

Institute for Advanced Study Wins Tax Exemption Case

TRENTON (AP) — New Jersey's second highest court today upheld a tax exemption for a college that has no teachers, students or classes and awards no degrees — The Institute for Advanced Study at Princeton.

Princeton Township sought to assess the official home of institute's director, Dr. J. Robert Oppenheimer, one of the men who developed the first atom bomb, on grounds the institute did not meet the definition of a college under the exemptions granted in New Jersey's property tax law.

The Appellate Division of Superior Court, in an opinion by Judge Sidney Goldmann, said "we conclude that to deny exemption in this case to an institution which stands at the very apex of American higher education, one which has attracted to Princeton some of the finest minds of our generation, would be a perversion of the legislative intention . . ."

The institute, which is not connected with Princeton University, was set up under a gift from the Bamberger-Fuld Foundation in 1930.

Its founder, Dr. Abraham Flexner, sought to set up "a paradise for scholars."

"Among the many renowned scholars who have worked at the institute are Albert Einstein, T. S. Eliot, John Von Neumann,

Reinhold Niebuhr, Edwin Paolofsky, Herman Weyl, Arnold Toynbee, C.N. Yang, George F. Kennan and Oppenheimer," Goldmann said.

He said the institute awards no degrees because all of its 125 students already have doctor's degrees, the highest that can be awarded. There are no classes, students and teachers because the institute was designed to provide a free atmosphere for research in mathematics, physics and history.

"While the institute is unique, occupying as it does an unexampled position on the farthest frontier of American Education, it surely possesses every attribute of an institution of learning," Goldmann said.

He said state law provides that if a residence like Oppenheimer's is used for a tax-exempt college, it too cannot be taxed.

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Advanced Study Institute Wins Tax Exemption Plea On Residence Of Director

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Jones To Get

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THE INSTITUTE FOR ADVANCED STUDY
PRINCETON, NEW JERSEY

Inst Gen Olden Manor
tax exemption
(own folder)

January 6, 1960

Mr. Samuel D. Leidesdorf
125 Park Avenue
New York 17, New York

Dear Mr. Leidesdorf:

You will be pleased to hear that we have finally won our case for tax exemption on Olden Manor. I enclose two clippings from the TRENTON TIMES and the WORLD TELEGRAM, also a copy of Mr. Stratton's brief and Judge Goldman's opinion, which was affirmed by the other two members at court.

This is a particularly satisfactory decision for us because it establishes the fact (once and for all, I hope) that we should be classified in all instances with colleges and universities.

Particular credit should go to Mr. Henry Stratton of the firm of Smith, Stratton and Wise, our counsel, for his careful handling of the case through its various stages and for his fine brief. You will note that Judge Goldman has cribbed liberally from the brief in his opinion.

We should be receiving from Princeton Township three years' back taxes on Olden Manor and permanent exemption of the building in the future. The taxes are in excess of \$1,000 a year.

Best wishes for the New Year.

Cordially yours,

M.C.M.

Minot C. Morgan, Jr.
General Manager

MCM:lw
Enclosures 4

Copies to Mr. Harold F. Linder w/enc.
Dr. Robert Oppenheimer w/enc. ✓

Jan. 23.

that the dental chart was

Court Upholds Tax Exemption For Princeton's Super-School

Special to World-Telegram and Sun.

TRENTON, Jan. 4.—A tax exemption was upheld today for a college that has no teachers, students or classes and awards no degrees, the Institute for Advanced Study at Princeton, which was planned as a "paradise for scholars."

Princeton Township sought to tax the official home of the institute's director, Dr. J. Robert Oppenheimer, one of the scientists who developed the first atom bomb. But the Appellate Division, in an opinion

written by Judge Sidney Goldmann, held:

"We conclude that to deny exemption in this case to an institution which stands at the very apex of American higher education, one which has attracted to Princeton some of the finest minds of our generation, would be a perversion of the legislative intention."

The institute, not connected with Princeton University was established under a gift from the Bamberger-Fuld Foundation in 1930. Among the schol-

ars who have worked at the institute are Albert Einstein, T. S. Eliot, John von Neumann, Reinhold Niebuhr, Edwin Pashofsky, Herman Weyl, Arnold Toynbee, C. N. Yang and George F. Kennan.

Judge Goldmann pointed out that the institute awards no degrees because all of its 125 students already have doctor's degrees, the highest that can be awarded. There are no classes, students or teachers because the institute was designed to provide a free atmosphere for advanced research.

Ask Tax Exemption for Oppenheimer Home

The New Jersey Board of Tax Appeals yesterday was asked to exempt "Olden Manor" residence of Dr. Robert Oppenheimer, director of the Princeton Institute for Advanced Study, from a \$2,100 annual tax bill.

HENRY STRATTON, counsel for the institute, argued the home

is an actual part of the famous citadel of learning and should be tax exempt as are the other buildings on the property.

Oppenheimer, the controversial world famed scientist, has the same function as a college president at the institute, it was held. The large manor type home is used for faculty discussions, and also to entertain visiting dignitaries such as Queen Frederika of Greece, who was a recent guest.

The home is made available to Oppenheimer at no cost, with a servant, and maintenance. The 1957 assessment on the property which is under dispute was \$105,900. Stratton said only the land should be assessed.

GORDON GRIFFIN, Princeton Township attorney, argued the institute did not fall under

general category of a school, college or academy, which are tax exempt as non-profit. He asserted, "We consider it a corporation formed for the mental improvement of man."

Stratton claimed the law was specific that the official residence of the executive head of such an institution is free of taxation. "We submit we are a college, that teaches at a level above a Doctor of Philosophy."

Trentonian

Test Gen Olden Manor

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-557-58

TOWNSHIP OF PRINCETON, a municipal
corporation of the State of
New Jersey in the County of Mercer,

appellant,

vs.

INSTITUTE FOR ADVANCED STUDY, a
corporation of the State of
New Jersey, and the DIVISION OF
TAX APPEALS, DEPARTMENT OF THE
TREASURY, STATE OF NEW JERSEY,

respondents.

