTY OF MORRIS”.

By LEWIS W. PEER

Chairman of the Committee of
the Township of Denville in
the County of Morris.

Attest.

SAMUEL R. VANORDEN,
[SEAL.] Township Clerk

STATE OF NEW JERSEY, }
County of Morris, } ss. LEWIS W. PEER, Chair-
man of the Township Committee of the Township
of Denville in the County of Morris, the above
named petitioner, being duly sworn according to

Petition of Appeal.

law, on his oath says that he has read the above petition and knows the contents thereof, and that the statements set forth and contained therein are true.

LEWIS W. PEER
Chairman.

Sworn and subscribed before me }
10 this third day of March, 1915. }
JOHN F. STICKLE,
M. C. of N. J.

STATE OF NEW JERSEY, }
Morris County, } ss. ELBERT S. BALDWIN,
being duly sworn according to law on his oath says that he served a copy of the above petition and affidavit on the said "St. Francis Sanitarium" on the sixth day of March 1915, by delivering the same
20 personally to Thomas J. Hillary, attorney of the said "St. Francis Sanitarium," and also on the eighth day of March 1915, by delivering a copy of the said above petition and affidavit at the said "St. Francis Sanitarium," personally to Sister M. Virginia, Superioress, She then and there being the agent and in charge of the said "St. Francis Sanitarium."

ELBERT S. BALDWIN

Sworn and Subscribed before me }
30 fore me this eighth day }
of March 1915. }
JOHN F. STICKLE
Master of Chancery
of New Jersey.

STATE OF NEW JERSEY, }
County of Morris, } ss. JOHN F. STICKLE
being duly sworn according to law, on his oath says that he served a copy of the above petition and affidavit on Edward A. Quayle, President, of the Morris
40

Petition of Appeal.

County Board of Taxation, personally, this ninth day of March, 1915.

JOHN F. STICKLE

Sworn and subscribed before me this 9th day of March, 1915.

ELMER KING,
Master in Chancery
of New Jersey

10

ENDORSED:

Board of Equalization of Taxes
of New Jersey,

Petition of Appeal,

The Township of Denville in
the County of Morris,

20

vs.

St. Francis Sanitarium, *et al.*

Filed March 10 1915

Petitioner's Attorney,
John F. Stickle
Rockaway, N. J.

30

40

Opinion of State Board.

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

10 In the matter of the applica-
tion of the TOWNSHIP OF DEN-
VILLE from the action of the
Morris County Board of Taxa-
tion in reducing the assess-
ment levied for the year 1914
on property of St. Francis
Sanitarium, situate in the
Township of Denville, County
of Morris and State of New
Jersey.

Memorandum
by Mr. Jess.

20

For the petitioner, JOHN F. STICKLE and ELMER KING.

For the respondent taxpayer, THOMAS J. HIL-
LARY.

30 This is an appeal by the Township of Denville
from the action of the Morris County Board of
Taxation in reducing in part and cancelling in part
an assessment upon the property of St. Francis
Sanitarium. The same property was involved in an
appeal by the Sanitarium for an assessment for
the year 1911, levied by the Township of Rockaway,
in the territorial limits of which the property was
at that time situated. In disposing of that appeal,
the Board filed a memorandum, in part as follows:

40 " The assessment in question on this appeal was
levied by the Assessor of Rockaway Township, in
Morris County, against St. Francis Sanitarium, situ-
ated at Denville. The property consists of two hun-

Opinion of State Board.

dred and three acres of land, a church, a parsonage, a convent, several buildings used for sanitarium purposes, and a number of farm buildings. About one acre of the land is used as a cemetery. The title to the property is in the Sisters of the Sorrowful Mother, a corporation of the State of Wisconsin. The certificate of incorporation states that the objects of the corporation are the establishment and maintenance of beneficiary or charitable institutions 10 and the establishment and maintenance of hospitals for the care, treatment or relief of sick, infirm or other persons in need of or wanting care, treatment or relief, and of asylums and other institutions for the care, treatment or relief of insane or feeble minded persons, or both, either in conjunction with said hospitals or beneficiary or charitable institutions, or separate and apart therefrom.

“The institution at Denville is employed chiefly in the care and treatment of persons suffering from 20 nervous breakdown, from overwork or shocks, and of those who are convalescing from serious illnesses or surgical operations. Fees are charged patients who are able to pay, and persons who are unable to pay are treated gratuitously. No distinction is made in the admittance of patients as to sex, race or creed. The entire income of the institution is used by the corporation to carry on its work, either in this State or other States in which it maintains 30 branches. The claim for exemption is based upon the provision of section three, paragraph four, of the General Tax Act, relieving from taxation all buildings used exclusively for purposes considered charitable under the common law, and the land whereon the same are erected, necessary to the fair enjoyment thereof.”

“We are satisfied from the facts as stated, as to which there is no material dispute, that the petitioner is entitled under the provisions of the 40 paragraph quoted and other provisions of section

Opinion of State Board.

three, to exemption from taxation on the church and parsonage, the cemetery, the buildings used as sanitariums or hospitals, and the land whereon the same are erected, necessary to the fair enjoyment thereof. We find that five acres of land are necessary for that purpose. This leaves subject to taxation one hundred and ninety-eight acres of land and the farm buildings located on the opposite side
 10 of the road from the other buildings. * * *

“In reaching this conclusion, we have not failed to consider the contention of the Township Counsel that as the petitioner is not a corporation of this State, it is not entitled to the exemption claimed under paragraph 4, section 3, of the Tax Act. There is nothing in the provision applicable to the situation with which we are dealing that requires ownership by a New Jersey corporation as a pre-
 20 requisite to the exemption allowed. (*Litz vs. Johnson*, 65 N. J. Law 169).”

The facts disclosed at the hearing of the present appeal show no change in condition which should lead this Board to alter or modify these findings as to the legal question presented in this case. Neither can we discover any new or changed provision in Section three of the Tax Act as amended in 1913, which can in any way affect the previous judgment.

The evidence, however, as to the value of that
 30 part of the property which clearly is taxable shows that the assessment under review should be fixed as follows:

Land	\$12,300
Improvements	5,700
Personalty	750
	\$18,750
Total	\$18,750

FRANK B. JESS.

Stipulation of Assessments on St. Francis Sanitarium property.

The Assessment on St. Francis Sanitarium for the year 1914 were as follows:

No. 1. Original brick building on property 34 x 47 2 1/2 story.....	\$5000.	
No. 2. Addition 44 x 52 brick 2 1/2 story, 1st floor used for dining room & parlors.....	12000.	10
2nd. floor sleeping rooms.		
Connection No. 1 20 x 47 Connects 2 & 3 frame and shingle 2 1/2 story high.....	2000.	
No. 3. Addition 36 x 101 frame & shingle, 2 1/2 story, 1st floor dining rooms & parlors.....	11000.	20
2nd. floor sleeping rooms.		
No. 4. Addition 30 x 64 stone brick and asbestos shingles, 1st floor reception room, doctors room, 2nd floor sleeping rooms.....	15000.	
Connection to 2 connects 3 & 4, 11 x 20, 2 1/2 story frame.....	1000.	
No. 5. Addition 27 x 40 frame and shingle sleeping rooms.....	2000.	
Porches.....	300.	
		30
	<hr/>	
	\$48,300.	

Stipulation of Assessments on St. Francis Sanitarium Property.

Outbuildings & barns.

1	Billard & pool room 22 x 30.....	100.
1	Store room 14 x 32.....	50.
1	Ice house 14 x 21.....	200.
1	“ “ 19 x 20.....	400.
1	Bee house 13 x 27....	50.
10	Dwelling house 22 x 26 L 12 x 14.....	700.
	Water supply, pipe line tank, tower Eng. & Eng. house & boiler.....	1000.
1	Barn 24 x 36.....	600.
1	“ 22 x 61.....	900.
1	“ 20 x 60 34 x 39 L.....	1300.
1	Shed 20 x 102.....	400.
		<hr/>
		\$5700.
		<hr/> <hr/>

20 I certify the above is the assessments against the buildings of St. Francis Sanitarium as taken from my field notes.

JOSEPH ELLSWORTH
Assessor.

It is hereby stipulated & agreed that the above assessment may be introduced in evidence, to the same extent as if sworn to by him in open court.

THOMAS J. HILLERY
Atty. of Respondent.

30 JOHN F. STICKLE
ELMER KING
Atty's for Township

ENDORSED:

Bd Taxes & Assessments
Stipulation *in re* Denville Twp.

v.

St. Francis Sanitarium.

Judgment of State Board.

(Filed Aug. 10, 1915.)

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

In the Matter of Appeal of THE
TOWNSHIP OF DENVILLE, in
the County of Morris from
the action of the Morris
County Board of Taxation
in reducing the assessment
levied against property of St.
Francis Sanitarium, located
in said Township of Denville,
for the year 1914.

