

CORPORATION DUTY.

(48 & 49 VICT. CAP. 51, PART II.)

No. 143.—HOUSE OF LORDS.—BEFORE THE LORD CHANCELLOR (HALSBURY)
LORD WATSON and LORD MACNAGHTEN. 1ST AUGUST, 1890.

THE COMMISSIONERS OF INLAND REVENUE v. FORREST
(INSTITUTION OF CIVIL ENGINEERS).

"Promotion of Science."—*Exemption claimed on the ground that the property and income of the Institution were legally appropriated and applied for the promotion of science, within the meaning of sub-section 3, section 11, 48 & 49 Vict. cap. 51.*

Held, by Lords Watson and Macnaghten, Lord Halsbury, L.C., dissenting, that the primary object of the Institution was the promotion of science in the abstract, and that the property and income were legally appropriated by Charter, and applied in fact to that object; that if the further object of the advancement of the professional interest of members was to be also inferred, it was at least secondary to the main and chief object.

The object for which the Institution of Civil Engineers was incorporated is defined in the Charter as follows:—

"The general advancement of mechanical science and more particularly for promoting the acquisition of that species of knowledge which constitutes the profession of a civil engineer, being the art of directing the great sources of power in nature for the use and convenience of man as the means of production and of traffic in states, both for external and internal trade, as applied to the construction of roads, bridges, aqueducts, canals, river navigation, and docks for internal intercourse and exchange, and in the construction of ports, harbours, moles, breakwaters, and lighthouses, and in the art of navigation by artificial power for the purpose of commerce and in the construction and adaptation of machinery and in the drainage of cities and towns."

According to the byelaws a candidate for election as a corporate member was required to have been regularly educated as a civil engineer, to have been employed or have been in practice himself for five years prior to his election, and at the time of it to be holding a position in one of the branches defined by the Charter as constituting the profession of a civil engineer. Very

similar conditions were imposed upon candidates for election as associates, but candidates for election to the class of associates not entitled to corporate membership were to be qualified by their pursuits to concur with civil engineers in the advancement of professional knowledge.

It was not necessary, however, to become a member of the Institution in order to practice as a civil engineer; on the other hand it was not denied that the professional position of a civil engineer was rather improved than otherwise by the fact of membership. The records of the proceedings which dealt with scientific subjects were printed and distributed to members. No copies were sold to the public, though presentations were made to certain libraries and interested persons.

The taxable property consisted of freehold and leasehold premises in Great George Street, Westminster, and investments in Government and other securities. The exemption claimed was under sub-section (3) section 11 of 48 & 49 Vict. c. 51. which is in favour of property and income legally appropriated and applied for, *inter alia*, the promotion of education, literature, science, and the fine arts. The question at issue was what was the primary object of the Institution, whether it was to promote science, and the cause of science in the abstract, or merely to do so incidentally, and primarily to advance a particular branch of knowledge, so as to enable the members to practise their profession with more success. The case was first heard by a Divisional Court in the Queen's Bench Division, where Coleridge, C.J., and Field, J., held that the latter of the two was the primary object, and that the Crown was entitled to succeed. On appeal, Esher, M.R., and Fry, L.J., took the opposite view, Lopes, L.J., dissenting. The case was then carried to the House of Lords, where the decision of the majority in the Appeal Court in favour of the Institution was upheld by Lord Watson and Lord Macnaghten, Halsbury, L.C., giving his judgment in favour of the Crown. The point involved was a mixed one of fact and law, but the Judges in all three counts approved of the construction placed upon the exempting sub-section by Lord President Inglis (Court of Session) in the case of the "Society of Writers to the Signet v. Commissioners of Inland Revenue," viz., that "the meaning of this clause of exemption is that the property or income shall be, if not exclusively, yet certainly in the main, and as its chief object devoted to the promotion of education, literature, science, or the fine arts." As a result, apart from the immediate issue of the case, the liability of such societies as the Inns of Court, the Incorporated Law Society, and the Faculty of Advocates, &c., &c., was placed beyond doubt.

Counsel for the Crown (Appellants): Sir R. Webster, A.G., and A.V. Dicey (Sir E. Clarke, S.G., with them).

Counsel for the Respondents: Sir Horace Davey, Q.C., and J. F. Moulton, Q.C., (F. R. Y. Radcliffe with them).

Solicitor for the Crown: *Solicitor of Inland Revenue (Sir Wm. Melville)*.

Solicitors for Respondents: *Radcliffes and Cator*.

JUDGMENT

The Lord Chancellor.—My Lords, the question in this appeal is, whether the Institution of Civil Engineers is liable to be assessed in respect of the annual value, income, or profits of their property to the duty imposed by Part II. section 11, of "The Customs and Inland Revenue Act, 1885," or whether their property is entitled to exemption under sub-section (3) of the same section.