JANUARY 4 , 1960

Argued September 28, 1959 -- Decided

Before Judges Goldmann, Freund and Haneman.

Mr. Gordon D. Griffin argued the cause for appellant.

Mr. Henry M. Stratton, II, argued the cause for
respondent Institute for Advanced Study (Messrs.
Smith, Stratton & Wise, attorneys).

Mr. Murry Brochin, Deputy Attorney General, filed a
statement in lieu of brief (Mr. David D. Furman,
Attorney General, attorney for respondent Division of
Tax Appeals).

The opinion of the court was delivered by

GOLDMANN, S.J.A.D.

Princeton Township appeals from a judgment of the Division of
Tax Appeals exempting from local property taxation Olden Manor, the
official residence of the Director of the Institute for Advanced Study
("Institute").

The township had assessed the residence, the land on which it
was erected, and personal property located therein, at \$105,900 for the
year 1957, without granting the exemption claimed by the Institute under

N.J.S.A. 54:4-3.6, which reads in part as follows:

"The following property shall be exempt from taxation under this chapter: All buildings actually used for colleges, schools, academies or seminaries; * * * all buildings actually and exclusively used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one or more such purposes; * * *."

On appeal, the Mercer County Board of Taxation affirmed the assessment.

On further appeal, the State Division of Tax Appeals concluded that the Legislature did not intend to limit the application of the words "colleges, schools, academies or seminaries" only to institutions offering "the more orthodox or traditional methods of instruction." It held that the Institute is a college within the meaning of N.J.S.A. 54:4-3.6 and that Olden Manor is actually used for college purposes. The Division thereupon cancelled the assessment with respect to Olden Manor and the land surrounding it not in excess of five acres. This appeal followed.

The Institute, officially known as the Institute for Advanced Study -- Louis Bamberger and Mrs. Felix Fuld Foundation, is a non-profit corporation of New Jersey, organized under the provisions of R.S. 15:1-1 et seq., as amended, for the purpose of "the establishment * * * of an institute for advanced study, and for the promotion of knowledge in all fields, and for the training of advanced students and workers for and beyond the degree of Doctor of Philosophy and other professional degrees of equal standing." Its activities and operations are conducted and controlled by a board of trustees, elected as provided in the by-laws, and acting through the director, who is the chief administrative and executive officer. Among the powers of the corporation under its certificate of incorporation is the power

"* * * to make, amend, alter and repeal rules and regulations for the government of the institute to be established, maintained and conducted by the corporation, and in respect to the appointment and duties of executive officers and members of the staff and faculty, and in respect to the admission (with and/or without payment of dues or charges) and discipline of the students and workers, and in respect to the granting of diplomas and the awarding of degrees (including honorary degrees); * * *."

The Institute has 22 permanent faculty members and a transient student body, designated as members (these might in other institutions be called graduate or post-doctoral students) of about 125. Most of the student-members are admitted to the Institute upon application; a few are individually invited by the faculty to attend. Most of them are on leave of absence from other educational institutions, and come to the Institute for a term or two, or sometimes for as much as two years, to pursue their respective fields of study or research. No tuition is charged, operations being financed for the most part from the income of the substantial endowment created by Louis Bamberger and his sister, Mrs. Felix Fuld (the Bamberger-Fuld Trust), with subsidiary grants from the Rockefeller, Carnegie, Ford and the National Science Foundations.

The Institute has three disciplines -- mathematics, physics and historical studies. They meet as schools, and they conduct the business of the Institute as a body under the chairmanship of the Director. There is no formal instruction. However, seminars are scheduled weekly, or even more frequently. Student members are furnished office space and secretarial help, and are free to pursue their own research, with no commitment whatsoever that it be along a given line or that the results accrue to the institution. Although the Institute has the corporate power to grant diplomas and award degrees, there are no degrees because the members are all at the post-doctorate level when they arrive, and already have their highest degree.

Olden Manor is a substantial dwelling owned and maintained by the Institute and located on its main campus on Olden Lane in Princeton Township. It is the principal residence of the Director and his family, to whom it is furnished rent-free and as a term of his employment. It is also used by the Director, on behalf of the Institute, for official entertainment and for numerous faculty and trustees' meetings and conferences.

The founder and first director of the Institute was Dr. Abraham Flexner. His vision of "a paradise for scholars," where "scholars and scientists may regard the world and its phenomena as their laboratory," led to the establishment of the Institute through the munificent gift of Mr. Bamberger and his sister in 1930. The Institute was cast in the image of his ideal as a small center where the quality of work rather than the number of students would be the distinguishing characteristic -- a place where scholars and scientists could dedicate themselves to the conservation of knowledge and ideas, the interpretation of such knowledge and ideas, and the search for truth -- in short, pure learning for its own sake. After nine years Dr. Flexner was succeeded by the distinguished educator, Dr. Frank Aydelotte, and then by the eminent physicist, Dr. Robert Oppenheimer. Among the many renowned scholars who have worked at the Institute are Albert Einstein, T. S. Eliot, John von Neumann, Reinhold Niebuhr, Edwin Panofsky, Herman Weyl, Arnold Toynbee, C. N. Yang, George F. Kennan and Dr. Oppenheimer.

We are concerned here with only the first clause of N.J.S.A. 54:4-3.6, exempting from taxation all buildings actually used for colleges, schools, academies or seminaries. The subsequent portion of the statute quoted above is not involved on this appeal; the Institute concedes that although Olden Manor is actually used in connection with its activities and programs, it is not "exclusively" so used.

The Township contends that the Institute is not entitled to tax exemption under the statute because it lacks the usual indicia of a college, school, academy or seminary; "it has neither teachers nor pupils, in the ordinary sense, since it offers no curricula or instruction; it does not prepare its students for undergraduate or postgraduate academic degrees, since its members are on the post-doctoral level and no degrees are awarded; it imposes no discipline, since its keynote is unlimited individual freedom, unencumbered by institutional requirements." However,

it readily concedes that the Institute is a unique development in American education; counsel describes it as "a constellation of brilliant men whose sole occupation is thinking and whose frontier is 'the growing tip of civilization.' * * * It is the epitome of the contemplative method and pure research." Nonetheless -- so runs the argument -- it does not fairly fall within the statutory intendment of a college or school.