Judgment.

10

An appeal in writing having been filed with the Board of Equalization of Taxes of New Jersey, duly verified according to the rules of practice prescribed by said Board, by the Township of Denville, in the 20 County of Morris, in which it is alleged that an injustice has been done the said complainant by the action of the Morris County Board of Taxation in reducing the assessment of certain property for taxation for the year 1914, located at Township of Denville in the County of Morris belonging to St. Francis Sanitarium, consisting of 203 acres of land with the improvements thereon and personal property, and that said reduced assessment is lower than the true value of said property subject to taxation; 30

After hearing evidence produced on the part of said complainant, and the said respondent, and the argument of John F. Stickle and Elmer King for the complainant, and Thomas J. Hillery for the respondent taxpayer, and after considering the same, it is on this tenth day of August nineteen hundred and fifteen, at a session of the State Board of Taxes and Assessment, successor to said Board of Equalization of Taxes, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the laws of 40

Judgment of State Board.

1905 and Chapter 244 of the Laws of 1915, that the assessment on the said property of the St. Francis Sanitarium be fixed as follows for the year 1914:

	Original Assessment.	As reduced by County Board of Taxation.	As fixed by State Board of Taxes & Assessment.
Land.....	\$12,300	\$10,820	\$12,300
Improvements..	54,000	Cancelled	5,700
Personal.....	2,500	750	750
10 Total.....	\$66,800	\$11,570	\$18,750

AND IT IS FURTHER ORDERED, That this order be certified to the Collector or Receiver of Taxes of Township of Denville, County of Morris.

_____ President.

GEO. T. BOUTON

FRANK B. JESS

ISAAC BARBER

FREDERIC A. GENTIEU

20

Attest:

State Board of Taxes and
Assessment.

FRANK A. O'CONNOR,

Clerk and Field Secretary.

ENDORSED:

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

In re Appeal of
Township of Denville

vs.

30

St. Francis Sanitarium and
Morris County Board of Taxa-
tion,
for the year 1914.

JUDGMENT.

Decided and Filed

August 10, 1915.

Frank A. O'Connor

Clerk and Field Secretary,

State Board of Taxes and

40

Assessment.

Minutes of proceedings before State Board.

STATE HOUSE, TRENTON, NEW JERSEY,
TUESDAY, MAY 25, 1915.

The Board met at 10:30 A. M.

Present, President Jess, Mr. Holley, Mr. Russel
and Mr. Bouton. 10

* * * * *

The following dates were fixed for hearing ap-
peals:

* * * * *

Thursday, June 17, 1915 Court House, Morristown,
to hear appeals from
Morris County.

* * * * *

COURT HOUSE, MORRISTOWN, NEW JERSEY, 20
THURSDAY, JUNE 17, 1915.

The Board met at 10:30 A. M., for the purpose of
hearing appeals.

Present, President Jess, Mr. Russel and Mr.
Bouton.

The following calendar of appeals was called:

* * * * *

Township of Denville *vs.* St. Francis Sanitarium³⁰
and Morris County
Board of Taxation.

Mr. John F. Stickle and

Case Heard. Mr. Elmer King appearing for the
petitioner, and Mr. Thomas J. Hillery for the re-
spondent taxpayer. The Board heard the testimony
of Wilmer E. Dickerson, Sister Virginia, and Claude
H. Miller for the petitioner, and of Joseph Ellsworth, 40

Minutes of Proceedings before State Board.

Assessor, for the respondents. Decision was reserved, briefs to be filed in two weeks.

* * * * *

STATE HOUSE, TRENTON, NEW JERSEY,
TUESDAY, AUGUST 10, 1915.

The Board met at 10:30 A. M.

Present, Mr. Bouton, Dr. Barber, Mr. Jess and
10 Mr. Gentieu.

* * * * *

A memorandum was submitted by Mr. Jess in the matter of the appeal of Township of Denville vs. St. Francis Sanitarium, *et al.* The memorandum was adopted and judgment was entered accordingly, fixing the assessment for the year 1914 on property of the St. Francis Sanitarium, consisting of two hundred and three acres of land with improvements and personal property thereon, in the 20 following amounts:

Original Assessment.	As reduced by County Board.	Judgment of this Board.
Land.....\$12,300	\$10,820	\$12,300
Improvements. 54,000	Cancelled.	5,700
Personalty..... 2,500	750	750
Total.....\$66,800	\$11,570	\$18,750
* * *	* *	*

Docket.

6127

THE TOWNSHIP OF DENVILLE IN
THE COUNTY OF MORRIS
Petitioner,

vs.

ST. FRANCIS SANITARIUM and
MORRIS COUNTY BOARD OF
TAXATION

Respondent.

1915

Petr's Atty. John F.
Stickle & Elmer King.
Respd't's Atty. Thomas
J. Hillery.

Assessment of 1914.

Property: 203 acres of
land with bldgs. and
personal property, as-
sessed by assessor at:
Land, \$12,300, Imps. 10
\$54,000, Pers. \$2,500,
Total, \$68,800, and
reduced by Co. Bd.
on appeal of owner
to:—Real Est., \$10,-
820, Pers \$750, Total,
\$11,570

Amount, \$11,570.

Real Est. 10,820.

Imps. Cancelled.

Pers. \$750.

Judgment, \$18,750

Land— 12,300 20

Imps— 5,700

Pers— 750

-
- March 10 Petition filed.
May 25 Hearing fixed for June 17 at Morristown
and notice sent.
June 17 Case heard, briefs to be submitted in two
weeks.
Aug. 4 Stipulation filed, on request of Board, 30
showing division of assessments on
buildings.
Aug. 10 Judgment entered and memorandum
filed.

**Certificate of Secretary of State
Board.**

(Filed Oct. 26, 1915.)

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

10 I, IRVINE E. MAGUIRE, Secretary of the State
Board of Taxes and Assessment, established under
the provisions of Chapter 244, Laws of 1915, DO
HEREBY CERTIFY, that the foregoing are true copies
of the petition, judgment, memorandum, exhibit,
stipulation and proceedings before the former Board
of Equalization of Taxes of New Jersey, and con-
tinuing before the said State Board of Taxes and As-
20 sessment, in the matter of the appeal of the Town-
ship of Denville from the action of the Morris County
Board of Taxation in reducing and cancelling the
assessments on property of St. Francis Sanitarium,
located in the said Township of Denville, County of
Morris, as the same are taken from and compared
with the originals filed on the tenth day of March
and other dates A. D. 1915, and now remaining on
file and of record in the office of the State Board of
Taxes and Assessment.

30 [SEAL] IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the official
seal of the Board, at Trenton, this nine-
teenth day of October, A. D. 1915.

IRVINE E. MAGUIRE
Secretary.

Sister Virginia—Direct.

Evidence.

STATE BOARD OF EQUALIZATION OF TAXES.

TOWNSHIP OF DENVILLE, Appellant, vs. ST. FRANCIS SANITARIUM, Respondent.	}	Testimony.	10
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TRANSCRIPT of testimony taken in the above entitled matter before the State Board of Equalization of Taxes, June 17th, 1915, at Morristown, New Jersey, at ten-thirty o'clock A. M.

Present: 20

MR. JESS, President,
 MR. RUSSELL,
 MR. BOUTON.

APPEARANCES:

ELMER KING and JOHN S. STICKLE, ESQUIRES,
 for the appellant.

THOMAS J. HILLERY, ESQ., for the respondents. 30

SISTER VIRGINIA, a witness being duly sworn on behalf of the appellant, testified as follows:

DIRECT-EXAMINATION BY MR. KING:

Q. Sister Virginia, can you tell me how many acres of land you have there?

A. About two hundred acres.

Q. What proportion is tillable?

A. About thirty acres.

40

Sister Virginia—Direct.

- Q. And the other?
 A. We have one hundred acres woodland.
 Q. What kind of wood is on it?
 A. All light wood, small wood.
 Q. That is one hundred and thirty, what is the remainder?
 A. About forty acres is meadow and we have the rest for pasture.
- 10 Q. Forty acres of what?
 A. Of weed and grass, not pasture.
 Q. And then the remainder consists of what?
 A. Gravel Hills and pasture.
 Q. On the land you have buildings, have you not?
 A. We have buildings, yes.
 Q. The larger building is one used for what?
 A. There is a sanitarium, there is a convent for sisters and a church.
- Q. Are each of these separate or all under one?
 20 A. All under one, but there are additions.
 Q. But the larger building, the one you can see from the railroad track with a red tile roof, what is that used for, the larger building itself?
 A. That is the sanitarium.
 Q. "Sanitarium" doesn't mean much to me. If you tell me—
 A. I don't understand.
 Q. Just sleeping rooms and eating rooms there?
 A. Of course we have to eat and sleep.
- 30 Q. But is it in that building?
 A. Yes.
 Q. And you have lavatories in there and other modern conveniences?
 A. Yes.
 Q. This sanitarium, what is it used for, what sort of people do you take?
 A. For sickly people; it isn't a hospital, but it is for weakened people, nervous people.
 Q. Is it exclusively used for your religious de-
 40 nomination?

