

File No. 9762 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, March 22, 1909.

Hon. Edgar Allan Poe,
City Solicitor.

Dear Sir:-

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I have considered the letter of the Grand Secretary of the Sovereign Grand Lodge of Odd Fellows, to the Mayor, in reference to the liability of the property of the Grand Lodge to pay the Burnt District Assessment.

I understand from Judge Leser that the property of the Odd Fellows has not been subject to taxation, because it assumed that the said property had been used exclusively for benevolent purposes, and not for purposes of gain. This fact, however, does not exempt it from liability for an assessment levied under the Burnt District Act.

Hamilton on Special Assessments, Secs. 317-318,
pp. 258-259.

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Practically the same question was raised in the case of the Mayor and City Council of Baltimore vs. the proprietors of Greenmount Cemetery, 7 Md. 517. The Charter of the Cemetery Company provides that a certain number of acres of land shall be used as a cemetery and, so long as used as such, shall not be liable to any tax or public imposition whatever. In spite of this broad language, the Court of Appeals held that a paving tax, for paving a street in front of this property, was not embraced in this exemption; the intention of the Legislature was to exempt the property from all taxes or impositions imposed for the purpose of revenue, but not to relieve it from such charges as are inseparably incident to its location in regard to other property. (7 Md. 535).

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The Court also held that the word "tax" means a burden, charge or imposition put or set upon persons or property for public uses, but to pay for opening a street in a ratio to the benefit derived from it is not a "tax" within the meaning of an exemption that certain property shall not be taxed by any law of the state. Ibid p. 535.

Very truly yours,

(Signed) Sylvan Hayes Lauchheimer,
Deputy City Solicitor.