We are not persuaded that "college," as used in the statute, is to be confined to the kind of institution that has become so familiar to us, where there are teachers and pupils, courses of instruction, a conferring of degrees, and an extended discipline. The concept of a college is an organic one, taking on a varying aspect in different times and places. See, for example, Burns B. Young, "What is a College?" in 30 The Educational Record 385 et seq. (October 1949), and see also Yale University v. New Haven, 71 Conn. 316, 42 A. 87 (Sup. Ct. Err. 1898).

In its earliest and most fundamental sense it meant a collection of persons united by the same office, interest or occupation -- the Roman collegium. Among the many definitions of "college" given in the New Oxford English Dictionary on Historical Principles (1893), we find

"1. An organized society of persons performing certain common functions and possessing special rights and privileges; a body of colleagues * * *.

4. A society of scholars incorporated within, or in connexion with, a university, or otherwise formed for purposes of study or instruction. * * *."

The Cyclopedia of Education (1911), in its discussion of "college," while indicating the more limited sense of the word, exposes its larger meaning:

"One of the many terms for a society or body of persons associated together for promotion of a common purpose which, originally general and applicable to any such body, has become restricted to a particular kind of body; viz., one for the purpose of secondary or higher education."

Webster's New International Dictionary (2d ed., unabridged, 1958) defines "college" as "a society of scholars or friends of learning, incorporated

for study or instruction, especially in the higher branches of knowledge."

We do not understand "college" to be a word of art which, by universal understanding, has acquired a definite, unchanging significance in the field of education, fixed forever in its meaning like a bug in amber. The meaning of collegium it originally held has persisted through the ages, now in the mold of the Akademeia of Plato (e.g., the Academy at Florence, founded by Cosimo de Medici in 1474, or the French Academy, established by Louis XIV and chartered in 1635 -- associations of scholars for investigation into the humanities); again in the form of the Institute (e.g., the Institut National des Sciences et des Arts, established in France in 1795; the American Law Institute, founded in 1923).

Is the Institute to be barred from exemption from taxation of a component building because the members, already possessing doctorate degrees, cannot receive further academic honors? Or because the illustrious few scholars who are chosen to study there are deemed to profit most by introspective and individual research, rather than by instruction in the more usual teacher-pupil relationship? Is exemption to be denied merely because discipline, in the strict sense of the word, is kept as a minimum because of the very quality of those constituting the Institute and their particular and individualized pursuit of knowledge and ideas? To do so is to impose an arbitrary limitation on the legislative intent, to ignore the clearly discernible evolution in modern-day higher education toward less formal instruction, with greater emphasis on individual study and creative research -- a development which has arrived at its greatest refinement in the activities of the Institute.

A college, in whatever mold it be cast, is expected to be perpetual in its service and undeviating in its ultimate purpose, which is the elimination of the false and the fostering of the true. There must of necessity be a flexibility of form and approach if this goal is even

to be approximated. As was said in a different context by the Kentucky Court of Appeals, "For the past to bind [the college] to unchangeableness would be to prevent growth, applying the treatment to the head that the Chinese [used to] do to the feet." Central Univ. of Kentucky v. Walter's Ex'rs, 122 Ky. 65, 90 S.W. 1066 (1906). The challenge of the times must evoke a reasoned response, else the search for the truth suffers. This, basically, was the idea underlying Dr. Flexner's vision of an institute like the one he raised up at Princeton.

As we have observed, the powers of the Institute include the power to make rules and regulations for its government and with respect to the appointment and duties of its members, admission with or without payment of dues or charges, discipline, and the granting of such diplomas and the award of such degrees, including honorary degrees, as the corporation might decide upon. If instruction be a determinant, we must consider instruction in its broadest sense and as inclusive of self-instruction and the benefits scholars derive, one from the other, in daily association at a place like the Institute and in their frequent seminars.

While the Institute is unique, occupying as it does an unexampled position on the farthest frontier of American education, it surely possesses every attribute of an institution of learning. It fits well within the frame of those institutions which, for over a century (see L. 1851, p. 271, § 5(II)), have been the particular concern of the Legislature in extending tax benefits to colleges, schools, academies and seminaries, thereby encouraging the cause of education and research. It is reasonable, if not indeed compelling, that this court give effect to the obvious purpose of the Legislature. To that end the word "college" may be given an expanded interpretation comporting with the manifest reason and obvious purpose of the law. The spirit of the legislative direction must prevail over any literal or conventional sense of the

term. Cf. New Capitol Bar & Grill Corp., v. Division of Employment Security, 25 N.J. 155, 160 (1957).

Although in no way dispositive of the question here involved, it is not inappropriate to note that shortly after the Institute was founded the Treasury Department ruled that it was entitled to exemption from federal income tax under section 103(6) of the Revenue Act of 1928. And in 1939 that part of the property of the Institute lying in the Borough of Princeton, immediately adjacent to the 59 acres of Olden Manor in the township, was declared tax-exempt by the then State Board of Tax Appeals. Institute for Advanced Study, etc. v. Princeton Borough, New Jersey Tax Reports 1934-1939, p. 640.

Mention might also be made of N.J.S.A. 54:34-4(d), granting exemption from transfer inheritance tax of that part of a decedent's estate which passes to or for the use of any educational institution not operated for profit. In the statement appended to the legislative bill underlying the statute (Senate 256 of the 1948 Legislature, which became L. 1948, c. 268), the Institute was listed along with Princeton University, Rutgers University, Drew University, Seton Hall College, Upsala College, and other colleges of the State, as potential beneficiaries. While this would seem to offer some evidence of legislative recognition that the Institute is of at least as high a calibre as the other named institutions, the township observes that the words "educational institution" are somewhat broader than "colleges, schools, academies or seminaries," and that it would not be correct to permit the provisions of the Transfer Inheritance Tax Act to permeate the General Tax Act by a kind of osmosis. True, "educational institution" embraces the whole range of places of learning. And yet, the legislative statement is not without significance, for the Legislature thereby showed it was willing to extend exemption to the Institute on the same basis as Princeton, Rutgers and other institutions of knowledge generally known as colleges or universities, thereby recog-

nizing its true character in the educational setting of the Twentieth Century.