Sister Virginia—Direct.

A. No.

Q. Do you take in any without compensation?

A. What do you mean?

Q. Without pay?

A. Yes, if they are asked for.

Q. Have you any now in the sanitarium who are there without pay?

A. Yes.

Q. How many? 10

A. There is one entirely free and I think two or three that have paid partly. We have to give them it if they ask us, for we have never refused one single case that asked for charity.

Q. But you don't, as a matter of fact, advertise for these charity patients, do you?

A. No, we don't advertise.

Q. Is this little circular I have here, is this a circular which you have issued (handing paper to witness)? 20

A. That is ours.

Q. Was it the circular issued by you in 1914?

A. Yes.

Q. What is the name of your Order?

A. The Sisters of the Sorrowful Mother.

Q. Of whom you are one, are you not?

A. Yes.

Mr. King: I will offer this circular in evidence.

Circular above referred to received in evidence 30
and marked Exhibit A-1.

Q. In the operation of this sanitarium, do you make a profit on the charges which you have here?

A. We have twenty-six or eight sisters who have no salaries. If we would have to pay those sisters we would not make. Of course, now we pay our debts and make some free and we are building a church at present. That is what we use our money for that is left. 40

Sister Virginia—Direct.

Q. Have you liquidated the indebtedness which you owed to the grantor of the property, when you purchased it?

A. We don't owe any, but we owe the Mother House of the Sisters. We can't pay the rest of it. They help us to build and help us to pay our debts.

Q. Are you permitted to accept compensation for
10 your services?

A. We are not allowed to.

Q. The excess of the receipts above the expenditure from the sanitarium itself you are using to build a church?

A. Yes, building a church, at present.

Q. Where do you now hold the services, your religious services?

A. We have a little church, now, at present.

Q. How many stories does that consist of?

20 A. Second floor.

Q. How many stories does that building consist of?

A. Two or three, I think it is three, and above we have sleeping rooms.

Q. So that a portion of that building is used for sleeping rooms in connection with the sanitarium?

A. We do that when we can't have another.

Q. And the lower floor is used for what?

A. Sisters' dining room.

30 Q. And on the second floor is where you hold the religious services?

A. Yes.

Q. Is that building connected with the sanitarium, has it a physical connection?

A. Yes, they go right through the chapel and the people from the outside come in the outside door to go to chapel. We have entrances from the outside and the inside.

Q. You spoke of another building.

40 A. Which building?

Sister Virginia—Direct.

Q. You said the sanitarium and church and another building. Am I mistaken or have you only those two buildings?

A. The sanitarium and church and Sisters' building.

Q. Is that connected with the chapel building?

A. Yes.

Q. And is it connected with the sanitarium building. 10

A. The sanitarium is connected with the sisters' building and the sisters' building is connected with the chapel building.

Q. How many people have you now in the sanitarium?

A. At present I am not sure. We have maybe between forty and fifty; I am not sure, I couldn't say for certain.

Q. And does the number increase in summer?

A. Yes. 20

Q. And then it runs to how many about?

A. In the winter sometimes we have twenty-five, twenty and so forth.

Q. In the summer would you say you had seventy to eighty?

A. Sometimes we do.

Q. Are the rates that are mentioned in this little pamphlet, are those the rates?

A. That is the rate; that is without anything reduced, but if some would ask us we reduce those 30 rates, for people who aren't able to pay. Those are the rates for the people able to pay.

Q. Did you send away, as a profit from the sanitarium, a substantial sum of money to the persons or the corporation from whom you bought the property, some \$50,000, did you do that?

A. I have sent \$50,000? No, I didn't have so much money.

Q. You have liquidated, however, the indebtedness to the grantor? 40

Sister Virginia—Cross.

A. We have not paid our debts. In fact, the sisters have given us money, we haven't even paid the second interest. Sometimes when we have a little money we send it back. Now, we want to build a church, and the last two years we haven't given them anything, haven't paid our interest. We even got money from them to build.

10 Q. What is your present indebtedness to the parent organization?

A. I don't know that, that is our Mother House. When we have something to send we send the money and when we need it, they send to us.

CROSS-EXAMINATION BY MR. HILLERY :

Q. Sister, you are incorporated as an order under the laws of Wisconsin, are you not?

A. Yes sir.

20 Q. I show you the articles of incorporation, or rather a paper and ask you are those the articles of incorporation, or a copy of them?

Mr. King: I will admit that.

30 Mr. Hillery: I will call the Board's attention to the objects of the incorporation as stated in this. "The purpose and purposes of said corporation shall be and is hereby declared to be the establishment and maintenance of benevolent or charitable institutions and the establishment and maintenance of hospitals for the care, treatment or relief of sick, infirm or other persons in need of or wanting care, treatment or relief, and of asylums or institutions for the care, treatment or relief of insane or feeble minded persons, or both, either in conjunction with said hospital or benevolent or charitable institutions or separate and apart therefrom."

40 Q. Sister, as a member of this Order, what are your views; what do they consist of?

Sister Virginia—Cross.

- A. Our views?
- Q. Your views as Sisters?
- A. Obedience, poverty and chastity.
- Q. Are you permitted, as a member of this Order, to have the possession of any money whatever?
- A. No, not a cent, none of us.
- Q. You said, I believe, in answer to Mr. King, you had now some twenty sisters in the institution?
- A. I guess about twenty-five or eight. There are 10 some helping out who don't belong there.
- Q. And you and the other sisters at Denville, do the work in the sanitarium?
- A. In the sanitarium and the garden work and the house work.
- Q. And the garden work and the farm work, also?
- A. Some farm work.
- Q. And the garden work and the house work?
- A. Yes.
- Q. You don't employ any nurses or help, female 20 help?
- A. Just the male help.
- Q. And the sisters in the sanitarium do all of that work without compensation?
- A. Yes.
- Q. This order, of which you are a member, what is known as the Mother House is located in Wisconsin?
- A. Marshfield, Wisconsin.
- Q. Have they other institutions throughout the 30 United States?
- A. Yes, we have hospitals and homes for orphans.
- Q. Where are some of those?
- A. Oshkosh, Wisconsin, Rhinelander, Wisconsin, Marshfield, Wisconsin, they are all hospitals; Man-kato, Minnesota and Wabasha; orphans' home and hospital at Winstead, Conn. and a hospital in Mexico.
- Q. All of these institutions are under the super-
vision, direct supervision of the Order?
- A. Of the Mother General.

Sister Virginia—Cross.

Q. In Wisconsin?

A. Yes.

Q. And the Denville Sanitarium stands in the same relation to the Mother House as these various hospitals and institutions which you have mentioned?

A. Yes.

Q. And are all of these institutions conducted by the Sisters of the Order in the same manner?

10 A. Yes, all in the same manner.

Q. Mr. King asked you about moneys that were returned to the Mother House or borrowed from the Mother House. When you started at Denville, where did you obtain the money to purchase the farm and to build the first buildings that were constructed there?

A. From Marshfield, Wisconsin.

Q. Do you remember the sum then loaned your institution?

20 A. No, I do not.

Q. Can you give about the amount? As I recall in the original case, it was testified that there was some \$55,000 borrowed from the Mother House. Do you remember that? I think Father Joch testified to that.

A. I don't remember.

Mr. King: I admit that that is true, as if testified to by the witness.

30 Q. I understand, Sister, you can state whether it is a fact, when money is loaned by the Mother institution, as we will call it, it is without interest?

A. Without interest. Sometimes if one institution is able to pay back, it pays it back.

Q. Do you give any security in the way of a mortgage on the real estate, or security of any sort?

A. Our word, as Sisters.

Q. Just your word?

A. Yes.

40 Q. Have you ever had in the Denville Institution,

Sister Virginia—Cross:

surplus funds, enough money over and above what you have spent there and your expenses, to return all you have borrowed from Wisconsin, or do you still owe them money?

A. We, I think owe some. We owe the interest any way. I am only there three years and for the last two or nearly three years we have not sent a cent because we were building a church and they had to send help to build. 10

Q. I understand at the present time you are engaged in building a church on the grounds in addition to the chapel now used?

A. Yes, sir.

Q. This chapel which Mr. King spoke about as being on the second floor of the convent building, state what that is. Is that a separate building?