It is not disputed that the property is liable to duty unless the exemption applies. The exemption is in these words: "Property which, or the income " or profits whereof, shall be legally appropriated and applied for any purpose " connected with any religious persuasion, or for any charitable purpose, or for " the promotion of education, literature, science, or the fine arts." For the purposes of this discussion it is immaterial to consider the exact meaning of any of the words except the word "science," except, also, so far as the other words may in their collocation or otherwise reflect light upon the true meaning to be given to the word "science."

It is, of course, impossible to contend that the word "science" is to be understood in its widest sense as being equivalent to knowledge, since if it were, the exemption would practically withdraw every institution from taxation, inasmuch as, to use the language of one of the great philosophical teachers of Germany, in his lectures on the vocation of a scholar, "Culture " must not be one-sided, but all sided." And I agree with the Lord Chief Justice, that if such an interpretation were to be given to the exemption "it " would be very difficult to imagine any institution whatsoever which would be " excluded." There is no branch of knowledge, however apparently trivial and unimportant, which may not (nay, which does not) contribute something to the storehouse of "science," so interpreted, I think, therefore, it would be unreasonable to suppose that an exemption so wide as practically to make the Act inoperative could have been in the mind of the legislature.

But in the exemption itself I find, as an additional head of exemption "The Fine Arts;" not *all* arts, it will be observed, but *the fine arts*, I infer, therefore, that the legislature intended that an institution for the promotion of an art, unless it were a fine art, was intended to be subject to taxation. Now, without supposing that the statute contemplated the controversy (now many centuries old) between what was an art and what was a science, I think one may see by the generality of its phraseology, "Education," "Literature," "Science," and the limitation of "The Fine Arts," to the last head of exemption, that it did intend to exclude from its operation all institutions

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which could not broadly be described as being for the promotion of education, literature, science, or the fine arts; that is to say, education generally, literature generally, and science generally.

I do not stop here to discuss the question of whether the exemption would be lost by some additional object or purpose, since I agree with almost all who have considered this question, that the statute would be satisfied if the main purpose and object of the institution were that which the statute considers the subject of exemption.

Now, though I do not mean to say that all the cases under the earlier statute can be absolutely reconciled, yet I think a principle can be deduced from them, which is relevant to the matter in hand. The Zoological Society and the Russell Institution were held not to be within the exemption; and with reference to the fine arts, though music was assumed to be one of the fine arts, a musical institution was held not to be within the exemption, whereas the Linnæan Society and the Birmingham Library were held to be within it.

When one examines the various grounds on which these decisions rested, it would appear that whenever the amusement of the members, as in the Musical Society, amusement though combined with the instruction derived from the study of natural history, as in the Zoological Society, the supply and opportunity of reading the newspapers, as in the Russell Institution, was one of the purposes and objects of the Institution, then the Judges were of opinion that the exemption would not apply. But where, as in the Linnæan Society, the object was purely the promotion of the particular branch of knowledge to which that institution applied itself, or in the case of the Birmingham Library, where the judgment of the Court assumed that literature generally was the object of the Society, then the exemption did apply.

These cases were decided under the Act of 1843, which enacts: "Whereas " it is expedient that societies established exclusively for purposes of science, " literature, or the fine arts should be exempt from the charge of county, " borough, parochial, and other local rates in respect of land and buildings " occupied by them for the transaction of their business, and for carrying " into effect their purposes. Be it therefore enacted," &c., " That from and " after the 1st day of October 1843 no person or persons shall be assessed or " rated, or liable to be assessed or rated, or liable to pay to any county, " borough, parochial, or other local rates or cesses in respect of any land, " houses, or buildings, or parts of houses or buildings belonging to any society " instituted for the purposes of science, literature, or the fine arts exclusively, " either as tenant or as owner, and occupied by it for the transaction of its " business, and for carrying into effect its purposes. Provided that such " society shall be supported wholly or in part by annual voluntary contribu- " tions, and shall not, and by its laws, may not, make any dividend, gift, " division, or bonus in money unto or between any of its members, and

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" provided also, that such society obtain the certificate of the barrister-at-law
" or Lord Advocate as herein-after mentioned."

It is said, however, that the cases under the Act of 1843 ought not to guide us, because of the difference in the two Acts. Now, though the Acts are differently framed, the words which your Lordships have to construe are practically identical. Property legally appropriated and applied for the promotion " of literature, science, and the fine arts " in the one Act corresponds very nearly with a society " instituted for purposes of science, literature, " or the fine arts " in the other. Two differences are suggested: one, that the Act of 1843 was a relief of existing liability to local rates. I agree that such a distinction exists, but I am wholly unable to apply such a distinction as relevant to the matter in hand. All exemptions from taxation to some extent increase the burden on other members of the community, and I confess I cannot imagine the Legislature meant one thing in 1843 by " science," and a different thing in 1885, when it was determined to make corporations which never die pay something in lieu of succession duty.

