

"The word public," said the Court, "is used in various senses. It is sometimes applied to describe the use to which the property is applied; at others to describe the character in which it is held. The circumstance that the use of the property is free, is not a necessary element in determining whether the use is public or not. If the use is of such a nature as concerns the public, and the right to its enjoyment is open to the public on equal terms, the use will be public whether compensation be exacted or not. Thus, on some public highways tolls are charged while others are free, but both are equally public. Railways owned by private corporations and the canals owned by the State are public highways, yet compensation is exacted from the public for their use. A college consisting of a private corporation and having a private foundation, is devoted to a public use, yet the use is none the less public because tuition is charged. * * * Two questions arise on this branch of the subject: 1. Whether the charity to which the property is devoted is purely public; 2. Whether it is competent for the legislature to recognize these schools as they are established and carried on, as institutions within the meaning of the constitutional provision.

"As to the first of these questions, it seems to us the charity is to be regarded as purely public. For the purpose of determining the public nature of the charity, it is not material through what particular forms the charity may be administered. If it is established and maintained for the usual benefit of the public and so conducted that the public can make it available, this is all that is required.

* * * Laying out of view the nature of the organization by which the charity is administered, the property in question stands on the same footing as the property devoted to the support of colleges and other higher institutions of learning not founded by the State.