A. No, it is the convent building.

Q. Does that also satisfy the requirements of the other Catholics, of those who wish to go to church? 20

A. Anyone who wants to come in, the doors are open.

Q. Do you have other people from the neighborhood of Denville who come there Sundays to mass?

A. Yes, we have.

Q. Are services held every Sunday morning?

A. Every Sunday.

Q. And I presume at other times throughout the year and during the Holy days and days when services are required by the Church? 30

A. Yes.

Q. And this church you maintain satisfies the requirements of the neighborhood generally?

A. Yes. Well, of course, sometimes they are packed out in the halls and standing on the stairs.

Q. Is that the reason you are about to build a new church?

A. Yes, it is to allow more people to get in. The people have to hang around on the stairs and the halls upon Sundays. 40

Sister Virginia—Cross.

Q. These buildings, Mr. King spoke about as being connected, they are really separate buildings but connected for convenience by hallways?

A. Yes.

Q. Not actually built as one?

A. No, there was one built after the other. There is one building and then they have built some more to it.

10 Q. Don't you also have on this property a parsonage where the resident priest lives?

A. Yes.

Q. You maintain the chaplain in the sanitarium?

A. Yes, he has his house himself, a little further up.

Q. That is on the other side of the road; he lives by himself?

A. Yes.

20 Q. With reference to this land spoken of, you say you have really under cultivation about thirty acres?

A. I couldn't say for sure, but it is about that.

Q. Would you have the whole farm under cultivation if it was capable of cultivation?

A. There is only gravel and pasture you know.

Q. A large portion of this land lies on the east or north side of the Rockaway River and is woodland, isn't it?

A. One hundred acres woodland.

Q. One hundred acres of purely woodland?

30 A. Yes.

Q. Isn't that largely a growth of chestnuts?

A. Chestnuts, yes.

Q. Is it the piece that the trolley track runs through?

A. Yes.

Q. And then you have a large portion of the farm that lies adjoining the river which is low land?

A. Yes.

Q. That isn't tillable at all?

40 A. No.

Sister Virginia—Cross.

Q. Do you know about how many acres that low, swampy land would consist of?

A. No, I couldn't say for sure how many acres there are.

Q. Then the land adjoining the sanitarium and lying on the north side is largely sand dunes?

A. Gravel pits all over it. 10

Q. Gravel pits, and so forth, and it hasn't been mentioned, but there is also a small cemetery on the land, isn't there?

A. Yes.

Q. To make the point clear, is it the plan of these various institutions which are maintained in various parts of the United States by this Order, of which you are one, is it their object to make money for themselves or for individuals that are connected with the order? 20

A. No; always when we have some money we build something else, another hospital or something.

Q. The plan is, as I understand it, if there is a surplus in this institution, it goes to another where the money is needed?

A. Yes.

Q. And if there is a surplus you simply extend the work?

A. Of course, we always have to have some on hand. The sisters get ill and sick and we have to take care of them.

Q. If there is any eventually, you simply extend the work of the institution?

A. Yes, we take charge of something else.

Q. You insist, sister, that your work is entirely charitable?

A. Yes.

Q. And not for the profit of any person or individual or private benefit or gain of any individual? 40

Sister Virginia—Cross.

A. Yes.

10 Mr. Hillery: I might go into a great many more things. This has been cross examination largely, and I might make the witness my own witness. I don't see at the present moment that any of the testimony that has been offered differs in any respect from the testimony that was before the Board in the former case. I would like to reserve the right, of course, when Mr. King closes his case, to call the Sister again as my witness.

Mr. Bouton: How much money was loaned by the Mother Church to this church?

Mr. Hillery: In the original case, I think it was Father Joch who testified \$55,000 was advanced.

20 Mr. Bouton: That is all that has been advanced?

Mr. Hillery: I think that would constitute all of the money advanced.

Mr. Bouton: How much has been repaid?

Mr. Hillery: Do you know, Sister, how much is due at present?

The Witness: Not very much, but we never paid any interest.

30 Mr. Bouton: Has it been substantially decreased?

Mr. Hillery: I judge from what they say that it has been substantially reduced.

Mr. Bouton: What percentage of the inmates who use the institution are free?

Mr. Hillery: I judge from what the Sister testified this morning,—she said she had one person who was absolutely free and a number at reduced rates.

40 The Witness: And there is two or three that pays part.

Sister Virginia—Cross.

Q. You offer the reduced rates because of circumstances?

A. If they ask, but, of course, if they are able to pay—

Mr. Bouton: But if there is evidence of their inability to pay in whole or in part—

The Witness: We don't refuse them.

Mr. Hillery: Sister says, and I will put her on, if necessary, that during the past year, 1914, they have done about \$1,000 worth of actual free service. I might call the attention of the Board at this moment to the point that the board and care and treatment that is offered to inmates of this institution could never be given at the rates which these sisters charge if the twenty sisters or more were given compensation for their services, so that in that respect they stand in the same relation as a hospital that receives a patient and takes his money if he has it and if he hasn't it treats him without compensation. 10 20

Mr. Bouton: You say about \$1,000 was given free; what is the total income derived?

Q. Sister, do you know what the total income is?

A. For all year around?

Q. Not the net but the total income. Can you give the Board the gross income and then your expenses?

A. I didn't look that up. 30

Q. Approximately what is the total amount of money taken in the institution per year?

A. About between thirty and forty thousand dollars, but there is the expenses.

Q. Between thirty and forty thousand dollars it would aggregate. What are the total expenses of conducting the institution? That is what the Board wants to know.

Mr. Bouton: Not so much that as the ratio. Sister said that the free and partial paid 40

William Elmer Dickerson—Direct.

amounted to \$1,000; what is the ratio of that to the income of those who do pay.

Q. Take the ratio with reference to the net sum received. What are your expenses? If your income is thirty or forty thousand dollars, what are your expenses?

A. I don't know what you mean by expenses.

10 Q. What does it cost to run it?

Mr. King: Would it be as well to present a statement of that and admit the statement as if sworn to by the witness?

Mr. Hillery: Yes, from the books of the company.

WILLIAM ELMER DICKERSON, witness being duly sworn on behalf of the appellant, testified as follows:

20 DIRECT-EXAMINATION BY MR. STICKLE:

Q. Mr. Dickerson, where do you live?

A. Montague.

Q. How far from the Sanitarium?

A. About a mile and a half.

Q. Are you acquainted with the Sanitarium property?

A. Yes.

30 Q. Do you know about how many acres they have?

A. About 200.

Q. How is the land used; what part is tillable?

A. I should think 50 acres.

Q. 50 acres?

A. I should think so.

Q. What is the rest?

A. Meadow and woodland.

Q. Meadow and woodland?

A. Yes.

40 Q. Now, can you tell us about the value of that

William Elmer Dickerson—Direct.

property, that is, the land, I don't mean any improvements, just the land?

A. I should have to divide it up. 50 acres is worth at least \$200 an acre, and I should imagine the rest, I would say another fifty at \$100, and the other 100 that includes the lake, that is worth \$50.00 including the lake.

Q. How long have you lived in the neighborhood there? 10

A. All my life.

Q. How long is that?

A. About 43 years.

Q. Do you know anything about the Sanitarium or how it is conducted?

A. I don't know much about it.

The President: I don't think that the Board wishes to go any further into the question of the fact in this case except counsel are prepared to show some new facts that were not brought out in the previous hearing. I want to say this to counsel, we feel the issue should be confined distinctly to this proposition,—any new facts as to the conduct of this institution, any new facts as to change in condition, showing a higher value for the land that is assessable or any facts which would show that the act of 1913 is applicable and changes the view of the Board previously taken in the matter. In other words, unless this witness knows of his own knowledge some fact peculiar to the conduct of this institution which had not been brought out, we don't care to hear him on that branch of it. 20 30

Q. Have you been treated in the institution?

A. Yes.

Q. Did you pay?

A. Yes.

 William Elmer Dickerson—Direct.

Q. Were you there as a boarder or just for treatment?

A. Just treatment. I was there about half an hour, twice a day for a week.

Q. How much did you have to pay?

A. I can't remember, it is so long ago, about sixteen or seventeen years ago.

10 The President: You say you can't remember?

The Witness: I don't remember what I paid.

Mr. Hillery: This treatment occurred before this case was tried two or three years ago. There is no fact with reference to the time intervening.

The Witness: I went there about sixteen years ago.

The President: I don't think it is disputed that charges are made.

20 Mr. Hillery: Absolutely not.

The President: The point is that the Board had all that information before.

Mr. Hillery: I don't think the facts have changed at all and I don't think Mr. Stickle or Mr. King will insist they have.

30 Mr. King: There is a suggestion made here that by reason of the building at Mountain Lakes, which is adjoining, there has been a tremendous different aspect given to the property, and that has been since the decision of this Board.

The President: As to the value?

Mr. King: Yes, I will put in that.

Mr. Hillery: I won't cross examine unless you think it necessary on these values. I have already fixed the value of this land and there is no testimony of any change, in the last three years from this witness at least.

40 The President: Did this gentleman qualify himself as an expert?

Claude H. Miller—Direct.

Mr. Hillery: He didn't qualify as a real estate expert, simply as a resident of this neighborhood.

