

File No. 8831 Continued.

OPINION.

to devise some method by which the money collected from the taxpayers in excess of the amount required for the sinking fund, can be legally diverted or taken from the sinking fund and applied to a special fund for improved pavements."

6631

In my opinion, it is legally impossible to devise a method that can accomplish such a result. The money that has already been raised by taxation for the various sinking funds has been raised as the result of, and in accordance with, certain provisions in the Charter of Baltimore City, to be found in Section 6, sub-title "Stocks, Loans and Finance" of the present City Charter, the provisions being as follows:

"The Mayor and City Council of Baltimore shall have full power and authority to levy upon the assessable property within the City and collect by tax, any sum which may be necessary to pay and discharge the principal and interest of any loan which may heretofore have been obtained, or which may hereafter be obtained by said City according to law."

"It shall create a sinking fund to meet the liabilities thus incurred, and may also levy upon the assessable property of the City of Baltimore from time to time such sums as may be necessary to provide therefor, and for the payment of the principal and interest of the liabilities to be incurred under this section, and may pass all ordinances necessary to carry out the purpose of the same".

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It is a settled principle of law that money raised by taxation by a municipality for a certain definite purpose under a mandate from the legislature, cannot be appropriated by the municipality, at its own instance to any other use. In the present case we find a positive direction from the Legislature to the City, obligating the City to create sinking funds. This obligation the City has complied with, and the sinking funds are the result of such compliance. It is, therefore, beyond the power of the municipality to divert these funds to a use other than the one for which they were created.

Respectfully yours,

(Signed) Edgar Allan Poe,
City Solicitor.