Neither does the use of the word " exclusively " appear to me to touch the particular point. Baron Parke, in construing the earlier Act, pointed out that the word " exclusively " was not necessary. Can it be said that " property which, or the income or profits whereof " is " legally appropriated and applied " must not be *exclusively* " appropriated and applied " in order to bring such property within the exemption. The omission of the word " exclusively " means nothing, since its existence or non-existence could add nothing to the true construction of the words that are there.

I cannot concur with the argument which has found favour with one of your Lordships, that the condition under which a society obtained exemption under the Act of 1843 was that in some degree it partook of the character of a charitable institution. I think it would be a surprise to the members of, *e.g.*, the Linnæan Society, to hear their Society so described. It is no reflection on the council of the Institution in question that they are desirous to promote the success of their members in the profession to which they belong, and that they wish to promote their success in the best way by supplying them with the best possible professional education.

I am wholly unable to see that there is any difference between the two Acts, both of them involving exemption from public burdens, whether local or Imperial, and both of them using language, which, as I have said, is practically identical; and, through the framing of the Acts being necessarily different, from the fact that one refers to a corporation and the other to societies. The other differences, which I do not think relevant to the subject now under discussion,

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are quite accounted for, without supposing that the word "science" is to receive a different interpretation in the two different Acts.

Assuming, therefore, that the principles I have suggested are to decide the matter, it becomes a question of fact whether in this particular case the Institution is for the promotion of science in the sense in which I understand that word.

In the historical notice, which is part of the case, I find it is stated that "Early in the present century it was desired to found an institution having "for its object the furtherance of professional knowledge," and that the institution was in fact founded by gentlemen who were "impressed with the "difficulties of gaining the knowledge necessary for the diversified practice "of engineering, for promoting regular intercourse between persons engaged in "the profession, to the end that such persons might mutually benefit by the "interchange of individual observation and experience."

My Lords, I have quoted these words, not in the nature of an admission by the society (for which purpose a mere historical sketch would be very unfairly used), but because I think they aptly describe, in fact, both the purpose for which the institution was founded and the practice under it.

The institution itself is for the benefit of persons who are civil engineers, and to facilitate their work, and to instruct them better in their own profession; to enable them the better to perform and practice the art by which they were to make their livelihood. They were to be instructed (the mode of instruction appears to me to be immaterial, whether by lectures, papers read, or the like) in various arts, and in various applications of arts, as to which, except in the widest general sense, which I have already said I do not assume the statute intended, it could not be contended that such instruction was for the promotion of science.

The statement is that: "The persons for whose benefit the "Society has "been formed are defined by its chartered title, 'The Institution of Civil "Engineers.'" As the exact meaning of the words, "Civil Engineers" is very important, and has given rise to much discussion, the council considers it desirable to state the sense attached to them by the Institution.

The Charter defines "the profession of a civil engineer" as "the art of "directing the great sources of power in nature for the use and convenience "of man," and some examples of this definition are given. But it was pointed out by Thomas Tredgold who drew up the "Description of a civil engineer," partly embodied in the Charter, that "the scope and utility of civil engineering will be increased with every discovery in philosophy, and its "resources with every invention in mechanical or chemical science." Consequently since the Charter was drawn, the range of practice of the profession has become much enlarged. Thus the practitioners in this art may now have to do with many classes of works; for example: "1. Works for facilitating and

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“improving internal communications, as roads, railways, tramways, navigation by canals and rivers, bridges, and telegraphs of various kinds. 2. Works connected with the sea coast, and for facilitating communication between the sea and the land, such as harbours, docks, piers, breakwaters, sea-walls, light-houses, etc. 3. Works for facilitating communication across the seas; including naval architecture, iron ship-building, and the construction, and laying of submarine telegraph cables. 4. Works for reclamation, irrigation, or drainage of land; and for the prevention or the regulation of floods, including the improvement of river as arterial drains. 5. Works for cities and towns, such as sewerage, water-supply, light, and street improvements. 6. Large and massive buildings generally, in their scientific and mechanical arrangements. 7. The operations of mining and metallurgy, so far as they involve the application of mechanical science. 8. The design and construction of the mechanical prime-movers, such as steam-engines, water-wheels, and other hydraulic motors, windmills, electric and other engines. 9. The design, construction and adaptation to mechanical appliances of all kinds. 10. The design and manufacture generally of all large and important metallic structures, including artillery and other large munitions of war.”