The President: We don't, unless he is offered as an expert.

CLAUDE H. MILLER, a witness being duly sworn on behalf of the appellant, testified as follows: 10

DIRECT-EXAMINATION BY MR. KING:

Q. Where do you live?

A. In Denville.

Q. How far is that from the location of the St. Francis Sanitarium?

A. Less than half a mile.

Q. How long have you been familiar with the St. Francis Sanitarium property?

A. All my life. 20

Q. What knowledge have you of real estate values around the St. Francis Sanitarium property?

A. That is part of my business, dealing in real estate.

Q. How long have you been in that business?

A. Ten years.

Q. In what locality?

A. In that immediate locality.

Q. During that time have you received information by hearsay of the value at which other lands 30 have been sold in the territory near to or adjacent to the St. Francis Sanitarium?

A. Yes. I can see the Mountain Lake Place from my home.

Q. Have you also made personal sales?

A. Yes.

Q. How many personal sales have you made?

A. Perhaps ten.

Q. During what time?

A. Within the last ten years. 40

Claude H. Miller—Direct.

Q. And that represents what proportion of the total number of transfers?

A. I couldn't say accurately. There have been 100 houses built at Cedar Lake, which probably represents 100 transactions.

Q. That is owned by a corporation in Jersey City or New York?

A. Yes, and a dozen houses built right in the im-
10 mediate neighborhood of my home.

Q. Where is Cedar Lake in reference to the St. Francis Sanitarium property, how near?

A. It is within a half mile of the narrower land, an air line.

Q. Can you tell the Commission how many houses have been built at Cedar Lake within the last year or year and a half?

A. I can't say.

Q. About how many? Has it been rapid or not?

20 A. Within the last year I don't believe there have been more than four or five.

Q. Directing your attention to 1912, what have you to say about buildings being erected on the Cedar Lake property since that time?

A. There have been a number. I am not in position to say exactly how many. I am more familiar with the territory nearer the Sanitarium property.

Q. What have you to say about the territory near the Sanitarium? Instead of asking questions, tell
30 the Commission what you know about developing property around the St. Francis Sanitarium?

A. There is very rapid development. I have been interested in transactions which resulted in a great many houses being built. I know one property that is right close to the Sanitarium property that sold for \$450.00 an acre for sixteen acres. There is a property owned by the Sanitarium directly across the road from your buildings, which contains I should imagine, ten acres, which I should be very
40 glad to pay \$5,000 for, at the rate of \$500 an acre,

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and the land just described as woodland across the river is adjoining. I don't know what line it adjoins, but it is in the immediate territory of the Mountain Lake development, and as such it is very valuable land, and probably is worth at least \$200 an acre.

Mr. King: Mountain Lake has developed how many houses?

Mr. Hillery: About 174 or five, I believe, from 10 the last report I heard.

Mr. King: Residence houses?

Mr. Hillery: Yes.

Mr. King: Costing how much?

Mr. Hillery: From four to fifteen thousand dollars.

Mr. King: And that has been during what time?

Mr. Hillery: In the last five or six years, I think. 20

Mr. King: Can we allow this to stand as evidence?

Mr. Hillery: I want to modify the testimony with respect to the distance of Mountain Lakes from this territory.

Q. Go ahead and tell the Commissioners anything else that happened since 1912 there as to the value of the property.

A. Well, all of the property in that territory has increased enormously in value. I bought a house 30 for \$600 and sold it for \$2,000 and I bought another for \$625 and I sold it for \$1,800, after I had sold two other tracks to Senator Bigelow from the original property, so that is a fair indication of what is being done? I sold a piece of ground 100 by 300, for \$900, and property that is not nearly as desirable as the Senator's property and nearly half a mile further from the station.

Q. What have you to say about the percentage of 40

Claude H. Miller—Cross.

advancement in the value of real estate in this territory, what percentage would you say would be fair?

A. Well, it ceased to have a value based on farmland. It has become a summer community and in consequence of that it has probably increased from \$100 an acre to \$100 a lot, 50 by 100, 5,000 square feet.

10 Q. About 400 per cent.?

A. Four or five hundred per cent.

Q. What would you say was the fair market value of the land of the St. Francis Sanitarium, without the improvements, what is the fair market value?

A. I should say \$200 an acre.

Q. Straight through?

A. Yes.

The President: You are speaking now with reference to last May?

20 The Witness: Yes, last May.

Mr. Russell: Do I understand that is the value of today, the present time, or a year ago, May, 1914?

The Witness: At that time.

The President: According to your testimony they are increasing very rapidly in value and we want to fix it at that time.

The Witness: The value at that time was that.

30 CROSS EXAMINATION BY MR. HILLERY:

Q. Mr. Miller, you are not in the real estate business as a business, are you?

A. As a business, but not exclusively.

Q. Do you hold yourself out as a real estate dealer?

A. Yes.

Q. You have a sign and an office?

A. I have no sign.

Q. Do you advertise as a real estate operator?

40 A. No,—yes, I do. As a matter of fact, I have letter heads on which that is stated.

Claude H. Miller—Cross.

Q. You are the owner of considerable land in the neighborhood of what is known as the "Diamond Spring?"

A. I own that.

Q. And a very valuable spring?

A. I consider it such.

Q. You are building a hotel right adjoining?

A. Yes.

Q. Largely because of the spring being adjacent 10 to the house and the value of the spring?

A. Largely because of the desirability of the neighborhood for commuters.

Q. If the spring hadn't been there would you have constructed the hotel where you did?

A. I am unable to say.

Q. You don't think you would, do you, honestly?

A. Probably not, because the site itself isn't as valuable as some others, the view and so forth, the elevation.

20

Q. You were speaking of great changes taking place in the neighborhood, Senator Bigelow, for instance, how long is it since he built in this neighborhood?

A. He didn't build, he bought a whole house.

Q. How long since he bought? I know he has been there a number of years.

A. A number of years.

Q. Ten or twelve years?

A. Yes.

30

Q. So it was before this case was heard?

A. His house wasn't any property I was interested in.

Q. I am speaking now about an increased value. This place which was sold at---

A. \$450, an acre.

Q. When was that sale? Has that been since August, 1912?

A. I think so.

Q. What place is that?

40

Claude H. Miller—Cross.

A. The Gill property.

Q. That is on the road to Rockaway, isn't it?

A. Yes.

Q. It isn't adjoining the Sanitarium land?

A. No.

Q. There are a number of properties intervening between the Gill properties and the Sanitarium?

A. A number of small houses. One is on one
10 side of the road, and another on the other. I should think the distance across from one to the other isn't over 100 yards, as I recall it.

Q. Cedar Lake you spoke of as an instance of increasing the value of land in this neighborhood. That is how far from the Sanitarium land?

A. I said I thought it was about half a mile on an air line.

Q. It is a little further to drive, isn't it?

A. Yes.

20 Q. Isn't it at least two miles?

A. No, I don't think so.

Q. Is it over a mile?

A. Probably a mile.

Q. What is the character of the houses about Cedar Lake?

A. A cheap type of bungalow.

Q. Worth a couple of hundred dollars?

A. Not quite as cheap as that, but in my immediate neighborhood they are expensive.

30 Q. Are they there all the year round?

A. No.

Q. Just people who built bungalows on the shore of Cedar Lake?

A. Yes.

Q. About Mountain Lake, you say you can see the development from your property?

A. Yes, I can see three Mountain Lake houses from my property.

40 Q. How far is it from your place, the three you see?

Claude H. Miller—Cross.

A. From my house?

Q. Yes.

A. I should think it was a mile.

Q. Isn't it more than a mile?

A. I mean a mile on an air line.

Q. After you leave the Denville Road on the Denville Turnpike, on the trolley, going toward Boonton, you pass first through the Sanitarium wood-lands, don't you? 10

A. Yes.

Q. They join the road at Denville?

A. Yes.

Q. What property do you pass through before you come to the Mountain Lakes district?

A. I am not familiar with their line.

Q. Doesn't that large tract owned by the Ice Company intervene between the Sanitarium lands and the Mountain Lakes tract? 20

A. There may be a wedge coming in there, but it is practically one tract of land.

Q. Isn't there at least one mile of property between the Sanitarium lands and the Mountain Lakes property?

A. I can't say as to that.

Q. But there is a large tract in there?

A. I don't admit that.

Q. What is the character of that land in and about there owned by the Sanitarium? 30

A. It is woodland, just the same as the Mountain Lakes tract was before it was developed.

Q. Aren't there a great many swamp holes as you pass through?

A. There is a lake there.

Q. How large a lake?

A. Probably 100 yards across; perhaps an acre or two.

Q. An acre or two. Does it adjoin the river?

A. No, that is in from the river. 40

Claude H. Miller—Cross.

