Taxation--Exemption of Charitable and Religious Institutions from State Tax

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pective buyer were true or false because the insured seller, under this broad definition of "theft," would be able to recover from the insurance company under a theft clause in his policy if the representations were, in fact, false. This seems a weak argument—especially in view of the fact that the insurer need only be more specific in wording the terms of its policy in order to protect itself fully.7

A few jurisdictions have adopted statutes which provide, in essence, that one guilty of obtaining by false pretenses shall be deemed guilty of larceny8 or larceny by trick.9 The courts of the three of these jurisdictions in which the question has arisen have held that, under such statutes, an act such as that which occurred in the principal case constitutes a "theft" within the meaning of an automobile theft policy.10 Apart from any consideration of conflicts of laws, this seems a proper solution.

The problem has not yet come up under the present Ohio larceny by trick statute, which includes obtaining property by false pretenses.11

RONALD L. PENNER

TAXATION—EXEMPTION OF CHARITABLE AND RELIGIOUS INSTITUTIONS FROM STATE TAX

In Orthodox Hebrew Board of Education v. Tax Comm'r,1 a religious group sought exemption from the state real property tax for land and buildings which it acquired three days before tax lien day, on the ground that the property was being used for "religious and secular public school

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9 E.g., "Every person who, with intent to defraud another, shall designedly by false pretense obtain from any person any money, personal property or other valuable thing upon conviction thereof shall be deemed guilty of larceny." ARK. STAT. ANN. tit. 41, § 1901 (1947)

10 E.g., "Whoever obtains possession of, or title to, anything of value by a false representation is guilty of larceny by trick." OHIO GENERAL CODE § 12447-1. State v. Singleton, 85 Ohio App. 245, 87 N.E. 2d 359 (1949)


12 OHIO GENERAL CODE § 12447-1.
purposes." The petitioner had arranged prior to tax lien day to have the property remodeled—a necessary step if the property was to be used for such purposes. However, the work was not begun and no actual use was made of the property by the petitioner until after tax lien day. The Ohio Supreme Court affirmed the action of the Board of Tax Appeals denying the exemption.

In *Good Samaritan Hospital Ass'n v. Glander,* the same court reversed the Board of Tax Appeals and granted an exemption on property which the petitioner had bought for use as a nurses' home. In this case, repairs to fit the property for the proposed use were in progress on tax lien day, but the property was not yet in actual use as a nurses' home.

The "strict" view requires that, for a particular piece of property of a charitable, educational or religious institution to be exempt from taxation, the institution must not only own the property, but must also show that the property is actually being used exclusively for a charitable, educational or religious purpose at the time the exemption is sought. Under this view, construction or preparation of a building for future use for a tax-exempt purpose will not entitle the property to a present exemption.

A more liberal view is that it is not necessary for tax exemption that the property actually be in use for the tax-exempt purpose, but that construction or improvement to fit property for a charitable, educational or religious use, in progress on tax lien day, is an equivalent ground on which to grant an exemption. One court has limited this view by holding that it applies only if the construction or improvement work is done in a reasonable time.

Other courts, with no mention of time, say that even if such work has not yet started by tax lien day, if the institution in good faith contemplates it,

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1 155 Ohio St. 380, 98 N.E. 2d 834 (1951).
2 Exemption was sought under OHIO GEN. CODE § 5349, which provides: "Public school houses and houses used exclusively for public worship [and] all lands connected with institutions of learning shall be exempt from taxation."
3 OHIO GEN. CODE § 5671 provides: "The lien of the state for taxes levied for all purposes, in each year, shall attach to all real property subject to such taxes on the day preceding the second Monday in April."
4 Exemption was granted under OHIO GEN. CODE § 5353, which provides: "Real and tangible personal property belonging to institutions used exclusively for charitable purposes, shall be exempt from taxation."
5 Calvary Baptist Church v. District of Columbia, 158 F. 2d 327 (D.C.Cir. 1946); Miami Battlecreek v. Lummus, 140 Fla. 718, 192 So. 211 (1939).
6 Institute of Holy Angels v. Fort Lee, 80 N.J.L. 545, 77 Atl. 1035 (1910); Mullen v. Comm'rs of Erie County, 85 Pa. 288 (1877); Baptist Church v. Pittsburgh, 88 Pitts. L.J. 477 (1940).
8 Hibbing v. Comm'rs of Taxation, 217 Minn. 528, 14 N.W. 2d 923 (1944).