“This is a comprehensive but no means complete catalogue, and if an estimate is attempted to be formed of the work done under it during the century, and of the effect this work has had on the development of trade and commerce, on finance, on government, on every branch of industry, and indeed on every possible aspect of human interest, it must be admitted that the profession of civil engineering has become truly a great power.” And, in exact accordance with the design which the founders of the Institution had in view, I find premiums have been awarded for such papers as—“modern machine tools and workshop appliances for the treatment of heavy forgings and castings.” “The hydraulic passenger lifts at the underground stations of the Mersey Railway.” “Brickmaking.” The council of the Institution is entrusted, under various trusts, to award prizes or medals to persons who write papers on the subjects with which the Institution is conversant, and although this has only an indirect bearing on what the Institution is, it is, I think, not without its importance as showing the class of subjects which persons who were interested in promoting the interests of civil engineers imagined would be appropriately dealt with by the Institution in question. I find in the subjects for papers what I should have expected to find for an institution of such a character as I have described: “The construction and testing of air locks and shaft tubes for sinking foundations.” “Concrete work under water.” “The manufacture, properties, and use of castings of malleable cast-iron and cast-steel.” “Modern appliances for the consumption of liquid fuel for steam boilers and other industrial uses.” “The

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“ production of heating gas from coal.” “ Compressed oil-gas and its applications.” “ The driving axles of locomotive engines.”

These and many others seem to me to indicate that the real object and purpose of this Institution (which certainly needs no eulogy from me, or from any one else in respect of its usefulness), is to promote the education of civil engineers as civil engineers, to enable them to succeed in their profession, to enable them to take charge of and direct works of the most complicated, difficult, and extraordinary value; such triumphs, for instance, of modern engineering as the Forth Bridge and the like. But all this, to my mind, tends to show that it is a professional society founded for the advantage and in the interests of the profession of civil engineers, supplying most valuable and important means for the training and instruction of that profession, but for the interest and advantage of the members of the Institution, as members of the Institution, and therefore not within the exemption.

To use the language of Lord Campbell, in one of the cases to which I have referred: “ I think a member of it makes a very good bargain for himself “ in becoming a member of it,” and I do not think that, unless the benefit was intended to be conferred directly and not indirectly upon the whole community in the promotion of knowledge, the legislature intended to exempt from taxation an institution such as this, which, in my view, is primarily intended in the interest of, and for the advantage of, its own members.

I am therefore of opinion, that the judgment of the Court of Appeal ought to be reversed, and the judgment of the Queen’s Bench Division restored.

Lord Watson.—My Lords, the 11th section of “ The Customs and Inland Revenue Act, 1885,” imposes a compensatory duty, at the rate of five per cent. upon the yearly value, income, or profits, accruing from real and personal estate permanently vested in bodies corporate and unincorporate, which escapes liability to probate, legacy, or succession duties. The taxing enactments of the clause are expressed in broad and comprehensive terms; but these are qualified by seven sub-sections which exempt from the incidence of the new tax the various classes of property therein specified, in respect either of the time and manner of its acquisition, or of the purposes to which it is appropriated and applied.

The Appellants assert their right to charge the Respondent as the officer whom the statute makes accountable for the Institution of Civil Engineers, with duty upon the annual income of the Institution during the year ending 5th April 1886. It is not disputed that the property sought to be charged is within the general taxing words of the Act; but the Respondent pleads that it is also within the exemptions provided by the 11th clause. His plea was rejected by a Divisional Court consisting of Lord Chief Justice Coleridge and Lord Field;

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but it was sustained in the Court of Appeal by Lord Esher, Master of the Rolls, and Lord Justice Fry; Lord Justice Lopes dissenting from the Judgment.

The exemption relied on by the Respondent is to be found in sub-section (3) which especially excepts from the operation of the clause "Property which, or the profits or income whereof, shall be legally appropriated and applied for any purpose connected with any religious persuasion, or for any charitable purpose, for the promotion of education, literature, science, or the fine arts." In order to obtain the benefit of the exemption it must be shown, in the first place, that the property for which it is claimed is, in point of fact, applied to one or other of the purposes thus specified; and in the second place that it is legally appropriated to such purpose within the meaning of the statute. The Respondent maintains that the property and funds of the Institution which he represents are devoted and applied to the promotion of science; the Appellants contend that they are not. That is the whole matter of controversy in this appeal.

