

# OPINIONS

January 5, 1927.

OPINION No. 1404.

TAXATION; EXEMPTION; PROPERTY OF A RELIGIOUS SOCIETY:

Where a parsonage or other property of a religious society used only for religious purposes but not as a church site or burial ground is not contiguous to the church site or a part thereof, it is not exempt from taxation.

TAXATION; EXEMPTION; PROPERTY OF A RELIGIOUS SOCIETY:

Where property of a religious society, a part of the grant of a church site, is separated from the church site by the government road the land for which was granted to the government by the church, but is used solely for church purposes, it is exempt from taxation.

Honorable Henry C. Hapai,  
Treasurer, Territory of Hawaii,  
Honolulu, T. H.

Dear Sir:

You have asked by letter of December 29, 1926, to be advised by this office whether property of the Hauula-Kahuku church is exempt from taxation. The facts as I understood them are that the property upon which the church is situate is divided from the property in question by the government road; that the two pieces were acquired by the church as one grant and neither has been used for other than church purposes; that the piece in question was formerly used as a pastoral residence but it is now lying idle.

The language of the statute granting exemption of church premises is

“The personal property belonging . . . to, religious societies and in actual use of such societies, the land of such societies exempt from taxation being limited to church sites and burying grounds.”

Section 1325, R. L. 1925.

By Opinion 1013, rendered by the Honorable J. Lightfoot, as Deputy Attorney General, this office held that statutes relating to exemption must be strictly construed; that a piece of property belonging to a religious society, occupied as a home for the priest of that society across the street from the temple and separately purchased, is not exempt.

The Honorable John Albert Matthewman when Attorney General, ruled that the pastoral residence of the priest of the Evangelical German-Lutheran Church was not exempt from taxation, there being a separation of the church site and the parsonage by some half mile.

Following this construction, the legislature, by Act 159, S. L. 1925, specifically exempted this parsonage. The report of the Committee on Finance, which recommended the passage of this Act, referred to the ruling of the Attorney General as possibly being an exact interpretation of the law but working a hardship upon the church which does not own sufficient property contiguous to its church to provide for a parsonage thereon and referred to the ruling by this department as being one which permitted an exemption of such church property only when contiguous to or a part of the property on which the church was situate. The legislature, by specifically exempting the parsonage, acquiesced in the ruling of this department that such parsonage was not already exempt.

The sole question which then presents itself is, do the facts in this case warrant the construction that the property in question is contiguous to or a part of the church site? It seems unreasonable to construe the permission of the trustees of the church property in grant-

ing the government the right without consideration to run its road over their property, as dividing the church property so that an integral part thereof, which was therefore exempt, lost its exemption through the fact of the road passing through.

We consider this property as exempt both as being a part of the church property itself, a part of the original grant and never severed except artificially by the road running through it; and as being contiguous to the church site, used only for church purposes.

Very truly yours,

MARGUERITE K. ASHFORD,  
Acting Attorney General.