

## C

96 Md. 192, 53 A. 930

Court of Appeals of Maryland.  
**MAYOR, ETC., OF CITY OF BALTIMORE** et  
 al.  
 v.  
**JENKINS.**  
 Jan. 14, 1903.

Appeal from Baltimore city court; J. Upshur  
 Dennis, Judge.

Application by John Jenkins to strike out a tax  
 assessment made by the appeal tax court of  
 Baltimore city. From a judgment and order of the  
 Baltimore city court granting the application, the  
 mayor of the city and the judges of the appeal tax  
 court appeal. Affirmed.

## West Headnotes

**Taxation 371 ↪ 2358**  
[371k2358 Most Cited Cases](#)  
 (Formerly 371k247)

Baltimore City Charter, § 171 (Laws 1898, c.  
 123), provides that the valuation of property  
 subject to taxation in the city, as it shall appear on  
 the assessment books on the 1st day of October in  
 each and every year, shall constitute the basis for  
 which taxes for the next fiscal year shall be  
 assessed and levied, except as to taxable property  
 which may have escaped or been omitted in the  
 regular course of valuation. Held, that where  
 property which was exempt from taxes on the 1st  
 day of October, 1901, as property used for  
 religious worship, was conveyed to a purchaser on  
 November 16, 1901, such property was not  
 subject to city taxation against the purchaser for  
 the succeeding year.

Argued before McSHERRY, C.J., and FOWLER,  
 BOYD, PAGE, SCHMUCKER, PEARCE, and  
 JONES, JJ.

Wm. Pinkney Whyte and Chas. W. Field, for

appellants.  
 Wm. T. Donaldson, for appellee.

PEARCE, J.  
 This appeal is from a judgment and order of the  
 Baltimore city court striking out an assessment of  
 \$4,700 made by the appeal tax court of Baltimore  
 city December 27, 1901, for the year 1902, upon a  
 lot of ground, with the improvements thereon, at  
 the corner of Fulton and Pennsylvania avenues,  
 belonging to John Jenkins. This lot is 60 feet front  
 by 150 feet in depth, and on October 1, 1901, was  
 owned by the committee of the Baptist Church in  
 the city of Baltimore; being then improved by a  
 one-story frame church; the premises being used  
 exclusively for public worship. Under the law of  
 Maryland, neither buildings used exclusively for  
 public worship, nor the grounds appurtenant  
 thereto, are subject to state or city taxation. On  
 October 4, 1901, John Jenkins contracted to  
 purchase said lot and building; and on November  
 16, 1901, the \*931 committee of the Baptist  
 Church executed and delivered a conveyance  
 thereof to him.

Section 171 of the new charter of Baltimore city  
 (Laws 1898, c. 123) provides that "the valuation  
 of the property subject to taxation in the city of  
 Baltimore, as it shall appear upon the assessment  
 books of the appeal tax court on the first day of  
 October in each and every year, shall be final and  
 conclusive, and constitute the basis upon which  
 taxes for the next ensuing fiscal year shall be  
 assessed and levied: provided, that the foregoing  
 provision shall not apply to property in the city  
 liable to taxation, and which may have escaped, or  
 which may have been omitted, in the regular  
 course of valuation, but such property shall be  
 valued and assessed, and the owner or owners  
 thereof charged with all back or current taxes,  
 justly due thereon, whenever the same may be  
 discovered and placed upon the assessment  
 books." The same section further provides that, as  
 soon as practicable after the 1st day of October in

each year, a statement shall be rendered by said court to the city collector and to the board of estimates, showing the valuation and assessment of all the property subject to taxation in said city, as it shall appear upon the assessment books of said court on said 1st day of October, which statement shall constitute the taxable basis for the next ensuing fiscal year, and, after the levy of taxes, shall be designated as the tax roll for said year. In the course of the testimony taken in the Baltimore city court, it was shown that the property ceased to be used for church purposes after November 18, 1901, and that Mr. Jenkins purchased it with the view to the erection of a store thereon; but we do not think that its abandonment as a house of public worship, or the purchaser's intention as to its future use, are material for our consideration, under the plain and imperative provisions of the city charter to which we have referred, and which we regard as conclusive of the correctness of the order of the learned judge below. The purpose of these provisions, as was said in [Hopkins v. Van Wyck](#), [80 Md. 15](#), [30 Atl. 556](#), in considering analogous provisions in the City Code of 1892, is "to designate some definite period as the point of time in each year when the valuation or appraisement fixed upon the property actually assessed and charged upon the books to each individual would be conclusively ascertained, and made binding both upon the city and the taxpayer alike, \*\*\* and to fix for a current year a final and conclusive relation upon such property of each taxpayer as is on March 1st [now October first] actually entered upon the assessment books, and not to exempt property that is not, but ought rightfully to be, there." Here, on October 1, 1901, the property in question was not, and could not rightfully have been, upon the assessment books, either as the property of the committee of the Baptist Church or of the appellee, -not of the appellee, because he did not become the owner until November 16th, and not of the committee of the Baptist Church, because, though it then belonged to that

committee, it was then exempt from taxation, and had no legal existence for the purposes of taxation. It did not become taxable until November 16th, and could then with no more propriety be placed upon the assessment books and be added to the taxable basis for 1902 than a building or structure whose foundations were laid after October 1st, no matter how speedily completed. No property, other than corporate property not subject to taxation on October 1st in each year, can enter into the taxable basis for the ensuing fiscal year, though it become subject to taxation on the next day. The point of time and the rule of law which control are alike arbitrary, and necessarily so, but are none the less final and conclusive, without authority and without argument. The power given in the proviso of section 171 to assess after October 1st "property escaped or omitted, in the regular course of valuation," is confined to property which was the subject of taxation on October 1st; or, in the language of [Hopkins v. Van Wyck](#), *supra*, "which was not, but ought rightfully" to have been, upon the assessment books as of October 1st. None other could then have been legally assessed "in the regular course of valuation," and hence could not be embraced in property "escaped" or "omitted." In [William Skinner & Sons Shipbuilding & Dry Dock Co. v. Mayor, etc., of City of Baltimore](#) (decided at the last term) [53 Atl. 416](#), the dry dock was held to be so far a completed structure on October 1st as to be then the subject of taxation; and not being exempt from taxation, as church property is, it was held to have been rightfully assessed at a later date as omitted property, under the proviso mentioned. If any authority could be deemed necessary for our views, it may be found in [County of Martin v. Drake](#), [40 Minn. 137](#), [41 N.W. 942](#); [King v. City of Madison](#), [17 Ind. 48](#).

Judgment affirmed, with costs above and below.

Md. 1903.

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