The Institution of Civil Engineers was incorporated by Royal Charter in June 1828. The "objects and views" of the body politic and corporate, for the advancement of which it was expressly created, are stated to be "for the general advancement of mechanical science, and more particularly, for promoting the acquisition of that species of knowledge which constitutes the profession of a civil engineer, being the art of directing the great sources of power in nature for the use and convenience of man, as the means of production and of traffic in states both for external and internal trade, as applied in the construction of roads, bridges, aqueducts, canals, river navigation, and docks, for internal intercourse and exchange, and in the construction of ports, harbours, moles, breakwaters, and lighthouses, and in the art of navigation by artificial power for the purposes of commerce, and in the construction and adaptation of machinery, and in the drainage of cities and towns." The Charter prescribes rules for the government of the Corporation by which general meetings are authorised to make byelaws for the admission of members and the management of its property, and also enter into any resolution that shall be thought necessary and proper with respect to the affairs and concerns of the body corporate, subject to the condition that byelaws or resolutions made contrary to the general scope and true intent of the Charter, shall be absolutely null and void.

Since the date of its incorporation, alterations have been made from time to time in the byelaws of the Institution; but there has been no material change either in the qualifications for membership, or in its objects and the means of their attainment. According to the byelaws now in force, the persons entitled to the privileges of corporation consist of three classes: (1) members, being civil engineers of eminence in their profession, who have been in practice on their own account for five years at least; (2) associates, who must be above 25 years of age, regularly educated as civil engineers, and actually engaged in

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the design or construction of one or more of the class of works enumerated in the Charter; and (3) honorary members, being either distinguished individuals, who from their position can assist in the promotion of public works, or persons eminent for science and experience in pursuits connected with the profession of a civil engineer, but who are not engaged in the practice of that profession within the United Kingdom or its dependencies. The same degree of professional eminence is not required in the case of associates as in the case of members; but the former may be transferred to the higher grade when they become duly qualified. Students of civil engineering, who are not members, and have no voice in the management of the Society, are admitted to certain privileges; but they can only enjoy that position between the ages of 18 and 26, and they must be the present or past pupils of a member, and be engaged in designing or executing engineering works. Admission to corporate privileges is by ballot, and any corporator may be expelled by the majority of a special meeting convened on the requisition of 20 members, with the approval of the council of management. Students are admitted by the council on the recommendation of the members whose pupils they are or have been, and the continuance of their privileges is dependent upon the pleasure of the council.

During the session of the Society, which commences in November and ends in the month of May following, weekly meetings are held, at which papers on engineering subjects, selected by the council, are read and discussed. These discussions are taken down in shorthand, and, with the papers read, are inserted at full length in the minutes of the Society's proceedings, which are annually printed, and a copy sent to every corporate member and student. The minutes are not sold; but copies of them are sent to 185 similar institutions and public libraries in different parts of the world, in order that persons interested in engineering science may have access to them. Meetings are also held by the students, at which papers, prepared by themselves, are read and discussed; and such of these papers as possess exceptional merit are published in the minutes of the Institution. The library, which contains a large collection of native and foreign works on engineering, besides standard books of science, is open to corporate members for consultation and reference, and students have the privilege of using it, subject to regulations prescribed by the Council.

The Appellants relied in argument upon *The Queen v. The Institution of Civil Engineers* (5, Q.B. Div. 48), in which it was held by a Divisional Court, consisting of Lord Field and Mr. Justice Manisty, that the Institution was not exempted from payment of local rates in respect of the premises which it occupied, by virtue of section 1 of 6 & 7 Vict. c. 36. That Act exempts from the incidence of county, borough, parochial, and other local rates, premises occupied for the transaction of its business, by a society "instituted for purposes "of science, literature, or the fine arts exclusively," it being expressly con-

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ditioned that "such society shall be supported wholly or in part by voluntary contributions, and shall not, and by its laws may not, make any dividend, gift, division, or bonus in money unto and between any of its members." These provisions appear to me to differ so much, both in their subject-matter and scope, from the exempting enactments, with which we have to deal in this case, that little or no assistance can be derived from them, or from the decisions which followed upon them, in construing the Act of 1885. There are many societies excluded from the benefit of the exemptions established by the earlier, which are plainly entitled to the immunity provided by the later statute. In order to bring a Society within section 1 of the Act of 1843, two statutory requisites must concur. The society must be one instituted exclusively for purposes of science, literature, or the fine arts; and it must also be supported, in whole or in part, by annual voluntary contributions. I do not think the Legislature intended that fixed yearly payments, which individuals agree to make in consideration of their being admitted to a society, and allowed to share in its management (there being a legal obligation to make such payments as long as their membership continues), should be regarded as voluntary contributions within the meaning of the Act. But the contrary was decided, after some hesitation, and to that circumstance the difficulties subsequently encountered in construing the exemption appear to me to have been mainly due. Then it is not sufficient compliance with the plain language of the Act that a society be established chiefly for the purpose of promoting science, literature, or the fine arts. One or other of these must be its exclusive object; so that an institution which also contemplated some other, though altogether subsidiary, object, could not claim the benefit of the exemption.