We conclude that to deny exemption in this case to an institution which stands at the very apex of American higher education, one which has attracted to Princeton some of the finest minds of our generation, would be a perversion of the legislative intention expressed in the first clause of N.J.S.A. 54:4-3.6.

The township does not contend that Olden Manor is not actually used (as was fully established in the record) in the work of the Institute and is therefore entitled to tax exemption -- once it is decided that the Institute falls within the category of "colleges, schools, academies or seminaries." We have so concluded. The proposition that a residence like Olden Manor is tax-exempt has been established since State v. Ross, 24 N.J.L. 497 (Sup. Ct. 1854), decided soon after the passage of the 1851 tax exemption law. See also, Rutgers College v. Piscataway Township, 20 N.J.Misc. 127 (State Bd. of Tax App. 1942), affirmed sub nom. Piscataway Township v. State Board of Tax Appeals, 129 N.J.L. 261 (Sup. Ct. 1942), affirmed per curiam, 131 N.J.L. 158 (E. & A. 1944).

Affirmed.

Superior Court of New Jersey

Appellate Division

Docket No. A-557-58

TOWNSHIP OF PRINCETON, a
Municipal Corporation of the State of
New Jersey in the County of Mercer,

Appellant,

-vs-

INSTITUTE FOR ADVANCED STUDY,
a Corporation of the State of New
Jersey, and the DIVISION OF TAX
APPEALS, DEPARTMENT OF THE
TREASURY, STATE OF NEW JERSEY

Respondents.

Civil Action

On Appeal from
the Division of
Tax Appeals in
the Department
of the Treasury

BRIEF FOR RESPONDENT

SMITH, STRATTON & WISE
HENRY M. STRATTON, II
A Member of the Firm
Attorneys for Respondent,
Institute for Advanced Study
37 Hulfish Street
Princeton, New Jersey

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STATEMENT OF QUESTION INVOLVED

1

Is not an educational institution a college, school, academy or seminary within the purview of R. S. 54:4-3.6, despite the absence in its program of the orthodox and traditional types of formal instruction, so that the official residence of the chief executive officer of the institution is entitled to tax exemption?

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STATEMENT OF FACTS

This is an appeal with respect to the validity of the tax assessment levied for the year 1957 by the Township of Princeton upon certain property, hereinafter described, owned by the respondent, Institute for Advanced Study, in Princeton Township. The said respondent claims that the property is exempt from taxation under R. S. 54:4-3.6.

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The Institute for Advanced Study is a non-profit corporation of New Jersey, organized under the provision of R. S. 15:1-1, et seq. for the purpose of "the establishment . . . of an institute for advanced study, and for the promotion of knowledge in all fields, and for the training of advanced students and workers for and beyond the degree of Doctor of Philosophy and other professional degrees of equal standing." (A21a). Its activities and operations are governed and controlled by a Board of Trustees, elected as provided in the by-laws, and acting through the Director, who is the chief administrative and executive officer (A21a; A14a-8 to 18).

20 The Institute has a permanent faculty of twenty-two (22) members and a transient student body, designated members, of approximately one hundred twenty-five (125) persons (A12a-14 to 21). Most of the student-members are admitted to the Institute upon individual applications; a few, however, are individually invited by the faculty to attend (A12a-31 to 38). Most of the student-members are on leave of absence from other educational institutions (A12a-21). There are no tuition charges, the operations being financed largely by endowed income (A13a-1 to 13).

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The activities of the Institute are divided into three (3) disciplines or schools – mathematics, physics and historical studies (A12a-23 to 27). There is no formal instruction. However, seminars and lectures are scheduled and conducted weekly or more frequently (A13a-24 to 30). The student-members are supplied with office space and secretarial help, and they pursue their study and research with almost complete freedom from commitment to or control by the Institute (A13a-30 to 34).

The property known as Olden Manor, which is the specific subject matter of this appeal, is a substantial dwelling house, owned and maintained by the Institute and located on its main campus on Olden Lane, Princeton Township (A10a-26 to 37). It constitutes the principal residence of the Director of the Institute and his family; it is furnished to him rent free and as a prerequisite to his position (A14a-6; A14a-29; A16a-7). It is also used with considerable frequency by the Director, on behalf of the Institute, for official entertainment, including overnight guests, and for trustees and faculty meetings and conferences (A15a-8 to A16a-4).

Taxes have been assessed by Princeton Township for the year 1957 against Olden Manor, the land on which it is erected, and the personal property located therein owned by the Institute, without any exemption as claimed by the Institute (A11a-3). On appeal, the Mercer County Board of Taxation has affirmed this assessment (A2a-2). On further appeal, the State Division of Tax Appeals has reversed the County Board and, by Judgment entered on April 2, 1959, adjudged that the assessment should be cancelled with respect to Olden Manor and the land surrounding it not in excess of five (5) acres (A8a). The Township of Princeton now appeals to this Court.

A R G U M E N T

POINT I

**The Institute for Advanced Study Is a College,
School, Academy or Seminary Within the Purview
of R. S. 54:4-3.6.**

10 R. S. 54:4-3.6 is the basic statute whereby exemption from local property tax is afforded to the buildings, land and personal property used by educational, religious and charitable organizations. This particular section is entitled "Exemption of property of educational, religious and charitable organizations". Although this section is not divided into separate sub-sections or paragraphs, it includes several different and distinct categories of organizations, the property of which is entitled to tax exemption under the conditions specified. We are primarily concerned in this appeal with the first specified category, namely:— "All buildings actually
20 used for colleges, schools, academies or seminaries:".