Q. Aren't there a number of swamp holes that make it unattainable for building purposes?

A. No, nothing that could not be drained.

Q. Do you know the size of the Mountain Lakes tract?

A. No.

Q. You don't know it was 1,000 acres?

10 A. I do not.

Q. Do you know what they paid for that?

A. I don't know that.

Mr. Hillery: If you will accept my statement, I helped buy some of it,—it ranged from \$15.00 an acre up to fifty and sixty, and I believe some small tracts that were necessary were purchased at a little higher rate, but a good deal of it ranged from fifteen to sixty and seventy dollars an acre.

20

Mr. King: It wasn't worth that, was it?

Mr. Hillery: I don't think it was. They have 1,000 acres. When I was surveying,—Mr. Stickle did some surveying too, in his younger days,—we used to cut up land about five lots to the acre, so in the Mountain Lakes tract there would be in the neighborhood of 5,000 lots available for building purposes and they have conveyed about 174.

30 Mr. King: You are speaking of fifty foot lots.

Mr. Hillery: Yes.

Q. I am bringing these facts to your attention, Mr. Miller. What do you think with reference to the availability of this Sanitarium land for development in the near future?

A. My opinion would be that if the Mountain Lake doesn't want to develop it, somebody else would want to buy it from the Sanitarium and keep
40 it and develop it.

Claude H. Miller—Cross.

Q. Do you know of anybody who wants to buy it?

A. No, because it is generally considered that the property can't be bought.

Q. You don't know anything about that yourself. Did you ever ask the Sisters to sell any land to you?

A. No.

Q. Even this track across the road, you never¹⁰ sought to purchase that?

A. No.

Q. Never asked a price?

A. No, but I should be glad to have an opportunity.

Q. That may be afforded. When you put a price of \$200.00 per acre as the value upon this farm land, do you keep in mind the woodland, the land along the river, the sand lots, and what not, taking²⁰ it as an average?

A. Yes.

Q. You think, as an average, this land in Denville would be worth \$200. an acre?

Q. As a development property, not as a farm.

Q. Are there any farms in and around Denville?

A. I shouldn't say there were any real farms.

Q. Doesn't Mr. Stickle own a farm?

A. He doesn't farm it, it is farm land.

Q. The Denville Sanitarium is a farm, but they³⁰ don't farm but thirty acres, it is the same character of land, isn't it?

A. Yes.

Q. Do you know what he is assessed per acre, Mr. Stickle?

A. I don't know.

Mr. Stickle: My land isn't near that.

Mr. Hillery: It is a good deal nearer than Cedar Lake.

Mr. King: Senator, you have told what the⁴⁰

Claude H. Miller—Cross.

Mountain Lake people bought their property for, tell me how much they get for lots now, or as of May 20th, 1914,—about \$1,500, didn't they?

10 Mr. Hillery: I don't know, Mr. King. Their practice is, and this is hearsay, always to build themselves and sell their building and the land. Their method of development is to put a house on the land and they don't permit anybody else to build houses, so as to preserve the type and character they want. Then they put a mortgage on it, just as much as it will stand, and then they say, "who wants the property?" I haven't any doubt that they get a pretty fair price for the lots after they build the house and sell the adjoining lots.

20 Mr. King: There having been no change in the buildings since the last decision, I think we need not go into that.

Mr. Hillery: That is true.

Mr. King: I think we will waive the question of the personal property. There isn't enough involved to bother with it.

30 Mr. Russell: I would like to ask Mr. Miller a question, whether land, possible of development along the line you have mentioned so restricted and limited, that there is any probability of there being a demand for the development of any particular private property, say such as this under appeal, that would give it a high value.

The Witness: The point is this, my land is developed with reference to the hotel which I own and the river which is one of its very attractive features, accessibility, its electric lights, telephone and public roads. Of course there is no limit to the sale of the West Mountain land in Morris County.

40 Mr. Russell: We are talking about Denville

Claude H. Miller—Cross.

Township, and within a distance of the station not greatly in excess of the distance from the Station of the property under appeal.

The Witness: In the direction——

Mr. Russell: Not direction but distance.

The Witness: I say, in the direction in which the development has gone there is very little land left for sale. I have practically nothing within a mile and a half of the Denville Station. 10
There is very little property for sale there now. This property of the Sanitarium has cut the heart right out of this development and it is still undeveloped property. Because of the development beyond it and its nearness to the station it has become very valuable because nearly all the development is beyond the Sanitarium and the accessibility to the Railroad is what makes development possible. The Sanitarium property is half a mile nearer the Denville Station than most of 20
the property being developed.

Mr. Russell: What about the property near the station that is developed.

The Witness: Well, it is in the village of Denville. It isn't because of the fact that its character has already been established, but a country village doesn't seem to be attractive to city people. This development has been by city people who want to get out in the country, to have a few acres of ground and build a house. 30
They won't go in the center of a village to do that.

Mr. Russell: That it true.

The President: Do I understand you that this land of the Sanitarium is the only land in that neighborhood now available for development?

The Witness: It isn't the only land, but it is the only tract of any consequence. I have perhaps thirty acres or more of which half is so 40

Joseph Ellsworth—Direct.

low it isn't capable of developing. I sold mine.

The President: If we put a valuation of \$200 an acre on that land, \$40,000, as the value as of May 20th, 1914, that will be entirely in accord with your judgment?

10 The Witness: Yes.

The President: And will conform with the general values of land in that vicinity and in that township?

The Witness: Yes; you understand, I base the value on development, not as a value as farm land.

The President: It isn't developed, is it? It is farm land.

20 The Witness: Woodland and farm land. The river bank is woodland and the trees make it particularly valuable, the trees there.

The President: But it is your judgment that if it had been offered for sale and the owner was willing to sell it in May, 1914, he could have found a purchaser willing to pay \$40,000 for the lands without the buildings?

The Witness: Yes, that is my contention.

30 JOSEPH ELLSWORTH, a witness being duly sworn on behalf of the respondent, testified as follows:

DIRECT-EXAMINATION BY MR. HILLERY:

Q. Mr. Ellsworth, you are the assessor of Denville Township?

A. Yes, sir.

Q. Take for instance the farm land owned by Mr. Stickle in the neighborhood of Denville and will you tell us what that is assessed at per acre?

40 A. I can't tell you right off.

Joseph Ellsworth—Direct.

Q. Can you tell from the book?

A. I haven't the book.

Q. Haven't you any recollection of it?

The President: Why go into that? If this assessor will admit that all this property is assessed about at the same basis, \$40.00 an acre —

Q. What is the assessment placed by you upon farm land generally in the neighborhood of Denville? 10

A. The tillable property you mean?

Q. Farm land generally, taking farms which have tillable land and low land and woodland?

A. You want me to make an average?

Q. Yes.

A. We assess tillable land at \$50.00 and the other and at about \$20.00. 20

The President: Do you consider that the fair market value of that land?

The Witness: It seems to be, for farming purposes.

Affidavit.

STATE BOARD OF EQUALIZATION OF TAXES.

10	TOWNSHIP OF DENVILLE, Appellant, vs. ST. FRANCIS SANITARIUM, Respondent.	}	Affidavit.
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STATE OF NEW JERSEY }
 Count of Mercer. } ss.

20 WALTER S. HAMMELL, being duly sworn, according to law, on his oath deposes and says that the foregoing is a true transcript of the testimony taken in the above entitled cause before the State Board of Equalization of Taxes on the 17th day of June, 1915, at Morristown, New Jersey, and that the same is an identical copy of the transcript furnished the State Board of Equalization of Taxes in this matter.

WALTER S. HAMMELL.

Sworn to and subscribed }
 before me this 18th day }
 of October, 1915.

30 [SEAL] EDNA M. MOORE,
 Notary Public of N. J.

Certificate Verifying Evidence.

NEW JERSEY SUPREME COURT.

THE TOWNSHIP OF DENVILLE,
in the County of Morris,

vs.

ST. FRANCIS SANITARIUM, a
Corporation, *et als.*

} On Certiorari.

10

Under the provisions of Chapter 244 of the Laws of 1915, establishing the State Board of Taxes and Assessment, and consolidating therein the Board of Equalization of Taxes of New Jersey and the State Board of Assessors, we hereby certify that the foregoing is a true copy of the testimony on file in this office in the matter of the appeal of the Township of Denville from the action of the Morris County Board of Taxation in reducing and cancelling the assessment on property of St. Francis Sanitarium in the said Township of Denville, said testimony having been taken before the Board of Equalization of Taxes of New Jersey on Thursday the seventeenth day of June, Nineteen hundred and fifteen.

STATE BOARD OF TAXES AND ASSESSMENT.

By L. F. RUSSELL.

30

President.

Dated October 19, 1915.

Exhibit A-1.

ESTABLISHED 1895.

ST. FRANCIS HEALTH RESORT.
KNEIPP WATER CURE.

