File No. 540 Centinued.

OPINION.

The power conferred upon the Mayor and City Council with respect to plant exemptions is as follows:

"To provide by general ordinance, whenever it shall seem expedient for the encouragement of the growth and development of manufactures and manufacturing industry in the said City, for the abatement of any or all taxes levied by authority of the said Mayor and City Council of Baltimore, or by ordinance thereof, for any of the corporate uses thereof, upon any mechanical tools or implements, whether worked by hand or by steam, or other motive power, machinery, manufacturing apparatus or engines owned by any individual, firm or corporation in said City, and properly subject to valuation and taxation therein, which said tools, implements, machinery, apparatus or engines shall be actually employed and used in the business of manufacturing in said City, and it shall be the duty of the Appeal Tax Court to make such abatements of taxes levied as aforesaid as may be authorized and directed by said City by ordinance as aforesaid; provided that such abatement shall be extended to all persons, firms or corporations engaged in the branches of manufacturing industry proposed to be benefited by any ordinance passed under the provisions of this para-graph of this section".

In considering the legality of the ordinance exempting ship building plants from taxation, the first question which arises is whether or not the legislature has power to authorize the City to grant plant exemptions in any cases, because if it has not this power, then the above quoted provisions of the City Charter are void, and no ordinance passed pursuant to them would be legal.

There are two Maryland cases in which the authority to exempt manufacturing plants has been involved.

In Consolidated Gas Company vs. City, 52 Md., 588, the question presented was, whether or not gasemeters and gas mains or pipes constituted "part of the company's machinery actually used by it in the manufacture of gas", and for this reason were exempt from taxation under Ordinance 7 of 1881 passed pursuant to the Act of 1880. The Court decided that they were not part of the machinery actually used in the manufacture of gas, and hence were not exempt. The court then

"The question as to the power of the Legislature to authorize the City authorities to pass an ordinance exempting the manufacturing plant from taxation was exempting the manufacturing plant from taxation was not argued in this case, and we are not to be undernot argued as expressing any opinion in regard to this question".

In Frederick Electric Light and Power Company vs. Frederick City, 84 Md., 599, an ordinance had been passed in Frederick substantially similar to the Baltimore City ordinance, and the question presented was, whether or not the business of an electric light company

788

787

789

790