

F. Murray Benson, Esq., City Solicitor (cont'd)

1939 Ed.). It is to be noted, however, that the refund provided by this Act relates solely to taxes. The charges in question for which a refund is demanded herein are not taxes but special assessments for benefits of a purely local nature and assessed against property as an incident to its location.

In Gould vs. Baltimore, 59 Md. 378, the Court said:

"The right to make such assessments is undoubtedly an exercise of the taxing power, but an assessment thus made differs from a general tax levied for state and city purposes. \* \* \* It has been uniformly held that the word taxes, whether used in an Act of the Legislature, or the Charter of a Company exempting it from taxation, does not embrace such local assessments unless there be something in the Statute or Charter to indicate such an intention."

In the case of Baltimore vs. Greenmount Cemetery, 7 Md. 517, the Cemetery Company was by its Charter exempted from the payment of "any tax or public imposition whatever", but it was held that a tax imposed for paving a street in front of the property of the company was not embraced in the exemption.

SEE ALSO:

Brooks vs. Baltimore, 48 Md. 265

Leser vs. Wagner, 120 Md. 678

It follows therefore that the charges in question are not taxes and are not refundable under Chapter 701 of the Acts of 1941, supra. The Church having voluntarily paid these charges for the years 1931 to 1938 inclusive, under the authorities above set forth, is not entitled to recover the money paid, although paid under protest and under a misapprehension of its legal rights and obligations. In the opinion, however, that the Church is entitled to the exemption for the assessments for the years 1939 and 1940 under Chapter 354 of the Acts of 1931, and recommend that the same be abated.

I quite agree with Mr. Cobb's statement that this application for a refund is only the beginning of a series of applications involving various kinds of assessments by the City, and that whatever is done with regards to exemptions pursuant