10

PICTURE

AN IDEAL PLACE FOR REST,
OPEN ALL THE YEAR ROUND.

20 DENVILLE, MORRIS COUNTY, NEW JERSEY,
THIRTY MILES WEST OF NEW YORK CITY,
ON THE DELAWARE, LACKAWANNA
& WESTERN RAILROAD.

UNDER THE DIRECTION AND
MANAGEMENT OF

REV. JOSEPH JOCH.

Resident Physician:
30 DR. M. SCHMITZ.

Consulting Physician:
DR. F. W. FLAGGE.

40

Exhibit A-1.

PROSPECTUS

The fact that the remedial forces of nature play a very important part in the acquisition and maintenance of vigorous health is well attested to by the thousands who hasten to seashore and mountain every summer to rest the overstrained nerves and restore the equilibrium so sadly disturbed by the stress and strain attending our present civilization. 10

It was for this purpose of furnishing an opportunity to those desiring it of obtaining at all seasons of the year the healing balm which nature furnishes that this institution was established.

The grounds comprise over two hundred acres of beautiful rolling country in Morris County, New Jersey, the scenery is diversified by fine forests and stretches of sunny meadows through which winds the picturesque Rockaway River. Numerous lakes 20 in the neighborhood, one of which is on the property, lend additional attraction to the scenery.

From a sanitary standpoint the location (700 feet above the level of the sea) is very favorable, abounding in pure air, pure water and a sandy soil which insures perfect drainage. Every incentive for outdoor exercise is furnished by the interesting objective points in the vicinity. For those who are unequal to long walks, many forms of diversion comprising some of the outdoor sports are provided for on the 30 grounds as well as various indoor amusements.

A special feature of the institution is the application of the principles of Hydrotherapy to the guests desiring this treatment. The salutary influences of the use of water is no modern innovation: it is as old as the history of the healing art itself and the medical profession has been made to realize the value of the scientific use of water through the efforts of eminent medical authorities, both here and abroad. However public attention was drawn to it more 40

Exhibit A-1.

forcibly during the last hundred years by the splendid practical achievements of several great men, pre-eminent among whom stands KNEIPP who may be said to have popularized the water treatment and demonstrated to the satisfaction of thousands that it was a boon to mankind and productive of most beneficial results.

To our present main building we have added an 10 annex consisting of a basement and two stories built substantially of brick and stone. A spacious veranda and pavilion on the South side afford guests at all times and in all conditions of weather a sheltered and pleasant promenade. The new addition will be used almost exclusively for gymnastic and bath purposes.

The gymnasium part consists of two separate rooms: one for men and one for women. The bath room is equipped with a modern hydrotherapeutic 20 apparatus by means of which a rain bath, needle or circular bath, a douche or combinations of douches can be given with absolute precision as to duration, pressure and temperature.

A hot air and an electric light cabinet in an adjoining room are used in conjunction with the regular hydrotherapy

Massage, application and dressing rooms are conveniently located near the douche department.

The aim of those in charge of the Kneipp Water 30 Cure in Denville, is to educate the patient to a simple and natural method of living, as many affections are directly traceable to unnatural methods of life and tyrannous customs imposed upon our day and generation. The peaceful environment of this institution which tends to rest both body and mind, has effected beneficial results in hundreds of cases and infused all with a love and grateful recognition of nature, the greatest factor in the alleviation of suffering and promotion of physical and mental 40 prosperity.

Exhibit A-1.

RULES OF THE INSTITUTION.

(Please Read Them Carefully)

Every well regulated institution must be governed by fixed rules which shall aim to insure the impartial treatment of all who enter irrespective of nationality or creed.

The following rules have been formulated by the management and will be strictly enforced. Those not willing to conform to them are respectfully requested to withdraw before making definite arrangements to remain. 10

1. The meals are taken in common. Breakfast is served from 7:30 to 8 A. M., dinner at 12 Noon and supper at 6:30 P. M. Lunch will be served from 10 to 10:30 A. M. and from 4 to 4:30 P. M. No meals or lunch will be served outside of the regular meal hours. Positively no extras will be served at the table or in the private rooms, in the latter only in cases of emergency. 20

A special diet will be served at the diet table only by order of our physician. The diet table is reserved for guests at the institution: visitors or visiting friends of guests will not be served at this table.

2. For water applications the guests must present themselves punctually at the appointed time: Ladies from 9 to 9:30 A. M. and from 2:30 to 3 P. M. Gentle- 30 men from 9:30 to 10 A. M. and from 3 to 3:30 P. M. No treatment given on Sundays.

No one is allowed in the bathroom excepting those taking applications under the Doctor's orders.

The Bath House at the river is reserved from 9 to 11 A. M. and 2.30 to 6.30 P. M. for the use of those taking a regular course of treatment.

3. Smoking is permitted in the Smoking Room only. 40

Exhibit A-1.

4. The doors of the institution will be closed for the night during the Winter season at 9 P. M. and during the Summer season at 9.30 P. M. and all guests are expected to extinguish the light in their rooms at 9:15 P. M. and 9.45 P. M., respectively. From the hour of retiring until 7 o'clock A. M. all conversation or anything that might disturb or
10 annoy the fellow-guests must be stopped.

5. The time after dinner until 2 P. M. is designed for rest; therefore everyone is kindly requested to refrain from anything that might disturb the peace and comfort of those who wish to benefit by this regulation.

6. Guests will please not go into any room except the one assigned to them.
20

7. Our institution being intended for convalescent and especially for those in need of rest and recuperation we request our patrons in order to preserve the character of the institution which is not a hotel and in their own interest not to extend any invitation to their friends, at any rate to invite as few as possible and their nearest relatives only. Such we will accommodate—as a special favor—with meals, if their arrival has been announced on the preceding
30 day. 75 cents will be charged for each meal. Casual visitors will receive no attention whatever.

8. No laundry work will be allowed in the rooms or bath rooms. Laundry work will be called for and delivered on short notice at reasonable rates.

9. Every one is requested to deport himself in such a manner as not to disturb or annoy his neigh-
40 bors or companions.

Exhibit A-1.

10. Terms: Board, lodging and ordinary service \$14.00 per week; those staying less than a week will be charged \$2.50 per day.

The first medical consultation and examination \$2.00.

Hydrotherapeutic treatment (if desired) \$2.00 per 10 week. For Electric Light Baths an extra charge of 25 cents is made to cover only cost of electricity used.

Massage \$1.00 per application. Vibratory treatment from 25 cents to \$1.00. No special service, care and treatment is given to any one; any attention in emergency cases will be rated extra.

11. Arrangements for ordinary baths are made at the office. 20

12. Conveyances to or from the Railroad Station must be ordered in the Office on the preceding day

13. All bills must be settled at the end of each week in the Office.

14. All guests are requested to deposit their money and other valuables with the Sisters; otherwise the institution will not be responsible for lost or missed articles. 30

15. The Sister Superior must be notified three days before the intended departure of Guests.

16. Private complaints and criticism of one guest to another regarding matters of the institution can never remedy any underlying fault and is not acting justly towards the management; therefore everyone 40

 Exhibit A-1.

is urgently requested to report at once to the Sister Superior any just grievance.

N. B.—In case you decide to come, do not telegraph, as messages are not always delivered in due time.

The institution is about one mile from the depot; if you wish to have a carriage meet you at the station, write in advance and state accurately at what time you will arrive; or you may take the
 10 trolley which passes the station and will bring you within less than half a mile of the institution.

THE SISTERS OF THE SORROWFUL MOTHER.

GUESTS ADMITTED AND CONDITIONS THAT
 HAVE BEEN BENEFICIALLY INFLU-
 ENCED BY THIS METHOD.

Children will not be admitted, neither for treat-
 20 ment nor as visitors.

Contagious cases or such as would endanger the welfare of their fellow-guests, as epilepsy, convulsions, severe hysterical attacks, mental derangements, etc., will be rigidly excluded. Alcoholic cases or such as suffer from conditions following the constant or periodic excess of alcohol are debarred. Our institution is to be recommended in mild cases of anæmia, neurasthenia and nervous-
 30 mild non-malignant character, in circulatory disturbances of a functional nature, to convalescents who need no special care, and especially to those in need of rest and recuperation. Persons enfeebled by over-strain resulting from severe intellectual application, and people who are confined, day by day, the entire year in poorly ventilated workshops or business houses, breathing the impure atmosphere or their surroundings, may be greatly benefited by the hygienic conditions of our location.
 40 Incalculable would be the benefit for our over-

Exhibit A-1.

worked generations, were they to devote a reasonable length of time each year, caring for or restoring their health, instead of going to the luxurious pleasure resorts where often the last fraction of health force is sacrificed in the usual dissipation of such places. If they would undergo the invigorating action of the water from two to four weeks each year in an institution of pleasant location and quiet hygienic environment, live in a sensible natural way, their systems would be toned up and they would return to their business with renewed energy, health and happiness. 10

In order not to misunderstand the character of our institution we wish to make the following explanation: We do not conduct a hospital: incurable cases are not received or retained when recognized, neither are acute bedridden or such cases which require attendance at night: We are not equipped and have no accommodation for that kind of work. 20

On the other hand we wish it thoroughly emphasized that we cater exclusively to people who are desirous of taking our treatment or who come to our institution in quest of health.