The provisions of sub-section (3) present, in several important particulars, a striking contrast to these enactments. They dispense with the necessity for any of the enumerated purposes being exclusive, it being sufficient that the property of the institution is in the main devoted to one or other of them; and the exemption is made to depend upon the appropriation and application of such property or its income without reference to the sources from which it is acquired. I think the general construction of the sub-section was correctly expressed by the Lord President (Inglis), in the Scotch case of *Society of Writers to the Signet v. Commissioners of Inland Revenue* (14 Sess. Ca. 4th series, 34), the only decision, before the present one, on this branch of the Act of 1885. His Lordship, after pointing out that societies whose funds are expended mainly upon other objects, and only promote indirectly the purposes enumerated, are not within the protection of the clause, goes on to say:—"But I apprehend that the meaning of this clause of exemption is that the property or income shall be, if not exclusively, yet certainly in the main, and as its chief object, devoted to the promotion of education, literature, science, or the fine arts." The principle thus enunciated was referred to,

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and appears to have been unanimously accepted, both in the Divisional Court and in the Court of Appeal, although the learned Judges differed in its application to the facts of this case.

The contrast between the provisions of the two statutes becomes more apparent when the other sub-sections of the Act of 1885 are taken into account. In this case Lord Field said, in the Divisional Court, with reference to sub-section (3): "It seems to me that the exemption is intended to some extent to be correlative with the public benefit derived from the corporate body; that is to say, that the statute did not contemplate the exemption of bodies conferring mere individual local benefit." That observation might be very appropriate, and similar language has been used by learned Judges in dealing with the Act of 1843; but I do not think it is applicable to the exemptions in sub-section (3), which depend upon the intrinsic character of the object which a society promotes, and not upon the scope of the benefits which may result from its transactions. Sub-section (2) expressly exempts property, or its income, which shall be legally appropriated and applied "for the benefit of the public at large, or of any county, shire, borough, or place, or the inhabitants or ratepayers thereof." If societies instituted for the promotion of science must show that they are conferring a benefit upon the public at large, in order to gain the exemption, the provisions of sub-section (3) add nothing to the provision already made in sub-section (2). But the enactments of the latter appear to me to compel a liberal reading of the sub-section which follows it, and to indicate the intention of the Legislature to exempt every society whose corporate endeavours are mainly directed, whether successfully or no, to the extension of the bounds of science, and are not, as in the case of the Society of Writers to the Signet, confined to the individual action of the corporators, each within the limits of his own professional business and for his own private interest.

The judgment of the Court, in *Society of Writers to the Signet v. Commissioners of Inland Revenue* (14 Sess. Ca. 4th Series 34), was given against the body pleading statutory exemption; and, in the circumstances of the case, there cannot, in my apprehension, be any doubt as to its soundness. The position of the Society, so far as concerns its constitutional objects, is strictly analogous to that occupied in England by the Inns of Court, and in Scotland by the faculty of Advocates. It is simply one of several portals through one or other of which an individual must pass before he can practise as an agent before the Court of Session. Persons who prefer to enter their profession by that portal join the Society; but their chief, if not their only object in doing so, is to acquire the status and privileges of a duly qualified legal practitioner. Their qualifications are tested by examination before their admission; but when once they have become members, they do nothing whatever towards advancing

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the science of law, unless it be by actively pursuing their profession in their individual capacity.

The Institution of Civil Engineers stands, in my opinion, in a very different position from such professional bodies as the Society of Writers to the Signet. The mere fact that membership is confined to those who are actively engaged, and have attained some degree of eminence in the profession, does not militate against the object of the Institution being the advancement of engineering science, because they are really the only persons possessing the knowledge and practical experience requisite for the efficient promotion of that object. Membership is not required for admission to the profession of a civil engineer; it confers no rights or privileges in the practice of that profession over which the Institution neither has, nor professes to have, any power or control. A Writer to the Signet, in carrying on his private business, and in no other form, exercises his rights and privileges as a member of the Society to which he belongs; but a member of the Society of Civil Engineers does nothing whatever in his corporate capacity except when he takes part in its proceedings within the walls of the Institution. Lord Coleridge suggests that "Any man who wants most effectively and successfully to practise the profession of a civil engineer will join the Institution and go through the course of teaching which it provides." Now, I have been unable to discover that the Institution provides anything which can be appropriately denominated a course of teaching. Its members must be men who have both learnt and effectively practised their profession before they join. I do not doubt that membership is accompanied with a certain amount of prestige which may prove to be of some service to the member in his professional career; but I believe that the same result would attend membership of any society which effectively promoted a branch of science intimately connected with the profession or business in which the member was engaged.

