

stock corporation, that the "endowment" (if the word be proper) is principally the price of stock sold at \$40 per share, and that it is "maintained" by the annual dues of the shareholders and subscribers, and by the hire of books amounting to nearly \$8,000 per annum. Admitting (though it does not appear) that it was *to some extent* founded and endowed by charity, this is not enough. The Legislature intended to relieve charitable gifts only, and not capital subscribed for the mutual accommodation of the subscribers. With what money the building was bought, or how it was procured, does not appear.

Moreover, the proviso to the Act excepts from its operation, property "from which any income or revenue is derived," which "shall be subject to taxation." This does not refer to rent alone. A book store kept by the owner of the fee is certainly within its meaning. The building in question is used to hire out books to those who will pay for them. It thus produces "an income or revenue" and is therefore subject to taxation. The use to which the revenue is put is not material. See *Cincinnati College vs. The State*, 19 Ohio R. 110; *St. Mary's College vs. Crowe, treasurer, &c.*, 10 Kansas R., 442.

Nor is it material that there is no cash dividend to the stockholders. They derive a profit from the increase of their Library. Besides, the test is, whether the *Corporation* receives a profit. This is demonstrated by the provision respecting Cemeteries.

On the whole case, the least that can be said in our favor, is that the intention to exempt is not "so clearly expressed as to admit of no other construction * * * so plainly expressed as to render it unavoidable." The decree should therefore be reversed and the injunction dissolved.

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For Appellant.