Considering all this, it will be best, in order to save you the disappointment of being sent back, to outline your condition past and present, and possibly state the diagnosis of your physician in a letter (to our physician, if you prefer) before coming. You will receive a prompt answer informing you whether your case is an appropriate one for our institution. 30

We do not "guarantee" cures in any case. The institution offers no panaceas or secret methods of treatment, but aims to be a school where is taught a rational hygiene and method of living by practical demonstrations; with these are combined suitable water applications. In this way health-seekers learn the essential principles to obtain and maintain a sound condition of mind and body. 40

Decision of Supreme Court.

(Filed Feb. 3, 1916.)

NEW JERSEY SUPREME COURT.

NOVEMBER TERM, 1915.

10	THE TOWNSHIP OF DENVILLE, Prosecutor,	}	On Certiorari.
	vs.		
	ST. FRANCIS SANITARIUM, a cor- poration, and STATE BOARD OF TAXES AND ASSESSMENT, Respondents.	}	

Submitted November 3rd, 1915.

Decided

20 Before JUSTICES GARRISON, TRENCHARD and
BLACK.

MESSRS. KING & VOGT, for Prosecutor.

THOMAS J. HILLERY, ESQ., for Repondents.

Per Curiam:

The following memorandum was filed by Mr. Jess, the President of the State Board of Taxes and Assessment, fixing the assessment under review:

30 "This is an appeal by the Township of Denville, from the action of the Morris County Board of Taxation in reducing in part and cancelling in part an assessment upon the property of St. Francis Sanitarium. The same property was involved in an appeal by the Sanitarium from an assessment for the year 1911, levied by the Township of Rockaway, in the territorial limits of which the property was at that time situated. In disposing of that appeal, the Board filed a memorandum, in part as follows:

40 "The assessment in question on this appeal was levied by the Assessor of Rockaway Township, in

Judgment.(Filed Feb. 17th 1916.)

NEW JERSEY SUPREME COURT.

<p style="text-align: center;">THE TOWNSHIP OF DENVILLE, Prosecutor,</p> <p style="text-align: center;">* vs. *</p> <p style="text-align: center;">ST. FRANCIS SANITARIUM, a Cor- poration, and STATE BOARD OF TAXES AND ASSESSMENT, Respondents.</p>	}	<p style="text-align: right;">10</p> <p style="text-align: right;">On Certiorari</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---	--------------------------------------------------------------------------------------

The Court having inspected the order made by the State Board of Taxes and Assessment, and the proceedings brought up by the writ of *certiorari* in this cause and the reasons for error assigned, and heard the argument of counsel thereon and maturely considered the same, and not finding any error therein, does order that the said order of the State Board of Taxes and Assessment aforesaid and the proceedings aforesaid be affirmed, with costs, and that the writ of *certiorari* herein be dismissed.

On motion of

THOMAS J. HILLERY,
Attorney of Respondent, 30
St. Francis Sanitarium.

Notice of Appeal.(Filed *Feb 29th 1916* .)

NEW JERSEY SUPREME COURT.

10	TOWNSHIP OF DENVILLE in the County of Morris, Appellant-Prosecutor	}	On Certiorari; On Appeal from Su- preme Court.
	vs.		Notice of Appeal.
	ST. FRANCIS SANITARIUM, <i>et als.</i> Appellee-Respondents.	}	

To THOMAS J. HILLERY, Esq., Attorney for Appel-
 lee-Respondents.

20 Take notice that the prosecutor appeals to the
 Court of Errors and Appeals of New Jersey from the
 judgment rendered by the Supreme Court affirming
 the decision of the State Board of Taxes and Assess-
 ments, determining the amount of assessment for
 the year of 1914 on property owned by St. Francis
 Sanitarium in the Township of Denville, in the
 County of Morris.

KING & VOGT
 Attorneys of Appellant.

30

40

Reasons for Appeal.(Filed *Feb 29th 1916.*)COURT OF ERRORS AND APPEALS OF NEW
JERSEY.

 TOWNSHIP OF DENVILLE, in the
County of Morris,
Appellant-Prosecutor,

vs.

 ST. FRANCIS SANITARIUM, *et als*,
Appellee-Respondents.

 On Certiorari. On
Appeal from Su- 10
preme Court.
Reasons for Ap-
peal.

 To THOMAS J. HILLERY, Esq., Attorney for Appellee-
Respondents.

20

The Appellant will rely upon the following reasons in its appeal to this Court from the judgment rendered by the Supreme Court of the State of New Jersey, affirming the decision of the State Board of Taxes and Assessments in determining the amount of assessment for the year of 1914 on property owned by St. Francis Sanitarium in the Township of Denville in the County of Morris:

1. No portion of the property of St. Francis Sanitarium assessed by the Assessor of the Township of Denville in the County of Morris for the year 1914 is subject to exemption under the laws of the State of New Jersey. 30

2. No portion of the said property either real or personal assessed by the Assessor of the said Township of Denville in the County of Morris against the St. Francis Sanitarium for the year 1914 is used for charitable purposes and exempt from taxation within the provision of Section 3, Sub-division 4, of the Tax 40

Reasons for Appeal.

Act of 1903, as amended by the Act of 1913, pamphlet laws, 1913, page 570.

3. Said property so exempted from taxation by the judgment of the Supreme Court affirming the decision of the State Board of Taxes and Assessment was not used exclusively for purposes considered charitable under the Common Law.

10

KING & VOGT,
Attorneys of Appellant-Prosecutor.

20

30

40 (6187T)

Decision of Supreme Court.

Morris County, against St. Francis Sanitarium, situated at Denville. The property consists of two hundred and three acres of land, a church, a parsonage, a convent, several buildings used for sanitarium purposes, and a number of farm buildings. About one acre of the land is used as a cemetery. The title to the property is in the Sisters of the Sorrowful Mother, a corporation of the State of Wisconsin. The certificate of incorporation states that 10 the objects of the corporation are the establishment and maintenance of beneficiary or charitable institutions and the establishment and maintenance of hospitals for the care, treatment or relief of sick, infirm, or other persons in need of or wanting care, treatment or relief, and of asylums and other institutions for the care, treatment or relief of insane or feeble minded persons, or both, either in conjunction with said hospitals or beneficiary or charitable institutions, or separate and apart therefrom. 20

“The institution at Denville is employed chiefly in the care and treatment of persons suffering from nervous break down, from overwork or shocks, and of those who are convalescing from serious illnesses or surgical operations. Fees are charged patients who are able to pay, and persons who are unable to pay are treated gratuitously. No distinction is made in the admittance of patients as to sex, race or creed. The entire income of the institution is used by the corporation to carry on its work, either 30 in this state or other States in which it maintains branches. The claim for exemption is based upon the provision of section 3, paragraph four, of the General Tax Act, relieving from taxation all buildings used exclusively for purposes considered charitable under the common law, and the land whereon the same are erected, necessary to the fair enjoyment thereof.”

“We are satisfied from the facts as stated, as to which there is no material dispute, that the peti- 40

Decision of Supreme Court.

tioner is entitled under the provisions of the paragraph quoted and other provisions of section three, to exemption from taxation on the church and parsonage, the cemetery, the buildings used as sanitariums or hospitals, and the land whereon the same are erected, necessary to the fair enjoyment thereof. We find that five acres of land are necessary for the purpose. This leaves subject to taxation one hundred and ninety-eight acres of land and the farm buildings located on the opposite side of the road from the other buildings. * * *

10 “In reaching this conclusion, we have not failed to consider the contention of the Township Counsel that as the petitioner is not a corporation of this state, it is not entitled to the exemption claimed under paragraph 4, section 3, of the Tax Act. There is nothing in the provision applicable to the situation with which we are dealing that requires ownership by a New Jersey corporation as a prerequisite to the exemption allowed. (Litz v. Johnson, 65
20 N. J. L. 169.)”

The facts disclosed at the hearing of the present appeal show no change in conditions which should lead this Board to alter or modify these findings as to the legal question presented in this case. Neither can we discover any new or changed provision in Section three of the Tax Act as amended in 1913, which can in any way affect the previous judgment.

30 The evidence, however, as to the value of that part of the property which clearly is taxable shows that the assessment under review should be fixed as follows:

Land.....	\$12,300.
Improvements	5,700.
Personalty	750.
	\$18,750.
Total.....	\$18,750.

For the reasons stated by Mr. Jess in his memorandum, the assessment under review should be
40 affirmed.

