

Opinion No. 12-894

May 19, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Hon. W. B. Walton, Santa Fe, New Mexico.

TAXATION.

Exemption from taxation extends to any hospital which is used for charitable purposes.

OPINION

{*36} I have before me the letter of Mr. Percy Wilson of the 14th inst. addressed to you in which he expresses a desire to have the opinion of the Attorney General as to whether such an institution as St. Joseph's Sanatorium is exempt from taxation. He says that particular institution has not paid taxes upon the theory that it is church property and used for benevolent or religious purposes, and that the law provides that the exemption applies only when the property is used solely for benevolent or religious purposes and that most of the patients at the sanatorium pay for their care and treatment. The statute to which he refers is to be found in Section 1756 of the Compiled Laws of 1897 and provides so far as this class of institutions is concerned that the grounds, buildings, books, papers and apparatus of benevolent and religious institutions and societies shall be exempt from taxation when the property of the said institutions and societies shall be devoted exclusively to the appropriate objects of such institutions not leased or rented or otherwise used with a view to pecuniary profit. Under this statute there might be some question raised upon the clause about being used with a view to pecuniary profit, and the solution of that in such a case as the one presented by Mr. Wilson might be made to turn upon the use to which the money received from inmates is devoted. It might be argued that if the receipts of the hospital are devoted to the hospital work only, that this would not be a matter of pecuniary profit. I am of the opinion, however, that the discussion of this question becomes immaterial in view of the constitutional provision on this subject which appears to omit any such qualification and greatly to extend the scope of the exemption. By reference to Section 7 of Article VIII of the Constitution it will be seen that "all property used for education or charitable {*37} purposes" shall be exempt from taxation. This is a positive, affirmative provision which needs no legislation to make it operative. The exemption would extend to any hospital which is used for charitable purposes even though at the same time accommodations may be provided for patients who are able and willing to pay for care and treatment. I understand that the hospital referred to by Mr. Wilson is primarily of a charitable character and whether much or little charitable work is done I believe that it falls within the constitutional exemption and that its property, used for charitable purposes, cannot be taxed.