This respondent, Institute for Advanced Study, contends that this first category is fairly intended to include, subject to the several applicable provisos later set forth, all educational institutions or institutions of learning. We suggest that the clause might well be paraphrased to read: "All buildings actually used for educational institutions or institutions of learning". In the leading case of *Kimberly School v. Town of Montclair*, 2 N. J. 28 (1949), involving the tax exemption
30 claimed by a private day school in Montclair, the late Chief Justice Vanderbilt, construing and analyzing this clause, repeatedly referred to the exemption afforded to *educational institutions*. "To clarify its [54:4-3.6] proper interpretation we quote the statute with the provisions relating to educational institutions italicized: '. . . (in italics) all buildings actually used for college, schools, academies or seminaries; . . .'" (p. 32). "That the intent of the Legislature to place educational institutions in a different category from the charitable, benevolent and religious bodies was deliberate is

indicated by the difference in the language used in the first proviso of the section," (p. 34). Later in the same opinion, alluding to the similar prior statute, P. L. 1903, c. 206, art. I, sec. 3(4), the Chief Justice said, "But a reading of the first clause of the section in question would disclose a category of educational institutions set off by appropriate punctuation from charitable, benevolent and religious institutions" (2 N. J. 40). In *Township of Denville v. St. Francis Sanitarium*, 89 N. J. L. 293 (E. & A. 1916), the Court, construing prior exemption statutes containing language closely similar to the first clause of 54:4-3.6 - P. L. 1894 p. 3320, and P. L. 1913, p. 570, stated: "The act of 1894 (Rev. Stat., p. 3320) exempted the buildings of certain institutions of learning and buildings used for religious worship, asylums and other designated purposes," (89 N. J. L. 295); and again "By that statute the institutions entitled to exemption are divided into classes, which was not the case in the statute of 1894. The first class includes buildings used by colleges and other institutions of learning, or for the moral and mental improvement of men and women, 'or for religious, charitable, benevolent or hospital purposes, or for one or more of such purposes not conducted for profit'." (89 N. J. L. 296). It should also be noted that the corresponding statute relating to exemption from inheritance tax (R. S. 54:43-4d) specifically speaks of *educational institutions*.

This is not to assert that tax exemption, under the particular clause in question, is to be extended to all of the various types of organizations and establishments, the activities of which may be of some educational value to patrons or users, such as libraries, museums (See *Tappan Washington Memorial Corp., v. Margetts*, 9 N. J. Super. 212 (App. Div., 1950)), or commercial or industry-sponsored laboratories (See *Textile Research Institute v. Township of Princeton*, 25 N. J. Misc. 94 (Div. of Tax Appeals, 1946)). We submit, rather, that the benefits of the clause are limited to those institutions which offer and provide suitable combinations of physical equipment and materials, personnel, atmosphere and locale available for the pursuit of knowledge

- 1 and learning at all scholastic and academic levels, from pre-kindergarten through grade-school, secondary school, college and graduate-school, to and including advanced post-doctorate study, research, and learned interchange of knowledge and ideas (See Webster's New International Dictionary, 2nd Ed. (unabridged) 1958:- "College—a society of scholars, or friends of learning, incorporated for study or instruction especially in the higher branches of knowledge.").
- 10 On the other hand, the appellant argues that the tax exemption provision now before this court is limited to cover only those educational institutions which offer the orthodox and traditional types of formal instruction, such as recitation classes, series of lectures, and laboratory exercises, all of which necessarily require the customarily stiff and formal teacher-pupil relationship, and as well a considerable degree of discipline and regimentation. This respondent protests such an arbitrary and mechanical limitation upon the Legislative intent. It ignores, we submit, the clearly discernable evolution in pedagogical methods, particularly in
- 20 higher education, toward less formal instruction and more individual reading and study, and individual creative research, composition and exposition (reaching perhaps its epitome in the activities of this respondent, Institute for Advanced Study).

In *City of Hoboken v. Division of Tax Appeals & Stevens Institute of Technology*, 134 N. J. L. 594 (Sup. Ct. 1946) tax exemption was upheld for a building at Stevens Institute of Technology housing a towing tank research laboratory; the

30 Court said (p. 596):

"The work done in the tank was not part of the curriculum but was, it seems to us, a proper function of the college. Colleges must engage in research, as well as in teaching. Because the experiments were in war time, mostly or entirely for the benefit of the government, is no argument against the exemption.

"Whether the atomic bomb was or was not of value, nonetheless, research carried on in educational institu-

tions of the country resulting in that achievement has changed the prevailing concepts of chemists. A college faculty must both teach and study." 1

In *Central University of Kentucky v. Walter's Ex'rs.*, 90 S. W. 1066, 1070, 122 Ky. 65 (1906), the Court said:

"A 'college', as an institution, means or ought to mean growth; the elimination of the false; the fostering of the true. As it is expected to be perpetual in its service, it must conform to the changed condition of each new generation, possessing an elasticity of scope and work commensurate with the changing requirements of the times which it serves." 10

See also 84 C. J. S. Taxation, Sec. 283, at page 566:

"Research, which is the method used by modern universities to increase the sum of human knowledge, is clearly educational within the meaning of a tax exemption statute."

In the citations submitted by appellant, defining and construing the words "college" and "school", the emphasis appears to be placed on the concept of *instruction*, with the necessary implication of the usual teacher-pupil relationship (Ab3-28; Ab3-36; Ab4-3). It is submitted, however, that *self-instruction* is nonetheless instruction, particularly when it is so eminently suited to the pursuit of knowledge in the more advanced fields. 20

The Institute for Advanced Study was founded in 1930. It was incorporated in New Jersey as a non-profit corporation under R. S. 15:1-1 et seq (A21a). The nature, purpose and function of the Institute is clearly illustrated by the following excerpts from its Certificate of Incorporation: 30

"2. The purpose for which this corporation is formed is the establishment, at or in the vicinity of Newark, New Jersey, of an institute for advanced study, and for the promotion of knowledge in all fields, and for the training of advanced students and workers for and beyond the degree of Doctor of Philosophy and other professional degrees of equal standing" (A21a-18).

1 "6. The purpose of the corporation shall include
 power . . . to make, amend, alter, and repeal rules and
 regulations for the government of the institute to be es-
 tablished, maintained, and conducted by the corporation,
 and in respect to the appointment and duties of execu-
 tive officers and members of the staff and faculty, and
 in respect to the admission (with and/or without pay-
 ment of dues or charges) and discipline of the students
 10 and workers, and in respect to the granting of diplomas
 and the awarding of degrees (including honorary de-
 grees)." (A22a-20).