That there is a science of civil engineering, and that its development is of the utmost consequence to our national interests, are to my mind propositions not admitting of dispute. I would not for a moment suggest that a society which devotes its funds to giving concerts for the entertainment of members and their friends promotes the science of music, or that the cause of literature is advanced by the establishment of a reading room for subscribing members. The main, if not the sole, object of such Societies is to amuse or instruct individual members. But I can discover no real analogy between societies of that kind and the Institution of Civil Engineers. The discussion of mechanical and engineering problems by the members of the Institution cannot fail to elicit information and speculation of value to the profession at large and of advantage to all interested in the various departments of the science, for whose use everything read or spoken by members is recorded in the printed minutes, and constitutes a substantial addition to the sum of human knowledge. It occurs to me that if anyone were asked to say what would be a more efficient

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method of promoting engineering science than that which the Institution has adopted, he would have difficulty in making a satisfactory reply.

I have accordingly come to the conclusion that the income of the Institution is, in fact, applied, not for the professional ends of individuals, but for "the promotion of science" in the proper sense of the words; and, in that view I entertain no doubt that such income is "legally appropriated" within the meaning of the Act, because the purposes to which it is applied are the same with those prescribed by the Charter of Incorporation. I have not thought it necessary to dwell upon the first of these points, because I entirely concur in the Judgments delivered by Lord Esher and Lord Justice Fry in the Court of Appeal. The order appealed from ought, in my opinion, to be affirmed, with costs, and I move accordingly.

Lord Macnaghten.—My Lords, I do not think that the reported decisions on the construction and effect of the Act of 1843 throw any light upon the question now before your Lordships. The Act of 1843 was in relief of existing liability to local rates. Exemption from local rates involves an additional burden on a limited area. It means a tax on immediate neighbours, some of whom may be little better than actual paupers. A privilege so invidious was naturally confined within narrow limits. It was confined to societies established exclusively for the purposes of science, literature, or the fine arts. The word "exclusively," as Lord Campbell observes in one of the earlier cases (16 Q.B. 491), is "anxiously introduced, both into the preamble and the enactment." That is the first condition of exemption under the Act of 1843. The next is, that the society must be "supported wholly or in part by annual voluntary contributions." This provision has given rise to much difference of judicial opinion. But if I am not mistaken, the result of the later authorities favours the view suggested by Lord Campbell, in the following passage: "The Legislature may have intended to throw an additional burden on the other ratepayers of the parish by exempting from rateability property before rateable, only when it is occupied for the purposes of a society supported in part by charitable donations, and not by payments made with a view to the personal accommodation and advantage of the members, although the object of their pursuit may be the cultivation of science, literature, or the fine arts" (3 Ell. and B. 428). So that to bring itself within the exemption a society must have no purpose beside those specified in the Act, and must also, in some degree, partake of the character of a charitable institution. On these two conditions all the cases decided under the Act of 1843 seem to have turned. Neither the one or the other is required as a condition of exemption by the Act of 1885. The duty granted by that Act was imposed on property belonging to bodies corporate or unincorporate, in order to compensate the

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Revenue for their immunity from death duties. It was a new tax levied for Imperial purposes. As might be expected, the range of exemption is much more extensive. The conditions are far more liberal. The two Acts differ widely in their scope; and even when they happen to deal with the same subject the wording is not the same. It was argued indeed that the language was "practically identical"; but that expression to my mind involves an assumption that the meaning is the same, and an admission that the language is different. I do not, therefore, propose to trouble your Lordships with any further reference to the numerous decisions which were cited in the course of the argument, beyond observing with regard to the case of the *Queen v. The Institution of Civil Engineers* (5 Q.B.D. 48) that, while I entirely agree in the conclusion, I have some difficulty in accepting the propositions and following the reasoning on which the conclusion is based.

In the present case the Crown seeks to charge the property of the Institution of Civil Engineers by virtue of section 11 of the Act of 1885. The Institution claims exemption under sub-section 3, on the ground that its property and income are legally appropriated and applied for the promotion of science. The first question is, what is the meaning of the word "science" in that sub-section? I see no reason why it should be confined to pure, or speculative, science. The expression plainly includes applied science, and it was intended, I think, to denote a particular branch of science, as well as universal science or science generally. If it be at all material, the word "science" in the Act of 1843 appears to have been construed in the same way. I cannot therefore doubt that mechanical science, as employed in civil engineering, is science within the meaning of the exemption contained in section 11 of the Act of 1885.

