

Appeal No. VA96/2/071

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Institute of European Affairs

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Offices at Map Ref: 8bc, Street: North Great Georges Street, Ward: Rotunda A, County Borough of Dublin

Exemption - Charitable and Educational purposes

B E F O R E

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Marie Connellan - Solicitor

Member

Barry Smyth - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF OCTOBER, 1997

By Notice of Appeal dated the 24th day of April 1996 the Appellant Company appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £120 on the above described hereditament.

The grounds of appeal as set out in the said Notice are:-

- "1. That the valuation of £120 is excessive, inequitable, unwarranted and bad in law.
2. That the subject hereditament should be distinguished in the Valuation Lists as being exempt from rates in accordance with the provisions of the Valuation Acts."

1. The appeal hereditament is the premises at North Great George's Street occupied by the Institute of European Affairs which has an agreed rateable valuation of £120. The premises are occupied exclusively by the Institute.
2. The appeal proceeded by way of an oral hearing held in Dublin on 3rd March 1997 at which the Appellant and the Respondent were represented by Aindrias O'Caomh SC and Donal O'Donnell SC respectively.
3. Mr. O'Caomh in his submission, contended that the appeal hereditament was used exclusively for charitable purposes and that the use comes within the fourth category of charity recognised in the Pemsel case. As well as the Pemsel case, Mr. O'Caomh relied upon a number of authorities hereinafter noted and placed great stress on the case of the *Irish Countrywomen's Association v. Commissioner of Valuation*.
4. Mr. O'Donnell argued that whilst the Pemsel case is the starting point for the determination of charitable status it does not determine exemption for the law of rating and that *Section 63 of the Poor Relief (Ireland) Act 1838* is the basis for exemption in Ireland. In order to qualify for exemption Ratepayers, Mr. O'Donnell said, must bring their activities within the specific wording contained in Section 63 and no matter how well intentioned the Institute may be it does not meet the statutory requirements of Section 63. Mr. O'Donnell relied upon a number of authorities and these are also listed in the appendix attached to this judgment.
5. At the oral hearing evidence of the structure and activities of the Institute was given by Mr. Odran Reid the Administrator of the Institute. A summary of Mr. Reid's evidence is included in this judgment as Appendix 1. The Tribunal is much indebted to Mr. Reid in providing it with a very full picture of the affairs and activities of the Institute.
6. "The Supreme Court have twice laid it down that, apart from specific exceptions to be found in other statutes, the grounds for exemption from rates are to be found in the proviso to *Section 63 of the Poor Relief (Ireland) Act 1838*." (**The Law of Local Government in the Republic of Ireland - Keane p289**).

7. The only question therefore to be determined by the Tribunal is whether or not the appeal hereditament is used exclusively for charitable purposes within the meaning of *Section 63 of the 1838 Act*. It is clearly established by several authorities that the words "charitable purposes" as used in Section 63 are to be considered in a much narrower sense than in the Pemsel case. Hence it follows that for the Appellant to succeed it must be able to show that the use of the appeal hereditament goes beyond that covered by Category 4 of the Pemsel case.

8. It is clear from the evidence that the Institute is a non-profit making organisation dedicated to the advancement and development of research and thinking on the European Union and how this affects Ireland. The Institute seeks to further its objectives by running study groups, seminars, lectures and publications and it is argued that the results of these activities permeate through and are for the benefit of society at large. In order to carry out its works the Institute finds it necessary to develop a membership from various organisations and individuals. However, whilst members are encouraged to participate in the work of the Institute they do so by invitation and not of right. All of the activities of the Institute have as a common aim the development of a national policy for Ireland's ongoing membership of the European Union. The appeal premises are used exclusively for the purposes of the Institute and the furtherance of its objectives.

9. Since the primary objective of the Institute is to develop a knowledge and understanding of the European integration process it appears on the face of it that its role is mainly educational and if this is the case then its claim for exemption must fail as the only educational purpose which is exempt under Section 63 is the education of the poor. The Appellant's case however is that the appeal premises are used for charitable purposes and in support of the claim for exemption the Institute has relied on the fourth category in the Pemsel case and the judgment in the case *Irish Countrywomen's Association v. Commissioner of Valuation*.

10. It is argued by the Respondent that the Institute and the Irish Countrywomen's Association are significantly different in many ways. Whereas the ICA has a widely based membership the Institute is elitist in character and the main beneficiaries of the work of the Institute are its members and participants.

11. As Keane in "The Law of Local Government" says the subject of exemption from

rating is one of considerable difficulty and obscurity and the absence of any precise definition of "charitable" means that each application for exemption must be decided on the facts of each appeal and on precedent. The Tribunal accepts that while the aims and objectives of the Institute are not exclusively educational nonetheless the furtherance of its aims is carried out to a large degree by the dissemination of knowledge mainly to its members by way of study groups, seminars, lectures and publications. The fact that the membership is relatively small and that the members may ultimately use the knowledge so obtained from the Institute to the benefit of society at large is not in the Tribunal's view sufficient for the granting of charitable status within the meaning of Section 63.

12. The Tribunal is of the view that the Institute is fundamentally different in structure from the Irish Countrywomen's Association in that the ICA is a nationwide body which has as its main objective the development and improvement of conditions of rural life in Ireland. The objectives of the Institute on the other hand are mainly but not exclusively educational in nature and its membership is drawn from a restricted section of the community.

Determination:

The Tribunal while recognising the admirable work carried out by the Institute and the commitments of its members must have regard to relevant statute and the Superior Courts interpretation thereof. The Tribunal having considered the submissions of both parties, the wording of *Section 63 of the Poor Relief (Ireland) Act 1838* and the legal authorities cited concludes that the Respondent is correct in his submission on the law as it applies to the appeal hereditament. The appeal premises are not devoted to the education of the poor and

the argument that their use falls within the fourth category of charity recognised in the Pemsel case is not sufficient to confer exemption under Section 63. Accordingly, therefore the Tribunal finds against the Appellant on both grounds for exemption and affirms the determination of the Respondent that the appeal premises be not granted exempt status.

Appendix 2

Authorities cited by Appellant:

1. Commissioners for Special Purposes of Income Tax v. Pemsel [1891] AC 531.583
2. McGahan & Ryan v. Commissioner of Valuation [1934] IR736
3. Barrington's Hospital v. Commissioner of Valuation [1957] IR299
4. Webb v. Oldfield [1898] 1IR431
5. Cross v. The London Anti-vivisection Society
6. Irish Countrywomen's Association v. Commissioner of Valuation (Unreported) 17/2/1969.

Authorities cited by Respondent:

1. Commissioners for Special Purposes of Income Tax v. Pemsel [1891] AC 531.583
2. Barrington's Hospital v. Commissioner of Valuation [1957] IR299
3. Alexandra College v. Commissioner of Valuation [1914] 2IR447
4. McGahan & Ryan v. Commissioner of Valuation [1934] IR736
5. Brendan v. Commissioner of Valuation [1969] IR202
6. Maynooth College v. Commissioner of Valuation [1958] IR189
7. Retirement Planning Council of Ireland v. Commissioner of Valuation (VA93/1/043)
8. Elliott v. Commissioner of Valuation [1935] IR607.614
9. National Association of Widows in Ireland v. Commissioner of Valuation (VA88/130)
10. Re Koepler's Will Trust [1985] 2All ER869
11. Attorney General v. National Provincial & Union Bank of England Ltd. [1924] AC 262.265