"In the appointments to the faculty or staff, or in the
 admission of students and workers there shall be no dis-
 crimination because of race, religion or sex," (A23a-11).

These basic organizational provisions it is submitted,
 definitely indicate that the Institute, as an educational in-
 stitution, is properly and fairly to be included within the
 exemption category of colleges, schools, academies and
 20 seminaries. The language is almost precisely what one
 might expect to find in the charters of the various other in-
 stitutions of higher education in New Jersey, about whose tax
 exemption under this particular clause there is no question.
 Indeed, early in the Institute's history, the question arose
 as to tax exemption for an Institute building then located in
 the Borough of Princeton. *Institute for Advanced Study v.*
Borough of Princeton, N. J. Tax Reports, 1934-39 (State
 Board of Tax Appeals, February 7, 1939). The State Board
 concluded that the Institute was a college, school, academy
 30 or seminary within the terms of the exemption statute and
 granted the exemption for the property involved.

The respondent concedes that its program and activities
 are unusual, perhaps somewhat unorthodox and undoubtedly
 unique in American education. While the Institute has a
 permanent faculty and a student body, designated as mem-
 bers, there is no formal instruction, such as regular class-
 room or laboratory exercises; there are, however, seminars
 and lectures weekly or more frequently. Discipline and con-
 trol are at a minimum, the student-member being almost com-

pletely free to pursue his own individual study and research in his particular field of interest in his own particular way and at his own pace. There are, generally, no commitments to undertake and complete particular projects, nor any responsibility to satisfy specified requirements. While the Institute is empowered to award degrees, none are given for the obvious reason that substantially all of the members have received their highest academic degree before admission. Yet, it is precisely this type of atmosphere and program which is most congenial to the type of scholars in residence at the Institute, and which is most conducive to significant results. This respondent, with due modesty, suggests that the Court may properly take judicial notice of the remarkable achievements on the frontiers of knowledge associated with such names as Einstein, von Neuman, Oppenheimer, Weyl and Keenan, all former or present members at the Institute.

It is submitted that the Institute, despite its uniqueness, should not be disassociated from its sister institutions of learning, but, rather, should be classified, at least at the very apex of organized American higher education. A clear indication, albeit indirect, of the Legislative intent thus to classify the Institute is found in *Tappan Washington Memorial Corp., v. Margetts, supra*. Judge (now Justice) Jacobs, in discussing the Legislative history of the exemption for educational institutions in the inheritance tax law (R. S. 54:34-4d), pointed out as follows (9 N. J. Super. 217):

"The statement attached to this amendment, when originally introduced as a legislative bill, set forth that its purpose was 'to encourage privately endowed higher education by making uniform the exemption from inheritance tax of bequests and devises to all educational institutions not operated for profit' and that its language would confine 'the full exemption of bequests to such institutions as Princeton University, Rutgers University, the State University of New Jersey, the *Institution for Advanced Study*, Drew University, St. Peter's College, Seton Hall College, Upsala College, John

- 1 Marshall College, Newark College of Engineering, Stevens Institute of Technology, and other privately-endowed non-profit institutions at the elementary, secondary and higher educational levels in this State, and on a reciprocal basis in other states," (Italics added).

10 The strictly academic buildings of the Institute located in Princeton Township have been exempt from taxation since their erection. The appellant seeks to ground this exemption upon another clause in the statute (R. S. 54:4-3.6), to wit: "All buildings, actually and exclusively used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children . . .". In the first place, no evidence has been presented to indicate that the original application for exemption and the granting thereof were based on this particular clause. Nor do the charter provisions of the Institute spell out such a purpose, either specifically or by reasonable inference. Furthermore, a substantial number of judicial decisions in this state have clearly indicated the type of organizations intended to be included within this particular clause. *The Y. M. C. A. of Ridgewood, N. J., v. State Board of Tax Appeals*, 117 N. J. L. 196 (Sup. Ct., 1936) (Young Men's Christian Association of Ridgewood); *Trustees of Y. M. & Y. W. H. A. of Newark, v. State Board of Tax Appeals and City of Newark*, 119 N. J. L. 504 (Sup. Ct., 1938), aff. 121 N. J. L. 65 (E. & A., 1938) (Young Men's & Young Women's Hebrew Association of Newark); *The City of Trenton v. Trenton Masonic Temple Assn.*, 8 N. J. Misc. 778 (Sup. Ct. 1930), aff. 108 N. J. L. 419 (E. & A., 1932) (Masonic Body in Trenton); *City of Elizabeth v. Bayway Community Center*, 19 N. J. Misc. 263 (State Bd. of Tax Appeals 1941) (Community Center at Bayway, supported by Standard Oil). While fully recognizing the worthiness of these latter establishments in their particular field, it is submitted that the classification of the Institute for Advanced Study, for tax exemption purposes, with these organizations rather than with the institutions listed in the *Tappan* case, *supra*, is an obvious, gross distortion of the Legislative intent and plan. The appellant refers to

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the rule of construction that all doubts are resolved against those seeking the benefit of a statutory exemption. However, this rule does not require the destruction of the fair intentment of the statutory words. *Congregation B'Nai Yisroel v. The Township of Millburn*, 35 N. J. Super. 67 (App. Div. 1955), at p. 72. 1

POINT II

The Official Residence of the Director of the Institute for Advanced Study is Actually Used for the Institute and, Accordingly, is Entitled to Tax Exemption under R. S. 54:4-3.6. 10

The particular subject matter of this appeal is the property known as Olden Manor, the official residence of the Director of the Institute, its chief executive officer. The property is owned and maintained by the Institute. It is furnished to the Director rent free and is a prerequisite of his position. The property is also used for official entertainment and for faculty and trustee meetings and conferences. 20

The appellant concedes in its brief that this property, Olden Manor, is actually used in the work of the Institute and is therefore tax exempt, *if* the Institute is a college, school, academy, or seminary under 54:4-3.6 (Point I argued above).