That being so, the question at issue may be stated shortly. Is the property of the Institution of Civil Engineers legally appropriated and applied for the promotion of the science of civil engineering, or is it legally appropriated and applied for the benefit of civil engineers in order to enable them to practise their profession to greater advantage? It cannot I think be doubted that the Institution has raised the standard of the profession, and that to a civil engineer it is of advantage, and probably of pecuniary advantage, to be a member. But is that result the purpose of the Society, or is it an incidental, though an important and perhaps a necessary consequence of the way in which the Institution does its work in the pursuit of science?

The Charter and byelaws define the purpose of the Institution as being "for the general advancement of mechanical science, and more particularly for promoting the acquisition of that species of knowledge which constitutes the profession of a civil engineer." I cannot see any reason to doubt that the eminent men who founded the Institution, and who obtained its Charter from the Crown, were perfectly sincere in describing the objects which they

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set before them. They professed to be zealous in the interests of science; why should it be assumed or suspected that their real purpose was the advantage of their own craft? It may be that the advancement of the interests of the profession of civil engineering is inseparably bound up with the advancement of mechanical science. Probably the founders of the society were not insensible of the advantages which such an institution was likely to confer upon its members in their professional capacity. That would have been a formidable objection if the language of the Act of 1885 had been the same as that of the Act of 1843. But under the Act of 1885, in the case of a scientific institution, the only question is whether the property sought to be charged is legally appropriated and applied for the promotion of science. If it is, it seems to me that the exemption must hold good, although the institution to which the property belongs may serve another purpose as well.

Now, I think it is clear, that, according to the true construction of the Charter, the property of the Institution is dedicated to the promotion of science. Is it in fact so applied? It seems to me that the Society has loyally adhered to the declared objects of its Charter. There was, I think, much force in the observation which was made by one of the learned Counsel for the Respondent, that, in the present state of knowledge, advance in mechanical science is only to be expected from conferences of specialists, from the interchange in friendly rivalry of the ideas of the most highly trained, the most ingenious, and the most experienced members of the profession. That is the method by which this Society pursues its professed object. The Council every year invite original communications on various specified subjects and on other questions of professional interest. For communications of adequate merit premiums are awarded, which for the most part are open to any person of any country whether he be a member of the Institution or not. During the session, which extends over six months in each year, there are weekly meetings of the Society, at which every member is at liberty to introduce a stranger. At these meetings papers selected from communications received in response to the invitation of the Council are read and discussed, the discussions often lasting over several evenings. In order to facilitate discussion proof copies of the papers intended to be read are supplied to any persons, whether members or not, who are supposed to be specially conversant with the particular subject. A shorthand note of the discussion is taken, and after due correction printed in the "Minutes of Proceedings" for the year, together with the papers read at the weekly meetings, and communications from persons interested in the subjects discussed who may have been unavoidably absent during the discussion. The "Minutes" also contain other selected papers and a summary of information gathered from the transactions of foreign engineering societies and from foreign scientific periodicals on all branches of professional knowledge, so as to form

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a record from year to year of the progress of engineering science. There are besides, occasional lectures delivered by men of eminence on "the principles involved in the action of the great sources of power in nature, and their practical application" which are afterwards published in separate volumes.

The "Minutes of Proceedings" are not on sale to the public, but they are not a sealed book. Copies are sent to every member, and copies are also presented to other institutions and public libraries at home and abroad, so that information contained in them is practically accessible to any person who may wish to avail himself of it.

The principal part of the expenditure of the Society is incurred in the production of the "Minutes of Proceedings," and in connexion with the lectures, and in the maintenance of the library of the Institution, which contains a large and valuable collection of scientific works. The rest of the expenditure goes in establishment charges and other matters of that sort. Substantially, as it seems to me, the whole of the Society's income is applied to the promotion of science.

My Lords, I cannot conceive in what better way the promotion of mechanical science, and in particular of those branches of mechanical science which lie within the province of civil engineering, could be effected. I cannot doubt that by means of the discussions on the papers read at the ordinary meetings of the Society much new light has been thrown on scientific questions, and much knowledge which would otherwise have perished has been preserved. I see no trace of a selfish or illiberal spirit in the proceedings of the Society, nor do I find anything to lead me to suppose that its property and income are applied otherwise than *bonâ fide* for the promotion of science. The action of the Society may incidentally benefit the profession to which its members belong, I have no doubt that is so; but I agree with the Master of the Rolls in thinking that "that which this Society does is something higher and larger than the mere education of students and others for the profession of civil engineers."

I think the appeal should be dismissed.

Questions put.

That the Judgment appealed from be reversed.

The Not Contents have it.

That the Appeal be dismissed with costs.

The Contents have it.