Accordingly, we limit ourselves on this Point II to point out to the Court that the proposition, as conceded by the appellant, is the well established law in New Jersey. *State v. Ross*, 24 N. J. L. 497 (Sup. Ct. 1854); *Rutgers College v. Piscataway Township*, 20 N. J. Misc. 127 (State Board of Tax Appeals - 1942), aff. 129 N. J. L. 261 (Sup. Ct. 1942); aff. 131 N. J. L. 158 (E. & A. 1944); *City of Hoboken v. Division of Tax Appeals & Stevens Institute of Technology*, *supra*. 30

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CONCLUSION

The Institute for Advanced Study is a college, school, academy or seminary under the purview of R. S. 54:4-3.6. Olden Manor, the official residence of the Director of the Institute, is actually used for and in the work of the Institute and is therefore entitled to tax exemption. Accordingly, the judgment of the Division of Tax Appeals granting the exemption should be affirmed.

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Respectfully submitted,

SMITH, STRATTON & WISE

By: Henry M. Stratton, II,
A Member of the Firm

Attorneys for Respondent,
Institute for Advanced Study
37 Hullfish Street
Princeton, New Jersey

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Institute Residence Ruled Tax Exempt

Olden Manor, residence of Dr. J. Robert Oppenheimer, director of the Institute for Advanced Study, has been declared tax exempt as part of a non-profit educational center by the New Jersey Tax Appeals Division, it has been reported.

The home, plus five acres of land surrounding it, had been assessed at \$105,900 by Princeton Township. Previously, the Mercer County Board of Tax Appeals had dismissed the Institute's appeal that the residence should be declared tax exempt.

Henry M. Stratton II, counsel for the Institute, argued that Olden Manor was used frequently for faculty conferences, visiting dignitaries and official dinners in addition to serving as living quarters for the Oppenheimer family.

Gordon D. Griffin, Township attorney, said he would consider an appeal after receiving formal notice of the judgment.

The Institute is one of several appeals filed by Borough and Township establishments, including the Princeton Shopping Center, requesting lower assessments or tax exemptions.

*Opin. Gov. Olden Manor
has estate tax*

THE PRINCETON PACKET

THURSDAY, APRIL 9, 1959

Prof. Geo. Schenker

MATTHEWS CONSTRUCTION COMPANY

INCORPORATED 1912

BUILDERS

PRINCETON, NEW JERSEY

P. O. BOX 30

July 22, 1959

Institute for Advanced Study
Olden Lane
Princeton, New Jersey

Re: Olden Manor -
Institute for Advanced Study - Princeton, New Jersey

Attention: Mrs. Barnett

Gentlemen:

After surveying the loft spaces on the Third Floor at Olden Manor, the writer has come to the conclusion that it is impractical to exhaust these spaces with the use of an Attic Fan. There are seven separate areas, in remote locations, and with the exception of the two overhead spaces divided by the skylight space, do not lend themselves to connection.

To treat each space as a separate unit, would involve two extra openings for each space, one for air to be introduced, and one for exhaust. This would involve a number of conspicuous accessories on the exterior of the house.

If the problem is one in which you feel that stored warm air in these spaces contribute to higher room temperatures, you may wish to consider a large Attic Fan in the Third Floor that would benefit all of the rooms. They are generally put in operation after sun down and displace the warm air of the house with air of cooler temperature from outside. A Fan of adequate size for this house, which would be 42" or 48" in diameter, would probably require a dormer for its installation. This could be located on the rear of the house.

The other items which were given to the writer, are being completed, and we expect the Vestibule tile to be laid tomorrow.

Very truly yours,

MATTHEWS CONSTRUCTION COMPANY

By

George C. Knaefler
George C. Knaefler

GCK:S

Just for Olden Manor
taxes

STATE OF NEW JERSEY
DIVISION OF TAX APPEALS
DEPARTMENT OF THE TREASURY

CALENDAR OF DECEMBER 9 & 11, 1958
TRENTON, NEW JERSEY
Commissioners Doherty and Duffy

CASE NO. 8

8. Institute for Advanced Study vs. Township of Princeton 1245 D
Blk. 12, lot 80, Olden Avenue
1957 Assessed: Wants reduced to:
Land: \$ 43,100. * See below
Imps: 61,800.
Pers: 1,000.
\$105,900.

Appeal to County Board dismissed
* Wants be reduced so as to eliminate property entitled to
tax exemption.

Smith, Stratton & Wise, Attys. Gordon D. Griffin, Atty.

This is an appeal by the Institute for Advanced Study for exemption from taxation on the official residence of the director of the Institute and 5 acres surrounding it. The main academic buildings of the Institute and subsidiary buildings are presently tax exempt. It is contended by the taxing district, the Township of Princeton, that the Institute is at most an association devoted to the moral and mental improvement of men, women and children, and that the director's residence, not being used exclusively for the work of the association, is taxable. On the other hand, the petitioner contends that the subject premises, known as Olden Manor, is exempt by reason of the first category of exemptions provided for by N.J.S.A. 54:4-3,6, it being one of a group of buildings "actually used for colleges, schools, academies or seminaries.

The director's residence is not used exclusively for the purposes of the Institute. It serves as the private family dwelling of the director. If respondent's description of the Institute is correct, the official residence, lacking the requirement of exclusiveness of

purpose, is a proper subject of taxation. If the petitioner's description is correct, the residence is exempt if it is actually used for college, school, academy or seminary purposes, albeit not exclusively so. The first question for decision is whether or not the Institute is a college, school, academy or seminary as these words ~~are~~ intended by the Legislature.

The Institute for Advanced Study was incorporated under the Laws of the State of New Jersey as a non-profit organization "for the promotion of knowledge in all fields, and for the training of advanced students and workers for and beyond the degree of Doctor of Philosophy and other professional degrees of equal standing." It is supported almost entirely by the income from an endowment fund known as the Louis Bamberger and Mrs. Felix Fuld Foundation.

The Institute has on its staff 22 permanent faculty members divided among the 3 disciplines of mathematics, physics and historical studies. There is a student body of approximately 125 persons who are designated members. A doctor's degree is a prerequisite for membership and the length of study at the Institute varies from one or 2 terms to 2 years. In most cases, the members apply for admission, but in some cases, a particular person may be invited to attend. Members are provided with office space and secretarial help. There is no formal instruction offered, the members pursuing their own research, but seminars in mathematics and physics are held weekly, or more frequently. No degrees are awarded to members for the reasons that all are at the post doctorate level. No tuition is charged.

The Institute is unquestionably unique and provides a place for advanced study at the post doctorate level, something which did not exist in American education before it was founded. Its method of instruction of its members is unorthodox in that it relies so heavily upon self-instruction. But it cannot be said that the unorthodox method is not suited to the needs of the members. We must conclude that the Legislature, in using the words colleges, schools, academies seminaries, did not intend to limit the application of these words only to institutions offering the more orthodox or traditional methods

of instruction.

We conclude that the word college as used in the statute must be given its plain and common meaning as such is defined in Webster's Collegiate Dictionary, 5th Ed.: "A society of scholars incorporated for study or instruction, especially in the higher branches of knowledge ***." The facts presented clearly indicate that the Institute is a college as the word is commonly used and understood.

The status of the Institute for Advanced Study as a non-profit organization conducting a college, has been previously litigated in Institute for Advanced Study vs. Borough of Princeton, decided by the State Board of Tax Appeals February 7, 1939, and reported in New Jersey Tax Reports 1934-39. We find no reason to differ from the conclusion of the Board in that case and no substantial change in the relevant facts from that time to the present.

The second question is whether or not the official residence of the director is actually used for college purposes. The director's functions are to preside over the faculty, direct the administrative activities of the Institute, report to the trustees, present the budget, make faculty appointments and entertain visiting dignitaries. Residence at Olden Manor is a requisite of the position of director.

The structure is maintained by the Institute, which pays for insurance, gardening, most furnishings and upkeep, and one of two servants. It is used as a residence by the director and his family, but it is also used by him as the location of the frequent official entertaining by the Institute. It is the scene of numerous faculty and trustee committee meetings, receptions for new members, and overnight accommodations for official visitors. The evidence presented clearly shows that such use of the building is of great frequency.

We conclude that Olden Manor is maintained as the official residence of the director of the Institute for the primary purpose of enabling the director to render a maximum degree of service to the Institute and this use is in the interest of the Institute. As such, it and the 5 acres surrounding it are entitled to exemption. In this

connection, we rely upon State v. Ross, 24 N.J.L. 497 (Sup.Ct.1854) and Rutgers College v. Piscataway Twp., 20 N. J. Misc. 127 (St. Bd. Tax App. 1942) and the numerous cases cited therein.

For the foregoing reasons, we therefore recommend:

1. The adoption and approval of this report.
2. The adoption of the findings of fact and conclusions therein stated as and for the findings and conclusions of the Division, and
3. The entry of judgment cancelling the assessment against the taxpayer with respect to Olden Manor and the land surrounding it not in excess of five acres.

Respectfully submitted,

VINCENT C. DUFFY, COMMISSIONER

PAUL E. DOHERTY, COMMISSIONER

THE INSTITUTE FOR ADVANCED STUDY
PRINCETON, NEW JERSEY

*Inst Gen Real Estate Taxes
on Taxes, Real Estate
on Olden Manor, Taxes
(shd be some
appropriate file)*

December 15, 1958

General Edward S. Greenbaum
285 Madison Avenue
New York 17, New York

Dear General Greenbaum:

Your note of December 12 with the enclosed clipping has been referred to me. I had meant to keep you up to date on this matter.

The local Real Estate Tax situation has been as follows:

We have been paying taxes on all Institute land and improvements, with two exceptions:

1. Fuld Hall and the smaller wings, and five acres.
2. The Computer Building and five acres.

It has seemed to us for a long time, that Olden Manor should be exempt. (It is assessed at \$61,000.) At the time of re-assessment two years ago, we applied for exemption. We were unsuccessful at both local and county levels, and the appeal described in the clipping is now at the State Tax Board level. We think we have a good case. The official homes of the Presidents of both Princeton and Rutgers have been litigated and declared tax-free. The major defense by the Township is a matter of semantics. The statute reads "colleges, academies, schools, and seminaries". They claim that we are none of these. Our position is, that although we are unique, we are, nevertheless, exactly like a college at the Post-Doctoral level.

Stratton did a very good job before the Board. We may not hear for weeks. They sit in panels of two or three; the Panel writes its recommendation and the full Board must vote its approval.

Cordially yours,

Minot C. Morgan, Jr.
General Manager

MCM/dmb

From the Desk of

DATE December 12, 1958

Edward S. Greenbaum

To: Dr. Oppenheimer

Does this apply to tax exemption for all our property or just the "Olden Manor"?

ESG

Mike:

Ro would appreciate
it if you would answer
this ..

V.



307

BAR PRESS INC., 54 LAFAYETTE ST., NEW YORK 13 — WA. 5-3432-3.

6 Ask Tax Exemption for Oppenheimer Home

DECEMBER 12, 1958

The New Jersey Board of Tax Appeals yesterday was asked to exempt "Olden Manor" residence of Dr. Robert Oppenheimer, director of the Princeton Institute for Advanced Study, from a \$2,100 annual tax bill.

HENRY STRATTON, counsel for the institute, said the

is an actual part of the famous citadel of learning and should be tax exempt as are the other buildings on the property.

Oppenheimer, the controversial world famed scientist, has the same function as a college president at the institute, it was held. The large manor type home is used for faculty discussions, and also to entertain visiting dignitaries such as Queen Frederika of Greece, who was a recent guest.

The home is made available to Oppenheimer at no cost, with a servant, and maintenance. The 1957 assessment on the property which is under dispute was \$105,000. Stratton said only the land should be assessed.

GORDON GRIFFIN, Princeton ship attorney, argued the

general category of a school, college or academy, which are exempt as non-profit. He asserted, "We consider it a corporation formed for the mental improvement of man."

Stratton claimed the law was specific that the official residence of the executive head of such an institution is free of taxation. "We submit we are a college, that teaches at a level above a Doctor